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LAWS

OF THE

STATE OF DELAWARE

ONE HUNDRED AND THIRTY-FIFTH

GENERAL ASSEMBLY

FIRST SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 10, A.D. 1989

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 9, A.D. 1990

VOLUME LXVII

CHAPTER 1

FORMERLY

HOUSE BILL NO. 60

AN ACT TO AMEND SUBCHAPTER 1, CHAPTER 3, TITLE 10, DELAWARE CODE, RELATING TO THE COURT OF CHANCERY.

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

Section 1. Amend §307, Subchapter 1, Chapter 3, Title 10, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new Section 307 to read as follows:

§307. Additional Vice Chancellors

There shall be three Vice Chancellors in addition to the Chancellor and Vice Chancellor specifically required by the provisions of Article IV, §2 of the Constitution."

Approved January 31, 1989.

CHAPTER 2

FORMERLY

SENATE BILL NO. 32

AN ACT TO AMEND CHAPTER 19, TITLE 7, DELAWARE CODE, RELATING TO UNLAWFUL TAKING OF SHELLFISH.

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

Section 1. Amend §1904(b), Chapter 19, Title 7, Delaware Code, by inserting after the word "shellfish" and before the words "for commercial" the following:

", except crabs,".

Approved February 8, 1989.

CHAPTER 3

FORMERLY

SENATE BILL NO. 63

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE COLLECTION OF UNEMPLOYMENT BENEFITS OVERPAYMENTS.

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

Section 1. Amend §3325, Title 19 of the Delaware Code by adding the following at the end of the last paragraph of §3325: "No action shall be taken by the Department to collect in whole or in part an overpayment of benefits to any person after a period of 5 years from the date on which the overpayment was made by the Department."

Section 2. Neither the State nor any State agency shall continue to collect after the effective date of this Act any overpayment or alleged overpayment of unemployment benefits which were made or alleged to have been made to any person prior to January 1, 1984.

Approved February 8, 1989.

CHAPTER 4

FORMERLY

SENATE BILL NO. 18
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT, BEING CHAPTER 288, VOLUME 64, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF LAUREL" TO CONFER UPON THE TOWN COUNCIL OF THE TOWN OF LAUREL CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN THE TOWN OF LAUREL.

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 288, Volume 64, Laws of Delaware, as amended, by adding thereto a new Section following Section 30, to be designated as Section 30A, to read as follows:

"Taxation of Real Estate Transfers

Section 30A.

(a) The Town Council of the Town of Laurel, in addition to all other powers conferred upon it by this Act, shall have the power and authority by ordinance or ordinance 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 Laurel, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers occur; provided however, that no tax levied under this Section shall exceed one percent (1%) of the sale price (including the value of any assumed mortgage or mortgages); 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 Laurel. 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 Laurel 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, Paragraph 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 Laurel. 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 Laurel 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 Laurel 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 Laurel 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 Laurel. 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 eight o'clock in the evening, prevailing time, and such persons who are in the polling place at eight o'clock in the evening, prevailing time, shall be entitled to vote even though such votes may be cast after eight o'clock in the evening, 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 March 30, 1989.

CHAPTER 5

FORMERLY

SENATE BILL NO. 20
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO NURSES; AND PERMITTING NURSES TO MAKE PRONOUNCEMENTS OF DEATH UNDER CERTAIN CIRCUMSTANCES.

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

Section 1. Amend subsection (e), Section 1703, Chapter 17, Title 24 of the Delaware Code by adding thereto a new paragraph, designated as paragraph (9), which paragraph shall read as follows:

"(9) Any licensed registered nurse from making a pronouncement of death, and signing all forms or certificates registering such death as may be required by the State; provided, however, that this provision shall only apply to attending nurses caring for terminally ill patients in the home or place of residence of the deceased as part of a hospice program, or in a hospice; and provided that the attending physician of record has agreed in writing to permit the attending registered nurse to make a pronouncement of death."

Section 2. Amend §1902, Chapter 19, Title 24 of the Delaware Code by adding the following sentence to the end of subsection (b):

"A registered nurse shall have the authority, as part of the practice of professional nursing, to make a pronouncement of death; provided, however, that this provision shall only apply to attending nurses caring for terminally ill patients in the home or place of residence of the deceased as part of a hospice program, or in a hospice; and provided that the attending physician of record has agreed in writing to permit the attending registered nurse to make a pronouncement of death."

Approved April 4, 1989.

CHAPTER 6

FORMERLY

SENATE BILL NO. 40
AS AMENDED BY SENATE 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(1)(a), Chapter 28, Title 24, Delaware Code, by striking said subsection (1)(a) in its entirety and substituting in lieu thereof a new subsection (1)(a) to read as follows:

"(1) Graduates from ABET or CEAB - Accredited Engineering Curricula

(a) Graduation with a baccalaureate degree from an engineering curriculum accredited by the Accreditation Board for Engineering and Technology (ABET) or by the Canadian Engineering Accreditation Board (CEAB); and".

Section 2. Amend §2817(5)(a), Chapter 28, Title 24, Delaware Code, by striking subpart (a) of subsection (5) in its entirety and substituting in lieu thereof a new subpart (a) to read as follows:

"(a) The Council may, upon application and payment of the required fee and without further examination, issue registration as a professional engineer to any person holding a valid certificate of registration as a professional engineer issued to that person by a proper authority of a state, territory or possession of the United States, the District of Columbia, or a province or territory of Canada, provided:

(i) the professional engineering qualifications of the applicant on the effective date of such certificate of registration would have satisfied the requirements for registration in this State on that date, or

(ii) the professional engineering qualifications of the applicant at any time subsequent to the effective date of such certificate of registration would have satisfied the requirements for registration in this State in effect at that time. A personal interview may be required by Council to ascertain the facts in the case."

Section 3. Amend §2817(6), Chapter 28, Title 24, Delaware Code, by striking subpart (b) of said subsection (6) in its entirety and substituting in lieu thereof a new subpart (b) to read as follows:

"(b) Every applicant shall give not less than 5 references, people who state that in their opinion and by their personal knowledge the applicant is of good character and reputation and is qualified to practice as a professional engineer. At least 3 such references shall be registered professional engineers in this or any other state, territory or possession of the United States, the District of Columbia, or province or territory of Canada."

Section 4. Amend §2817(6), Chapter 28, Title 24, Delaware Code, by striking subpart (f) of subsection (6) in its entirety and substituting in lieu thereof a new subpart (f) to read as follows:

"(f) Th examination in Principles and Practices 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, the District of Columbia, or province or territory of Canada."

Section 5. Amend §2818(a), Chapter 28, Title 24, Delaware Code, by striking subsection (a) in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) The experience of a full-time faculty member teaching advanced engineering subjects in an ABET-accredited, or a CEAB-accredited engineering curriculum may be accepted as part of the professional experience specified in §2817(1) or (2) of the Chapter."

Section 6. Amend §2819(1)(a), Chapter 28, Title 24, Delaware Code, by striking subpart (a) of subsection (1) in its entirety and substituting in lieu thereof a new subpart (a) to read as follows:

"(1)(a) Graduation with a baccalaureate degree from an ABET or CEAB accredited engineering curriculum or from a Council approved curriculum in engineering not ABET or CEAB accredited, engineering technology or science related to engineering; or".

Section 7. Amend §2820, Chapter 28, Title 24, Delaware Code, by striking therefrom the first paragraph beginning with the word "Individuals" and ending with the words "in this State." and substituting in lieu thereof the following new paragraph to read as follows:

"Individuals not residing in this State, not having full-time employment in this State, and not having established a place of business for the practice of professional engineering within this State, who are legally qualified by registration to practice engineering as defined within this chapter in the state, territory or possession of the United States, the District of Columbia, or province or territory of Canada where they reside or are in business, may make application to the Council in writing for a permit to practice professional engineering in this State."

Approved April 7, 1989.

CHAPTER 7

FORMERLY

HOUSE BILL NO. 113

AN ACT TO AMEND CHAPTER 158, VOLUME 36, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT AMENDING, REVISING, AND CHANGING THE CHARTER OF THE CITY OF DOVER RELATING TO CHANGING THE DATES FOR SUBMITTING THE ANNUAL BUDGET, THE ANNUAL ASSESSMENT, THE ANNUAL TAX WARRANTS, AND BY ABOLISHING THE ANNUAL TAX DISCOUNT AND CREATING A DIFFERENT MUNICIPAL LIEN DOCKET."

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 44 by striking the month of "June" as stated in the first sentence thereof and by inserting in its place the month of "May" so that the City Manager will be required to prepare and submit to Council his annual budget on the second Monday of May of each year.

Section 2. Amend Section 47 by striking the month of "March" in the second and fourth paragraphs thereof and by substituting therefor the month of "May" in each case which changes the date when the annual assessment is to be made, submitted to Council, and posted.

Section 3. Amend Section 48 by striking the month of "April" as stated in the first sentence thereof and by substituting therefor the month of "June" which changes the date when Council shall determine the amount of money to be raised for general purposes for the next fiscal year.

Section 4. Amend Section 49 by striking the month of "April" in the first sentence thereof and by inserting therefor the month of "June" and in the second paragraph thereof further striking the following sentence in its entirety: "A discount of five (5) percent shall be allowed on taxes paid during the month of May in the calendar year they are assessed."

Section 5. Amend Section 28(D) regarding the Municipal Lien Docket by striking this section in its entirety and by substituting therefor the following subsection (D) to read as follows:

"(D) MUNICIPAL LIEN DOCKET

A docket known as the 'City of Dover Municipal Lien Docket' shall be prepared and maintained by the City Manager. The Docket shall be substantially in the same form as the Judgment Docket for Kent County and shall contain an index according to the name of the owner against whom such lien has been assessed. All taxes and charges for water service, sewer service, garbage service, electric service, grass cutting services and debris removal, dangerous building ordinance costs and assessments, special assessments for municipal improvements of any nature, and all other charges or assessments made by the City against property owners may be recorded in the Municipal Lien Docket and shall be and constitute a lien upon all of the real estate of the taxable against or upon whom such taxes and/or charges are laid or imposed, of which such taxable was seized at any time after such taxes and/or charges have been levied and imposed, situate in the City of Dover. All liens so recorded shall continue in full force and effect until the same plus accrued costs and interest have been paid in full. Upon payment in full of the lien and all costs and interest, it shall be the duty of the City Manager to enter forthwith upon the docket the date of final payment and the words 'satisfied in full.' Failure to record liens in the Municipal Lien Docket shall not affect liens otherwise provided for in 25 Del. C. §2901 et seq."

Approved April 13, 1989.

CHAPTER 8

FORMERLY

HOUSE BILL NO. 152
AS AMENDED BY
HOUSE AMENDMENT NOS. 1 AND 5 AND SENATE AMENDMENT NOS. 2, 3, 4 AND 5

AN ACT TO AMEND CHAPTERS 93 AND 95 OF TITLE 29 RELATING TO UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION.

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

Section 1 - Amend Title 29, Chapter 93, Section 9301 by deleting the same and inserting in lieu thereof:

"§9301 - Definitions

As used in this chapter:

(a) The term 'agency' means any department, agency, or instrumentality of the State or of a political subdivision of the State; any department, agency, or instrumentality of two or more States, or two or more political subdivisions of the State, or States, and any person who has the authority to acquire property by eminent domain under State law.

(b) The term 'person' means any individual, family, partnership, corporation, or association.

(c) (1) The term 'displaced person' means:

(A) any person who moves from real property, or moves personal property from real property --

(i) as a direct result of a written notice of intent to acquire, the initiation of negotiations, or the acquisition of such real property in whole or in part for a program or project undertaken by an agency; or

(ii) as a direct result of rehabilitation, demolition, or such other displacing activity as the Agency may prescribe, under a program or project undertaken by an agency in any case in which the agency determines that such displacement is permanent; and

(iii) as a direct result of a written notice of intent to acquire, the acquisition, rehabilitation or demolition of, in whole or part, of other real property on which the person conducts a business or farm operation, for a program or project undertaken by an agency; however, eligibility for such person under this paragraph applies only for purposes of obtaining moving expenses and relocation assistance advisory services under Sections 9302(a) and (b) and 9306 of this Chapter.

(2) The term 'displaced person' does not include --

(A) a person who has been determined, according to criteria established by the Agency, to be either unlawfully occupying the displacement dwelling, been evicted for lawful cause prior to the initiation of negotiations for the property or to have occupied such dwelling for the purpose of obtaining assistance under this chapter;

(B) in any case in which the agency acquires property for a program or project, any person (other than a person who was an occupant of such property at the time it was acquired) who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(C) in any case where such action is of voluntary nature where the agency would not seek to purchase such real property through eminent domain proceedings.

(d) The term 'business' means any lawful activity, except a farm operation, conducted primarily:

(1) for the purchase, sale, lease and rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities or any other personal property;

(2) for the sale of service to the public;

(3) by a lawful nonprofit organization; or

(4) solely for the purposes of Section 9302 of this chapter for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of above activities are conducted.

(e) The term 'farm operation' means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) The term 'comparable replacement dwelling' means any dwelling that is (A) decent, safe, and sanitary; (B) adequate in size to accommodate the occupants; (C) within the financial means of the displaced person; (D) functionally equivalent to the displacement dwelling; (E) in an area not subject to unreasonably adverse environmental conditions; (F) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment; (G) on a site that is typical in size for residential development; and (H) currently available on the open market to the displaced person.

(g) The term 'mortgage' means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State of Delaware, together with the credit instruments, if any, secured thereby.

(h) 'criteria established by the Agency' as used in this Chapter, shall mean those criteria established and approved pursuant to the relevant provisions of 49 CFR Part 24, as amended.

(i) in the event a term in this Chapter is undefined, but which term is defined in 49 CFR Part 24, as amended, the definition contained therein shall apply.

Section 2. Amend Section 9302(a), Chapter 93, Title 29 Delaware Code by adding thereto a new subsection to be designated as subsection (4) and to read as follows:

> "(4) Actual expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria established by the Agency, but not to exceed $10,000. Notwithstanding the limitations of the preceding sentence, State agency payments under this subsection shall use the same criteria and shall be authorized to pay in excess of the $10,000 payment permitted by the preceding sentence under said criteria, but shall not use or attempt to obtain reimbursement from federal funds to the extent of the excess. In any event, total payments under this subsection shall not exceed $22,500."

Section 3. Amend Section 9302, Chapter 93, Title 29 Delaware Code by deleting existing subsections (b) and (c) and substituting in lieu thereof the following:

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a fixed expense allowance payment in an amount to be determined according to criteria established by the agency, except that such payment shall not be less than $250.00 nor more than $850.00.

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the Agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the Agency, except that such payment shall be not less than $1,000 nor more than $20,000. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection."

Section 4. Amend Title 29, Chapter 93, Section 9303 by deleting the same and inserting in lieu thereof:

"§9303 - Replacement Housing for Homeowners

(a) In addition to payments otherwise authorized by this chapter, the displacing agency shall according to established criteria make an additional payment, not in excess of $22,500, to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.

(2) The amount, if any, which will compensate such displaced person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days immediately prior to the initiation of negotiations for the acquisition of such dwelling.

(3) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which such person receives final payment from the agency for the acquired dwelling or the date on which the obligation of the agency under section 9307 of this chapter is met, whichever is later, except that the agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of such date.

Section 5. Amend Title 29, Chapter 93, Section 9304 by deleting the same and inserting in lieu thereof:

"§9304 - Replacement Housing for Tenants and Certain Others

(a) In addition to amounts otherwise authorized by this chapter, an agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 9303 which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days immediately prior to (1) the initiation of negotiations for acquisition of such dwelling and has rented or purchased and occupied a decent, safe, and sanitary replacement dwelling within one year of moving from the displacement dwelling or (2) in any case in which displacement is not a direct result of acquisition, such other event as the Agency shall prescribe. Such payment shall be made in accordance with criteria established by the agency not to exceed $5,250.00 and shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed 42 months, a comparable replacement dwelling. At the discretion of the agency, a payment under this subsection may be made in periodic installments.

(b) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. Any such person may, at the discretion of the agency, be eligible under this subsection for the maximum payment allowed under subsection (a), except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling, such payment shall not exceed the payment such person would otherwise have received under section 9303(a) of this chapter had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of such negotiations.

(c) The full amount of the replacement housing payment for down payment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses."

Section 6. Amend Title 29, Chapter 93, Section 9306, by deleting the same and inserting in lieu thereof:

"§9306 - Relocation Assistance Advisory Services

(a) Programs or projects undertaken by an agency shall be planned in a manner that:

(1) recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations; and

(2) provides for the resolution of such problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

(b) Agencies shall ensure that the relocation assistance advisory services described in subsection (c) of this section are made available to all persons displaced by such agency. If such agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency may make available to such person such advisory services.

(c) Each relocation assistance advisory program required by subsection (b) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

(2) provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

(3) assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(4) supply (A) information concerning Federal, State, and local programs which may be of assistance to displaced persons, and (B) technical assistance to such persons in applying for assistance under such programs;

(5) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation; and

(6) the agency shall coordinate relocation activities performed by such agency with other Federal, State or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

(d) Notwithstanding section 9301(c)(2) of this chapter, in any case in which an agency acquires property for a program or project, any person who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project shall be eligible for advisory services to the extent determined by the agency."

Section 7. Amend Title 29, Chapter 93, section 9307, by deleting the same and inserting in lieu thereof:

"§9307 - Assurance of Availability of Housing

(a) If a program or project undertaken by an agency cannot proceed on a timely basis because comparable replacement dwellings are not available, and the agency determines that such dwellings cannot otherwise be made available, the head of the agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The agency may use this section to exceed the maximum amounts which may be paid under sections 9303 and 9304 on a case-by-case basis for good cause as determined in accordance with such regulations as the agency shall issue.

(b) No person shall be required to move from a dwelling on account of any program or project undertaken by an agency unless the agency is satisfied that comparable replacement housing is available to such person.

(c) The agency shall assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of --

(1) a major disaster as defined in section 102(2) of the Federal Disaster Relief Act of 1974;

(2) a national emergency declared by the President or a state of emergency declared by the Governor; or

(3) any other emergency which requires the person to move immediately from the dwelling because continued occupancy of such dwelling by such person constitutes a substantial danger to the health or safety of such person."

Section 8. Amend Title 29, Chapter 93, Section 9310 by deleting the same and inserting in lieu thereof:

"§9310 - Fund Availability

(a) Funds appropriated or otherwise available to any agency or unit of local government for the acquisition of real property or any interest therein for a particular program or project shall also be available to carry out the provisions of this Act as applied to that program or project.

(b) No payment or assistance under this chapter or under chapter 95 of this title shall be required to be made to any person or included as a program or project cost under this section, if such person receives a payment required by Federal, State, or local law which is determined by the Agency to have substantially the same purpose and effect as such payment under this chapter or under Chapter 95 of this title."

Section 9. Amend Chapter 95, Title 29, Section 9501 by deleting the second paragraph thereof and inserting in lieu thereof:

"§9501 - Declaration of Policy and Definitions

The term 'agency' means any department, agency, or instrumentality of the State or of a political subdivision of the State, any department, agency, or instrumentality of two or more States, or two or more political subdivisions of the State, or States, and any person who has the authority to acquire property by eminent domain under State law."

Section 10. Amend Section 9505(2), Chapter 95, Title 29 of the Delaware Code by deleting the period at the end of said subsection and inserting thereto the following:

"except that the agency may with owner's permission, eliminate the appraisal in cases involving acquisition by donation."

Section 11. Amend Section 9505(9), Chapter 95, Title 29 of the Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the agency concerned shall offer to acquire that uneconomic remnant. For the purpose of this Act, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and the agency concerned has determined the parcel has little or no value or utility to the owner."

Section 12. Amend Section 9505, Chapter 95, Title 29 of the Delaware Code by adding thereto subsections (10 and (11), which shall read as follows:

"(10) A person whose real property is being acquired in accordance with this Title may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, any part thereof, any interest therein, or any compensation paid therefor, to an agency, as such person shall determine.

(11) The term 'appraisal' means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information."

Section 13. Severability - If any provision, clause, or phrase of this Act, or the application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall not invalidate the remainder of this Act, and the application thereof to other persons or circumstances shall not be affected thereby.

Section 14. Effective Date

This bill shall become effective on approval by the Governor as to business relocation payments and assistance by state agencies taking place after April 2, 1987, solely to the extent needed to increase benefit payments accordingly. In all other respects, this bill shall become effective April 2, 1989.

Approved April 25, 1989.

CHAPTER 9

FORMERLY

HOUSE BILL NO. 258

AN ACT TO AMEND CHAPTER 303, VOLUME 66, LAWS OF DELAWARE, BEING SENATE BILL NUMBER 480 OF THE 134TH GENERAL ASSEMBLY, AND BEING ENTITLED, "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", BY MAKING ADDITIONS THERETO AND AMENDING TITLE 29 WITH RESPECT TO THE RETIREMENT OF GENERAL OBLIGATION DEBT.

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

Section 1. Amend Chapter 303, Volume 66, Laws of Delaware, being Senate Bill No. 480 of the 134th General Assembly, by making the following additions to State Treasurer, Debt Management (12-05-03) in Section 1:

"1989 Defeasance of Bonds $24,209,056"

Section 2. Amend Chapter 303, Volume 66, Laws of Delaware, being Senate Bill No. 480 of the 134th General Assembly, by adding thereto a new section to read as follows:

"Section 324. Section 1 appropriates $24,209,056 to the State Treasurer, Debt Management (12-05-03) for 1989 Defeasance of Bonds. The appropriation shall be applied to retirement of general obligation bonds issued by the State of Delaware prior to May 3, 1978. The funds appropriated hereby shall be applied (i) to the purchase of securities to be deposited in trust to accomplish an in substance defeasance of said bonds which shall cause said bonds to be deemed retired for the purposes of Section 7423 of Title 29 of the Delaware Code, (ii) to the transaction costs associated with accomplishing said defeasance, and (iii) to the cost of issuing approximately $45 million of the State's general obligation bonds - Series 1989 (College Savings Bond Program) at or about the same time as the accomplishment of the aforesaid defeasance. Notwithstanding the provisions of Section 2617, Title 29 of the Delaware Code or any other law to the contrary, the Secretary of Finance is hereby authorized on behalf of the State, pursuant to such procedures and subject to such terms and conditions as he shall deem in the best interest of the State, to acquire the aforesaid securities for deposit in trust, to identify the bonds of the State to be retired with the proceeds of the trust assets, to waive the right of the State to redeem any such identified bonds prior to their stated maturities, to select a financial institution to serve as trustee and to do all other things reasonably related to the retirement of bonds with the proceeds of this appropriation."

Section 3. Amend Section 1 of Chapter 303, Volume 66, Laws of Delaware, being Senate Bill No. 480 of the 134th General Assembly, by recomputing all subtotals and totals to reflect the amendments made by this Act.

Section 4. Amend §7423 of Title 29, Delaware Code to insert "(a)" before the existing first paragraph of §7423 and to add the following new subsection (b):

"(b) For the purposes of this section bonds shall be considered retired if (i) they have been paid in full at maturity or upon earlier call for redemption or (ii) if at maturity or earlier call for redemption sufficient funds are on deposit to pay such bonds in full or (iii) there shall have been irrevocably deposited in escrow with an independent trustee funds which, together with the earnings thereon, but without regard to any reinvestment earnings, will be sufficient to pay the principal, premium if any, and interest on such bonds, when due at maturity or upon earlier call for redemption (provided that notice of such redemption has been given or irrevocable instructions to give notice of such redemption have been given to the trustee). Funds deposited in escrow pursuant to clause (iii) may only be invested in the following obligations or securities:

(1) direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America and entitled to the full faith and credit thereof;

(2) certificates, depositary receipts or other instruments which evidence a direct ownership interest in obligations described in clause (1) above or in any specific interest or principal payments due in respect thereof; provided, however, that the custodian of such obligations or specific interest or principal payments shall be a bank or trust company organized under the laws of the United States of America or of any state or territory thereof or of the District of Columbia, with a combined capital stock surplus and undivided profits of at least $50,000,000 or the custodian is appointed by or on behalf of the United

States of America; and provided, further, that except as may be otherwise required by law, such custodian shall be obligated to pay to the holders of such certificates, depositary receipts or other instruments the full amount received by such custodian in respect of such obligations or specific payments and shall not be permitted to make any deduction therefrom;

(3) obligations fully guaranteed by the United States of America;

(4) repurchase agreements with respect to obligations listed in clause (1), (2) or (3) with a bank or trust company or any securities dealer which is a member of the Securities Investors Protective Corporation or is covered by another similar federal insurance program; provided however that such obligations must be held by the trustee or other agent of the State in certificate form or by an entry on the books of the issuer of such obligations; and the collateral security must continuously have a market value at least equal to 102% of the amount due under the agreement and the collateral must be free of third party claims and provided further that in the case of a bank or trust company, such institution must have ratings from Moody's or Standard & Poor's in one of their three highest rating categories and in the case of a securities dealer, such dealer must be a member of the National Association of Securities Dealers, Inc. or another similar trade organization; and

(5) an investment contract with a financial institution or insurance company with a rating from Moody's or Standard & Poor's in one of their three highest rating categories provided that such contract is collateralized with obligations described in clause (1), (2) or (3), such collateral is held by the trustee or other agent for the State along with stock powers or other appropriate authority to transfer said collateral to the State in the event of a default, such collateral must continuously have a market value at least equal to 102% of the amount due under the contract and the collateral must be free of third party claims."

Approved April 27, 1989.

CHAPTER 10

FORMERLY

SENATE BILL NO. 80
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 19, TITLE 24, DELAWARE CODE, RELATING TO NURSING, AND PERMITTING THE DELAWARE BOARD OF NURSING TO REQUIRE MANDATORY CONTINUING EDUCATION FOR ALL OF ITS LICENSEES.

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

Section 1. Amend §1906, Chapter 19, Title 24, Delaware Code, by adding thereto a new subsection (22) to read as follows:

"(22) By regulation, establish requirements for mandatory continuing education."

Approved May 4, 1989.

CHAPTER 11

FORMERLY

HOUSE BILL NO. 86

AN ACT TO AMEND SECTION 1342, CHAPTER 13, TITLE 9 OF THE DELAWARE CODE RELATING TO THE COMPENSATION OF MEMBERS OF THE NEW CASTLE COUNTY PLANNING BOARD.

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

Section 1. Amend Section 1342, Chapter 13, Title 9 of the Delaware Code by striking the phrase "who shall serve without compensation" from the first sentence of Section 1342.

Section 2. Amend Section 1342, Chapter 13, Title 9 of the Delaware Code by adding a new sentence at the end of Section 1342 as follows:

> "The compensation of the members of the Planning Board shall be determined by the County Council of New Castle County."

Approved May 4, 1989.

CHAPTER 12

FORMERLY

SENATE BILL NO. 126

AN ACT TO AMEND CHAPTER 34, TITLE 14, DELAWARE CODE, TO ESTABLISH THE IVYANE D.F. DAVIS MEMORIAL SCHOLARSHIP FUND, TO PROVIDE FOR THE ADMINISTRATION THEREOF, AND PROVIDING AN APPROPRIATION THEREFOR.

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

"Section 1. Amend Chapter 34, Title 14, Delaware Code, by adding thereto a new Subchapter VII to read as follows:

Subchapter VII. Ivyane D.F. Davis Memorial Scholarship Fund.

§3470. Purpose.

It is the intent and purpose of the General Assembly through this Subchapter to provide scholarships in memory of Ivyane D.F. Davis, who died February 7, 1989, to deserving Delaware residents who have been placed under Foster Care in Delaware, and to this end there hereby is established the Ivyane D.F. Davis Memorial Scholarship Fund.

§3471. Administration.

(a) This subchapter shall be administered by the Foster Care Review Board.

(b) The Board shall adopt such rules and regulations as it deems necessary and proper to administer the provisions of this subchapter.

(c) The Board shall annually report to the General Assembly of the State of Delaware the number of recipients of scholarships, the institutions attended by said recipients, the total of expenditures made under this subchapter, and such other information as it deems useful for members of the General Assembly.

§3472. Eligibility.

Scholarships awarded under this subchapter shall be available to applicants who have been residents of Delaware for at least the one year immediately preceding the application and who were at any time under foster care in Delaware on or after January 1, 1986, who have been accepted at or who are attending an institution of higher learning or trade school.

§3473. Scholarship awards.

(a) The Board shall award up to fifty (50) Ivyane D.F. Davis Memorial Scholarships annually, subject to General Assembly appropriations and private donations to, and interest earned on proceeds of, the Scholarship Fund created herein.

(b) Scholarship awards shall not exceed the amount set by the board.

(c) Scholarships may be renewed upon application by recipients on an annual basis if the Board is satisfied that the recipient is making satisfactory academic or vocational progress.

(d) Selection of scholarship recipients shall be based on such criteria, established by the Board, as academic achievement, community service, participation in extracurricular activities, and promise of success in the institution of higher learning or vocational courses selected by applicants.

(e) In cases where more than one applicant are judged to be equally qualified for scholarships, financial need shall be considered in establishing priorities for the award of available scholarships.

(f) Funds disbursed under this subsection shall be disbursed on an annual or semiannual basis and shall be disbursed to the institution or school which a recipient attends, not directly to the student.

§3474. Creation of Ivyane D.F. Davis Memorial Scholarship Fund.

(a) The Ivyane D.F. Davis Memorial Scholarship Fund is hereby created.

(b) The Board is authorized to accept donations from private individuals and organizations for deposit in the Fund.

(c) All appropriations from the General Assembly to the Fund, donations to the Fund, and interest earned on monies in the Fund shall be used solely for the award of scholarships."

Section 2. There is hereby appropriated the sum of fifty thousand dollars ($50,000) to the Foster Care Review Board for the sole purpose of establishing the Ivyane D.F. Davis Memorial Scholarship Fund.

This is supplemental appropriation and shall be paid by the State Treasurer out of monies in the general fund not otherwise appropriated or encumbered. This is a continuing appropriation and any funds remaining unexpended or encumbered on June 30, 1990, shall not revert to the general fund.

Approved May 4, 1989.

CHAPTER 13

FORMERLY

HOUSE BILL NO. 201

AN ACT TO AMEND 61 DELAWARE LAWS CHAPTER 156, BEING THE CHARTER OF THE CITY OF MILFORD, BY AMENDING SECTIONS 1.01(B) AND 11.05 THEREOF TO PERMIT THE AWARDING OF CONTRACTS WITHOUT PUBLIC COMPETITIVE BIDDING FOR SERVICES RENDERED BY THE STATE OF DELAWARE, FOR PROFESSIONAL SERVICES, AND UNDER OTHER CIRCUMSTANCES, AND TO PERMIT SALE OF BONDS AT PUBLIC OR PRIVATE SALE.

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

Section 1. Amend Article I, Section 1.01(B) 61 Delaware Laws Chapter 156 by inserting the following sentence at the end of Paragraph B:

"Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances;

(a) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(b) A contract for professional services."

Section 2. Amend Article XI, Section 11.05 61 Delaware Laws Chapter 156 by deleting the last sentence of the first paragraph and deleting the second paragraph in its entirety and substituting in lieu thereof the following:

"The bonds or bonds or certificate or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue by disposed of, as the City Council may deem most advisable."

Approved May 4, 1989.

CHAPTER 14

FORMERLY

SENATE BILL NO. 127

AN ACT AUTHORIZING AND DIRECTING THE DEPARTMENT OF STATE, DIVISION OF HISTORICAL AND CULTURAL AFFAIRS TO NAME THE HALL OF RECORDS BUILDING LOCATED ON THE NORTHEAST CORNER OF DUKE OF YORK STREET AND LEGISLATIVE AVENUE, DOVER, DELAWARE, AS THE LEON DEVALINGER, JR. HALL OF RECORDS BUILDING IN HONOR OF LEON DEVALINGER, THE STATE'S FIRST FULL TIME STATE ARCHIVIST AND IN COMMEMORATION OF THE GOLDEN ANNIVERSARY OF THE BUILDING BUILT FIFTY YEARS AGO TO HOUSE THE STATE'S TREASURED AND HISTORICAL DOCUMENTS FOR POSTERITY.

WHEREAS, these initial whereas clauses are complete or partial quotes from the State Sentinel of 1939, an old Dover newspaper now extinct; and

WHEREAS, "Delaware's new Hall of Records Building was officially opened to the public on Dover Day, May 6, 1939", which coincidentally on May 6, 1989 is official Old Dover Day, marking the building's Golden Anniversary- 50 years; and

WHEREAS, "the building is built of red brick with architectural lines and masses in conformity with the local colonial tradition"; and

WHEREAS, "the new building was located within easy walking distance of the heart of town and not very far away from the State House"; and

WHEREAS, "the new building was under the direct charge of Leon deValinger, Assistant Archivist"; and

WHEREAS, "initially the building housed the Corporation and Franchise Tax Department and the State Archives Department"; and

WHEREAS, "the first floor had offices for the State Archives Department, Secretary of State, a small private office for the Governor, with research rooms and vaults, there was space in the lobby for the display of the State Charter and other documents; the second floor was devoted to the Corporation and Franchise Tax Departments; in the basement there were workrooms for the Archives Department and vaults"; and

WHEREAS, in 1939 the Journal Every Evening newspaper of Wilmington reported a story that read "State Archives rises from the cellar of the Old State House to a $160,000 building which brought Delaware from the dark ages of record preservation to one of envy in the nation"; and

WHEREAS, the Hall of Records was built through P.W.A. assistance and was considered one of the finest archives buildings in the East; and

WHEREAS, Leon deValinger, Jr., a native of Middletown, Delaware was born in 1905 and his family moved to Wilmington where he attended Grammar School 28 and P.S. 15 and graduated from Wilmington High School; and

WHEREAS, Mr. deValinger went on to the University of Delaware where in 1930 he received his Bachelor's Degree in history; and

WHEREAS, while at the University of Delaware, the name Leon deValinger came to the attention of Dr. Georg« H. Ryden, a history professor who served as part-time State Archivist and upon graduation from Delaware, Leon went to work for Dr. Ryden as Assistant State Archivist in 1930; and

WHEREAS, in 1935 Leon received his Master's Degree from Delaware, his thesis was the first comprehensive survey of colonial government in Delaware; and

WHEREAS, when Leon deValinger went to work for the State Archives it was located in the basement of the Old State House and the colonial records of the State were in absolutely deplorable condition; and

WHEREAS, Leon deValinger led the fight for construction of the State's first well-designed depository for historical records which resulted in the construction of the Hall of Records in 1938; and

WHEREAS, Leon worked closely with architects in designing the building and convinced the State that it was essential to devote much of the space in the building to fire-proof vaults for record storage; and

WHEREAS, in 1941 Leon deValinger succeeded Dr. Ryden as State Archivist becoming Delaware's first full-time archivist and during his career as archivist built what now comprises the modern Division of Historical and Cultural Affairs from ground up; and

WHEREAS, there are many, many achievements credited to Leon deValinger, some of which include the Delaware State Museum, becoming its first Director; saving the John Dickinson Mansion from destruction, to include its purchase and restoration; brought about the acquisition by the State of many other historical structures which make up the State's vast historic sites; and

WHEREAS, it was in the 1930's that Leon deValinger was instrumental in erecting historical markers throughout the State; and

WHEREAS, during Leon deValinger's tenure as State Archivist he held a host of other responsible positions such as the Mason-Dixon Boundary Coordinator, head of the Buildings and Grounds Commission for the City of Dover, Chief of Protocol for the State, Director of the Bonds for Delaware Veterans of the Vietnam War and has held every national office in the Society of American Archivists; and

WHEREAS, in 1964, Leon deValinger was awarded an Honorary Doctorate of Humane Letters by his Alma Mater, the University of Delaware, where he also taught many summer courses in Delaware history; and

WHEREAS, on July 15, 1971 Leon deValinger retired as State Archivist after serving in the position for 38 years; and

WHEREAS, not entirely satisfied with retirement in 1971 he became Executive Director of the Delaware League of Local Governments, a position he held until he retired in 1988; and

WHEREAS, Leon deValinger has contributed to the State of Delaware his talents, his dedication and deep interest in preserving and protecting our historic and natural heritage for posterity purposes and he is most deserving of this distinct honor of naming the Hall of Records the "Leon deValinger, Jr. Hall of Records Building" in deep appreciation for a life time of work.

NOW, THEREFORE:

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

Section 1. The Department of State, Division of Historic and Cultural Affairs is hereby authorized and directed to name the Hall of Records Building located on the northeast corner of Duke of York Street and Legislative Avenue, Dover, Delaware as The Leon deValinger, Jr. Hall of Records Building in honor of Leon deValinger, Jr., Delaware's first full-time State Archivist on this Fiftieth Anniversary of the building on May 6, 1989, the officially declared Old Dover Day for 1989.

Section 2. The Department of State, Division of Historical and Cultural Affairs is hereby authorized and directed to purchase and/or construct appropriate markers, plaques, or other designators indicating the name of the building to be the "Leon deValinger, Jr. Hall of Records Building", such signs and/or plaques to be in conformity with aesthetic architectural signs in the capitol complex area.

Approved May 4, 1989.

CHAPTER 15

FORMERLY

HOUSE BILL NO. 84

AN ACT TO AMEND CHAPTER 13, TITLE 30 AND CHAPTER 23, TITLE 12, OF THE DELAWARE CODE RELATING TO THE INHERITANCE 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 §1341, Chapter 13, Title 30 of the Delaware Code by striking the figures "$10,000" and "$3,000" as they appear in paragraphs (2) and (3), respectively, of subsection (a) of said section and substitute respectively in lieu thereof the figures "$25,000" and "$5,000".

Section 2. Amend §1345(a), Chapter 13, Title 30 of the Delaware Code by inserting at the end of said section after word "lien" and before the period "." the following:

"and except for any property passing to the spouse of a decedent, which shall not be subject to the lien provided by this subsection"

Section 3. Amend §1341, Chapter 13, Title 30 of the Delaware Code by striking in its entirety paragraph (a)(1) of said section and substituting in lieu thereof the following:

"(1) The value of the gross estate at the death of the decedent (excluding property owned as tenants by the entirety with a spouse) exceeds $250,000; or one of the beneficiaries is a person described in Class A of §1322 of this Title and there is imposed a tax under subsection (1) of §1322 of this Title".

Section 4. Amend §2304, Chapter 23, title 12 of the Delaware Code by striking said section in its entirety and substitute in lieu thereof a new §2304 to read as follows:

"§2304. Inheritance Tax Returns or Affidavits.

Whenever a return is required under §1341 of Title 30, a certificate of the Division of Revenue shall be filed with the Register of Wills of the county in which letters have been granted and, in addition, with the Register of Wills of the county or counties in which the decedent owned real property. In all cases when no return is required under §1341 of Title 30, an affidavit, in a form approved by the Division of Revenue, shall be completed and filed by the personal representative, surviving joint tenant or person in possession of the estate with the Register of Wills. The Secretary of Finance may, in addition, require that a copy of said affidavit be filed with him."

Section 5. Amend §1341, Chapter 13, Title 30 of the Delaware Code by adding the following phrase after the word "property" and before the period "." as they appear at the end of paragraph (a)(5) of said Section:

"provided such property passes to a person described in Classes B, C or D of §1322 of this Title"

Section 6. Amend §1341, Chapter 13, Title 30 of the Delaware Code by striking the word "title" as it appears in subsection (b) of said Section and substitute in lieu thereof the following: "Title, and would have had to file a return if the decedent was a Delaware resident".

Section 7. Amend §1345, Chapter 13, Title 30 of the Delaware Code by striking the phrase "lapse of time, it" as it appears in subsection (a) of said section and substitute in lieu thereof the following:

"lapse of time, or unless a certificate or affidavit pertaining to such tax has been filed with the Register of Wills as set forth in §2304 of Title 12, the tax"

Section 8. Amend §1304(a), Chapter 13, Title 30 of the Delaware Code by adding at the end thereof the following:

"For purposes of the preceding sentence, a general power of appointment shall be deemed to have been created (i) in the case of a general power of appointment created by will, on the date of the death of the testator and (ii) in the case of a general power of appointment created by an inter vivos instrument, on the date that the instrument is no longer revocable pursuant to the uncontrolled volition of the person having such a power of revocation."

Section 9. Amend §1304, Title 30 of the Delaware Code by adding at the end thereof the following new subsection (h):

"(h) If there is a specific property included in the gross estate for Delaware inheritance tax purposes that is not includible in the gross estate for Federal estate tax purposes and there is a tax imposed under Chapter 15 of this Title on the estate, then for purposes of this chapter only, that specific property shall be disregarded in computing the inheritance tax due."

Section 10. Amend §1309, Chapter 13, Title 30 of the Delaware Code by striking subsection (c) of said section in its entirety and substitute in lieu thereof a new subsection (c) to read as follows:

"(c) Exemption of Annuities and Other Payments Under Certain Trusts and Plans -- Notwithstanding the provisions of this Section or any provision of law, there shall not be deemed to be a transfer from any decedent the value of an annuity or other payment received by the estate of the decedent or by a beneficiary under qualified pension, profit sharing, and stock bonus plans described in 26 U.S.C. §401(a) of the Federal Internal Revenue Code, a qualified annuity plan or contract described in 26 U.S.C. §403(a) or (b) of the Federal Internal Revenue Code; or an individual retirement account, annuity or bond described in 26 U.S.C. §408(a) or (b) of the Federal Internal Revenue Code."

Section 11. Amend §1314, Chapter 13, Title 30 of the Delaware Code by striking subsection (a) of said section in its entirety and substitute in lieu thereof a new subsection (a) to read as follows:

"(a) In General -- If the decedent was, at the time of his death, a resident of the State and the person filing the return of tax imposed by this Chapter elects the application of this Section, the value of qualified real property shall be its value under 26 U.S.C. §2032A of the Federal Internal Revenue Code, or such similar subsequent tax legislation, hereinafter referred to as 'I.R.C. §2032A, whether or not a federal estate tax return is required to be filed on behalf of such decedent and whether or not an election is made to value property under I.R.C. §2032A for federal estate purposes. The aggregate decrease in the value of qualified real property with respect to the gross estate of any decedent shall not exceed $500,000."

Section 12. Amend §1323, Chapter 13, Title 30 of the Delaware Code by striking subsection (c) of said section in its entirety and by redesignating existing subsection (d) of said §1323 as subsection (c) of said section.

Section 13. Amend Chapter 13, Title 30 of the Delaware Code by adding thereto a new §1326 to read as follows:

"§1326. Credit for Previously Taxed Property.

(a) Where any property, real, personal, or mixed, is included in the decedent's gross estate for purposes of this Chapter and such property can be identified as having been received by the decedent (or that the decedent was entitled to receive) as beneficiary of the estate of any person who died within 2 years prior to the death of the decedent, or which can be identified has having been acquired by the decedent in exchange for the property so received, if an inheritance tax under this Chapter was collected with respect to such property, a credit of an amount equal to the tax collected with respect to such property at the time of the prior decedent's death shall be allowed. Unless the will of the decedent, a trust or other legally effective written instrument governing the source of payment of the tax imposed by §1322 of this Title provides that the tax attributable to such property is to be paid from a source other than the property referred to in the preceding sentence, the credit shall be applied against the tax imposed by §1322 of this Title on the transfer to the beneficiary entitled to such property, or if more than one beneficiary is entitled to such property, then the credit shall be apportioned against the tax imposed by §1322 of this Title on the transfer to each beneficiary of his net taxable share of the gross estate in proportion to the share of the property which is so included in the gross estate as that beneficiary is entitled to receive. For purposes of this Section, the tax collected with respect to such property shall be an amount equal to the excess of the inheritance tax collected with respect to such prior decedent's estate over the inheritance tax computed without including such property in such prior decedent's gross estate for inheritance tax purposes.

(b) Subsection (a) of this Section notwithstanding, the maximum credit allowable pursuant to this Section shall be an amount equal to the tax imposed by §1322 of this Title on the specific property to which this section applies only."

Section 14. Amend §1344(b), Title 30 of the Delaware Code by striking the phrase "subsection (c)" as it appears therein and substitute in lieu thereof the phrase "subsections (c) and (d)" and by adding to said section a new subsection (d) to read as follows:

"(d) If any part of the gross estate consists of the value of property which is includible in the gross estate by reason of §1304(d) (relating to certain property for which a marital deduction was previously allowed), the decedent's estate shall be entitled to recover from the person receiving the property the tax imposed under §1322 of this Title on the transfer to him of his net taxable share of the property so included in the gross estate."

Section 15. Amend Chapter 13, Title 30 of the Delaware Code by adding thereto a new §1346 to read as follows:

"§1346. Release of Lien as to Specific Property.

(a) Subject to such regulations as the Secretary of Finance may prescribe, the Secretary may, upon submission of a complete application by the executor, release the lien imposed by §1345 of this Title with respect to any property subject to tax under Chapters 13 and 15 of this Title provided such application sets forth a showing of just cause for the release of the specific property from the lien. The sale or proposed sale of the specific property shall be deemed to be just cause for the release of that property from the lien. Such application shall include:

(1) A description of the property to be released.

(2) The value of that property.

(3) An estimate of the total value of all property subject to the lien of §1345 of this Title.

(4) An estimate of the tax due under Chapters 13 and 15 of this Title with respect to the entire estate.

(5) The classification of the beneficiary of the specific property according to §1322 of this Title.

(6) An estimate of the amount of tax due with respect to the specific property and the basis for such estimate.

(7) The reason for the request of early release of the specific property and the prejudice suffered if such property is not released as requested.

(8) A statement, under penalty of perjury, that the facts contained in the application are true and correct to the best of the executor's knowledge.

(9) A proposed form of release of lien as to the specific property.

(10) Payment of the amount of tax estimated to be due with respect to the specific property to be released.

(b) The Secretary shall respond to such application within 30 days of receipt or the application shall be deemed granted. The response need not be a final one to qualify as a response under this provision. A certificate by the executor, under penalty of perjury, that no response of any kind has been received shall constitute conclusive proof of such non-receipt as to anyone who relies in good faith thereon.

(c) If the Secretary finds the application for the release of the specific property is complete pursuant to subsection (a) herein, he shall release the specific property upon receipt of payment of the estimated tax due with respect to the specific property under §1322 of this Title.

(d) In no event shall the release of any specific property from the lien of §1345 of this Title affect the personal liability of the transferors of such property or the executor for the tax due under Chapters 13 or 15 of this Title."

(e) If there has been an underpayment of the tax due with respect to the specific property at the time of the release of lien by the Secretary of Finance, there shall be assessed interest at the amount of 1% per month as to the amount of the underpaid tax liability under Chapter 13 commencing nine months from the date of the decedent's death and continuing until the time of payment of the actual tax due as reflected on the final return as accepted by the Division of Revenue.

Section 16. This Act shall be effective for decedents dying on or after January 1, 1989.

Approved May 8, 1989.

CHAPTER 16

FORMERLY

HOUSE BILL NO. 85
AS AMENDED BY
HOUSE AMENDMENT NOS. 1 AND 2 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 28, OF THE DELAWARE CODE RELATING TO THE SCOPE AND FEES OF BINGO, AND REPORTING AFTER GAMES OF BINGO.

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

Section 1. Amend Section 1102, Chapter 11, Title 28 of the Delaware Code by adding a new subsection (7) to read as follows:

"(7) 'Instant bingo' means any game of chance played with sealed or covered cards which must be opened in some fashion by the holder, such that the cards reveal instantly whether the holder has won a prize. This subsection includes, but is not limited to, so-called 'rip-offs', or 'Nevada pull-tabs'."

Section 2. Amend Section 1102 (3), Chapter 11, Title 28 of the Delaware Code by striking it in its entirety and substituting the following:

"(3) 'Game or games' means bingo, instant bingo, and charitable gambling."

Section 3. Amend Section 1133 (a), Chapter 11, Title 28 of the Delaware Code by striking the present paragraph in its entirety and substituting the following:

"There shall be a license fee of $15.00 for each occasion upon which bingo or charitable gambling are to be conducted under such license."

Section 4. Amend Section 1133, Chapter 11, Title 28 of the Delaware Code by adding a new Subsection (c) thereto to read as follows:

"(c) There shall be an annual license fee of $300.00 for each organization sponsoring instant bingo games."

Section 5. Amend Subsection (a), Section 1139, Title 28 of the Delaware Code by striking the present Subsection (a) in its entirety and substituting the following:

"(a) Bingo and charitable games conducted on Sundays shall not commence prior to 1:30 p.m. Bingo on days other than Sunday shall be permitted only between the hours of 10:00 a.m. and 1:00 p.m. and between the hours 6:00 p.m. and 11:30 p.m. Charitable Games on days other than Sunday shall be permitted only between the hours of 10:00 a.m. and 1:00 p.m. and between the hours of 6:00 p.m. and 1:00 a.m. Instant bingo is permitted during any event sponsored by the entity that is licensed to conduct it, regardless of the day or time."

Section 6. Amend Section 1139(b), Title 28 of the Delaware Code by adding a new sentence at the end thereof to read as follows:

"No person under the age of 18 shall be permitted to participate in any instant bingo game."

Section 7. Amend Section 1140, Title 28 of the Delaware Code by adding a new Subparagraph (d) thereto to read as follows:

"(d) This section shall not apply to instant bingo."

Section 8. Amend §1102, Title 28, Delaware Code by deleting the phrase ', and also means "instant bingo"' as it appears at the end of subsection (1).

Approved May 8, 1989.

CHAPTER 17

FORMERLY

HOUSE BILL NO. 208

AN ACT TO AMEND CHAPTER 174, VOLUME 23, LAWS OF DELAWARE, AS AMENDED ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF TOWNSEND" RELATING TO THE AUTHORITY TO ISSUE BONDS.

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

Section 1. Amend Chapter 174, Volume 23, Laws of Delaware, by adding thereto a new section to be designated §15 to read as follows:

"§15. Creation of Debt; Authorization, Procedures and Debt Limitation and Anticipation Borrowing

(a) The Town shall have the power to authorize the issuance of bonds and notes of the Town to finance the cost of any object, program or purpose for which Town, 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 Town; provided, however, that the Town shall not have authority to create or to authorize the creating 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 Town to pay any item of operating expense; or the payment for any equipment or any public improvements of a normal life of less than 5 years. The foregoing limitations shall not apply should the Town unanimously declare the existence of an emergency due to public calamity.

(b) The powers conferred by this subsection 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 Subchapter for any object or purpose for which Town 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 Subchapter 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.

(c) Bonds and notes issued pursuant to this Subchapter shall be authorized by ordinance of the Town approved by not less than 3/5ths of all of the Members of Council. Each such ordinance shall state in brief and general terms the objects or purposes for which the debt is to be incurred and the maximum aggregate principal amount of debt to be incurred for each such object or purpose. Such ordinance, or a subsequent resolution of the Town, shall specify, or may delegate authority to the Council President to determine, with respect to any bonds and notes; their date or dates; their maturity; the security therefore, if any, including a pledge of the Town's full faith and credit, 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 premiums; the interest rate or 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 for the consolidation of debt authorized for several objects and purposes pursuant to one or more ordinances into one consolidated issue; provisions for the receipt and deposit or investment of any good faith deposit; provisions for the public or private sale of the debt instruments; and such other terms and conditions as may be in the best interest of the Town. Debt incurred by the Town pursuant to this Subchapter may be represented by uncertificated obligations of the Town which may be applicable to bonds and notes which are permitted to be issued under this Subchapter, and the Town by resolution may determine, or it may delegate authority to the Council President to determine, all procedures appropriate to the establishment of a system of issuing uncertificated debt.

(d) The Town may pledge its full faith and credit to secure the payment of the principal, interest and premium, if any, on any debt incurred pursuant to this Subchapter and/or may pledge any other security therefor. With respect to any debt to

which the Town'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 Town without limitation as to rate or amount and that the full faith and credit of the Town are pledged for payment. The Town shall annually levy and collect a tax ad valorem upon all taxable property sufficient to pay the principal of and interest on each bond or note secured by the Town'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.

(e) The outstanding general obligations bonded indebtedness of Town secured by its full faith and credit may not exceed twelve percent (12%) of the assessed valuation of all real property subject to taxation by the Town. The outstanding bonded indebtedness of the Town not secured by its full faith and credit is without limitation as to amount.

(f) The proceeds from the sale of bonds and notes issued under this Subchapter 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.

(g) All bonds, notes or other evidences of indebtedness issued pursuant to this Subchapter 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 Town. 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 Town to issue the same and of the legality, validity and enforceability of the obligation of the Town to pay principal of and interest on the same. In case any Town 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 sale of the Town 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 Town 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.

(h) Notwithstanding any limitations herein to the contrary, the Town may borrow in the anticipation of the collection of taxes or other revenues budgeted for any purposes for which taxes are levied."

Approved May 9, 1989.

CHAPTER 18

FORMERLY

HOUSE BILL NO. 209

AN ACT TO AMEND TITLE 28 OF THE DELAWARE CODE RELATING TO RACING DAYS.

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

Section 1. Amend Chapter 3, Title 28 by striking the last three sentences of §322(c) in their entirety, and by substituting in lieu thereof the following:

"The dates so awarded for racing to be conducted in any 1 county shall not exceed 150 days in the aggregate in which racing will be conducted in any 1 county in this State, and the decision of the Commission on the award of dates shall be final. Dates awarded in any 1 county shall be used by the licensee in that county for racing in that county only. Anything in this subsection to the contrary notwithstanding, in calendar year 1989 only, the Commission shall, upon application made on or before July 1, 1989, award additional dates for racing within the respective counties of this State for 1989."

Approved May 9, 1989.

CHAPTER 19

FORMERLY

SENATE BILL NO. 165
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 1 OF THE DELAWARE CODE RELATING TO MEMORIAL DAY.

WHEREAS, many Delaware businesses, Public Schools, and the Federal Government, celebrate Memorial Day the last Monday in May; and

WHEREAS, in 1989 the legal holiday for state employees is not the last Monday, but is May 30; and

WHEREAS, on the last Monday in May when state employees are required to be on the job, DART buses in New Castle County will not be operating, and many day care centers and other facilities will be closed; and

WHEREAS, state employees will not be able to share the holiday with other members of their families; and

WHEREAS, on May 30, those state employees who interface with businesses, the Federal Government and public schools must be on the job, thereby incurring overtime costs for the State.

NOW, THEREFORE:

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

Section 1. Amend Delaware Code, Title 1, Section 501 by striking the words "the 30th day of May, known as Memorial Day;", and by redesignating §501 as §501(a).

Section 2. Amend Delaware Code, Title 1, Section 501 by adding a new §501(b) to read as follows:

"(b) The last Monday in May shall be the legal holiday, known as Memorial Day, in the State."

Approved May 17, 1989.

CHAPTER 20

FORMERLY

HOUSE BILL NO. 66
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 83, TITLE 11, DELAWARE CODE RELATING TO ELIGIBILITY OF DEPENDENTS FOR SURVIVORS PENSION BENEFITS.

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

Section 1. Amend §8325, Chapter 83, Title 11, Delaware Code by inserting the word "dependent" between the words "youngest" and "child" as such words appear together therein.

Section 2. Amend §8325, Chapter 83, Title 11, Delaware Code by striking the words "arrive at the age of 18 years;" and by substituting in lieu thereof the words "cease to be a dependent as defined by §8351 (4) of this Title;".

Section 3. Amend §8326, Chapter 83, Title 11, Delaware Code by striking the words "child shall arrive at the age of 18 years or sooner die" and by substituting in lieu thereof the words "dependent child shall cease to be a dependent as defined by §8351 (4) of this Title."

Approved May 18, 1989.

CHAPTER 21

FORMERLY

HOUSE BILL NO. 62

AN ACT TO AMEND §4166, TITLE 21, DELAWARE CODE, RELATING TO SCHOOL BUS STOP SIGNAL DEVICES.

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

Section 1. Amend §4166 (b)(4)(c), Title 21, Delaware Code, by striking the period at the end thereof and by inserting in lieu thereof the following:

"; provided, however, the amber warning lights and/or the red stop lamps may be used any time the bus is transporting children under the age of eighteen."

Approved May 18, 1989.

CHAPTER 22

FORMERLY

SENATE BILL NO. 16
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 1 OF THE DELAWARE CODE RELATING TO CERTAIN LEGAL HOLIDAYS.

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

Section 1. Amend §501, Title 1, Delaware Code by deleting the following:

"the first Monday in February, known as Lincoln's Birthday; the third Monday in February, known as Washington's Birthday;"

and by substituting in lieu thereof the following:

"the third Monday in February, known as Presidents' Day;".

Section 2. Amend §501, Title 1, Delaware Code by inserting between the words "known as Thanksgiving Day;" and "the 25th of December," the following:

"the Friday following Thanksgiving Day;"

Section 3. This Act shall become effective on January 1, 1990.

Approved May 18, 1989.

CHAPTER 23

FORMERLY

HOUSE BILL NO. 77
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO THE DISTRIBUTION AND POSTING OF WARNING SIGNS.

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 903, Title 4 of the Delaware Code by striking the comma at the end of subsection (15) and substituting in lieu thereof the following: "; or".

Section 2. Further Amend Section 903, Title 4 of the Delaware Code, by adding thereto a new subsection "(16)" to read as follows:

"(16) Being the holder of a license to sell alcoholic liquor, fails to post in a conspicuous place a sign which clearly reads, 'According to the Surgeon General women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.'"

Section 3. Amend Section 304 of Title 4 of the Delaware Code by adding thereto a new subsection (17) as follows:

"(17) Provide such warning signs as may be required by Section 903 (16) of this Title and distribute such signs to license holders and promulgate regulations with respect to the posting of said signs. A nominal fee may be charged by the Commission to cover printing, handling and distribution costs."

Section 4. Section 3 of this Act shall become effective upon enactment into law. Sections 1 and 2 shall become effective January 1, 1990."

Approved May 23, 1989.

CHAPTER 24

FORMERLY

SENATE BILL NO. 12
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 7, TITLE 24, OF THE DELAWARE CODE RELATING TO THE BOARD OF CHIROPRACTIC EXAMINERS.

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

Section 1. Amend subsection (a), §708, Chapter 7, Title 24 by adding the words "all parts of" immediately after the word "passed" in said section.

Section 2. Amend subsection (b), §708, Chapter 7, Title 24 by adding the words "all parts of" immediately after the word "completed" and by striking the word "clinical" and substituting the word "practical" in lieu thereof.

Section 3. Amend subsection (b), §708, Chapter 7, Title 24 by striking the word "usually" as the same appears on line three of said subsection.

Section 4. Amend subsection (b), §708, Chapter 7, Title 24 by striking the second sentence in its entirety.

Section 5. Amend subsection (c), §708, Chapter 7, Title 24 by striking the word "clinical" and substituting the word "practical" in lieu thereof, and by adding a final sentence to the subsection to read as follows:

"The construction, administration and grading of the practical examination shall be subject to the approval of the Division of Professional Regulation."

Section 6. Amend subsection (d), §708, Chapter 7, Title 24 by striking the word "clinical" and substituting the word "practical" in lieu thereof.

Section 7. Amend §708, Chapter 7, Title 24 by striking sections (e), (f) and (g) in their entirety.

Section 8. Amend §711, Chapter 7, Title 24 by striking the first sentence in its entirety and substituting in lieu thereof the following:

"An applicant for a license to practice chiropractic in this State based upon reciprocity must produce evidence that he/she has graduated from an accredited or Board approved school of chiropractic, and has practiced chiropractic in another state for a period of three years, and has successfully completed a practical examination administered by the Board."

Approved May 24, 1989.

CHAPTER 25

FORMERLY

HOUSE BILL NO. 92
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE RELATING TO DRIVING PRIVILEGES.

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

Section 1. Amend §2710, Chapter 27, Title 21 Delaware Code by inserting the words "over the age of 21" between the words "operator" and "who" as they appear in §2710(a)(2).

Section 2. Amend Section 2710, Chapter 27, Title 21 Delaware Code of the Delaware Code by adding a new subsection (g) to read as follows:

"(g) Notwithstanding the other requirements of this Chapter, if the applicant is less than 18 years of age and has successfully completed the required training and examination, the Department may issue a driver's license. The driver's license issued pursuant to this Section, shall, for the first 60 days from the date of issuance, only be valid when the applicant is accompanied by a properly licensed parent or guardian, and when there are no more than two other persons in the vehicle, both of whom are members of the applicant's immediate family. If the parent(s) or guardian(s) is (are) not licensed to operate a motor vehicle, the applicant must be accompanied by a licensed driver who is 21 years of age or older. The required 60 day period may be reduced by any period of time during which the applicant has held a temporary instruction permit pursuant to §2710 of this Title."

Approved May 30, 1989.

CHAPTER 26

FORMERLY

SENATE BILL NO. 153

AN ACT TO AMEND DELAWARE CODE, TITLE 14, CHAPTER 17, RELATING TO THE ALLOCATION DIVISION III EQUALIZATION FUNDING.

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

Section 1. Amend Delaware Code, Title 14, Subsection 1707(c) by striking the last sentence in said subsection in its entirety and by substituting in lieu thereof the following:

"For the fiscal year ending June 30, 1990 and for any subsequent fiscal year, the state share per unit for any school district shall not be less than the state share per unit received by that district in the prior fiscal year provided that the school district does not reduce its current expense revenue below that for the prior fiscal year by reducing its current expense tax rate for real estate or capitations. In the event that a school distict reduces its current expense revenue by reducing its current expense tax rate, the state share per unit shall be reduced by a proportionate amount."

Approved May 29, 1989.

CHAPTER 27

FORMERLY

SENATE BILL NO. 48
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND VOLUME 65, CHAPTER 385, LAWS OF DELAWARE RELATING TO THE FISCAL YEAR 1987 CAPITAL BUDGET AS AMENDED AND TO AMEND VOLUME 66, CHAPTER 360 LAWS OF DELAWARE RELATING TO THE FISCAL YEAR 1989 CAPITAL BUDGET.

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

Section 1. Amend Volume 65, Chapter 385, Laws of Delaware by adding the words "and Beach Preservation" to the project named "Indian River Inlet" listed under Department of Natural Resources and Environmental Control" contained in the "Fiscal Year 1987 Capital Improvements Project Schedule."

Section 2. Amend Volume 66, Chapter 360, Laws of Delaware by adding the words "and other energy saving projects" to the project named "Woodbridge Windows" listed under "State Board of Education" contained in the "Fiscal Year 1989 Capital Improvements Project Schedule."

Section 3. Amend Volume 66, Chapter 360, Laws of Delaware by adding to the Project Schedule as it appears on pages B-6 through B-8 the following:

"Meadows Acres - Oak Lane (from RD 530 to end), 89-976 $35,100

Fernwood Drive (RD 530 to end),

No Name St. (Oak Lane to RD 530)

Branchview - Brookside Dr. (RD 20 to Brookside), 89-977 $35,750

Butler Mill Dr (Brookside to Brookside)"

Section 4. Amend Volume 66, Chapter 360, Laws of Delaware by striking the number "110,900" as it appears on page B-10 of the Project Schedule and substituting in lieu thereof the number "40,050".

Approved May 31, 1989.

CHAPTER 28

FORMERLY

SENATE BILL NO. 185

AN ACT AUTHORIZING AND DIRECTING THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION TO TRANSFER TO THE TOWN OF SMYRNA APPROXIMATELY 35.504 ACRES OF LAND, MORE OR LESS, FOR THE PURPOSE OF UTILIZING IT FOR CURRENT RECREATION PURPOSES AND FURTHER WAIVING THE PROVISIONS OF SECTION 137, CHAPTER 1, TITLE 17, DELAWARE CODE.

WHEREAS, on March 23, 1967, the Department of Transportation, Division of Highways, leased to the Town of Smyrna a parcel of land for the purpose of public recreation specifically for development and use as baseball field(s) complex for a period of 25 years,with the option of a ten-year renewal; and

WHEREAS, the parcel of land consists of approximately 35.504 acres, more or less, situated in Duck Creek Hundred, Kent County, State of Delaware, more specifically described as being on the northerly side of Kent County Road 134, running from Smyrna to Clayton and designated as the Old Council Borrow Pit comprised of Council Pit No. 1, New Council Pit No 2 and 2A, Council Pit No. 3 and Parcel No. 4; identified graphically on Department of Transportation's Right-of-Way Section Plot No. k-19; and

WHEREAS, the Town of Smyrna caused to be built on these lands a number of baseball fields and outbuildings and has maintained them according to the provisions of the lease; and

WHEREAS, the Town of Smyrna is desirous to have these lands conveyed to them for the continued operation and maintenance of said baseball fields; and

WHEREAS, under the provisions of Section 137, Chapter 1, Title 17, Delaware Code, the Department of Transportation is required to dispose of surplus land at fair market value; and

WHEREAS, it is the intention that this Act is not subject to the provisions of Chapter 94, Title 29, Delaware Code; and

WHEREAS, the Town of Smyrna requests these lands be conveyed in fee simple for the sum of $1.00 in consideration of the fact that the Town of Smyrna has assume great expense in construction and maintenance of said complex and has provided a very worthwhile recreational facility for the community and desires to protect their interests in perpetuity; and

WHEREAS, the Department of Transportation, Division of Highways has declared said property surplus to its need and does not object to such conveyance.

NOW, THEREFORE:

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

Section 1. The Secretary of the Department of Transportation, Division of Highways, is hereby authorized, empowered and directed to transfer title by deed, that parcel of land herein above described and presently owned by the State of Delaware and under its jurisdiction, to the Town of Smyrna, Delaware for consideration of $1.00 contingent upon the following conditions which shall be stipulated and recorded in the deed hereby authorized:

1) The land herein authorized to be conveyed to the Town of Smyrna shall be used for current recreational purposes.

2) The deed shall contain a reversion clause to the effect that if the Town of Smyrna, shall cease to use said property for its intended purpose herein stated, then in that event said property shall revert to the State of Delaware, Department of Transportation.

3) The Department of Transportation shall have the right to retain any land required to be maintained as right-of-way for the existing adjacent public road known as Kent County Road No. 134.

4) The Town of Smyrna agrees to reconvey any portion of said tract to the Department of Transportation, should such lands be required in the future for public transportation related projects at no cost to the State of Delaware.

CHAPTER 27

FORMERLY

SENATE BILL NO. 48
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND VOLUME 65, CHAPTER 385, LAWS OF DELAWARE RELATING TO THE FISCAL YEAR 1987 CAPITAL BUDGET AS AMENDED AND TO AMEND VOLUME 66, CHAPTER 360 LAWS OF DELAWARE RELATING TO THE FISCAL YEAR 1989 CAPITAL BUDGET.

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

Section 1. Amend Volume 65, Chapter 385, Laws of Delaware by adding the words "and Beach Preservation" to the project named "Indian River Inlet" listed under Department of Natural Resources and Environmental Control" contained in the "Fiscal Year 1987 Capital Improvements Project Schedule."

Section 2. Amend Volume 66, Chapter 360, Laws of Delaware by adding the words "and other energy saving projects" to the project named "Woodbridge Windows" listed under "State Board of Education" contained in the "Fiscal Year 1989 Capital Improvements Project Schedule."

Section 3. Amend Volume 66, Chapter 360, Laws of Delaware by adding to the Project Schedule as it appears on pages B-6 through B-8 the following:

"Meadows Acres - Oak Lane (from RD 530 to end), 89-976 $35,100

Fernwood Drive (RD 530 to end),

No Name St. (Oak Lane to RD 530)

Branchview - Brookside Dr. (RD 20 to Brookside), 89-977 $35,750

Butler Mill Dr (Brookside to Brookside)"

Section 4. Amend Volume 66, Chapter 360, Laws of Delaware by striking the number "110,900" as it appears on page B-10 of the Project Schedule and substituting in lieu thereof the number "40,050".

Approved May 31, 1989.

CHAPTER 28

FORMERLY

SENATE BILL NO. 185

AN ACT AUTHORIZING AND DIRECTING THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION TO TRANSFER TO THE TOWN OF SMYRNA APPROXIMATELY 35.504 ACRES OF LAND, MORE OR LESS, FOR THE PURPOSE OF UTILIZING IT FOR CURRENT RECREATION PURPOSES AND FURTHER WAIVING THE PROVISIONS OF SECTION 137, CHAPTER 1, TITLE 17, DELAWARE CODE.

WHEREAS, on March 23, 1967, the Department of Transportation, Division of Highways, leased to the Town of Smyrna a parcel of land for the purpose of public recreation specifically for development and use as baseball field(s) complex for a period of 25 years,with the option of a ten-year renewal; and

WHEREAS, the parcel of land consists of approximately 35.504 acres, more or less, situated in Duck Creek Hundred, Kent County, State of Delaware, more specifically described as being on the northerly side of Kent County Road 134, running from Smyrna to Clayton and designated as the Old Council Borrow Pit comprised of Council Pit No. 1, New Council Pit No 2 and 2A, Council Pit No. 3 and Parcel No. 4; identified graphically on Department of Transportation's Right-of-Way Section Plot No. k-19; and

WHEREAS, the Town of Smyrna caused to be built on these lands a number of baseball fields and outbuildings and has maintained them according to the provisions of the lease; and

WHEREAS, the Town of Smyrna is desirous to have these lands conveyed to them for the continued operation and maintenance of said baseball fields; and

WHEREAS, under the provisions of Section 137, Chapter 1, Title 17, Delaware Code, the Department of Transportation is required to dispose of surplus land at fair market value; and

WHEREAS, it is the intention that this Act is not subject to the provisions of Chapter 94, Title 29, Delaware Code; and

WHEREAS, the Town of Smyrna requests these lands be conveyed in fee simple for the sum of $1.00 in consideration of the fact that the Town of Smyrna has assume great expense in construction and maintenance of said complex and has provided a very worthwhile recreational facility for the community and desires to protect their interests in perpetuity; and

WHEREAS, the Department of Transportation, Division of Highways has declared said property surplus to its need and does not object to such conveyance.

NOW, THEREFORE:

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

Section 1. The Secretary of the Department of Transportation, Division of Highways, is hereby authorized, empowered and directed to transfer title by deed, that parcel of land herein above described and presently owned by the State of Delaware and under its jurisdiction, to the Town of Smyrna, Delaware for consideration of $1.00 contingent upon the following conditions which shall be stipulated and recorded in the deed hereby authorized:

1) The land herein authorized to be conveyed to the Town of Smyrna shall be used for current recreational purposes.

2) The deed shall contain a reversion clause to the effect that if the Town of Smyrna, shall cease to use said property for its intended purpose herein stated, then in that event said property shall revert to the State of Delaware, Department of Transportation.

3) The Department of Transportation shall have the right to retain any land required to be maintained as right-of-way for the existing adjacent public road known as Kent County Road No. 134.

4) The Town of Smyrna agrees to reconvey any portion of said tract to the Department of Transportation, should such lands be required in the future for public transportation related projects at no cost to the State of Delaware.

Section 2. The provisions of §137, Chapter 1, Title 17, Delaware Code, and the provisions of Chapter 94, Title 29, Delaware Code, are hereby waived for the purpose of conveying said land in question to the Town of Smyrna, Delaware.

Approved May 31, 1989.

CHAPTER 29

FORMERLY

SENATE BILL NO. 187

AN ACT TO AMEND CHAPTER 94 OF TITLE 29 RELATING TO DISPOSITION OF REAL PROPERTY.

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

Section 1. Amend Section 9402(b) of Title 29 of the Delaware Code, by deleting the phrase "to serve as right-of-way for" and inserting in lieu thereof the following:

"pursuant to Title 17 of this Code, in connection with".

Approved May 31, 1989.

CHAPTER 30

FORMERLY

HOUSE BILL NO. 246

AN ACT TO AMEND VOLUME 27, CHAPTER 216, LAWS OF DELAWARE, AS AMENDED BY VOLUME 28, CHAPTER 134, LAWS OF DELAWARE, AS AMENDED RELATING TO THE CHARTER OF THE CITY OF NEW CASTLE AND THE DUTIES AND SALARY OF THE 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 Volume 27, Chapter 216, Laws of Delaware, as amended by Volume 28, Chapter 134 Laws of Delaware, as further amended by Volume 51, Chapter 306, Laws of Delaware by striking in its entirety the last paragraph of Section 1, Volume 28, Chapter 134, Laws of Delaware and substituting in lieu thereof a new paragraph to read as follows:

"The City Clerk shall attend regularly at the office of the City at such regular hours as may be fixed by the Council, and the Clerk shall be paid an annual salary to be fixed by the Council not to exceed $1,500 payable monthly. The above salary shall be in full payment and compensation for the performance of all of the duties devolving upon him or her."

Section 2. Amend Volume 27, Chapter 216, Laws of Delaware, as amended by Volume 28, Chapter 134 by striking the first paragraph of Section 2, Volume 28, Chapter 134 and inserting in lieu of that paragraph a new paragraph to read as follows:

"The City Council shall appoint a person to act as Assessor for the City who shall serve at the pleasure of Council and who shall make the assessment for the City in each year in accordance with the provisions of Section 19, of Chapter 216, Volume 27, Laws of Delaware, entitled 'An Act amending, revising and consolidating the Charter of the City of New Castle.' The Assessor shall perform all the duties laid upon the Assessor under the terms of the said Charter of the City, as amended, and the office of the Assessor as now existing under the said Charter is hereby abolished."

Section 3. Amend Volume 27, Chapter 216, Laws of Delaware, as amended by Volume 28, Chapter 134 by striking from Section 3, Volume 28, Chapter 134, Laws of Delaware all references reflecting that the City Clerk shall act as Collector of Taxes and providing that Council shall appoint a person to act as Collector of Taxes who shall serve at the pleasure of Council, so that new Section 3 shall read as follows:

"The City Council shall appoint a person to act as Collector of Taxes who shall serve at the pleasure of Council, and the Office of Collector of Taxes as now provided for by the Charter of the City is hereby abolished. The Collector of Taxes so appointed shall have all the rights, powers and remedies and be subject to all the duties of the Collector of Taxes as provided in Sections 20 and 21 of Chapter 216, Volume 27, Laws of Delaware, entitled 'An Act amending, revising and consolidating the Charter of the City of New Castle', it being the purpose and intention of this Act that the rights, powers and remedies for the collection of taxes shall be as there are now or may hereafter be provided for under the Charter of the said City; provided, however, that all actions, suits and proceedings taken for the collection of any tax due the City shall be in the name of 'The Mayor and Council of New Castle,' instead of in the name of the Collector of Taxes as heretofore.

The Collector of Taxes and his or her sureties shall be liable upon bond for the collection of all taxes due the City that it may be his or her duty to collect and that he or she may be required by the Council to collect, and for the accounting and payment to the City of all moneys received.

The Collector of Taxes shall act until his or her successor is qualified when his or her duties shall cease, it being the intention ot this Act that all taxes due and not paid shall be payable to the Collector of Taxes in office when payment is made; provided, however, that the Collector of Taxes and his or her sureties shall be liable on bond for negligence in the collection of taxes, or in carrying out the directions of the Council."

Section 4. Nothing in this Act shall be taken to affect in any way the City Clerk now in office performing the functions of Assessor and Collector of Taxes or any City assessment heretofore made. All powers and remedies now conferred by law upon the City Clerk heretofore elected in said City and acting as the Assessor and Collector of Taxes heretofore assessed and levied and uncollected shall continue in full force and effect until all of the said taxes shall be fully collected and paid; and the official bonds of

said City Clerk heretofore given shall not be affected or the remedy thereon impaired by this Act, and the City Clerk and her sureties shall be and continue liable for any default or breach of the conditions of their respective bonds.

Section 5. All references in the City Charter in conflict with or inconsistent with this Amendment changing the duties of the City Clerk to eliminate the City Clerk's responsibilities to act as Assessor and Collector of Taxes are hereby repealed. Except to the extent the duties of City Clerk are changed by this Charter Amendment, the City Clerk shall continue to perform the duties set forth in the City Charter, as amended.

Approved June 8, 1989.

CHAPTER 31

FORMERLY

SENATE BILL NO. 75
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 42, VOLUME 53, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT AMENDING, REVISING & CONSOLIDATING THE CHARTER OF THE CITY OF SEAFORD", TO CONFER UPON THE CITY COUNCIL OF THE CITY OF SEAFORD CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN 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 Chapter 42, Volume 53, Laws of Delaware, as amended, by adding a new section following Section 25 to be designated as Section 25A to read as follows:

Section 25A: "Taxation of Real Estate Transfers"

(a) The City Council of the City of Seaford, 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 City 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 City of Seaford, 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 elected members of the City Council of the City of Seaford. 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 City Council of the City of Seaford 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 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 City Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, or other agent 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) The City Council shall not implement any ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property until it shall be approved by a majority of the qualified voters at a Special Election to be held pursuant to a Resolution adopted by the City Council of the City of Seaford. The City 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 city of Seaford within thirty (30) days immediately preceding the date of such Special Election. At the said Special Election, every person who is a bona fide resident of the City of Seafordand 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 of Election to be appointed by the Mayor of the

City of Seaford 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. 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 City Council. The hours of the Special Election shall be from two o'clock in the afternoon, prevailing time, until six o'clock in the afternoon prevailing time, and such persons who are in the polling place at six o'clock in the afternoon, prevailing time, shall be entitled to vote even though such votes may be cast after six 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 8, 1989.

CHAPTER 32

FORMERLY

SENATE BILL NO. 118

AN ACT TO AMEND AN ACT, BEING CHAPTER 32, VOLUME 47, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF FREDERICA" RELATING TO THE PROVIDING OF POWERS OF ANNEXATION.

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 32, Volume 47, Laws of Delaware, as amended, by adding thereto a new section designated as Section 2A to read as follows:

"Section 2A.

A. The Town shall have the power and authority to extend its boundaries by the annexation of territory contiguous to its then existing town limits. Territory which is otherwise contiguous except for its separation from the then existing town limits by public roadway, waterways, street thoroughfare, easement or right-of-way shall be deemed contiguous for purposes of annexation under this Section.

B. Annexing Property by election:

(1) Resolution by Council:

Council shall by resolution adopted by a majority of Council specify the area to be annexed, the purpose of the annexation, and the date, time, and place of said election.

(2) Notice:

Notice of said election for annexation should be published in a newspaper having a general circulation in the area to be annexed at least fifteen days prior to the election. The notice shall contain the description of the area to be annexed, time, place, and date of the election, and the eligibility of those who are entitled to vote. In addition to the publication the notice shall be posted in three different public places within the limits of the Town and the area to be annexed.

(3) Voter Eligibility:

All persons, partnerships, corporations or associations who are qualified voters or own real estate in the area to be annexed shall be entitled to one vote each. Any partnership, corporation, or association shall be entitled to one vote provided that there is present at the time of voting a resolution approved by the partnership, corporation, or association granting the authority to vote to that individual who shall cast the vote on behalf of the partnership, corporation, or association. For the purpose of this subsection "qualified voter" shall mean inhabitants of the area to be annexed.

(4) Casting of Vote:

Voting shall be by secret paper ballot or by voting machine. Every ballot or voting machine shall be designed to reflect "For" and "Against". "For" shall mean a vote in favor of annexation. "Against" shall mean a vote not in favor of annexation. A majority of votes cast shall determine the result of the election. Upon the close of the voting, the results shall be publicly announced by the election officer. After public announcement of the votes cast, the total votes cast "For" and the total votes cast "Against" shall be certified to by the election official and presented to the City Council at its next meeting. The Town Council at this meeting shall approve the votes as certified.

(5) Election Officials:

The election shall be held and regulated by the election officials of the district embracing the territory to be annexed.

(6) Resolution of annexation:

If a majority of the votes cast in an election held in a territory proposed to be annexed shall be in favor of the inclusion of that territory, the Council may thereupon

adopt a resolution annexing the said territory and including same within the limits of the Town of Frederica. Upon adoption of a resolution of annexation, a copy thereof, certified by the Secretary of Council, and a plot of the area annexed shall forthwith be filed for record with the Recorder of Deeds of Kent County, and the area annexed shall for purposes thenceforth be part of the Town of Frederica.

If a majority of the votes cast in an election held in a territory proposed to be annexed shall be against the inclusion of that territory within the limits of the Town of Frederica, the proposed annexation of said territory shall be delcared to have failed. Nothing in this act shall prohibit Council from resubmitting a proposal for annexation to the voters of said territory, or portion thereof, under the authority of this section and in accordance with the provisions thereof.

(7) Contest:

Any election under the provision may be contested as provided by law.

C. Annexing Town Owned Property.

Notwithstanding any provisions being to the contrary the Town by resolution of Council may extend its corporate boundaries without an election, provided, that the said territory to be annexed is owned entirely by the Town.

D. Annexing Property at the Request of All Property Owners.

Notwithstanding any provisions being to the contrary if all of the property owners of the territory contiguous to the then existing corporate limits and territory of the Town of Frederica by written Petition with the signature of each such Petitioner duly acknowledge, shall request the Town Council to annex that certain territory in which they own property, the Mayor of the Town of Frederica shall appoint a Committee composed of not less than three (3) of the elected members of the Town Council to investigate the possibility of annexation. The Petition presented to the Town Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than thirty (30) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its finding and conclusions to the Mayor and Town Council of Frederica. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Frederica and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Council of Frederica may then pass a Resolution annexing such territory to The Town of Frederica. Such Resolution shall be passed by the affirmative vote of a Majority of all the elected members of the Town Council.

Approved June 8, 1989.

CHAPTER 33

FORMERLY

SENATE BILL NO. 149

AN ACT TO AMEND CHAPTER 161, VOLUME 43, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF DAGSBORO", AS AMENDED BY CHAPTER 29, VOLUME 52, CHAPTER 254, VOLUME 52, CHAPTER 171, VOLUME 61, CHAPTER 360, VOLUME 62, AND CHAPTER 289, VOLUME 66, LAWS OF DELAWARE, AND CONFERRING UPON THE TOWN COUNCIL OF THE TOWN OF DAGSBORO CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN THE TOWN OF DAGSBORO.

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 161, Volume 43, Laws of Delaware, as amended, by adding thereto a new subsection to be designated as Subsection 18(a), to read as follows:

"18A: Taxation of Real Estate Transfers:

(a) The Town Council of the Town of Dagsboro, in addition to all other powers conferred upon it by this Section, 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 Dagsboro, 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 Subsection 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 Subsection shall become effective unless it receives an affirmative vote of two-thirds (2/3) of all elected members of the Town Council of the Town of Dagsboro. 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 Dagsboro may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Subsection.

(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, Title 30, Del.C., shall be applicable to any real estate transfer tax imposed pursuant to this Subsection.

(e) The Town Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, or other agent in and for Sussex County, and shall prescribe in such Ordinance the charge that will be paid for such collection of such real estate transfer tax authorized by this Subsection."

Section 2. No ordinance providing for a tax on the transfer of real property or any interest in real property authorized under this Act shall become effective until it shall be approved by a majority of the qualified voters of the Town of Dagsboro at a Special Election to be held pursuant to the provisions of Chapter 161, Volume 43, Laws of Delaware, as amended by Section 15, Chapter 171, Volume 61, Laws of Delaware. The Town Council shall give notice of such 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 Dagsboro within thirty (30) days immediately preceding the date of such Special Election. The notice shall also include the appointed polling place of such Special Election and the hours when it shall be held. Such qualified voters who are in the polling place at the hour appointed for the Special Election to end shall be entitled to vote even though such votes may be cast after the closing time. 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

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 8, 1989.

CHAPTER 34

FORMERLY

SENATE BILL NO. 152

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 REPEAL THE QUALIFICATION THAT THE MAYOR AND MEMBERS OF CITY COUNCIL BE NON-DELINQUENT TAXPAYERS, TO PROVIDE FOR THE APPOINTMENT OF THE CITY MANAGER BY THE MAYOR, TO PROVIDE FOR THE APPOINTMENT OF THE MEMBERS OF THE POLICE FORCE BY THE MAYOR.

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. Subsection (c), Section 5, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby repealed.

Section 2. Subsection (a), Section 19, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (a) and substituting in lieu thereof a new Subsection (a) to read as follows:

"(a) The Mayor of The City of Lewes, with the concurrence of a majority of all the elected members of the City Council, shall appoint a City Manager, who shall be the Chief Administrative Officer of the City."

Section 3. Subsection (a), Section 24, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (a) and substituting in lieu thereof a new Subsection (a) to read as follows:

"(a) The Chief of Police and members of the Police Force shall be appointed by the Mayor of The City of Lewes for an indefinite term by and with the advice and consent of a majority of all the elected members of the City Council and each of them may be removed for just cause by a majority vote of all the elected members of the City Council. The City Council shall, from time to time, make such rules and regulations as may be necessary for the organization, government and control of the Police Force. The Police Force shall preserve peace and order and shall compel obedience within the corporate limits of the City to the Ordinances of the City and the laws of the State of Delaware. The Police Force shall have such other duties as the City Council shall from time to time prescribe. Operational control of the daily routine of the Police Force shall be the responsibility of the Chief of Police. The City Manager shall be responsible for communicating the policies adopted by the City Council to the Chief of Police."

Approved June 8, 1989.

CHAPTER 35

FORMERLY

HOUSE BILL NO. 39

AN ACT TO AMEND CHAPTER 59, TITLE 16 OF THE DELAWARE CODE RELATING TO THE BOARD ON MENTAL HEALTH TRAINING AND RESEARCH.

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

Section 1. Amend §5902 and §5903, Chapter 59, Title 16 of the Delaware Code by striking each section in its entirety.

Approved June 21, 1989.

CHAPTER 36

FORMERLY

HOUSE BILL NO. 171

AN ACT TO AMEND SUBCHAPTER I OF CHAPTER 68, TITLE 16, DELAWARE CODE, RELATING TO EXEMPTIONS FROM CIVIL LIABILITY FOR PERSONS WHO ARE MEMBERS OF OR WHO ARE APPOINTED BY THE STATE EMERGENCY RESPONSE COMMISSION TO ASSIST IN HAZARDOUS MATERIALS INCIDENTS.

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

Section 1. Amend Subchapter I, Chapter 68, Title 16, Delaware Code, by adding thereto a new §6803 which new section shall read as follows:

"§6803. State Emergency Response Commission; Other Personnel.

Notwithstanding any inconsistent provisions of any public, private or special law, any person who is a bona fide member of, or who is appointed by, the State Emergency Response Commission under the authority of §301(c) of Title III, Superfund Amendment and Reauthorization Act of 1986 (SARA), to serve on a local emergency planning committee who, in good faith, assists in the development or review of local plans to respond to hazardous materials incidents in this State is not liable for civil damages as a result of any act or omission in the development, review, or implementation of such plans unless the act or omission constitutes gross negligence or willful misconduct."

Approved June 21, 1989.

CHAPTER 37

FORMERLY

HOUSE BILL NO. 248

AN ACT TO AMEND CHAPTER 215, VOLUME 64, LAWS OF DELAWARE, AS AMENDED, RELATING TO THE CHARTER OF THE CITY OF HARRINGTON AND A REALTY TRANSFER TAX.

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 25, Chapter 215, Volume 64, Laws of Delaware by adding a new paragraph at the end thereof to read as follows:

"Notwithstanding any statute to the contrary, the City of Harrington shall have the power by ordinance to impose and collect a tax, to be paid by the transferor and/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 Harrington pursuant to the authority granted herein. Council of the City of Harrington 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 Harrington are affixed thereto showing payment of the tax."

Approved June 21, 1989.

CHAPTER 38

FORMERLY

HOUSE BILL NO. 275

AN ACT TO AMEND CHAPTER 295, VOLUME 65, LAWS OF DELAWARE, ENTITLED: "AN ACT TO REINCORPORATE THE TOWN OF BETHANY 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 §3.2.1, Chapter 295, Volume 65, Laws of Delaware by adding the words ", both of" after the words "once in at least two newspapers" and before the words "which shall be of general circulation" as the same appear in said section.

Section 2. Amend §3.2.1, Chapter 295, Volume 65, Laws of Delaware, by striking the words "30 days" wherever the same appear in said section, and substituting the words "21 days" in lieu thereof.

Section 3. Amend §3.2.3, Chapter 295, Volume 65, Laws of Delaware, by striking the words "Following the public hearing, but in no event later than 60 days thereafter," and substituting the words "At any time following the public hearing" in lieu thereof:

Section 4. Amend §3.2.3, Chapter 295, Volume 65, Laws of Delaware by striking the words "30 days" wherever the same appear in said section, and substituting the words "21 days" in lieu thereof.

Section 5. Amend §3.2.4, chapter 295, Volume 65, Laws of Delaware, by adding the words ", both of" after the words "once in two newspapers" and before the words "which shall be of general circulation" as the same appear in said section.

Section 6. Amend §3.2.4, Chapter 295, Volume 65, Laws of Delaware by striking the words "30 days" wherever the the same appear in said section, and substituting the words "21 days" in lieu thereof.

Section 7. Amend §3.2.6, Chapter 295, Volume 65, Laws of Delaware, by striking the words "for eight consecutive hours" as the same appear in said section, and substituting the words "for six consecutive hours" in lieu thereof.

Section 8. Amend §3.2.10, Chapter 295, Volume 65, Laws of Delaware, by adding, at the end thereof, the following new subsections:

"(c) Such notice shall be in bold print or bordered in black in such manner as to call attention thereto.

(d) In addition to publication as herein provided, the Town Council shall cause a public notice, containing the information set out in subsections (a) and (b) above (using date of "posting" for date of "publication"), to be posted in at least five public places in the Town and in at least one place, viewable to the public, in the territory proposed to be annexed.

(e) In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control."

Section 9. Amend §4.2, Chapter 295, Volume 65, Laws of Delaware, by re-numbering §4.2.39 through and including §4.2.46 as new §4.2.40 through and including §4.2.47; and by adding a new §4.2.39 as follows:

"§4.2.39. May impose, upon new development or construction or upon first-time occupancy of new construction, such "impact fees" as are reasonably calculated to recover the cost of installing, enlarging, improving, or expanding public or municipal improvements which have a rational nexus to such new construction."

Section 10. Amend §5.2.2, Chapter 295, Volume 65, Laws of Delaware, by striking subsection (a) in its entirety, and substituting in lieu thereof the following:

"(a) Resident Members. Any person who, on the date of the filing of notice of intention to run (or on the date of his or her appointment to fill a vacancy), has been a permanent full-time resident of the Town for at least six (6) months prior to such date of filing (or prior to the date of his or her appointment to fill a vacancy) and certifies his or her intention of remaining a permanent, full-time resident of the Town,

shall be deemed to be a "resident" Town Council member upon taking office, whether or not such person is also a freeholder in the Town; and if such person subsequently fails to maintain residency in the Town, but continues to be a freeholder in the Town, during his or her term of office, that person shall continue to be deemed a "resident" member of the Town Council."

Section 11. Amend §5.4.2, Chapter 295, Volume 65, Laws of Delaware, by striking said section in its entirety, and substituting in lieu thereof the following:

"§5.4.2. Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is a United States citizen and has attained eighteen (18) years of age; is registered under the Town's Voter Registration ordinances, and is either: (a) a freeholder in the Town, as defined herein, for a period of ninety (90) consecutive days immediately preceding the date of the election, or (b) has been a permanent, full-time resident of the Town for at least six (6) months prior to the date of the election in which he or she seeks to vote. For purposes of this Charter: (i) a "freeholder" shall be deemed to include any natural person who holds title of record to a fee simple, estate or a life estate, in and to real property located within the Town boundaries; (ii) a "resident" shall mean any person who has been a permanent, full-time resident of the Town for at least six (6) month prior to the date of the election."

Section 12. Amend §5.4.5, Chapter 295, Volume 65, Laws of Delaware, by striking the words "an eight hour period" as the same appear in subsection (a), and substituting the words "a six hour period" in lieu thereof.

Section 13. Amend §5.4.5, Chapter 295, Volume 65, Laws of Delaware, by adding, at the end of subsection (b), the following:

"Such notices shall be in bold print or bordered in black in such manner as to call attention thereto. In the event that the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control."

Section 14. Amend §5.4.5, Chapter 295, Volume 65, Laws of Delaware by striking the words "30 days" as the same appear in subsection (b), and substituting the words "21 days" in lieu thereof.

Section 15. Amend §12.1, Chapter 295, Volume 65, Laws of Delaware, by striking the words "Four Hundred Thousand Dollars ($400,000.00)" as the same appear in the first sentence thereof, and substituting in lieu thereof the following:

"one-third of the total amount of the Town's revenues for the immediately preceding fiscal year, from real property and utility fixture taxes, license fees, and fees for municipal services,"

Section 16. Amend §12.1, Chapter 295, Volume 65, Laws of Delaware by striking the last sentence of said §12.1, and substituting in lieu thereof the following:

"The aggregate amount of outstanding principal from any such borrowing or borrowings under this §12.1 shall at no time exceed one-third of the highest amount of the Town's total revenues from the aforementioned sources in any one of the five immediately preceding fiscal years."

Section 17. Amend §12.2.4, Chapter 295, Volume 65, Laws of Delaware, by striking subsection (A) in its entirety, and substituting in lieu thereof the following:

"(A) The Town Council by resolution shall give notice to the residents and property owners of the Town that the Town Council proposes to borrow a sum of money, not to exceed a stated amount, for a stated municipal purpose. The resolution shall state the amount of money desired to be borrowed (which may be stated as a "not to exceed" amount), the purpose for which it is desired, the manner of securing same, and such other facts relating to the loan which are deemed pertinent by the Town Council and in their possession at the time of the passage of the Resolution; and they shall fix a time, date and place for a hearing on the said resolution."

Section 18. Amend §12.2.4, Chapter 295, Volume 65, Laws of Delaware, by striking subsection (B) in its entirety, and substituting in lieu thereof the following:

"(B)(1) Notice of the time, date, and place of the hearing on the resolution authorizing said loan shall be published in two newspapers of general circulation in the Town not less than 21, days nor more than 60 days, prior to the date set for the public hearing. Such notice shall be in bold print or bordered in black so as to call

attention thereto. In addition to the time, date, and place of the public hearing such notices shall contain the same information as required under §12.2.4(A) above.

(2) In addition to publication as herein provided, the Town Council shall, not less than 21 days nor more than 60 days prior to the date set for the hearing, cause a public notice containing the information required above to be posted in at least five public places in the Town. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control."

Section 19. Amend §12.2.4, Chapter 295, Volume 65, Laws of Delaware, by striking subsection (C) in its entirety, and substituting in lieu thereof the following:

"(C) If, at any time following the public hearing, the Town Council determines to proceed with the proposed borrowing, it shall pass a second resolution ordering a special election to be held upon, not less than 21 nor more than 60 days public notice, for the purpose of voting for or against the proposed borrowing. The passage of the second Resolution shall ipso facto be considered a determination by the Town Council to proceed with the matter in issue; provided however, that the Town Council may, at any time subsequent thereto, and based upon a significant change in the relevant circumstances, act by resolution to cancel the Special Election and abandon the proposed borrowing."

Section 20. Amend §12.2.4, Chapter 295, Volume 65, Laws of Delaware, by striking subsection (D) in its entirety, and substituting in lieu thereof the following:

"(D)(1) The notice of the time and place of holding the said Special Election shall be printed in two newspapers of general circulation in the Town, not less than 21 days nor more than 60, days prior to the date set for the Special Election. In addition to the time, date and place of the election, such notice shall contain the same information as required under §12.2.4(A). Such notice shall be in bold print or bordered in black so as to call attention thereto.

(2) In addition to such publication as herein provided, the Town Council shall, not less than 21 days nor more than 60 days before the date set for the election, cause public notice, containing the information set out in subsection (D)(1) above (using date of "posting" for date of "publication"), to be posted in at least 5 public places in the Town. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control."

Section 21. Amend §12.2.4, Chapter 295, Volume 65, Laws of Delaware, by striking the words "The polling places shall be open for a minimum of eight hours", as the same appear in subsection (E), and substituting the words "The polling places shall be open for a minimum of six hours" in lieu thereof.

Section 22. Amend §12.2.4, Chapter 295, Volume 65, Laws of Delaware, by striking the period (".") at the end of subsection (G), and substituting in lieu thereof the following:

"; provided, however, that the Town Council may, at any time prior to entering into a binding agreement for the public or private sale of such bond(s) or evidence(s) of indebtedness, abandon the proposed borrowing."

Section 23. Amend §12.2.9, Chapter 295, Volume 65, Laws of Delaware, by striking the last two paragraphs of subsection (E), (beginning with "In the event" and ending with "to call attention thereto") and substituting in lieu thereof the following new subsection:

(F) Such notice shall be in bold print or bordered in black in such manner as to call attention thereto. In addition to publication as herein provided, the Town Council shall cause a public notice, containing the information set out in subsections (A) through (E) above (using date of "posting" for date of "publication") to be posted in at least 5 public places in the Town. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control."

Section 24. Amend subsection (4) of §17.1, Chapter 295, Volume 65, Laws of Delaware by striking the words "Requiring those subject to such regulation to provide, at their own expense, such municipal or public improvements which are specifically and uniquely attributable to the proposed land subdivision" as the same appear in said subsection (4), and substituting in lieu thereof the following:

"Requiring, through dedication of land, money in lieu of land, "impact fees" or otherwise, those subject to such regulation to provide, at their own expense, such municipal or public improvements (including enlargement, expansion, improvement, or

enhancement of existing municipal or public improvements) which have a rational nexus to the proposed land subdivision"

Section 25. Amend §24.4.4, Chapter 295, Volume 65, Laws of Delaware, by striking subparagraph (b) in its entirety, and substituting in lieu thereof the following:

"(b)(1) Notice of the time, date, and place of holding the said Special Election shall be published in two newspapers of general circulation in the Town, and posted in five public places in the Town, not less than 21 days, nor more than 60 days, prior to the date set for the Special Election. The published notices shall be in bold print or bordered in black so as to call attention thereto. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

(2) The Mayor shall appoint three persons to act as a Board of Special Election, if a Special Election is required. The polling place shall be open a minimum of six consecutive hours, the times to be set by resolution of the Town Council. Persons in the polling place at the time set for the closing of the polls shall be entitled to vote even though such votes may be cast after the time set for the closing of the polls."

Approved June 21, 1989.

CHAPTER 39

FORMERLY

SENATE BILL NO. 159
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2, AND 3

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE, RELATING TO SOLICITATIONS BY CHARITABLE ORGANIZATIONS AT CONTROLLED INTERSECTIONS.

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

Section 1. Amend Section 4147, Title 21, Delaware Code by creating a new subsection (e), to read as follows:

"(e) The prohibition against soliciting contributions contained in subsection (a) of this section shall not apply on the Saturday immediately prior to Father's Day each year to solicitations by charitable organizations, defined as those organizations previously qualified as such under the Federal Internal Revenue Code, when those solicitations take place only during daylight hours, at intersections with traffic control signals in place, using only existing median strips or other off-street facilities, using individuals no younger than 18 years of age to conduct the solicitation, without using any devices to alter or impede the traffic flow."

Approved June 27, 1989.

CHAPTER 40

FORMERLY

SENATE BILL NO. 55
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 3, 11, 19, 20, 21, 23, 25, 43, AND 54 OF TITLE 30 OF THE DELAWARE CODE RELATING TO DELAWARE TAXES.

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

Section 1. Amend Chapter 3, Title 30 of the Delaware Code by adding thereto a new § 368 to read as follows:

"§368. Secrecy of Returns and Information; Penalty.

(a) Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any officer or employee of the Department of Finance, or for any other officer or employee of this State who has access to tax returns or information from tax returns under this Title (other than Chapters 30 [except §§ 3004 and 3005], 51, and 52) to disclose or make known to any person in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this Title (other than Chapters 30 [except §§3004 and 3005], 51, and 52) including any copy of any portion of a federal income or estate tax return or report, or any information on a federal return or report which is required to be attached to or included in a State tax return.

(b) Nothing in this Section shall be construed to prohibit the publication of statistics classified so as to avoid indentification of specific taxpayers, or to prohibit the disclosure of the tax return or return information of any taxpayer to such person or persons as the taxpayer may designate in a written request or consent to such disclosure.

(c) For purposes of this section, the term 'officer or employee' shall include present and former officers and employees, and any person or persons employed or retained by the State on an independent contractor basis. The term 'return' or 'report' shall include reports of the Internal Revenue Service or other competent federal authority containing tax return information.

(d) Any violation of this Section shall be a misdemeanor, punishable upon conviction by a fine not to exceed $1,000 or imprisonment not to exceed six months, or both. The Superior Court shall have exclusive original jurisdiction over such misdemeanor.

(e) For purposes of this section, the terms 'return' and 'return information' shall not be construed to include any information appearing on or to appear on the face of a license required to be displayed under §2109 of this Title or the name or mailing address of the licensee of said license."

Section 2. Amend §1241, Chapter 11, Title 30 of the Delaware Code by striking said section in its entirety.

Section 3. Amend §1242, Chapter 11, Title 30 of the Delaware Code by striking the figure "1241" as it appears in said section and substitute in lieu thereof the figure "368".

Section 4. Amend §2119, Chapter 21, Title 30 of the Delaware Code by striking the phrase "each of them, for every such offense" as it appears therein and substitute in lieu thereof the phrase "each of them, and those persons defined in §282, Title 11 of the Delaware Code, for every such offense".

Section 5. Amend §2119, Chapter 21, Title 30 of the Delaware Code by striking the symbol and figure "$500" as they appear therein and substitute in lieu thereof the symbol and figure "$3,000".

Section 6. Amend Chapter 21, Title 30 of the Delaware Code by adding thereto a new §2124 to read as follows:

"§2124. Revocation, Non-renewal or Non-issuance of Licenses for Non-Payment of Taxes.

(a) Whenever it shall appear to the Director of Revenue that there has been assessed against any person tax or penalty under this Title (other than Chapters 51, 52,

and Chapter 30 with the exception of §§3004 and 3005 of said Chapter), the assessment has become final, and the tax or taxes and/or penalty and interest in an amount in excess of $2500 has remained unpaid in excess of 180 days, the Director may issue a Notice of Intent to Revoke any license issued to such person (provided, however, that the license for which such Notice to Revoke is issued shall be the license with respect to which the delinquency pertains and also provided that, in case of delinquent withholding or corporate income taxes, any license issued to such person) or, in the case of a renewal or new license application, a Notice of Intent to Deny the renewal or application. Such Notice shall set forth the reasons for its issuance (including the amount of such unpaid liability) and shall be sent by certified mail to the last known address of the licensee or applicant. The determination of revocation, non-renewal or non-issuance of the license contained in the Notice shall become effective if not protested within 30 days of its issuance. Except as provided in this section, protests of such notices are subject to the same procedures as assessments of taxes under this Part (other than Chapter 30). The sole grounds for protest under this section, however, shall be: (1) the absence of any unpaid liability as of the date of the protest; or (2) that the assessment creating the liability was contrary to law; provided, however, that the determination of the Director under this subsection may be appealed in accordance with section 2103 of this Title.

(b) Section 2119 of this Title shall pertain to any person carrying on business following revocation or non-renewal of a license as if such license had not been first obtained.

(c) The Court of Chancery shall have jurisdiction to enjoin any person, resident or non-resident, or any agent thereof, from transacting any business in this State if such person has not first obtained a license therefor under this Part or such license has been revoked or not renewed under this Section. The Secretary of Finance may proceed for this purpose by complaint in any county in which such person is doing business.

(d) For purposes of this section, the word 'person' shall have the same meaning as the definition contained in §2701(3) of this Title.

(e) Any license which is revoked, not issued or not renewed will be reinstated, issued, or renewed, as appropriate, upon full payment of amounts set forth in the Notice described in subsection (a) of this Section with the addition of any statutory interest thereon until the date of such payment or upon an agreement and continuing performance in accordance therewith under such terms and conditions as the Director may deem suitable to preserve the revenues of the State, to provide for payment of the unpaid amount over a period not to exceed 24 months and for maintaining current tax payments without delinquency."

Section 7. Amend Chapter 21, Title 30 of the Delaware Code by adding thereto a new §2125 to read as follows:

"§2125. Persons Responsible for Payment of Penalty, Etc.

(a) For purposes of: (1) Any assessment of penalty or any fine under this Part (other than Chapter 30 with the exception of §3004 and §3005 of said Chapter); or (2) Any injunction or other remedy under §2124 of this Title:

Persons subject to such assessment, fine, injunction or other remedy shall include, in addition to the licensee, any person who as a director, officer, holder of ownership interests equal to or exceeding 25% or member of any entity (corporation, partnership, association, joint venture, etc.) performs or causes to be performed in the name of or on behalf of that entity any act which gives rise to liability for any assessment, fine, injunction, or other remedy to the same extent as if the act were performed in his own name or on his own behalf.

(b) For purposes of this section, the word 'act' shall mean only any conduct of commission or omission which results in the wilful and knowing failure to pay any tax or assessment imposed upon a licensee by this Part (other than Chapter 30 with the exception of §3004 and §3005 of said Chapter)."

Section 8. Amend §5401(1)(r), Chapter 54, Title 30 of the Delaware Code by striking the period "." which appears at the end of the existing subsection and substituting in lieu thereof a semicolon ";".

Section 9. Amend §5401 (1), Chapter 54, Title 30 of the Delaware Code by adding thereto two new paragraphs designated as "(s)" and "(t)" and to read as follows:

"(s) Any conveyance of a mobile home as defined in §7003 of Title 25, provided tax on said conveyance has been paid under §3002, Chapter 30, of this Title;

(t) Any conveyance without consideration to an organization exempt from tax under § 501(c)(3) of the federal Internal Revenue code."

Section 10. Amend §375(a)(1), Chapter 3, Title 30 of the Delaware Code by striking the phrase "where the aggregate amount of the contracts does not exceed $100,000" as it appears in said paragraph.

Section 11. Amend §2501, Chapter 25, Title 30 of the Delaware Code by striking existing subsections (3) and (4) of said section and substitute in lieu thereof new subsections (3) and (4) to read as follows:

"(3) 'Resident contractor' or 'resident subcontractor' includes any general contractor, prime contractor, construction manager, subcontractor or other type of construction contractor who regularly maintains a place of business in this State. If any such contractor entity is comprised of more than one entity in a partnership, joint venture, or some other legal relationship establishing such contractor entity, the contractor entity shall itself be treated as a separate entity which must comply with the provisions of a §375 of this Title to the extent they are otherwise applicable. If at least one of the constituent entities making up the contractor entity regularly maintains a place of business in this State, such contractor entity shall be construed to be a 'resident' or 'resident person' or 'resident contractor' of this State. If none of such constituent entities regularly maintains a place of business in this State, such contractor entity shall be construed to be a 'nonresident person desiring to engage in business in this State as a contractor,' a 'nonresident and a nonresident person.' If any contractor is not comprised of more than one constituent entity in a partnership or joint venture or some other legal relationship establishing such contractor, and if such contractor shall regularly maintain a place of business in this State, such contractor shall be construed to be a 'resident contractor'.

(4) 'Nonresident contractor' or 'nonresident subcontractor' is a general contractor, prime contractor, construction manager, subcontractor or other type of construction contractor who is not a resident contractor or resident subcontractor."

Section 12. Amend §2501, Chapter 25, Title 30 of the Delaware Code by adding thereto a new subsection (7) to read as follows:

"(7) For the purposes of this Chapter, 'regularly maintaining a place of business in this State' shall not be established by maintenance of a site facility, such as a site trailer, or any other facility intended for use during construction under one contract or a related set of contracts irrespective of the expected duration of such contract or contracts."

Section 13. Amend §375, Chapter 3, Title 30 of the Delaware Code by adding thereto a new subsection (g) to read as follows:

"(g) In lieu of the surety bond required under subsection (a) of this section, the Director of Revenue may accept bank letters of credit in the amount specified by and subject to the same conditions as contained in that subsection; provided, however, that any such letter is in a form approved by the Director, is issued or confirmed by a bank meeting whatever requirements the Director may by regulation prescribe, and the Director is satisfied that the letter is sufficient to protect the tax revenue of the State."

Section 14. Amend §375(a)(3), Chapter 3, Title 30 of the Delaware Code by inserting immediately after the word "waived" the words "in whole or in part".

Section 15. Amend §1912(c), Chapter 19, Title 30 of the Delaware Code by striking the number "5" as it appears in said subsection and substituting in lieu thereof the number "3".

Section 16. Amend §4306, Chapter 43, Title 30 of the Delaware Code by striking the word "six" as it appears therein and substituting in lieu thereof the word "three".

Section 17. Amend §2301(p), Chapter 23, Title 30 of the Delaware Code by striking the phrase "(b) and (d)" as it appears therein in its entirety.and substituting in lieu thereof the phrase "(a), (b), and (d)".

Section 18. Amend Section 2121, Chapter 21, Title 30 of the Delaware Code by striking the period "." at the end of said Section and inserting in lieu thereof the following phrase: "or, otherwise than in the event of any person making an initial application for a

and Chapter 30 with the exception of §§3004 and 3005 of said Chapter), the assessment has become final, and the tax or taxes and/or penalty and interest in an amount in excess of $2500 has remained unpaid in excess of 180 days, the Director may issue a Notice of Intent to Revoke any license issued to such person (provided, however, that the license for which such Notice to Revoke is issued shall be the license with respect to which the delinquency pertains and also provided that, in case of delinquent withholding or corporate income taxes, any license issued to such person) or, in the case of a renewal or new license application, a Notice of Intent to Deny the renewal or application. Such Notice shall set forth the reasons for its issuance (including the amount of such unpaid liability) and shall be sent by certified mail to the last known address of the licensee or applicant. The determination of revocation, non-renewal or non-issuance of the license contained in the Notice shall become effective if not protested within 30 days of its issuance. Except as provided in this section, protests of such notices are subject to the same procedures as assessments of taxes under this Part (other than Chapter 30). The sole grounds for protest under this section, however, shall be: (1) the absence of any unpaid liability as of the date of the protest; or (2) that the assessment creating the liability was contrary to law; provided, however, that the determination of the Director under this subsection may be appealed in accordance with section 2103 of this Title.

(b) Section 2119 of this Title shall pertain to any person carrying on business following revocation or non-renewal of a license as if such license had not been first obtained.

(c) The Court of Chancery shall have jurisdiction to enjoin any person, resident or non-resident, or any agent thereof, from transacting any business in this State if such person has not first obtained a license therefor under this Part or such license has been revoked or not renewed under this Section. The Secretary of Finance may proceed for this purpose by complaint in any county in which such person is doing business.

(d) For purposes of this section, the word 'person' shall have the same meaning as the definition contained in §2701(3) of this Title.

(e) Any license which is revoked, not issued or not renewed will be reinstated, issued, or renewed, as appropriate, upon full payment of amounts set forth in the Notice described in subsection (a) of this Section with the addition of any statutory interest thereon until the date of such payment or upon an agreement and continuing performance in accordance therewith under such terms and conditions as the Director may deem suitable to preserve the revenues of the State, to provide for payment of the unpaid amount over a period not to exceed 24 months and for maintaining current tax payments without delinquency."

Section 7. Amend Chapter 21, Title 30 of the Delaware Code by adding thereto a new §2125 to read as follows:

"§2125. Persons Responsible for Payment of Penalty, Etc.

(a) For purposes of: (1) Any assessment of penalty or any fine under this Part (other than Chapter 30 with the exception of §3004 and §3005 of said Chapter); or (2) Any injunction or other remedy under §2124 of this Title:

Persons subject to such assessment, fine, injunction or other remedy shall include, in addition to the licensee, any person who as a director, officer, holder of ownership interests equal to or exceeding 25% or member of any entity (corporation, partnership, association, joint venture, etc.) performs or causes to be performed in the name of or on behalf of that entity any act which gives rise to liability for any assessment, fine, injunction, or other remedy to the same extent as if the act were performed in his own name or on his own behalf.

(b) For purposes of this section, the word 'act' shall mean only any conduct of commission or omission which results in the wilful and knowing failure to pay any tax or assessment imposed upon a licensee by this Part (other than Chapter 30 with the exception of §3004 and §3005 of said Chapter)."

Section 8. Amend §5401(1)(r), Chapter 54, Title 30 of the Delaware Code by striking the period "." which appears at the end of the existing subsection and substituting in lieu thereof a semicolon ";".

Section 9. Amend §5401 (1), Chapter 54, Title 30 of the Delaware Code by adding thereto two new paragraphs designated as "(s)" and "(t)" and to read as follows:

"(s) Any conveyance of a mobile home as defined in §7003 of Title 25, provided tax on said conveyance has been paid under §3002, Chapter 30, of this Title;

(t) Any conveyance without consideration to an organization exempt from tax under § 501(c)(3) of the federal Internal Revenue code."

Section 10. Amend §375(a)(1), Chapter 3, Title 30 of the Delaware Code by striking the phrase "where the aggregate amount of the contracts does not exceed $100,000" as it appears in said paragraph.

Section 11. Amend §2501, Chapter 25, Title 30 of the Delaware Code by striking existing subsections (3) and (4) of said section and substitute in lieu thereof new subsections (3) and (4) to read as follows:

"(3) 'Resident contractor' or 'resident subcontractor' includes any general contractor, prime contractor, construction manager, subcontractor or other type of construction contractor who regularly maintains a place of business in this State. If any such contractor entity is comprised of more than one entity in a partnership, joint venture, or some other legal relationship establishing such contractor entity, the contractor entity shall itself be treated as a separate entity which must comply with the provisions of a §375 of this Title to the extent they are otherwise applicable. If at least one of the constituent entities making up the contractor entity regularly maintains a place of business in this State, such contractor entity shall be construed to be a 'resident' or 'resident person' or 'resident contractor' of this State. If none of such constituent entities regularly maintains a place of business in this State, such contractor entity shall be construed to be a 'nonresident person desiring to engage in business in this State as a contractor,' a 'nonresident and a nonresident person.' If any contractor is not comprised of more than one constituent entity in a partnership or joint venture or some other legal relationship establishing such contractor, and if such contractor shall regularly maintain a place of business in this State, such contractor shall be construed to be a 'resident contractor'.

(4) 'Nonresident contractor' or 'nonresident subcontractor' is a general contractor, prime contractor, construction manager, subcontractor or other type of construction contractor who is not a resident contractor or resident subcontractor."

Section 12. Amend §2501, Chapter 25, Title 30 of the Delaware Code by adding thereto a new subsection (7) to read as follows:

"(7) For the purposes of this Chapter, 'regularly maintaining a place of business in this State' shall not be established by maintenance of a site facility, such as a site trailer, or any other facility intended for use during construction under one contract or a related set of contracts irrespective of the expected duration of such contract or contracts."

Section 13. Amend §375, Chapter 3, Title 30 of the Delaware Code by adding thereto a new subsection (g) to read as follows:

"(g) In lieu of the surety bond required under subsection (a) of this section, the Director of Revenue may accept bank letters of credit in the amount specified by and subject to the same conditions as contained in that subsection; provided, however, that any such letter is in a form approved by the Director, is issued or confirmed by a bank meeting whatever requirements the Director may by regulation prescribe, and the Director is satisfied that the letter is sufficient to protect the tax revenue of the State."

Section 14. Amend §375(a)(3), Chapter 3, Title 30 of the Delaware Code by inserting immediately after the word "waived" the words "in whole or in part".

Section 15. Amend §1912(c), Chapter 19, Title 30 of the Delaware Code by striking the number "5" as it appears in said subsection and substituting in lieu thereof the number "3".

Section 16. Amend §4306, Chapter 43, Title 30 of the Delaware Code by striking the word "six" as it appears therein and substituting in lieu thereof the word "three".

Section 17. Amend §2301(p), Chapter 23, Title 30 of the Delaware Code by striking the phrase "(b) and (d)" as it appears therein in its entirety and substituting in lieu thereof the phrase "(a), (b), and (d)".

Section 18. Amend Section 2121, Chapter 21, Title 30 of the Delaware Code by striking the period "." at the end of said Section and inserting in lieu thereof the following phrase: "or, otherwise than in the event of any person making an initial application for a

license, in the case of license fees under Chapter 23 computed according to numbers of business units prior to such business units being placed in service."

Section 19. Amend §2121, Chapter 21, Title 30 of the Delaware Code by striking the phrase "23, 27" as it appears in said Section and substituting in lieu thereof the phrase "23, 25, 27".

Section 20. Amend §2301 (a)(71), Chapter 23, Title 30 of the Delaware Code by striking the symbol and figure "$150" in their entirety and substitute in lieu thereof the symbol and figure "$75".

Section 21. Amend §2301, Chapter 23, Title 30 of the Delaware Code by adding thereto a new subsection (t) to read as follows:

"(t) Chapter 12 of Title 24 notwithstanding, the term of new licenses and renewals issued to security businesses shall be governed exclusively by this Part; provided, however, that the Division shall not issue a license to a security business without the approval of the Superintendent of the Delaware State Police in accordance with § 1202(a), Title 24. Two-year security business licenses expiring between the date on which this provision is enacted and a date two years thereafter shall be renewed for a period no greater than one year at an annual fee of $75, and such license shall expire the following December 31. The fee shall be reduced according to the number of full calendar months remaining in the year."

Section 22. Amend §2301(e), Chapter 23, Title 30 of the Delaware Code by striking the phrase "(65) of subsection (a)" as it appears in said subsection and substituting in lieu thereof the following: "(66) of subsection (a)".

Section 23. Amend §2301(e), Chapter 23, Title 30 of the Delaware Code by striking the phrase "(88) of subsection (a)" as it appears in said subsection and substituting in lieu thereof the following: "(89) of subsection (a)".

Section 24. Amend §2301(f), Chapter 23, Title 30 of the Delaware Code by striking the phrase "(66), (67), (72), (73), (78), (79), (80) and (82)" as it appears in said subsection and substitute in lieu thereof the following: "(67), (68), (73), (74), (79), (80), (81), and (83)".

Section 25. Amend §2020 (3), Chapter 20, Title 30 of the Delaware Code by striking the phrase "(62), (68) or (71)" as it appears in said subsection and substituting in lieu thereof the following: "(63), (69) or (72)".

Section 26. Amend §2304 (b), Chapter 23, Title 30 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) Except as provided in Chapter 53 of this Title, whoever being the owner of a vending machine requiring an identifying label pursuant to this section fails to affix to each such machine the identifying label required by this section or who, on written request of the Director of Revenue or his designee, fails to disclose within a reasonable time not to exceed 120 hours the present location of any or all such machines (including amusement machines and music machines but not cigarette vending machines) to the Division of Revenue shall be fined not less than $25 nor more than $50, for each machine not having such identifying label affixed thereto or whose location is not disclosed in accordance with this subsection. A fine of not less than $50 or more than $100 for each machine shall be applicable whenever an owner fails both to affix the identifying label to, and disclose the present location of, a machine in accordance with the requirements of this section. For purposes of this subsection, failure to disclose in response to a subsequent request which is substantially identical to a request issued less than sixty days earlier shall be considered to be a continuation of the earlier failure to disclose and shall not constitute a separate act for purposes of this subsection. The Superior Court in and for the county in which the machine is located or in which the Division of Revenue maintains its principal office shall have exclusive original jurisdiction over offenses described in this subsection."

Section 27. Sections 4, 5, 6, and 7 of this Act shall be effective for unpaid balances existing on or after July 1, 1990. Section 9 of this Act shall be effective for conveyances occurring on or after the date of its enactment into law. Section 21 shall be effective for new licenses and renewals commencing on or after the date this Act is enacted into law. All other provisions of this Act shall be effective upon its enactment into law.

Approved June 27, 1989.

CHAPTER 41

FORMERLY

HOUSE BILL NO. 213

AN ACT TO AMEND CHAPTER 14, TITLE 11 OF THE DELAWARE CODE RELATING TO CONCEALED DEADLY WEAPONS.

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

Section 1. Amend paragraph 5, subsection (a), Section 1441, Chapter 14, Title 11, Delaware Code by adding at the end of said paragraph the following:

"No requirements in addition to those specified in this paragraph may be imposed for the renewal of a license."

Approved June 27, 1989.

CHAPTER 42

FORMERLY

SENATE BILL NO. 79

AN ACT TO AMEND CHAPTER 87, TITLE 29, DELAWARE CODE RELATING TO THE JURISDICTION, AUTHORITY, OPERATION AND MAINTENANCE OF A VETERAN'S CEMETERY IN DELAWARE AND OTHER PROVISIONS.

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

Section 1. Amend §8721(c), Chapter 87, Title 29, Delaware Code, by striking said subsection in its entirety and substituting a new subsection (c) to read as follows:

"(c) The Commission shall have the power to operate and/or administer a Delaware Veteran's Memorial Cemetery in the State and shall have the authority to promulgate such rules and regulations governing the operation of a cemetery as it deems necessary; provided, however, such rules and regulations are not inconsistent with the provisions of this Chapter."

Section 2. Amend §8721(b), Chapter 87, Title 29, Delaware Code, by striking the word "and", and adding a comma "," immediately after the words Executive Secretary, and adding "and such other personnel as are necessary" between the words "a clerical assistant" and "to perform...".

Section 3. This section shall become effective on July 1, 1990.

Approved June 27, 1989.

CHAPTER 43

FORMERLY

SENATE BILL NO. 78
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 12, TITLE 20, DELAWARE CODE RELATING TO THE JURISDICTION, AUTHORITY, OPERATION AND MAINTENANCE OF A VETERAN'S CEMETERY IN DELAWARE.

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

Section 1. Amend §1202, Chapter 12, Title 20, Delaware Code, by striking the words "Department of State" and substituting therein "Delaware Commissior of Veterans Affairs" where it appears in the Section Title and its prelude.

Section 2. Amend §1202(7), Chapter 12, Title 20, Delaware Code, by striking said subsection in its entirety.

Section 3. Amend §1204, Chapter 12, Title 20, Delaware Code, by striking the word "Department" where it appears in (a)(1)b, (a)(2), and (b) and substituting therein the word "Commission".

Section 4. This Act shall take effect on July 1, 1990.

Approved June 27, 1989.

CHAPTER 44

FORMERLY

SENATE BILL NO. 119

AN ACT TO AMEND PART VI, CHAPTER 5, TITLE 7, DELAWARE CODE, RELATING TO THE SIZE OF PROPAGATING AND SHOOTING PRESERVES.

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

Section 1. Amend §583(a), Part VI, Chapter 5, Title 7, Delaware Code, by striking the number "500" as the same appears in the second sentence of said subparagraph (a) and substituting in lieu thereof the number "300".

Approved June 27, 1989.

CHAPTER 45

FORMERLY

SENATE BILL NO. 160
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE TO ADOPT MINIMUM STANDARDS FOR MEDICARE SUPPLEMENT INSURANCE.

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

Section 1. Amend Title 18, Delaware code by repealing Chapter 34 in its entirety and substituting the following in lieu thereof:

"CHAPTER 34. MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

§3401. Definitions

(a) 'Applicant' means:

(1) in the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits, and

(2) in the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder.

(b) 'Certificate' means, for the purposes of this Chapter, any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this State.

(c) 'Medicare Supplement Policy' means a group or individual policy of insurance or a subscriber contract which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

(d) 'Medicare' means the 'Health Insurance for the Aged Act', of the Social Security Amendments of 1965, (Public Law 89-97) as then constituted or later amended.

§3402. Applicability and Scope

(a) Except as otherwise specifically provided, this Chapter shall apply to:

(1) All Medicare supplement policies and subscriber contracts delivered or issued for delivery in this State on or after the effective date hereof, and

(2) All certificates issued under group Medicare supplement policies or subscriber contracts, which certificates have been delivered or issued for delivery in this State.

(b) This Chapter shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations. The provisions of this Chapter are not intended to prohibit or apply to insurance policies or health care benefit plans, including group conversion policies, provided to Medicare eligible persons which policies are not marketed or held to be Medicare supplement policies or benefit plans.

§3403. Standards for Policy Provisions

(a) No Medicare supplement insurance policy, contract or certificate in force in the State shall contain benefits which duplicate benefits provided by Medicare.

(b) The Commissioner shall issue reasonable regulations to establish specific standards for policy provisions of Medicare supplement policies and certificates. Such standards shall be in addition to and in accordance with applicable laws of this State. No requirement of the Insurance Code relating to minimum required policy benefits, other than the minimum standards contained in this Chapter, shall apply to Medicare supplement policies. The standards shall cover, but not be limited to:

(1) terms of renewability;

(2) initial and subsequent conditions of eligibility;

(3) nonduplication of coverage;

(4) probationary periods;

(5) benefit limitations, exceptions and reductions;

(6) elimination periods;

(7) requirements for replacement;

(8) recurrent conditions; and

(9) definitions of terms.

(c) The Commissioner may issue reasonable regulations that specify prohibited policy provisions not otherwise specifically authorized by statute which, in the opinion of the Commissioner, are unjust, unfair or unfairly discriminatory to any person insured or proposed for coverage under a Medicare supplement policy.

(d) Notwithstanding any other provision of law of this State, a Medicare supplement policy may not deny a claim for losses incurred more than six (6) months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

§3404. Minimum Standards for Benefits and Claims Payment

The Commissioner shall issue reasonable regulations to establish minimum standards for benefits and claims payment under Medicare supplement policies.

§3405. Loss Ratio Standards and Filing Requirements

(a) Every insurer providing group Medicare supplement insurance benefits to a resident of this State pursuant to §3402(a) of this Chapter shall file a copy of the master policy and any certificate used in this State in accordance with the filing requirements and procedures applicable to group Medicare supplement policies issued in this State. In the case of master policies effectuated and delivered outside this State but covering a resident of this State, the certificates to be delivered or issued in this State shall be filed no later than forty-five (45) days after the insurance is provided.

(b) Medicare supplement policies shall return to policyholders benefits which are reasonable in relation to the premium charged. The Commissioner shall issue reasonable regulations to establish minimum standards for loss ratios of Medicare supplement policies on the basis of incurred claims experience, or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums in accordance with accepted actuarial principles and practices. Every entity providing Medicare supplement policies or certificates in this State shall file annually its rates, rating schedules, and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards of this State. All filings of rates and rating schedules shall demonstrate that the actual and expected losses in relation to premiums comply with the requirements of this Chapter. Nothing contained herein shall alter, amend or modify the provisions of 18 Del.C. §2506.

(c) No entity shall provide compensation to its agents or other producers which is greater than the renewal compensation which would have been paid on an existing policy if the existing policy is replaced by another policy with the same company where the new policy benefits are substantially similar to the benefits under the old policy and the old policy was issued by the same insurer or insurer group.

§3406. Disclosure Standards

(a) In order to provide for full and fair disclosure in the sale of Medicare supplement policies, no Medicare supplement policy or certificate shall be delivered in this State unless an outline of coverage is delivered to the applicant at the time application is made.

(b) The Commissioner shall prescribe the format and content of the outline of coverage required by Subsection (a). For purposes of this Section, 'format' means style, arrangements and overall appearance, including such items as the size, color and prominence of type and arrangement of text and captions. Such outline of coverage shall include:

(1) a description of the principal benefits and coverage provided in the policy;

(2) a statement of the exceptions, reductions and limitations contained in the policy;

(3) a statement of the renewal provisions, including any reservation by the insurer of a right to change premiums;

(4) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(c) The Commissioner may prescribe by regulation a standard form and the contents of an informational brochure for persons eligible for Medicare by reason of age, which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the Commissioner may require by regulation that the information brochure be provided to any prospective insureds eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the Commissioner may require by regulation that the prescribed brochure be provided upon request to any prospective insureds eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(d) The Commissioner may promulgate regulations for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and sickness insurance policies sold to persons eligible for Medicare by reason of age, other than:

(1) Medicare supplement policies;

(2) disability income policies;

(3) basic, catastrophic or major medical expense policies; or

(4) single premium, nonrenewable policies.

(e) The Commissioner may further promulgate reasonable regulations to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts or certificates by persons eligible for Medicare by reason of age.

§3407. Notice of Free Examination of Policy or Certificate

Medicare supplement policies or certificates, shall have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Any refund made pursuant to this Section shall be paid directly to the applicant by the insurer in a timely manner.

§3408. Filing Requirements for Advertising

Every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits in this State shall provide a copy of any Medicare supplement advertisement intended for use in this State whether through written, radio or television medium to the Commissioner of Insurance of this State for review or approval by the Commissioner to the extent it may be required under State law.

§3409. Penalties

In addition to any other applicable penalties for violations of the Insurance Code, the Commissioner may require insurers violating any provision of this Chapter or regulations promulgated pursuant to this Chapter to cease marketing any Medicare

supplement policy or certificate in this State which is related directly or indirectly to a violation or may require such insurer to take such actions as are necessary to comply with the provisions of this Chapter, or both.

§3410. Severability

If any provision of this Chapter or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the Chapter and the application of such provisions to other persons or circumstances shall not be affected thereby."

Section 2. This Act shall become effective 120 days after being signed by the Governor.

Approved June 27, 1989.

CHAPTER 46

FORMERLY

SENATE BILL NO. 292

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES DEAUTHORIZING AND 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 MOTOR VEHICLE REGISTRATION FEES TO THE TRANSPORTATION TRUST 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 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 RETROSPECTIVELY SECTION 29 OF VOLUME 66, CHAPTER 360 OF THE LAWS OF DELAWARE, RELATING TO THE ECONOMIC DEVELOPMENT FUND; AMENDING RETROACTIVELY CHAPTER 50, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE ECONOMIC DEVELOPMENT AUTHORITY; AMENDING CHAPTER 50, TITLE 29 OF THE DELAWARE CODE TO EMPOWER THE DELAWARE ECONOMIC DEVELOPMENT AUTHORITY TO SERVE AS THE SOLE MEMBER OF DOVER-DEL HOUSING CORP. TO ASSIST DEVELOPMENT OF LOW- AND MODERATE-INCOME HOUSING IN DELAWARE; AMENDING CHAPTER 50, TITLE 29 OF THE DELAWARE CODE RELATING TO THE CREATION OF A LAND ACQUISITION FUND; AMENDING CHAPTER 50, TITLE 29 OF THE DELAWARE CODE RELATING TO THE CREATION OF A SMALL BUSINESS REVOLVING LOAN AND CREDIT ENHANCEMENT FUND; AMENDING TITLE 2, CHAPTER 14, SECTIONS 1414, 1415 AND 1417 OF THE DELAWARE CODE RELATING TO THE DELAWARE TRANSPORTATION AUTHORITY; AMENDING TITLE 21, CHAPTER 3, SECTION 307 OF THE DELAWARE CODE PERTAINING TO DISTRIBUTION OF MOTOR VEHICLE REGISTRATION FEES; AMENDING TITLE 29, SECTIONS 8402, 8403(A), 8403(B), 8403(C) AND 8411 OF THE DELAWARE CODE RELATING TO DEPARTMENT OF TRANSPORTATION POSITIONS; AMENDING TITLE 29, SECTION 7423 OF THE DELAWARE CODE PERTAINING TO BOND VERIFICATION; AMENDING CERTAIN SECTIONS OF CHAPTERS 360 AND 92, VOLUME 66, LAWS OF DELAWARE AND AMENDING TITLE 21, DELAWARE CODE.

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 Fifty Million Four Hundred Thousand Fifty-Five Dollars ($50,400,055) 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 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof and summarized as follows:

Department, Agency, or Instrumentality	Amount
Budget Office	$ 663,300
Department of State	1,600,000
Department of Administrative Services	5,746,000
Department of Health & Social Services	4,241,000
Department of Services for Children, Youth & Their Families	486,200
Department of Correction	3,300,000
Department of Natural Resources & Environmental Control	9,788,823
Department of Public Safety	300,000
Department of Agriculture	500,000
State Fire Prevention Commission	1,050,800
University of Delaware	4,250,000
Delaware State College	5,500,000
Delaware Technical & Community College	3,260,000
State Board of Education	9,218,932

Purpose	Maximum State Share	Local Share	Maximum Total Cost
Appoquinimink School District	$1,453,605	$ 969,070	$ 2,422,675
Indian River School District	1,040,000	-0-	1,040,000
Christina School District	4,725,327	3,150,218	7,875,545
Hodgson Vo-Tech School	2,000,000	-0-	2,000,000

Subtotal	$9,218,932	$4,119,288	$13,338,220
Judicial			495,000
TOTAL			$50,400,055

Section 2. Authorization of Ten-Year Bonds. The State hereby authorizes the issuance of Seventeen Million One Hundred Ninety Thousand Two Hundred Seventy-Seven Dollars ($17,190,277) 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 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof and summarized as follows:

Department, Agency, or Instrumentality	Amount
Budget Office	$ 600,000
Department of State	621,216
Department of Administrative Services	5,531,966
Department of Health & Social Services	1,000,000
Department of Services for Children, Youth & Their Families	534,000
Department of Correction	480,000
Department of Natural Resources & Environmental Control	255,000
Department of Agriculture	140,000
National Guard	24,544
State Fire Prevention Commission	242,500
Delaware Technical & Community College	276,216
State Board of Education	7,484,835

Purpose	Maximum State Share	Local Share	Maximum Total Cost
Minor Capital Improvements	$3,422,904	$2,281,936	$ 5,704,840
Lake Forest School District	1,462,473	974,982	2,437,455
Red Clay School District	274,458	182,972	457,430
Brandywine School District	1,800,000	1,200,000	3,000,000
Cape Henlopen School District	100,000	-0-	100,000
Sussex Consortium			
Howard High A/C - Roof & Other Bldg. Repairs	425,000	-0-	425,000
Subtotal	$7,484,835	$4,639,890	$12,124,725
TOTAL			$17,190,277

Section 3. Appropriation of First State Improvement Fund. The State hereby authorizes the appropriation of Three Million Dollars ($3,000,000) from the First State Improvement Fund for a portion of the purposes set forth in the "Fiscal Year 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Delaware Development Office	$3,000,000
TOTAL	$3,000,000

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 "$24,030,800" wherever it appears in said subsection and inserting in lieu thereof the number "$22,219,218".

(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-One Million One Hundred Thousand Dollars ($31,100,000) 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 1990 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 1990 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, 1992, shall revert to the General Fund of the State of Delaware.

Department, Agency, or Instrumentality	Amount
Budget Office	$ 81,526
Delaware Development Office	10,123,000
Department of Administrative Services	300,000
Department of Health & Social Services	2,991,216
Department of Services for Children, Youth & Their Families	208,200
Department of Correction	720,716
Department of Natural Resources & Environmental Control	7,887,432
Department of Public Safety	779,416
Department of Community Affairs	50,000
National Guard	55,000
University of Delaware	2,000,000
Delaware State College	696,216
Delaware Technical & Community College	3,230,182
State Board of Education	1,977,096

Purpose	Maximum State Share	Local Share	Maximum Total Cost
Minor Capital Improvements	$ 588,096	$ 392,064	$ 980,160
Annual Maintenance Program	984,000	-0-	984,000
Vo-Tech Sussex Conversion	200,000	-0-	200,000
Vo-Tech Kent Conversion	205,000	-0-	205,000
Subtotal	$1,977,096	$ 392,064	$2,369,160

TOTAL $31,100,000

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 (12-05-003-8101).

Department, Agency, or Instrumentality	Authorized Vol. & Ch.	Project Appropriation Code	Amount
Delaware Development Office	63/179	10-03-03-5213	$ 326
Department of State	65/385	20-06-01-5712	25
Department of Services for Children, Youth and Their Families	63/387	37-01-10-5320	4
Department of Services for Children, Youth and Their Families	65/385	37-01-10-5714	823,062
Department of Correction	64/131	38-04-03-5413	239
Department of Natural Resources and Environmental Control	60/271	40-07-05-7683	5,215
Delaware National Guard	66/360	76-01-01-5912	74,544
Delaware State College	64/343	90-03-04-5512	258
Delaware State College	64/343	90-03-04-5517	360
Delaware State College	64/343	90-03-04-5526	747

TOTAL	$904,780

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 One Million Six Hundred Ninety-Three Thousand Eight Hundred Seventy Dollars ($1,693,870) from the State Treasurer's Bond Reversion Account (12-05-003-8101) to the following departments in the following amount for the purposes set forth in the "Fiscal Year 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Department of Natural Resources and Environmental Control	$1,693,870
TOTAL	$1,693,870

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 One Thousand Three Hundred Ninety-Five Dollars ($301,395) on deposit in the School Bond Reversion Account (12-05-003-8102) for the following purpose in the following amount as set forth in the "Fiscal Year 1990 Capital Improvements Projects Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
State Board of Education	$ 301,395
TOTAL	$ 301,395

Section 9. General Fund Reprogramming.

(a) Pursuant to previous years' authorizations by the General Assembly, certain projects have been completed at less than anticipated costs or are unable to be completed. For the fiscal year ending June 30, 1989, the following projects shall remain as continuing appropriations and shall be transferred in accordance with subsection (b) of this Section and shall not be subject to reversion until June 30, 1992.

Department, Agency, or Instrumentality	Authorized Vol. & Ch.	Project Appropriation Code	Amount
Budget Office	66/360	10-02-01-0181	$ 600,000
Department of Services for Children, Youth and Their Families	66/360	37-01-10-0180	500,000
University of Delaware	66/360	90-01-01-0193	2,000,000
TOTAL			$3,100,000

(b) The Budget Office shall transfer the remaining cash balances listed in subsection (a) above to the following departments in the following amounts for the purposes set forth in the "Fiscal Year 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Budget Office	$ 600,000
Department of Natural Resources and Environmental Control	500,000
University of Delaware	2,000,000
TOTAL	$3,100,000

Section 10. First State Improvement Fund Reprogramming.

(a) Pursuant to previous years' authorizations by the General Assembly, certain projects have been completed at less than anticipated costs or are unable to be completed. The following fund lines represent such projects and shall not be subject to reversion until June 30, 1992.

Department, Agency, or Instrumentality	Authorized Vol. & Ch.	Project Appropriation Code	Amount
Department of Services for Children,	65/214	37-01-10-9601	$ 6

Youth and Their Families			
Department of Public Safety	65/385	45-07-01-9622	16,981
Department of Public Safety	65/385	45-01-30-9623	320
TOTAL			$17,307

(b) The Budget Office shall transfer the remaining cash balances listed in subsection (a) above to the following departments in the following amount for the purpose set forth in the "Fiscal Year 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Department of Natural Resources and Environmental Control	$17,307
TOTAL	$17,307

Section 11. Allocation of Stripper Well Funds. The State hereby authorizes the Department of Administrative Services to allocate One Million Thirty-Five Thousand Dollars ($1,035,000) from the proceeds of the Stripper Well Court Case Settlement for eligible projects up to the amounts set forth in the "Fiscal Year 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof. All potentially eligible projects will be submitted to the State 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.

Department, Agency, or Instrumentality	Amount
Department of Administrative Services	$ 71,000
Department of Health & Social Services	552,140
Department of Correction	373,800
Department of Natural Resources & Environmental Control	23,860
State Fire Prevention Commission	14,200
TOTAL	$1,035,000

Section 12. Transportation Trust Fund Authorizations.

(a) There is hereby appropriated Two Hundred Fifty-Eight Million Three Hundred Thirty Thousand Dollars ($258,330,000) from the Transportation Trust Fund for transportation programs as set forth in the "Fiscal Year 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof.

(b) To fund a portion of the amount set forth in subsection (a) above, the Delaware Transportation Authority is hereby authorized to issue bonds in an amount not exceeding One Hundred Eighty-Nine Million Dollars ($189,000,000) pursuant to the provisions of Chapter 14, Title 2, Delaware Code, as amended, of which One Hundred Fifty-Seven Million Dollars ($157,000,000) shall be issued for purposes set forth in the "Fiscal Year 1990 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.

Section 13. Addition to the First State Improvement Fund. The State Treasurer and Secretary of Finance are hereby authorized and directed to disburse and/or transfer Fifteen Million Dollars ($15,000,000) from the General Fund to the First State Improvement Fund.

Section 14. 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 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Section 15. Advanced Real Property Fund.

(a) It is the intent of the General Assembly that One Hundred Fifty-Five Thousand Dollars ($155,000) in the Advanced Planning Fund (10-02-06-84-00) be transferred to the Advanced Real Property Fund (10-02-06-85-00) and that Eighty-One Thousand Five Hundred Twenty-Six Dollars ($81,526) appropriated in Section 5 of this Act to the Budget Office be disbursed into the Advanced Real Property Fund. The funds transferred and disbursed herein shall be used to repay the Indian River School District's, Delmar School District's, Attorney General Escrow Account's, Delaware Technical & Community College's, Department of Public Safety's, and the Delaware Development Office's prior withdrawals from the Advanced Real Property Fund. Such

repayments shall be considered as repayments in full and the balances due for all projects listed above shall be Zero Dollars ($0).

(b) (i) Amend Title 29, Section 5040, Delaware Code by deleting subsection (c) and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) The Fund shall be expended for earnest money of up to ten percent (10%) for the acquisition of real property (including any improvements thereon) by State agencies. The Fund may not be expended for highway right-of-way acquisition."

(ii) Amend Title 29, Section 5041, Delaware Code by deleting the words "real property acquisition" in the last sentence of subsection (b) and inserting in lieu thereof the words "earnest money for the acquisition of real property."

(iii) Amend Title 29, Section 5041, Delaware Code by deleting subsection (c) in its entirety.

Section 16. Advanced Planning Fund. It is the intent of the General Assembly that the following agencies' balances due the Advanced Planning Fund (10-02-06-84-00) be Zero Dollars ($0):

Agency	Amount
Delaware Development Office	$ 4,410
Lake Forest School District	12,000
Woodbridge School District	12,000
TOTAL	$28,410

Section 17. 800 Megahertz Radio Infrastructure. It is the intent of the General Assembly that Six Hundred Thousand Dollars ($600,000) appropriated in Section 2 of this Act and Six Hundred Thousand Dollars ($600,000) appropriated in Section 9 of this Act to the Budget Office be used for 800 Megahertz Radio infrastructure. The General Assembly also hereby directs the Advisory Committee on Telecommunications, with the help of the Budget Office, to determine the best and most equitable use of future State, local and private funds for the 800 Megahertz system. Such a determination should be reported to the General Assembly and the Delaware Development Office no later than November 1, 1989.

Section 18. Powers, Duties and Authority of The Delaware Economic Development Authority.

(a) Title 29, Chapter 50 of the Delaware Code is hereby amended:

(1) By deleting the period which appears at the end of paragraph (10), subsection (a) of Section 5051 and replacing it with a semicolon followed by the word "and".

(2) By adding to Section 5051 new paragraph (11) of subsection (a) thereof, as set forth below:

"(11) There is a need to assist the Delaware State Housing Authority and Dover-Del Housing Corp. in solving housing problems for low- and moderate-income residents of Liberty Court Apartments, Dover, Delaware, thereby contributing to the prosperity, health or general welfare of the citizens of the State."

(3) By deleting the word "and" which appears at the end of paragraph (19), subsection (e) of Section 5054.

(4) By deleting the period which appears at the end of paragraph (20), subsection (e) of Section 5054 and replacing it with a semicolon followed by the word "and".

(5) By adding to Section 5054 new paragraph (21) of subsection (e) thereof, as set forth below:

"(21) To acquire all of the issued and outstanding stock of Dover-Del Housing Corp., a Delaware non-profit housing development corporation, and to serve as the sole member thereof during such period of time that Liberty Court Apartments, Dover, Delaware is being rehabilitated and, upon completion of such rehabilitation, to cause Dover-Del

Housing Corp. to convey title to such apartments to the Delaware State Housing Authority for such consideration as the Authority shall, at such time, deem adequate and, as soon as practicable thereafter, to divest its interest in Dover-Del Housing Corp., and to take any and all other actions deemed to be necessary or appropriate by the Authority in connection with the foregoing."

Section 19. Wilmington Library. It is the intent of the General Assembly that Three Hundred Thousand Dollars ($300,000) appropriated to the Delaware Development Office in Section 5 of this Act be used as a match of grant funds received in order to renovate the Wilmington Library at 10th and Market Streets, Wilmington, New Castle County, Delaware. The funds appropriated herein may be encumbered when New Castle County provides proper documentation and receives written certification by the Director of the Delaware Development Office that Five Million Three Hundred Thousand Dollars ($5,300,000) non-State funds have been committed.

Section 20. Hockessin Library. It is the intent of the General Assembly that Three Hundred Thousand Dollars ($300,000) appropriated to the Delaware Development Office in Section 5 of this Act be used to construct a library in Hockessin in Swift Park on Valley Road, New Castle County, Delaware. The funds appropriated herein may be encumbered when New Castle County has equally matched said funds with non-State funds and has received written certification by the Secretary of Finance and the Director of the Delaware Development Office that sufficient non-State funds have been received to match the appropriation herein.

Section 21. Bridgeville Visitors Center. It is the intent of the General Assembly that Five Hundred Thousand Dollars ($500,000) appropriated in Section 12 of this Act to the Department of Transportation be utilized to construct a visitors center in proximity to the intersection of Routes 13 and 404 in Bridgeville, Sussex County, Delaware, on a suitably located parcel of leased land. Lessor shall provide adequate utilities and access to the adjacent public roads. Site selection and negotiation of the lease shall be subject to joint approval by the Department of Transportation and the Delaware Development Office. It is further intended that this center be designed and constructed so that it could be relocated.

Section 22. Multi-Purpose Sports Facility.

(a) It is the intent of the General Assembly that of the Two Million Dollars ($2,000,000) appropriated to the Delaware Development Office for a Multi-Purpose Sports Facility ("Facility") in Section 5 of this Act, Seventy-Five Thousand Dollars ($75,000) be used for a study to: (a) determine how the Facility will be utilized, (b) determine the economic impact of such a facility to the State and the surrounding community, and (c) determine the total cost of such a facility. This study shall also project the Facility's ability to become self-supporting. If the study reflects, and the Director of the Delaware Development Office, the Secretary of the Department of Finance and the Controller General determine that the Facility will be self-supporting and if a professional baseball team with a major league affiliation signs a non-exclusive lease to locate at the Facility and if the lease is sufficient to cover the operating expenses, then the other funds appropriated herein may be encumbered for planning, engineering, site preparation and construction.

(b) It is also the intent of the General Assembly that a portion of the funds appropriated herein be used to conduct a traffic impact study by a pre-qualified traffic engineering firm on the proposed site. Results of the study must comply with existing agreement 82-239 between the Department of Transportation and New Castle County.

(c) It is also the intent of the General Assembly that this facility shall be available to local, school, and community groups, provided that such use does not interfere with any existing leases.

Section 23. Dover Civic Center. It is the intent of the General Assembly that One Million Dollars ($1,000,000) appropriated to the Delaware Development Office ("Office") in Section 3 of this Act be used for a Civic Center ("Center") in or near Dover. None of the monies appropriated herein nor those appropriated in Section 27 of Volume 66, Chapter 360, Laws of Delaware, except for the costs to complete the tasks listed below in subsections (a) through (d), may be encumbered by the Director of the Office for the construction of the Center until the five (5) member Committee ("Committee") that was created pursuant to the provisions of Section 27(a) of Volume 66, Chapter 360, Laws of Delaware have completed all of the following tasks:

(a) Completed an evaluation of Development Team proposals pursuant to the Committee's requests, the last of which proposals is to be submitted to the Committee not later than July 31, 1989;

(b) After evaluating the submissions of the Development Teams, the Committee is empowered to select one of the Development Teams with which to begin negotiations which, if concluded to the satisfaction of the Committee, would lead to the development of the Center, subject to appropriation;

(c) In the event the Committee is not satisfied that the submissions of the Development Teams would lead to the development of the Center substantially as described in the Committee's Request for Proposal for Development Team, the Committee shall reject all proposals and shall file a written report to the Governor and the General Assembly advising of the Committee's action and further recommendations. The Committee's recommendations should include, but not be limited to, proposals for building a publicly funded conference/civic center in Dover.

(d) Based on information provided to the Governor and General Assembly by the Committee, as required in subsection (b) above, it is anticipated that the total expenditure of public monies from current and future appropriations for the Center from state and local governments shall not exceed a total of the present value of Nine Million Dollars ($9,000,000) at the time of execution of an agreement for the development of the Center, exclusive of any costs incurred by the Committee prior to conclusion of negotiations with the selected Development Team.

Section 24. Land Acquisition Program

(a) It is the intent of the General Assembly that Eight Hundred Thousand Dollars ($800,000) appropriated in Section 5 of this Act to the Delaware Development Office on behalf of The Delaware Economic Development Authority ("Authority") be used for the Land Acquisition Fund ("Fund"), as defined in the following paragraphs.

(b) Amend Chapter 50, Title 29 of the Delaware Code by creating a new subchapter I-B to read as follows:

"Subchapter I-B - Land Acquisition Fund

§5027. Creation of the Fund.

(a) A Special Fund to be known as the "Land Acquisition Fund," hereinafter referred to as the "Fund", shall be created.

(b) The Fund shall be invested by the State Treasurer in securities consistent with the policies established by the Cash Management Policy Board. All monies generated by the Fund, including, but not limited to, lease payments, acquisition payments and interest earned on the Fund's proceeds shall be deposited in the Fund.

(c) Activity by firms, as original transferees under the Fund, which meet the requirements defined in Sections 2011 and 2012, Title 30, Delaware Code, shall ipso facto receive and be subject to the tax treatment permitted under Sections 2021 and 2022, Title 30, Delaware Code.

§5028. Fund Purposes.

(a) Notwithstanding any other provisions of State law, funds appropriated to or deposited in the Fund may be used by The Delaware Economic Development Authority ("Authority") to acquire land and/or improvements thereon for transfer to firms that (i) create or retain direct, permanent, quality, full-time jobs and (ii) 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.

(b) Funds shall be repaid to the Authority within a period not to exceed twenty (20) years and upon terms agreeable to the Authority.

§5029. 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 25. Sussex County Airport Resurfacing. It is the intent of the General Assembly that Sixty-Five Thousand Dollars ($65,000) appropriated to the Delaware Development Office ("Office") in Section 5 of this Act be used to resurface the Sussex County Airport runway. The airport is located east of Georgetown on County Road 319 just south of Route 9. Before the funds appropriated herein may be encumbered, two conditions must be met: (1) Sussex County will match these funds with at least $35,000 and (2) a $900,000 match will be available from non-State funds and non-Sussex County funds.

Section 26. Small Business Revolving Loan and Credit Enhancement Fund.

(a) It is the intent of the General Assembly that Seven Hundred Fifty Thousand Dollars ($750,000) appropriated in Section 5 of this Act to the Delaware Development Office on behalf of The Delaware Economic Development Authority be used for the State's Small Business Revolving Loan and Credit Enhancement Fund. It is also the intent of the General Assembly that the Small Business Revolving Loan and Credit Enhancement Fund be established by amending Chapter 50, Title 29 of the Delaware Code by creating a new Subchapter III-A to read as follows:

"Subchapter III-A - The Small Business Revolving Loan and Credit Enhancement Fund

§5046. Legislative Intent. The General Assembly finds that small businesses in the State are of vital significance to Delaware's economic well-being and that small businesses provide the vast majority of jobs in the State. The General Assembly also finds that small businesses have a difficult time borrowing needed funds on a conventional basis due to the high cost of these funds and the reluctance of banks to provide one hundred percent (100%) of required capital. To help allay these obstacles, the General Assembly hereby directs the Delaware Development Office to use the Small Business Revolving Loan and Credit Enhancement Fund to assist small businesses in reducing the cost of loan funds by offering partial, low-cost loans or by purchasing credit enhancements for small business' sustenance and growth.

§5047. Creation of the Fund.

(a) A Special Fund to be known as the "Small Business Revolving Loan and Credit Enhancement Fund," hereinafter referred to as the "Fund" shall be created and administered by The Delaware Economic Development Authority, hereinafter referred to as the "Authority."

(b) The Fund shall be invested by the State Treasurer in securities consistent with the policies established by the Cash Management Policy Board. All interest on the Fund's monies and any repayment of loans shall be deposited in the Fund.

(c) Loans made by the Authority to small businesses under the Fund shall be loaned at a below-market rate.

§5048. Fund Purposes.

(a) The monies appropriated to the Fund may be used by the Authority for loans up to twenty-five percent (25%) of the total capital required, but not to exceed $100,000 for working capital and fixed asset purposes.

(b) The monies appropriated to the Fund may also be used to purchase credit enhancements on behalf of targeted businesses which shall support loans made by and/or through financial institutions to such targeted businesses.

(c) The monies appropriated to the Fund shall not be used for the following purposes:

(1) Grants;

(2) Restaurants and professional office buildings except in those targeted census tracts, defined in Section 2021(1)(d) of Title 30, Delaware Code;

(3) Projects which do not attract or retain employment opportunities;

(4) Private, non-profit activities; and

(5) Private or public speculative real estate ventures.

§5049. Fund Eligibility. In order for a project to be eligible for the Fund purposes cited in §5048 above, the project must meet the following criterion:

(a) For the purpose of administering the Fund, a small business shall be defined as a firm having a full-time equivalent complement of 100 or less employees;

(b) The firm to benefit from Fund proceeds must create or retain direct, permanent, quality, full-time jobs;

(c) The firm eligible for Fund proceeds must be eligible for and have received commitments for at least seventy-five percent (75%) of the loan amount needed;

(d) The firm eligible for Fund proceeds must be able to collateralize the loan to the satisfaction of the Authority which shall use standard underwriting procedures; and

(e) The firm eligible for Fund proceeds must be able to repay the Fund proceeds within a time period and at an interest rate determined by the Authority.

(f) Projects to be aided by the Fund shall be recommended by the Council on Development Finance ("Council") and approved by the Chairman of the Authority. No project shall receive any benefit from the Fund unless such benefit is approved by a majority of the Council.

(b) The Delaware Development Office shall author regulations to effect this Section by December 31, 1989."

Section 27. Agribusiness Industrial Development Corporation.

(a) It is the intent of the General Assembly that Two Hundred Fifty Thousand Dollars ($250,000) appropriated in Section 5 of this Act to the Delaware Development Office ("Office") be used on behalf of The Delaware Economic Development Authority as an investment in one or more agribusiness Business and Industrial Development Corporations (BIDCOs).

(b) Amend Section 30, Volume 66, Chapter 360, Laws of Delaware by deleting in subsection (a) the sentence "The Office shall transfer funds appropriated herein to The Delaware Economic Development Authority ("Authority") by September 1, 1988." and inserting in lieu thereof the following sentence "The Office shall disburse and/or transfer the funds appropriated herein to a special fund entitled "Economic Development Fund" to be administered by The Delaware Economic Development Authority ("Authority")."

(c) Amend Section 30, Volume 66, Chapter 360, Laws of Delaware by deleting the subsection (b)(1) in its entirety and inserting in lieu thereof a new subsection (b)(1) to read as follows: "(b)(1) The Board of Directors must include at least one State of Delaware representative to be named by the Governor."

(d) Amend Section 30, Volume 66, Chapter 360, Laws of Delaware by adding the word "and" after the semi-colon in subsection (b)(2), by deleting subsection (b)(3) in its entirety, by deleting the designation "(b)(4)" and inserting in lieu thereof "(b)(3)", by adding the words "and/or public-sector" after the words "private-sector" in new subsection (b)(3) and by adding the words "and/or voting" after the words "non-voting" in subsection (c).

(e) Amend Section 30, Volume 66, Chapter 360, Laws of Delaware by adding the phrase "and/or businesses located in the agricultural community" after the word "products" in subsection (e).

Section 28. Development Incentive Fund.

(a) Amend Chapter 50, Title 29, subsection 5075(b), Delaware Code by adding the following sentence after the only sentence contained in the subsection:

"Such balance shall exclude the interest and proceeds of payment as described in subsection (c) below."

(b) Amend Chapter 50, Title 29, subsection 5076(a)(3), Delaware Code by deleting it in its entirety.

(c) Amend Chapter 50, Title 29, subsection 5076(b), Delaware Code by adding a new subsection (5) to read as follows: "(5) equipment other than that which is directly infrastructure-related to the funded activity. Such equipment may include, but not be limited to, piping, pumps, motors, converters, electrical devices, meters, gauges and monitoring equipment" and by deleting the phrase "Except for those projects receiving Delaware Technical Innovation Grants."

(d) Amend Chapter 50, Title 29, subsection 5077, Delaware Code by deleting the phrase "Except for those projects receiving Delaware Technical Innovation Grants," by deleting subsection (3) in its entirety and adding the word "and" after the semi-colon in subsection (1) and deleting the semi-colon and the word "or" in subsection (2) and replacing it with a period.

(e) Amend Title 29, Section 5078, Delaware Code by deleting the phrase "approved by at least 5 of the 7" in the second sentence and substituting in lieu thereof the phrase "recommended by a majority of the" and by deleting the phrase "or three quarters of the members if vacancies on the Council exist" in the second sentence.

Section 29. Industrial Park Development Fund.

(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 5 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 Kent and Sussex Counties. 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 and One Hundred Thousand Dollars ($100,000) may be used to construct building(s) in Kent 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.

(4) The community applying must show it has sufficient, dedicated revenues to market and maintain the industrial park.

(c) Proceeds from the repayment of the funds appropriated herein shall be deposited in the State Treasurer's Bond Reversion Account.

Section 30. Economic Development Fund.

(a) Amend Section 29 of Volume 66, Chapter 360 of the Laws of Delaware beginning with the second subsection (d) and continuing through existing subsection (j)

by deleting the designated subsection letters and substituting in lieu thereof designations (e), (f), (g), (h), (i), (j), and (k).

(b) Amend new Section 29(d)(6) of Volume 66, Chapter 360 of the Laws of Delaware by adding the phrase ", warehouse and distribution facilities, agricultural-related businesses" after the phrase "incubator service firms" and before the phrase "and the administration and management support required for these activities;".

(c) Amend new Section 29(e) of Volume 66, Chapter 360 of the Laws of Delaware by deleting the subsection in its entirety and substituting in lieu thereof following language:

"(e) Business loans of less than One Million Five Hundred Thousand Dollars ($1,500,000) ("Small Business Loans") must receive direct or indirect benefit from the investment return earned on part of the Three Million Dollars ($3,000,000) appropriated herein. Such Small Business Loans may be made to businesses other than those targeted businesses described in subsection (d) above, which otherwise qualify for financing under Chapter 50, Subchapter IV, Title 29 of the Delaware Code."

(d) Amend Title 29, Section 5055(a)(3), Delaware Code by deleting the figure "$50,000" and substituting in lieu thereof the figure "$10,000", by adding the phrase "if any," after the phrase "to be issued," and by adding the phrase "or provides another form of financing support to the project." after the phrase "the Authority issues the bonds.".

(e) Amend new Section 29(h) of Volume 66, Chapter 360 of the Laws of Delaware by deleting the words "forty-five (45) days" and substituting in lieu thereof the words "as soon as practicable" in said Section 29(h).

(f) Amend Section 5055, Chapter 50, Title 29 of the Delaware Code by adding the phrase "or the provision by the Authority of any other form of financing support." to the end of the first sentence of subsection (d).

(g) Amend Title 29, Section 5055(a)(4), Delaware Code by deleting the figure "$50,000" and substituting in lieu thereof the figure "$10,000", by adding the phrase "if any," after the phrase "to be issued," and by adding the phrase "or provide another form of financing support to the project." after the phrase "the Authority issues the bonds.".

(h) Amend the title of Volume 66, Chapter 360 of the Laws of Delaware by adding after "RELATING TO THE CREATION OF A DEVELOPMENT INCENTIVE FUND;" the following language:

"CREATION OF AN ECONOMIC DEVELOPMENT FUND; AMENDING CHAPTER 50, TITLE 29 OF THE DELAWARE CODE, REGARDING THE POWERS OF THE DELAWARE ECONOMIC DEVELOPMENT AUTHORITY."

(i) The amendments provided for in this Section shall be retroactively effective as of the effective date of Volume 66, Chapter 360 of the Laws of Delaware.

Section 31. Sewell Biggs Collection. It is the intent of the General Assembly that One Million Six Hundred Thousand Dollars ($1,600,000) appropriated in Section 1 of this Act to the Department of State be used for the purposes and be subject to all of the terms and conditions described in the Trust Agreement between Sewell C. Biggs and the Choptank Foundation, as Trustors, and a Board of Trustees, which will be appointed by the Governor. Notwithstanding the foregoing, no funds appropriated by this Act shall be expended until such time as the terms and conditions of the transfer of the "Collection" as defined in the aforementioned Trust Agreement shall have been approved by the Governor and the members of the Board of Trustees.

Section 32. Wilmington Public Building. It is the intent of the General Assembly that, of the Four Hundred Thousand Dollars ($400,000) appropriated in Section 2 of this Act to the Department of Administrative Services, Two Hundred Thousand Dollars ($200,000) be used to study the staffing and space needs of judicial, executive and legislative State agencies located or to be located in Wilmington. The study shall determine 3-, 5-, 10- and 20-year staff and space needs and plans to include office and the most beneficial means to solve future problems with present and additional office spaces. The study shall also include the costs associated with these needs and plans.

Section 33. Legislative Hall/Tatnall Building.

(a) Legislative Hall. It is the intent of the General Assembly that Two Million Dollars ($2,000,000) appropriated in Section 1 of this Act to the Department of Administrative Services be used to undertake expansion of Legislative Hall as approved by Legislative Council on April 12, 1989. In addition, One Million Dollars ($1,000,000) of the funds appropriated in Volume 66, Chapter 360, Laws of Delaware to the Department of Administrative Services, "Legislative Hall/Tatnall Building" shall be used for the expansion of Legislative Hall. The final design plans for such expansion and space allocation shall require the approval of Legislative Council prior to the solicitation of competitive bids.

(b) Tatnall Building. Of the funds appropriated in Volume 66, Chapter 360, Laws of Delaware to the Department of Administrative Services, "Legislative Hall/Tatnall Building", Three Hundred Fifty Thousand Dollars ($350,000) shall be used for renovations of the Tatnall Building. Additionally, all remaining funds appropriated in Volume 66, Chapter 92, Laws of Delaware to the Department of Administrative Services for "Legislative Hall/Tatnall Building" shall be used for renovations of the Tatnall Building. The final design plans for such renovations and space allocation shall require the approval of Legislative Council prior to the solicitation of competitive bids. As approved by Legislative Council on April 12, 1989, the basement and first floor of the Tatnall Building shall be reserved for the future use of the General Assembly.

Section 34. Kent County Family Court Completion. It is the intent of the General Assembly that Three Hundred Thousand Dollars ($300,000) appropriated to the Department of Administrative Services (the "Department") in Section 5 of this Act be used to complete Kent County Family Court.

Section 35. Stripper Well Projects. It is the intent of the General Assembly that, of the amount authorized to the Department of Administrative Services in Section 11 of this Act for Stripper Well Projects, Twenty-Eight Thousand Dollars ($28,000) be used for the Agricultural Building - Lighting and Forty-Three Thousand Dollars ($43,000) be used for the Wilmington Public Building - Capacitors.

Section 36. Kent County Vocational Technical School District.

(a) The Kent County Vocational Technical School District is hereby directed to offer for sale to Kent-Sussex Industries Inc. the site currently leased to Kent-Sussex Industries Inc. as authorized by Volume 58, Chapter 577, Laws of Delaware and pursuant to a lease of fifty (50) years commencing January 1, 1973 and terminating December 31, 2023.

(b) It is the intent of the General Assembly that of the One Million Nine Hundred Fifty-Two Thousand Nine Hundred Sixty-Six Dollars ($1,952,966) appropriated in Section 2 of this Act to the Department of Administrative Services ("Department") a portion of this appropriation be used by the Secretary of the Department to obtain one or more appraisals for the site currently leased by the Kent County Vocational Technical School District to Kent-Sussex Industries Inc. After a review of the results of the appraisal process, the Secretary of the Department shall have the final authority to determine the price at which the site shall be offered to Kent-Sussex Industries. The Secretary of the Department shall supervise the sale of the property. Upon sale of the property to Kent-Sussex Industries, Inc., Kent-Sussex Industries, Inc. shall reimburse the Department for the cost of any appraisals obtained by the State. The Secretary of the Department is directed to take all steps necessary to complete the sale of the site prior to December 1, 1989.

(c) The Secretary of the Department is also encouraged to negotiate an extension of the lease between Kent-Sussex Industries, Inc. and the Department of Administrative Services, acting on behalf of the Division of Mental Retardation, for continuing State use of the building and parking facilities contained on the site.

Section 37. Public Health Lab. The General Assembly hereby directs the Secretary of the Department of Health & Social Services to plan and construct the Public Health Lab to standards of the Center for Disease Control.

Section 38. Alternative to Bridge House. It is the intent of the General Assembly that Fifty Thousand Dollars ($50,000) be transferred and/or disbursed to the Department of Services for Children, Youth & Their Families from the Advanced Planning Fund (10-02-06-84-00) to plan a freestanding building to replace the Bridge House.

Section 39. Correctional Facility.

(a) It is the intent of the General Assembly that the monies appropriated in Section 1 of this Act to the Department of Correction for the 600-bed facility on the Budd Metal site may not be used for construction of the New Castle County State Police facilities. If the State's rezoning request for the Budd Metal site is denied by New Castle County government, then the Commissioner of the Department of Correction and the Director of the Delaware Development Office must present alternative proposals to the Legislative Bond Bill Committee and the Co-Chairs of the House and Senate Correction Committees for their review and approval before these funds may be expended for a site other than the Budd Metal site.

(b) The General Assembly further directs the Department of Correction to recommend ways to mitigate any identifiable environmental impacts (such as social, economic, transportation) of the 600-bed facility on the neighborhoods and community adjacent to the Budd Metal site.

Section 40. Banning Park. It is the intent of the General Assembly that the balance of fund line 40-06-04-89-100-0182 be used for a road in Banning Park ("Park"). Should New Castle County determine that a road should not be built in the Park or should, by December 31, 1989, New Castle County not be able to decide whether a road should be built in the Park, then the funds in line 40-06-04-89-100-0182 may be used for equipment at the Park.

Section 41. Bellevue Park. It is the intent of the General Assembly that, of the Three Million Dollars ($3,000,000) appropriated in Section 5 of this Act to the Department of Natural Resources & Environmental Control ("Department"), Two Million Dollars ($2,000,000) be used for an Aquatics Center as part of the Comprehensive Plan of Bellevue State Park Program in Brandywine Hundred. Before the funds appropriated herein may be encumbered, the Department shall determine the best location for the Aquatics Center.

Section 42. Tax & Public Ditches. It is the intent of the General Assembly that of the Two Hundred Thousand Dollars ($200,000) appropriated to the Department of Natural Resources and Environmental Control ("Department") for tax and public ditches in Section 5 of this Act, the Department shall spend one-third [Sixty-Six Thousand Six Hundred Sixty-Six Dollars ($66,666)] for use in each County.

Section 43. Water & Wastewater Facilities.

(a) It is the intent of the General Assembly that, of the Five Million Dollars ($5,000,000) appropriated in Section 1 of this Act to the Department of Natural Resources & Environmental Control, Two Million Three Hundred Thousand Dollars ($2,300,000) be used for the State match to the federal Wastewater Facilities Construction Grants Program. It is also the intent of the General Assembly that of the amount appropriated herein at least One Million Three Hundred Thousand Dollars ($1,300,000) be used for state match to the federal Wastewater Facilities State Revolving Fund program.

(b) It is also the intent of the General Assembly that the One Million Dollars ($1,000,000) appropriated in Section 5 of this Act to the Department of Natural Resources and Environmental Control ("Department") shall be used for administrative expenses for the Delaware Water & Wastewater Authority ("Authority"), at such time as the Authority is established in Title 7 of the Delaware Code and that the Department disburse or transfer these funds to the Authority when the Authority requests the monies. Of the One Million Dollars ($1,000,000) appropriated in this subsection (b), monies must be used by the Authority to plan for the Water & Wastewater facilities and services needs of the State. As a part of this study, the Cockeysville Formation in New Castle County should be examined by the U.S. Geological Survey and the Delaware Geological Survey. Until the Authority is established, the Department shall initiate the Cockeysville Formation Study, but no more than Sixty-Five Thousand Dollars ($65,000) shall be encumbered for the Cockeysville Study and this Sixty-Five Thousand Dollars ($65,000) must be matched by New Castle County before it shall be encumbered. It is also the intent of the General Assembly that funds not encumbered by the Authority by July 1, 1990, for the purposes set forth in this subsection (b), except for the Sixty-Five Thousand Dollars ($65,000), be used as State match for the federal State Revolving Fund.

(c) Of the monies appropriated in subsection (a) above, One Million Dollars ($1,000,000) shall be used to fund the installation of primary clarifiers and related appurtenances at the Kent County Regional Wastewater Treatment Facility near Frederica, as directed by the Department.

(d) Also of the funds appropriated in subsection (a) above, One Hundred Thousand Dollars ($100,000) shall be used by the Department to continue an Environmental Impact Study ("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 funds appropriated herein 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. The funds appropriated herein shall not be encumbered until the Churchman's EIS Management Committee ("Committee") is re-established. The Committee shall be composed of a representative of Wilmington Suburban Water Corporation; Artesian Water Company; the Department; the City of Wilmington; the Delaware Development Office; the Department of Finance, acting as Chair of the Committee; and the New Castle County Water Resources Agency. When the Delaware Water & Wastewater Authority is established, it shall also be represented on the Committee and shall assume responsibility for the Study, the Secretary of Finance shall no longer be a member on the Committee, and the Authority shall Chair the Committee.

(e) Also of the funds appropriated in subsection (a) above, up to One Hundred Twenty-Five Thousand Dollars ($125,000) shall be used by the Department for an evaluation of the wastewater needs and a plan for the area south of the Chesapeake and Delaware Canal in New Castle County. The funds appropriated herein shall not be encumbered until the funds are matched by non-State funds of One Hundred Twenty-Five Thousand Dollars ($125,000) and until a Project Management Committee ("Committee") is established. The Committee shall be composed of a representative of the Department, the New Castle County Public Works Department, the New Castle County Water Resources Agency and the Delaware Development Office. Should the Delaware Water & Wastewater Authority be established, it shall assume responsibility for the study and replace the Delaware Development Office on the Committee.

Section 44. 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 Four Million Seven Hundred Eighty-Eight Thousand Eight Hundred Twenty-Three Dollars ($4,788,823) appropriated in Section 1 of this Act, One Million Six Hundred Ninety-Three Thousand Eight Hundred Seventy Dollars ($1,693,870) in Section 7 of this Act, Five Hundred Thousand Dollars ($500,000) appropriated in Section 9 of this Act, and Seventeen Thousand Three Hundred Seven Dollars ($17,307) appropriated in Section 10 of this Act to the Department of Natural Resources & Environmental Control ("Department") be deposited into the Land & Water Conservation Fund ("Fund") to acquire or partially acquire the following parcels of land commonly known as the duPont tracts 1 & 4, the Hickman tract, the Timmons tract, Thompson Island, the Cole tract, the Walker tract, and the Phillips tract. Should any of the tracts listed above not be purchased, then the Department may purchase additional acreage for Killens Pond State Park and may purchase additional lands recommended by the Department and approved by the Commission on Natural Areas and Open Spaces Acquisition. The General Assembly intends to complete, in fiscal years 1991 and 1992, the acquisition of any properties listed above and not fully acquired with the funds appropriated herein.

(b) Interest earned on the amount appropriated herein shall be expended on the properties listed in subsection (a) above or 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 parcels described in subsection (a) above, and to enter into contracts for the purchase of or options to purchase said 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 has approved such purchase by a majority vote of the General Assembly, upon review, has approved the transaction as more specifically set forth in Chapter 34, Title 29 of the Delaware Code.

(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) The General Assembly also hereby directs the Co-Chairs of the Legislative Environmental Committee, the Department Secretary and the Commission on Natural Areas and Open Spaces Acquisition to develop procedures and policies to identify and acquire future properties and/or holdings that have long-term environmental and quality of life benefits for the State.

Section 45. Beach Renourishment and Preservation.

(a) The General Assembly hereby appropriates One Million Dollars ($1,000,000) to the Department of Natural Resources and Environmental Control ("Department") in Section 5 of this Act to renourish and preserve the State's beaches. The Department may not encumber the funds appropriated herein for privately-owned ocean beaches. The Department may not encumber the funds appropriated herein for publicly owned ocean beaches until at least an equal amount of non-State funds, except for the lodging tax as defined in Chapter 61, Title 30 of the Delaware Code, are available for such projects. The availability of the aforementioned non-State matching funds must be approved by the Director of the Delaware Development Office and the Secretary of the Department.

(b) Amend Volume 66, Chapter 360, Section 43 Laws of Delaware by deleting the words "Secretary of Finance" and insert in lieu thereof the words "Director of the Delaware Development Office."

Section 46. Delaware State Police Helicopter. It is the intent of the General Assembly that Two Hundred Nineteen Thousand Dollars ($219,000) appropriated in Section 5 of this Act to the Department of Public Safety ("Department") be the first of five (5) payments for the lease/purchase of a single engine helicopter. The proceeds of the sale or trade-in of the Department's 1981 Bell Long Ranger, model L-1 helicopter, shall be used to reduce the cost of the new helicopter, for which funds have been appropriated herein.

Section 47. Department of Transportation Administration Building. It is the intent of the General Assembly that Seven Hundred Thirty Thousand Dollars ($730,000) appropriated in Section 12 of this Act to the Department of Transportation ("Department") and listed in the Engineering and Contingencies Account (57/00) as part of the "Fiscal Year 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof be expended by the Department for the purpose of making heating, ventilation, air conditioning, electrical and such other improvements as may be necessary to the Department of Transportation Administration Building.

Section 48. 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 1990 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 49. 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 1990 Capital Improvements Projects 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 ensure 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 and to use the Bridge Program funds made available by this and previous acts to ensure that bridge repairs and replacements are carried out in an expeditious manner. The Fiscal Year 1990 Bridge Program shall include sufficient funds for the reconstruction of the bridge and spillway at Wagamon's Pond (Br. 808 on S197, Milton). In addition, the Department of Transportation is hereby directed to use funds appropriated by this and/or previous Acts to reconstruct the Shipley Road bridge over Shellpot Creek as a two-lane roadway for the life of this bridge.

Section 50. 501(c)(3) Exemptions.

(a) Amend Section 2159(a), Chapter 21, Title 29, Delaware Code by adding thereto a new paragraph (7) to read as follows:

"(7) All motor vehicles owned by any organization exempt from tax under §501(c)(3) of the Internal Revenue Code and used by such organization in charitable or public welfare work."

(b) This Section shall be effective for registration periods commencing after December 31, 1989.

(c) The Division of Motor Vehicles shall author policies to ensure that the new paragraph (7) referenced in subsection (a) above is applied uniformly.

Section 51. Kent County Aviation. It is the intent of the General Assembly that One Hundred Thousand Dollars ($100,000) authorized in Section 24, Volume 66, Chapter 360, Laws of Delaware for the Kent County AeroPark shall not revert and shall be reprogrammed for Kent County aviation purposes.

Section 52. Amend Title 2, Chapter 14, Section 1415 by striking said Section in its entirety and substituting in lieu thereof the following:

"Notwithstanding Section 1310(c)(8) of this title, the Authority shall not transfer or disburse available money in the Motor Fuel Tax Reimbursement Fund to the General Fund of the State. The Authority shall 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 of Title 30, as amended. (66 Del. Laws, c. 87, Section 1; 66 Del. Laws, c. 360, Section 49.)"

Section 53. Amend Title 2, Section 1414, Subsection (b) by striking said Section in its entirety and substituting in lieu thereof the following:

"The State hereby irrevocably pledges and assigns and continuously appropriates the proceeds derived from the Motor Vehicle Registration Fee imposed by the State pursuant to Chapter 21 of Title 21 Delaware Code, as amended from time to time, 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."

Section 54. Amend Title 2, Section 1417 by deleting the second sentence thereof in its entirety and inserting in lieu thereof the following:

"The obligations under any such resolution or trust agreement shall be met solely from Motor Fuel Taxes, Motor Vehicle Document Fees, Motor Vehicle Registration 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."

Section 55. Amend Title 21, Chapter 3, Section 307, Delaware Code, by striking that Section in its entirety and substituting a new Section as follows:

"Except as otherwise provided in Sections 309 and 706 of this title, all money received by the Department shall be deposited daily to the credit of the State's General Fund. The State Treasurer shall transfer or disburse from the General Fund all motor vehicle registration fees imposed pursuant to Title 21, Chapter 21, Sections 2151 through 2158, Delaware Code, inclusive, on a daily basis to the Transportation Trust Fund, created under Title 2 of the Delaware Code."

Section 56. Kent County Aviation Facilities. It is the intent of the General Assembly that the sum of One Million Dollars ($1,000,000) appropriated in Section 12 of this Act to the Delaware Transportation Authority and listed in the DTA Improvements Account (55-06-67) as part of the "Fiscal Year 1990 Capital Improvements Project Schedule" attached hereto and made a part hereof be expended for Kent County aviation facilities. Priority for use of these funds shall be in accordance with the following:

(a) The funds authorized by this section shall be utilized for development and improvement to the Kent County Civil Air Terminal to build an aircraft parking ramp adjacent to Dover Air Force Base and located between said facility and the Kent County AeroPark. Expenditure of such sum for the construction and improvement of a parking ramp will be contingent upon: (1) the United States Air Force approval to link the proposed ramp with the existing Base taxiway, (2) non-State funding to construct a roadway/taxiway between the ramp and the AeroPark, and (3) a corporate lessee at the Kent County AeroPark dependent upon air transportation with a need to use such facility.

(b) In the event that the above contingencies are not satisfied within the current fiscal year, or that a portion of said funds are not expended for the Kent County Civil Air facility, said sum or portions thereof may be utilized by the Delaware Transportation Authority for the purchase, construction and/or improvements to a public use aviation facility located within Kent County to be preserved and used as a general aviation facility operated in accordance with all applicable rules and regulations.

Section 57. Department of Transportation Positions. The Secretary of the Department of Transportation is hereby directed to establish the position of Deputy Secretary of Transportation through the Critical Reclassification Process as described by the Fiscal Year 1990 Budget Appropriations Act and administrative regulations promulgated by the State Personnel Director, Budget Director, and the Controller General. Said position shall be established by reclassifying a vacant position and shall not cause the total number of positions nor total salary appropriation of the Department of Transportation as appropriated by the Fiscal Year 1990 Budget Appropriation Act to be changed. It is further the intent of the General Assembly to amend Chapter 84, Title 29 of the Delaware Code as follows:

(a) Amend Section 8402, Title 29 of the Delaware Code by adding a new subsection (7) to read as follows:

"(7) "Deputy Secretary" means the Deputy Secretary of the Department of Transportation."

(b) Amend Section 8403(a), Title 29 of the Delaware Code, by adding a new subsection (a)(1) to read as follows:

"(1) The Secretary may designate a Deputy Secretary who shall be a person qualified by training and experience to perform the duties of his or her office. The Deputy Secretary shall serve at the pleasure of the Secretary and shall have all the powers, duties, and functions of the Secretary, except the power to remove employees of the Department or to fix their compensation."

(c) Amend Section 8403(b), Title 29 of the Delaware Code by inserting the words "Deputy Secretary or" after the words "positions of" and before the words "division director" where such words appear therein.

(d) Amend Section 8403(c), Title 29 of the Delaware Code by striking the words "director of any division" where they appear therein and substituting in lieu thereof the words "Deputy Secretary or director of any division".

(e) Amend Section 8411, Title 29 of the Delaware Code, by striking the period at the end of subsection (6) thereof and inserting in lieu thereof a semi-colon and the word "and", and by creating a new subsection (7) to read "(7) Deputy Secretary of the Department of Transportation."

Section 58. Agricultural Building. The sum of Five Hundred Thousand Dollars ($500,000) appropriated in Section 1 of this Act to the Department of Agriculture for the Agriculture Building shall be transferred and/or disbursed immediately by the Budget Office and the State Treasurer to the Department of Administrative Services. The funds appropriated herein shall not be spent without the approvals of the Secretary of the Department of Agriculture or his designee and the Secretary of the Department of Administrative Services.

Section 59. STARC Headquarters. It is the intent of the General Assembly that the Thirty Thousand Dollars ($30,000) appropriated in Section 5 of this Act to the Delaware National Guard ("Guard") be used for purchase, improvements or the expansion of the Lora Little School for the Guard's STARC Headquarters. Notwithstanding other provisions of the Delaware Code, it is also the intent of the General Assembly that should the Thirty Thousand Dollars ($30,000) appropriated herein be used to help purchase the Lora Little School the Thirty Thousand Dollars ($30,000) received by the

Red Clay School District for the partial purchase of the Lora Little School must be used by the Red Clay School District to construct a new or expand an existing school in the Red Clay School District. Should the Thirty Thousand Dollars ($30,000) appropriated herein not be used for the purchase of Lora Little School, then these funds may be used for a STARC Headquarters at another location.

Section 60. Kent Vo-Tech Comprehensive School. It is the intent of the General Assembly that Two Hundred Five Thousand Dollars ($205,000) appropriated in Section 5 of this Act to the State Board of Education ("Board") be used for the planning, constructing and equipping of modifications and alterations to and preliminary long-term planning for the Kent County Vocational Technical School ("Kent Vo-Tech") at Woodside for conversion to a comprehensive high school. Neither the Board nor the Kent Vo-Tech should encumber the funds appropriated herein until the Board reviews the report of an independent consultant and a report of the Department of Public Instruction on the financial and educational impact of the proposed comprehensive high school and approves the concept of a full-time vo-tech school in Kent County.

Section 61. Sussex Vo-Tech Comprehensive School. It is the intent of the General Assembly that Two Hundred Thousand Dollars ($200,000) appropriated in Section 5 of this Act to the State Board of Education ("Board") be used for the planning and design of the conversion of the Sussex County Vocational Technical School ("Sussex Vo-Tech") to a comprehensive high school. Neither the Board nor the Sussex County Vo-Tech School should encumber the funds appropriated herein until the Board reviews the report of an independent consultant and a report of the Department of Public Instruction on the financial and educational impact of the proposed comprehensive high school and approves the concept of a full-time vo-tech school in Sussex County.

Section 62. Hodgson Vo-Tech School. It is the intent of the General Assembly that Two Million Dollars ($2,000,000) appropriated in Section 1 of this Act to the Board of Education be used for a gymnasium and athletic fields at Hodgson Vo-Tech School.

Section 63. Hydraulic Rescue Tools. It is the intent of the General Assembly that One Hundred Thirteen Thousand Five Hundred Dollars ($113,500) 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. This concludes the replacement program of hydraulic rescue tools to insure that no fire company has a set that is ten (10) years old or older.

Section 64. Burn Center. It is the intent of the General Assembly that Seven Hundred Fifty Thousand Eight Hundred Dollars ($750,800) be appropriated in Section 1 of this Act in the State Fire Prevention Commission to plan, design, construct and equip a burn center for fire training purposes to be located in Sussex County, Delaware.

Section 65. Fire Boat. It is the intent of the General Assembly that One Hundred Twenty-Nine Thousand Dollars ($129,000) appropriated in Section 2 of this Act to the State Fire Prevention Commission be used to purchase a fire boat for the City of Wilmington Fire Department, New Castle County, Delaware.

Section 66. Delaware State Fire School Office/Classroom Expansion. The sum of Three Hundred Thousand Dollars ($300,000) appropriated in Section 1 of this Act to the State Fire Prevention Commission for the Delaware State Fire School Office and Classroom Expansion shall be transferred immediately by the Budget Office and the State Treasurer to the Department of Administrative Services. The funds appropriated herein shall not be spent without the approvals of the Secretary of the Department of Administrative Services and the State Fire Prevention Commission or its designee.

Section 67. University of Delaware

(a) It is the intent of the General Assembly that the University of Delaware ("University") not seek, either directly or indirectly, projects, other than the Sports Convocation Center ("Center") and the Chemistry, Biochemistry and Marine Science Building ("Building"), so long as future University capital requests of the State remain pending for the Center and the Building. The University has also committed that future University capital requests of the State for the Center and Building will be spread over not less than three State fiscal years following State fiscal year 1990.

(b) This Section removes restrictions which were placed on the Two Million Dollars ($2,000,000) appropriated in Volume 66, Chapter 360, Laws of Delaware for the Basketball Arena.

Section 68. Delaware State College. It is the intent of the General Assembly that any and all existing unencumbered funds in fund line 90-03-04-88-910-9632 be transferred or disbursed to fund line 90-03-04-87-910-5712.

Section 69. Appropriations for Minor Capital Improvements. It is the intent of the General Assembly that the sum of Three Million Four Hundred Twenty-Two Thousand Nine Hundred Four Dollars ($3,422,904) appropriated in Section 2 of this Act and the sum of Five Hundred Eighty-Eight Thousand Ninety-Six Dollars ($588,096) appropriated in Section 5 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	$ 84,051	$ 56,034	$ 140,085
Brandywine	411,513	274,342	685,855
Special	21,791	-0-	21,791
Christina	606,847	404,564	1,011,411
Special	45,699	-0-	45,699
Colonial	343,562	229,042	572,604
Special	12,016	-0-	12,016
New Castle Vo-Tech	212,804	-0-	212,804
Red Clay	514,615	343,077	857,692
Special	25,153	-0-	25,153
Caesar Rodney	185,285	123,524	308,809
Capital	225,667	150,445	376,112
Kent Vo-Tech	48,376	-0-	48,376
Lake Forest	117,185	78,124	195,309
Milford	128,990	85,993	214,983
Smyrna	108,818	72,545	181,363
Cape Henlopen	129,812	86,541	216,353
Special	7,222	-0-	7,222
Delmar	22,152	14,768	36,920
Indian River	231,681	154,454	386,135
Special	9,650	-0-	9,650
Laurel	70,491	46,994	117,485
Seaford	121,444	80,963	202,407
Sussex Vo-Tech	64,128	-0-	64,128
Woodbridge	62,048	41,365	103,413
MINOR CAPITAL IMPROVEMENTS	$3,811,000	$2,242,775	$6,053,775
STATE BOARD OF EDUCATION	$ 115,000	$ 76,667	$ 191,667
VOCATIONAL EQUIPMENT	$ 85,000	$ 56,667	$ 141,667
TOTAL	$4,011,000	$2,376,109	$6,387,109

Section 70. Seaford JP Court. The sum of Four Hundred Ninety-Five Thousand Dollars ($495,000) appropriated in Section 1 of this Act to the Judicial Branch shall be transferred immediately by the Budget Office and the State Treasurer to the Department of Administrative Services. The funds appropriated herein shall not be spent without the approval of the Secretary of the Department of Administrative Services and the Chief Magistrate or his designee.

Section 71. Construction Managers. It is the intent of the General Assembly that the Secretary of the Department of Administrative Services develop guidelines for the selection of construction managers for projects for all State departments and agencies.

Section 72. Traffic Signals. Amend Section 4110(a)(2), Chapter 41, Title 21, Delaware Code, by adding the words "or green" after the word "yellow" each time it appears therein.

Section 73. 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. Amend Title 29, Section 7423, Delaware Code by deleting the phrase "in such fiscal year" after the words "General Assembly" and before the words "whether or not".

Section 74. 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 75. 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 76. Effective Date. This Act shall take effect in accordance with the provisions of State law.

Approved July 1, 1989.

CHAPTER 47

FORMERLY

HOUSE BILL NO. 450
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1990; 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, 1990, 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 1990, 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	$ 1,025.7
Salaries (21.0)	572.8
Salaries - Attaches	382.4
Other Employment Costs	326.2
Travel	
Mileage - Legislators	60.0
Other - Travel	47.5
Contractual Services	320.0
Supplies and Materials	26.3
Capital Outlay	60.0
Expenses - House Members	226.0
House Committee Expenses	50.0
TOTAL -- General Assembly - House	$ 3,104.9

(01-02-01) General Assembly - Senate

Salaries - Senate Members	$ 559.6
Salaries (14.0)	362.8
Salaries - Attaches	400.9
Other Employment Costs	250.6
Travel	
Mileage - Legislative	30.5
Other - Travel	47.5
Contractual Services	210.2
Supplies and Materials	33.0
Capital Outlay	36.0
Expenses - Senate Members	115.5
Senate Committee Expenses	100.0
TOTAL -- General Assembly - Senate	$ 2,154.6

(01-05-01) Commission on Interstate Cooperation

Travel	$ 18.0
Travel - Appalachian Compact	3.0
Legislative Travel	85.0
Contractual Services	30.0
Contractual Services - Appalachian Compact	10.0
Supplies and Materials	.5

Council of State Governments		45.7
Delaware River Basin Commission		226.9
National Conference of State Legislatures		49.0
TOTAL — Commission on Interstate Cooperation		$ 468.1
(01-08-00) Legislative Council		
(01-08-01) Office of the Research Director		
Salaries (16.0)		$ 454.9
Other Employment Costs		120.3
Travel		6.0
Contractual Services		46.0
Supplies and Materials		35.3
Capital Outlay		12.6
SET - Program		17.0
Sunset Committee Expenses		32.6
Session Laws/Journals		15.0
Sub-Total		$ 739.6
Debt Service		$ 15.7
TOTAL — Office of the Research Director		$ 755.3
(01-08-02) Office of the Controller General		
Salaries (14.0)		$ 553.2
Other Employment Costs		132.1
Travel		10.3
Contractual Services		131.2
Contractual Services - Reapportionment		70.0
Supplies and Materials		24.1
Capital Outlay		2.7
Contingency - Zero Base Budget		10.0
Contingency - Internship		10.0
Contingency - Legislative Council		20.0
TOTAL — Office of the Controller General		$ 966.6
(01-08-03) Code Revisors		
Travel		$ .8
Contractual Services		158.8
Supplies and Materials		1.0
TOTAL — Code Revisors		$ 160.6
(01-08-06) Commission on Uniform State Laws		
Travel		$ 8.0
Contractual Services		5.5
Supplies and Materials		.1
TOTAL — Commission on Uniform State Laws		$ 13.6
TOTAL — Legislative Council		$ 1,896.1
TOTAL — LEGISLATIVE		$ 7,623.7
TOTAL POSITIONS		
GF - 65.0		
(02-00-00) JUDICIAL		
(02-01-00) Supreme Court		
Personnel Costs (22.0)	$	$ 1,265.6
Travel	5.0	27.3
Contractual Services	69.9	89.6
Supplies and Materials	5.1	17.5

Capital/Equipment			5.0	16.5
TOTAL — Supreme Court			$ 85.0	$ 1,416.5
(-10) Appeals Processing (21.6)	$	$ 1,320.3		
(-20) Regulation of the Practice of Law	85.0			
(-30) Judicial Branch Administration (.4)		96.2		
TOTAL — Internal Program Units	$ 85.0	$ 1,416.5		
(02-02-00) Court of Chancery				
Personnel Costs (24.0)				$ 1,303.4
Travel				8.9
Contractual Services				59.2
Supplies and Materials				12.7
Capital/Equipment				12.5
TOTAL — Court of Chancery				$ 1,396.7
(-10) Case Processing (22.8)		$ 1,332.2		
(-20) Administration (1.2)		64.5		
TOTAL — Internal Program Units		$ 1,396.7		
(02-03-00) Superior Court				
Personnel Costs (233.0)				$ 7,794.4
Travel				40.0
Contractual Services				490.5
Supplies and Materials				94.3
Capital/Equipment				55.2
TOTAL — Superior Court				$ 8,474.4
(-10) Case Processing (106.0)		$ 4,896.2		
(-20) Presentence Investigation (31.0)		933.0		
(-30) Administration (7.0)		210.0		
(-40) Arbitration (4.0)		119.9		
(-50) NCC Prothonotary (63.0)		1,774.1		
(-60) Kent County Prothonotary (11.0)		289.8		
(-70) Sussex County Prothonotary (11.0)		251.4		
TOTAL — Internal Program Units		$ 8,474.4		
(02-06-00) Court of Common Pleas				
Personnel Costs (66.5)				$ 2,358.8
Travel				4.8
Contractual Services				86.4
Supplies and Materials				21.1
Capital/Equipment				14.2
TOTAL — Court of Common Pleas				$ 2,485.3
(-10) Case Disposition (61.2)		$ 2,279.8		
(-20) Support Operations (5.3)		205.5		
TOTAL — Internal Program Units		$ 2,485.3		
(02-08-00) Family Court				
(45.0)ASF Personnel Costs (240.0)			$ 1,177.4	$ 8,238.4
(2.0)NSF Travel			11.4	24.4
Contractual Services			86.4	565.7
Supplies and Materials			23.2	99.6
Capital/Equipment			46.3	14.8
Sub-Total			$ 1,344.7	$ 8,942.9
Debt Service				$ 12.8

TOTAL — Family Court			$ 1,344.7	$ 8,955.7
(31.0)ASF (-10) Case Processing (155.0)	$ 798.5	$ 5,197.4		
(11.0)ASF (-20) Diversion Services (46.0)	291.1	1,391.6		
(2.0)NSF (-30) Special Projects (18.0)		615.5		
(3.0)ASF (-40) Supportive Services (21.0)	255.1	1,751.2		
TOTAL — Internal Program Units	$ 1,344.7	$ 8,955.7		
(02-13-00) Justice of the Peace Courts				
Personnel Costs (210.0)				$ 6,270.9
Travel				92.3
Contractual Services				485.1
Energy				93.4
Supplies and Materials				91.3
Capital/Equipment				64.8
Sub-Total				$ 7,097.8
Debt Service				$ 73.0
TOTAL — Justice of the Peace Courts				$ 7,170.8
(-10) Case Processing (163.0)		$ 5,737.3		
(-20) Support Service Unit (14.0)		485.2		
(-30) Capias Enforcement Unit (33.0)		948.3		
TOTAL — Internal Program Units		$ 7,170.8		
(02-17-00) Administrative Office of the Courts				
Personnel Costs (30.0)				$ 1,130.3
Travel				14.8
Contractual Services				3,084.9
Energy				1.8
Supplies and Materials				19.9
Capital/Equipment				262.1
Retired Judges				6.0
TOTAL — Administrative Office of the Courts				$ 4,527.8
(-01) Office of the Director (14.0)		$ 3,485.6		
(-04) Judicial Information Center (11.5)		654.7		
(-05) Law Libraries (4.5)		387.5		
TOTAL — Internal Program Units		$ 4,527.8		
(02-18-00) Non-Judicial Services				
(6.0)ASF Personnel Costs (13.0)			$ 233.9	$ 403.2
Travel			17.0	22.2
Contractual Services			43.4	47.3
Supplies and Materials			2.8	11.2
Capital/Equipment			4.0	2.5
Other Items			1,000.8	
TOTAL — Non-Judicial Services			$ 1,301.9	$ 486.4
(-01) Office o/t Public Guardian (7.0)	$	$ 257.4		
(6.0)ASF(-02) Violent Crimes Compensation Board	1,301.9			
(-03) Foster Care Review Board (6.0)		229.0		
TOTAL — Internal Program Units	$ 1,301.9	$ 486.4		
TOTAL — JUDICIAL			$ 2,731.6	$ 34,913.6

TOTAL POSITIONS
GF - 838.5
ASF - 51.0
NSF - 2.0

Capital/Equipment			5.0	16.5
TOTAL — Supreme Court			$ 85.0	$ 1,416.5
(-10) Appeals Processing (21.6)	$	$ 1,320.3		
(-20) Regulation of the Practice of Law	85.0			
(-30) Judicial Branch Administration (.4)		96.2		
TOTAL — Internal Program Units	$ 85.0	$ 1,416.5		
(02-02-00) Court of Chancery				
Personnel Costs (24.0)				$ 1,303.4
Travel				8.9
Contractual Services				59.2
Supplies and Materials				12.7
Capital/Equipment				12.5
TOTAL — Court of Chancery				$ 1,396.7
(-10) Case Processing (22.8)		$ 1,332.2		
(-20) Administration (1.2)		64.5		
TOTAL — Internal Program Units		$ 1,396.7		
(02-03-00) Superior Court				
Personnel Costs (233.0)				$ 7,794.4
Travel				40.0
Contractual Services				490.5
Supplies and Materials				94.3
Capital/Equipment				55.2
TOTAL — Superior Court				$ 8,474.4
(-10) Case Processing (106.0)		$ 4,896.2		
(-20) Presentence Investigation (31.0)		933.0		
(-30) Administration (7.0)		210.0		
(-40) Arbitration (4.0)		119.9		
(-50) NCC Prothonotary (63.0)		1,774.1		
(-60) Kent County Prothonotary (11.0)		289.8		
(-70) Sussex County Prothonotary (11.0)		251.4		
TOTAL — Internal Program Units		$ 8,474.4		
(02-06-00) Court of Common Pleas				
Personnel Costs (66.5)				$ 2,358.6
Travel				4.8
Contractual Services				86.4
Supplies and Materials				21.1
Capital/Equipment				14.2
TOTAL — Court of Common Pleas				$ 2,485.3
(-10) Case Disposition (61.2)		$ 2,279.8		
(-20) Support Operations (5.3)		205.5		
TOTAL — Internal Program Units		$ 2,485.3		
(02-08-00) Family Court				
(45.0)ASF Personnel Costs (240.0)			$ 1,177.4	$ 8,238.4
(2.0)NSF Travel			11.4	24.4
Contractual Services			86.4	565.7
Supplies and Materials			23.2	99.6
Capital/Equipment			46.3	14.8
Sub-Total			$ 1,344.7	$ 8,942.9
Debt Service				$ 12.8

	TOTAL — Family Court		$ 1,344.7	$ 8,955.7
(31.0)ASF	(-10) Case Processing (155.0)	$ 798.5	$ 5,197.4	
(11.0)ASF	(-20) Diversion Services (46.0)	291.1	1,391.6	
(2.0)NSF	(-30) Special Projects (18.0)		615.5	
(3.0)ASF	(-40) Supportive Services (21.0)	255.1	1,751.2	
	TOTAL — Internal Program Units	$ 1,344.7	$ 8,955.7	
	(02-13-00) Justice of the Peace Courts			
	Personnel Costs (210.0)			$ 6,270.9
	Travel			92.3
	Contractual Services			485.1
	Energy			93.4
	Supplies and Materials			91.3
	Capital/Equipment			64.8
	Sub-Total			$ 7,097.8
	Debt Service			$ 73.0
	TOTAL — Justice of the Peace Courts			$ 7,170.8
	(-10) Case Processing (163.0)		$ 5,737.3	
	(-20) Support Service Unit (14.0)		485.2	
	(-30) Capias Enforcement Unit (33.0)		948.3	
	TOTAL — Internal Program Units		$ 7,170.8	
	(02-17-00) Administrative Office of the Courts			
	Personnel Costs (30.0)			$ 1,138.3
	Travel			14.8
	Contractual Services			3,084.9
	Energy			1.8
	Supplies and Materials			19.9
	Capital/Equipment			262.1
	Retired Judges			6.0
	TOTAL — Administrative Office of the Courts			$ 4,527.8
	(-01) Office of the Director (14.0)		$ 3,485.6	
	(-04) Judicial Information Center (11.5)		654.7	
	(-05) Law Libraries (4.5)		387.5	
	TOTAL — Internal Program Units		$ 4,527.8	
	(02-18-00) Non-Judicial Services			
(6.0)ASF	Personnel Costs (13.0)		$ 233.9	$ 403.2
	Travel		17.0	22.2
	Contractual Services		43.4	47.3
	Supplies and Materials		2.8	11.2
	Capital/Equipment		4.0	2.5
	Other Items		1,000.8	
	TOTAL — Non-Judicial Services		$ 1,301.9	$ 486.4
	(-01) Office o/t Public Guardian (7.0)	$	$ 257.4	
(6.0)ASF	(-02) Violent Crimes Compensation Board	1,301.9		
	(-03) Foster Care Review Board (6.0)		229.0	
	TOTAL — Internal Program Units	$ 1,301.9	$ 486.4	
	TOTAL — JUDICIAL		$ 2,731.6	$ 34,913.6

TOTAL POSITIONS
GF - 838.5
ASF - 51.0
NSF - 2.0

(10-00-00) EXECUTIVE

(10-01-01) Office of the Governor

(1.0)ASF	Salaries (22.5)	$ 27.2	$ 899.0
(3.0)NSF	Other Employment Costs	6.1	224.9
	Travel	.5	21.9
	Contractual Services	94.0	215.2
	Supplies and Materials	1.0	29.4
	Capital Outlay	1.0	20.4
	Woodburn Expenses		34.0
	Contingency - Other Expenses		8.7
	TOTAL — Office of the Governor	$ 129.8	$ 1,453.5

(10-02-00) Office of the Budget

(10.0)ASF	Personnel Costs (192.6)	$ 270.3	$ 7,394.5
(3.0)NSF	Travel	3.0	72.3
	Contractual Services	2,166.8	7,365.0
	Energy		242.2
	Supplies and Materials	85.9	295.3
	Capital/Equipment	29.4	119.8
	Data Processing - Development Projects		2,000.0
	Budget Automation - Operations		128.0
	Management Improvement Program		100.0
	Contingency:		
	Budget Commission		150.0
	One-Time Appropriations		14,949.7
	Salaries and Other Employment Costs		1,671.5
	Prior Years' Obligations		250.0
	Prior Years' Obligations - Salaries and Other Employment Costs		92.0
	Self Insurance		2,855.5
	Energy		250.0
	Legal Fees		300.0
	Selective Market Variations		254.3
	State Special Funds	20,000.0	
	Sub-Total	$ 22,555.4	$ 38,490.1
	Debt Service		$ 269.3
	TOTAL — Office of the Budget	$ 22,555.4	$ 38,759.4

(4.0)ASF	(-01) Office o/t Budget Administration (29.0)	$ 800.8	$ 4,156.5
	(-04) Contingency - One-Time Appropriations	20,000.0	20,623.0
	(-06) Budget Commission		150.0
(3.0)NSF	(-07) Postsecondary Education Commission (5.5)		1,841.5
	(-09) Office of Information Systems Production (66.0)	457.2	5,503.9
(6.0)ASF	(-11) Office of Information Systems Northern Data Center (10.1)	932.9	943.4
	(-12) Office of Information Systems Telecommunications Management (0.0)	65.0	851.5
	(-14) Office of Information Systems Planning & Development (54.0)	191.4	2,843.0
	(-15) Office of Information Systems Administration (20.0)	108.1	1,846.6
	TOTAL — Internal Program Units	$ 22,555.4	$ 38,759.4

(10-03-00) Delaware Development Office

(10-03-01) Office of the Director

	Salaries (13.0)	$	$ 399.5
	Other Employment Costs		111.7
	Travel		11.0
	Contractual Services	25.0	28.0

	Energy		10.2
	Supplies and Materials		5.0
	Capital Outlay		.8
	Teacher Recruitment		80.0
	Sub-Total	$ 25.0	$ 646.2
	Debt Service		$ 205.3
	TOTAL -- Office of the Director	$ 25.0	$ 851.5
	(10-03-02) Delaware Tourism Office		
	Salaries (8.0)	$	$ 192.2
	Other Employment Costs		54.0
	Travel		29.6
	Contractual Services		808.7
	Supplies and Materials		10.7
	Capital Outlay		2.5
	Junior Miss		.5
	Mother of the Year		.8
	Young Mother of the Year		.8
	Business Tourism Promotion	305.0	305.0
	TOTAL -- Delaware Tourism Office	$ 305.0	$ 1,404.8
	(10-03-03) Delaware Economic Development Authority		
(4.0)ASF	Salaries (32.0)	$ 170.8	$ 1,092.9
	Other Employment Costs	45.1	269.0
	Travel	15.0	39.0
	Contractual Services	943.5	804.2
	Energy	5.0	
	Supplies and Materials	14.3	27.4
	Capital Outlay	10.0	25.3
	General Obligation Bonds	350.0	213.1
	International Trade		90.0
	Other Items	665.0	160.0
	Sub-Total	$ 2,218.7	$ 2,720.9
	Debt Service		$ 1,313.7
	TOTAL -- Delaware Economic Development Authority	$ 2,218.7	$ 4,034.6
	(10-03-04) State Housing Authority		
(50.0)ASF	Salaries	$ 1,180.2	$
(3.0)NSF	Other Employment Costs	358.0	
	Travel	33.5	
	Contractual Services	567.8	
	Energy	22.0	
	Supplies and Materials	47.6	
	Capital Outlay	80.3	
	Debt Service		56.3
	Holly Square	84.7	
	Huling Cove	135.2	
	Huling Cove Annex	287.6	
	Housing Development Fund	25,000.0	
	Public Housing	443.6	
	Home Improvement Insurance	209.0	
	TOTAL -- State Housing Authority	$ 28,449.5	$ 56.3
	TOTAL -- Delaware Development Office	$ 30,998.2	$ 6,347.2
	(10-04-00) Office of State Personnel		
	(10-04-01) Administration		
(3.0)ASF	Salaries (10.0)	$ 67.5	$ 371.5
	Other Employment Costs	23.6	87.7

	Travel	.5	6.0
	Travel - Commission		3.0
	Contractual Services	11.4	99.8
	Supplies and Materials	2.2	19.6
	TOTAL — Administration	$ 105.2	$ 587.6
	(10-04-02) Operations		
(9.0)ASF	Salaries (19.0)	$ 209.0	$ 533.1
	Other Employment Costs	51.0	168.6
	Travel	.8	4.5
	Contractual Services	5.0	112.6
	Supplies and Materials	11.0	5.9
	Capital Outlay	12.0	12.0
	Generic Aides/Handicapped Employees (20.0)		302.6
	TOTAL — Operations	$ 288.8	$ 1,139.3
	(10-04-04) Staff Development and Training		
(2.0)ASF	Salaries (3.0)	$ 42.3	$ 125.2
	Other Employment Costs	11.2	27.2
	Travel	.5	1.5
	Contractual Services	8.0	53.4
	Supplies and Materials	1.0	24.0
	Capital Outlay	2.5	
	Blue Collar	125.0	
	TOTAL — Staff Development and Training	$ 190.5	$ 231.3
	(10-04-05) Insurance Coverage Office		
(1.0)ASF	Salaries (1.0)	$	$ 50.1
	Other Employment Costs		11.8
	Contractual Services	8,500.0	388.0
	TOTAL — Insurance Coverage Office	$ 8,500.0	$ 449.9
	(10-04-06) Pensions		
(37.7)ASF	Salaries (1.3)	$ 838.0	$ 34.8
	Other Employment Costs	268.2	11.5
	Travel	44.8	.8
	Contractual Services	5,146.1	3.1
	Supplies and Materials	23.0	.5
	Capital Outlay	11.9	.5
	Data Processing	237.5	
	Contingency - Filing and Microfilm	25.0	
	Health Insurance - Retirees		18,152.3
	Special Pensions - 75% Spousal		23.0
	Pensions - Paraplegic Veterans		16.8
	TOTAL — Pensions	$ 6,594.5*	$ 18,243.3
	TOTAL — Office of State Personnel	$ 15,679.0	$ 20,651.4

*All Administrative Expenses are paid out of State Employees Retirement Fund.

(10-07-00) Criminal Justice

(10-07-01) Criminal Justice Council

(3.5)NSF	Salaries (11.0)	$ 360.0
	Other Employment Costs	90.7
	Travel	6.5
	Contractual Services	41.4
	Supplies and Materials	3.9
	SENTAC	25.0
	Other	40.0
	TOTAL — Criminal Justice Council	$ 567.5

	(10-07-02) Delaware Justice Information System		
	Salaries (6.0)		$ 250.8
	Other Employment Costs		56.1
	Travel		5.5
	Contractual Services		412.9
	Supplies and Materials		5.5
	Capital Outlay		8.7
	TOTAL — Delaware Justice Information System		$ 739.5
	(10-07-03) Statistical Analysis Center		
(1.0)NSF	Salaries (5.0)		$ 142.2
	Other Employment Costs		43.5
	Travel		3.2
	Contractual Services		7.3
	Supplies and Materials		2.2
	Capital Outlay		2.2
	TOTAL — Statistical Analysis Center		$ 200.6
	TOTAL — Criminal Justice		$ 1,507.6
	(10-08-01) Planning and Coordination		
	Salaries (5.0)		$ 166.9
	Other Employment Costs		46.8
	Travel		4.8
	Contractual Services		72.3
	Supplies and Materials		6.6
	TOTAL — Planning and Coordination		$ 297.4
	TOTAL — EXECUTIVE	$ 69,362.4	$ 69,016.5
	TOTAL POSITIONS GF - 349.4 ASF - 117.7 NSF - 13.5		
	(12-00-00) OTHER ELECTIVE OFFICES		
	(12-01-01) Lieutenant Governor		
	Salaries (6.0)		$ 186.9
	Other Employment Costs		43.2
	Travel		11.9
	Contractual Services		23.9
	Supplies and Materials		6.7
	Capital Outlay		1.0
	Expenses - Lieutenant Governor		6.4
	TOTAL — Lieutenant Governor		$ 280.0
	(12-02-01) Auditor of Accounts		
(15.0)ASF	Salaries (41.0)	$ 431.2	$ 1,169.8
	Other Employment Costs	124.8	319.7
	Travel	3.6	4.5
	Contractual Services	252.5	147.7
	Supplies and Materials	10.8	12.7
	Capital Outlay	2.5	4.1
	OIS Audit		50.0
	TOTAL — Auditor of Accounts	$ 825.4	$ 1,708.5
	(12-03-00) Insurance Commissioner		
	(12-03-01) Regulatory Activities		

	Salaries (17.0)	$	$ 468.8
	Other Employment Costs		129.5
	Travel	.8	8.1
	Contractual Services	9.9	159.1
	Supplies and Materials		6.9
	Capital Outlay		2.5
	Malpractice Review		10.6
	TOTAL -- Regulatory Activities	$ 10.7	$ 785.5
	(12-03-02) Bureau of Examination, Rehabilitation and Guaranty		
(26.0)ASF	Salaries	$ 918.8	
	Other Employment Costs	225.4	
	Travel	112.0	
	Contractual Services	456.7	
	Supplies	42.0	
	Capital Outlay	53.2	
	Contract Examiners	4,250.0	
	Administrative Module Adaptation	7.2	
	Filesaver and Local Area Network	8.0	
	TOTAL -- Bureau of Examination, Rehabilitation and Guaranty	$ 6,073.3	
	TOTAL -- Insurance Commissioner	$ 6,084.0	$ 785.5
	(12-05-00) State Treasurer		
	(12-05-01) Administration		
(6.0)ASF	Salaries (20.0)	$ 187.3	$ 510.1
(1.0)NSF	Other Employment Costs	53.9	131.8
	Travel	8.2	5.0
	Contractual Services	36.2	98.3
	Banking Services	970.0	
	Supplies and Materials	3.6	10.1
	Capital Outlay	12.1	4.1
	Data Processing	10.8	
	Blood Bank Membership Dues		70.0
	TOTAL -- Administration	$ 1282.1	$ 829.4
	(12-05-03) Debt Management		
	Expense of Issuing Bonds		$ 157.7
	Debt Service - Regular		235.0
	Debt Service - Local Schools		2,409.7
	Debt Service - Farmers Bank Preferred Stock		1,350.0
	Debt Service - Solid Waste Authority		433.1
	Debt Service - Refunding		720.8
	Financial Advisor		35.0
	TOTAL -- Debt Management		$ 5,341.3
	TOTAL -- State Treasurer	$ 1,282.1	$ 6,170.7
	TOTAL -- OTHER ELECTIVE OFFICES	$ 8,191.5	$ 8,944.7
	TOTAL POSITIONS		
	GF - 84.0		
	ASF - 47.0		
	NSF - 1.0		
	(15-00-00) LEGAL		
	(15-01-01) Office of Attorney General		
(1.0)ASF	Salaries (154.0)	$ 38.9	$ 4,589.4
(19.5)NSF	Other Employment Costs	8.6	1,150.0
	Travel		12.0

	Contractual Services		751.2
	Energy		10.0
	Supplies and Materials		43.2
	Capital Outlay		43.0
	Extradition		48.0
	TOTAL — Office of Attorney General	$ 47.5	$ 6,646.8
	(15-02-01) Public Defender		
	Salaries (83.0)		$ 2,590.1
	Other Employment Costs		632.0
	Travel		1.9
	Contractual Services		308.5
	Supplies and Materials		23.5
	Capital Outlay		30.5
	TOTAL — Public Defender		$ 3,586.5
	(15-03-01) Board of Parole		
	Salaries (7.0)		$ 187.3
	Other Employment Costs		47.5
	Travel		10.1
	Contractual Services		18.9
	Supplies and Materials		5.0
	TOTAL — Board of Parole		$ 268.8
	TOTAL — LEGAL	$ 47.5	$ 10,502.1

TOTAL POSITIONS
GF - 244.0
ASF - 1.0
NSF - 19.5

(20-00-00) DEPARTMENT OF STATE

(20-01-00) Office of the Secretary

(20-01-01) Administration

	Salaries (12.0)	$	$ 320.0
	Other Employment Costs		58.7
	Travel		4.7
	Contractual Services	50.0	52.3
	Energy		5.5
	Supplies and Materials	5.0	46.9
	Capital Outlay	100.0	16.1
	Sub-Total	$ 155.0	$ 504.2
	Debt Service		$ 111.7
	TOTAL — Administration	$ 155.0	$ 615.9

(20-01-02) Delaware Commission on Veterans Affairs

	Salaries (2.0)		$ 44.0
	Other Employment Costs		14.1
	Travel		4.2
	Contractual Services		7.8
	Supplies and Materials		1.5
	TOTAL — Delaware Commission on Veterans Affairs		$ 71.6
	TOTAL — Office of the Secretary	$ 155.0	$ 687.5
	(20-05-01) Division of Corporations		
(39.5)ASF	Salaries (37.5)	$ 842.3	$ 853.4
	Other Employment Costs	252.9	198.6

	Travel	27.8	2.0
	Contractual Services	1,031.0	157.3
	Supplies and Materials	18.5	43.2
	Capital Outlay	73.2	
	TOTAL -- Division of Corporations	$ 2,245.7	$ 1,254.5
	(20-06-00) Division of Historical and Cultural Affairs		
	(20-06-01) Office of Administration		
	Salaries (4.0)		$ 113.3
	Other Employment Costs		29.6
	Travel		1.0
	Contractual Services		40.8
	Supplies and Materials		2.1
	Capital Outlay		1.9
	Heritage Commission		85.0
	Sub-Total		$ 273.7
	Debt Service		$ 180.9
	TOTAL -- Office of Administration		$ 454.6
	(20-06-02) Archives and Records Management		
(3.0)NSF	Salaries (12.0)		$ 253.1
	Other Employment Costs		83.7
	Travel		1.8
	Contractual Services		24.4
	Supplies and Materials		10.9
	Capital Outlay		12.5
	TOTAL -- Archives and Records Management		$ 386.4
	(20-06-03) Bureau of Archaeology and Historic Preservation		
(4.0)NSF	Salaries (4.0)		$ 111.9
	Other Employment Costs		29.4
	Travel		.6
	Contractual Services		8.8
	Supplies and Materials		4.3
	Capital Outlay		.4
	TOTAL -- Bureau of Archaeology and Historic Preservation		$ 155.4
	(20-06-04) Bureau of Museums and Historic Sites		
	Salaries (33.5)	$	$ 667.5
	Other Employment Costs		165.0
	Travel	2.0	1.5
	Contractual Services	27.8	69.2
	Energy		52.8
	Supplies and Materials	99.2	29.7
	Capital Outlay	11.0	75.0
	Sub-Total	$ 140.0	$ 1,060.7
	Debt Service		$ 240.2
	TOTAL -- Bureau of Museums and Historic Sites	$ 140.0	$ 1,300.9
	(20-06-05) Microfilm Services		
	Salaries (18.0)	$ 14.7	$ 345.2
	Other Employment Costs	.4	89.6
	Travel	1.5	1.6
	Contractual Services	15.3	109.9
	Supplies and Materials	10.0	78.7
	Capital Outlay	5.0	22.0

	TOTAL — Microfilm Services	$ 46.9	$ 647.0
	(20-06-16) Office of Arts Council		
(1.5)NSF	Salaries (4.0)		$ 106.6
	Other Employment Costs		24.9
	Travel		4.0
	Contractual Services		102.6
	Supplies and Materials		2.5
	Capital Outlay		1.0
	Delaware Art (2.0)		700.0
	TOTAL — Office of Arts Council		$ 941.6
	TOTAL — Division of Historical and Cultural Affairs	$ 186.9	$ 3,885.9
	(20-15-01) Division of State Banking Commission		
(38.0)ASF	Salaries	$ 1,007.1	
	Other Employment Costs	280.3	
	Travel	35.9	
	Contractual Services	233.9	
	Supplies and Materials	21.0	
	Capital Outlay	47.8	
	Other Items	2.0	
	TOTAL — Division of State Banking Commission	$ 1,628.0*	
	*Special Funds total budget appropriated per Chapter 1, Title 5, Delaware Code.		
	TOTAL — DEPARTMENT OF STATE	$ 4,215.6	$ 5,827.9
	TOTAL POSITIONS GF - 129.0 ASF - 77.5 NSF - 8.5		
	(25-00-00) DEPARTMENT OF FINANCE		
	(25-01-01) Office of the Secretary		
	Salaries (17.0)		$ 594.0
	Other Employment Costs		171.8
	Travel		7.1
	Contractual Services		142.8
	Supplies and Materials		8.7
	Capital Outlay		10.0
	Other Items		6.0
	TOTAL — Office of the Secretary		$ 940.4
	(25-05-01) Division of Accounting		
	Salaries (43.0)		$ 1,181.5
	Other Employment Costs		325.2
	Travel		3.0
	Contractual Services		393.3
	Supplies and Materials		108.6
	Capital Outlay		15.0
	TOTAL — Division of Accounting		$ 2,026.6
	(25-06-01) Division of Revenue		
(6.0)ASF	Salaries (221.0)	$ 148.2	$ 5,296.8
	Other Employment Costs	35.6	1,383.9
	Travel	3.0	30.8
	Contractual Services	44.0	966.1
	Energy		1.3
	Supplies and Materials	2.8	83.3
	Capital Outlay	13.2	144.8

	Credit Card Processing		40.5	
	Collections Agencies		80.0	
	Sub-Total		$ 367.3	$ 7,907.0
	Debt Service			$ 110.8
	TOTAL — Division of Revenue		$ 367.3	$ 8,017.8
	(25-07-01) State Lottery Office			
(22.0)ASF	Salaries		$ 530.8	
	Other Employment Costs		151.5	
	Travel		14.1	
	Contractual Services		3,292.7	
	Supplies and Materials		26.4	
	Capital Outlay		79.0	
	TOTAL — State Lottery Office		$ 4,094.5*	

*Special Funds appropriated under Chapter 48, Title 29, Delaware Code.

	TOTAL — DEPARTMENT OF FINANCE		$ 4,461.8	$ 10,984.0
	TOTAL POSITIONS			
	GF - 281.0			
	ASF - 28.0			
	(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES			
	(30-01-00) Administration			
	Personnel Costs (16.0)		$	$ 560.4
	Travel			4.7
	Contractual Services			46.7
	Supplies and Materials			6.1
	Capital/Equipment			3.0
	TOTAL — Administration		$	$ 620.9
	(-10) Office of the Secretary (14.0)	$	$ 515.0	
	(-40) Public Employ. Rel. Board (2.0)		105.9	
	TOTAL — Internal Program Units	$	$ 620.9	
	(30-02-00) Capitol Police			
(4.0)ASF	Personnel Costs (28.0)		$ 92.1	$ 790.9
	Travel			3.5
	Contractual Services		.5	315.5
	Supplies and Materials			33.9
	Capital/Equipment			34.0
	TOTAL — Capitol Police		$ 92.6	$ 1,177.8
(4.0)ASF	(-10) Capitol Police (28.0)	$ 92.6	$ 1,177.8	
	TOTAL — Internal Program Unit	$ 92.6	$ 1,177.8	
	(30-03-00) Regulation and Licensing			
(24.0)ASF	Personnel Costs (47.0)		$ 963.3	$ 1,315.0
	Travel		44.2	59.0
	Contractual Services		1,287.0	169.4
	Supplies and Materials		22.0	19.0
	Capital/Equipment		21.5	40.6
	Other Items - Revenue Refunds		350.0	
	TOTAL — Regulation and Licensing		$ 2,688.0	$ 1,603.0
	(-10) Alcoholic Beverage Control Commission (23.0)	$ 22.0	$ 752.0	

(1.0)ASF (-20) Professional Regulation (24.0)	385.6	851.0		
(23.0)ASF (-30) Public Service Commission	2,280.4			
TOTAL — Internal Program Units	$ 2,688.0	$ 1,603.0		
(30-04-00) Support Operations				
(19.0)ASF Personnel Costs (24.0)			$ 513.3	$ 599.3
Travel			11.0	1.2
Contractual Services			6,599.9	35.7
Energy			11.9	11.2
Supplies and Materials			312.6	12.8
Capital/Equipment			265.7	32.2
TOTAL — Support Operations			$ 7,714.4	$ 692.4
(-10) Mail/Courier Services (11.0)	$ 665.0	$ 297.3		
(-20) Telephone Services (11.0)	5,397.7	304.2		
(17.0)ASF (-30) Graphics and Printing	1,423.0			
(2.0)ASF (-40) Fleet Management (2.0)	228.7	90.9		
TOTAL — Internal Program Units	$ 7,714.4	$ 692.4		
(30-05-00) Facilities Management				
(5.0)NSF Personnel Costs (92.0)				$ 2,503.9
Travel				7.5
Contractual Services				2,650.8
Energy				1,286.0
Supplies and Materials				129.2
Capital/Equipment			280.0	369.6
Sub-Total			$ 280.0	$ 6,947.0
Debt Service			$	$ 6,662.1
TOTAL — Facilities Management			$ 280.0	$ 13,609.1
(5.0)NSF (-10) Property Management (20.0)		$ 8,047.9		
(-20) Building Operations/Maintenance (72.0)	$ 280.0	5,561.2		
TOTAL — Internal Program Units	$ 280.0	$ 13,609.1		
(30-06-00) Purchasing				
(6.0)ASF Personnel Costs (21.0)			$ 139.9	$ 681.6
(2.0)NSF Travel			9.4	12.1
Contractual Services			86.7	109.9
Energy			11.0	5.2
Supplies and Materials			150.0	57.5
Capital/Equipment			90.0	
TOTAL — Purchasing			$ 487.0	$ 866.3
(-10) Purchasing (13.0)	$ 100.0	$ 490.8		
(2.0)ASF (-20) Surplus Property (2.0)	91.5	109.4		
(4.0)ASF (-30) Food Distribution (6.0)	295.5	266.1		
(2.0)NSF				
TOTAL — Internal Program Units	$ 487.0	$ 866.3		
TOTAL — DEPARTMENT OF ADMINISTRATIVE SERVICES			$ 11,262.0	$ 18,569.5

TOTAL POSITIONS
GF - 228.0
ASF - 53.0
NSF - 7.0

(35-00-00) DEPARTMENT OF HEALTH AND SOCIAL SERVICES

(35-01-00) Administration

(12.3)ASF	Personnel Costs (116.2)			$ 437.2	$ 3,753.3
(53.9)NSF	Travel			11.8	15.3
	Contractual Services			154.6	503.2
	Energy				49.3
	Supplies and Materials			12.1	31.9
	Capital/Equipment			49.4	320.6
	Sub-Total			$ 665.1	$ 4,673.6
	Debt Service				$ 1,426.3
	TOTAL -- Administration			$ 665.1	$ 6,099.9
	(-10) Office of the Secretary (6.0)	$ 48.3	$ 375.3		
(9.3)ASF	(-20) Business Administration (82.0)	453.2	3,557.2		
(36.1)NSF					
(3.0)ASF	(-30) Health Planning (10.0)	143.3	1,321.8		
(17.8)NSF	(-40) Planning, Research & Eval.(18.2)	20.3	845.6		
	TOTAL -- Internal Program Units	$ 665.1	$ 6,099.9		
	(35-04-00) Medical Examiner				
	Personnel Costs (30.0)				$ 1,272.4
	Travel				7.1
	Contractual Services				79.0
	Energy				36.2
	Supplies and Materials				95.4
	Capital/Equipment				59.0
	Evidence Courier (1.0)				36.4
	Sub-Total				$ 1,585.5
	Debt Service				$ 59.2
	TOTAL -- Medical Examiner				$ 1,644.7
	(-01) Medical Examiner (31.0)		$ 1,644.7		
	TOTAL -- Internal Program Unit		$ 1,644.7		
	(35-05-00) Public Health				
(22.9)ASF	Personnel Costs (369.3)			$ 787.3	$ 12,141.8
(132.6)NSF	Travel			7.0	25.4
	Contractual Services			513.9	1,814.2
	Energy				60.1
	Supplies and Materials			145.7	867.7
	Capital/Equipment			12.3	179.2
	Other Items:				
	Renal Disease				228.2
	Right-to-know				37.1
	Treatment of Handicapped				98.0
	AIDS (7.0)				219.9
	Animal Bite Control (1.0)				67.8
	Office of Narcotics & Dangerous Drugs (9.0)				627.1
	Sub-Total			$ 1,466.2	$ 16,366.5
	Debt Service				305.2
	TOTAL -- Public Health			$ 1,466.2	$ 16,671.7
(22.9)ASF	(-02) Community Health (386.3)	$ 1,466.2	$ 16,671.7		
(132.6)NSF					
	TOTAL -- Internal Program Unit	$ 1,466.2	$ 16,671.7		
	(35-06-00) Alcoholism, Drug Abuse and Mental Health				
(1.0)ASF	Personnel Costs (912.6)			$ 39.7	$ 24,704.7
(20.8)NSF	Travel				18.2

	Contractual Services			16.1	9,450.2
	Energy				987.0
	Supplies and Materials			.2	1,739.4
	Capital/Equipment				149.0
	Other Items:				
	Sheltered Workshop				9.9
	Residential Detox				1,128.5
	Sub-Total			$ 56.0	$ 38,186.9
	Debt Service				$ 1,665.3
	TOTAL — Alcoholism, Drug Abuse and Mental Health			$ 56.0	$ 39,852.2
(10.0)NSF	(-10) Administration - MH (16.0)	$	$ 1,496.7		
(4.0)NSF	(-20) Community Mental Health (140.2)		8,987.7		
(1.0)ASF	(-30) Inpatient Mental Health (746.4)	54.8	24,463.7		
(1.8)NSF					
(5.0)NSF	(-40) Alcoholism & Drug Abuse (10.0)	1.2	4,904.1		
	TOTAL — Internal Program Units	$ 56.0	$ 39,852.2		
	(35-07-00) Social Services				
(252.6)NSF	Personnel Costs (216.9)				$ 6,082.3
	Travel				11.4
	Contractual Services				2,054.6
	Energy				33.5
	Supplies and Materials				64.5
	Capital/Equipment				38.9
	Other Items:				
	General Assistance				1,545.0
	AFDC				12,677.5
	Child Care				2,481.8
	SSI Supplement				911.3
	Homemaker				114.8
	Emergency Assistance				217.0
	First Step (14.9)				967.2
	Medicaid - State				20,317.0
	Medicaid - Non-State				42,225.0
	TOTAL — Social Services				$ 89,741.8
(252.6)NSF	(-01) Social Services (231.8)		$ 89,741.8		
	TOTAL — Internal Program Unit		$ 89,741.8		
	(35-08-00) Visually Impaired				
(3.3)ASF	Personnel Costs (22.5)			$ 82.0	$ 741.4
(23.7)NSF	Travel				2.5
	Contractual Services			.4	184.3
	Energy				37.3
	Supplies and Materials				35.5
	Capital/Equipment			4.0	17.6
	Business Enterprise Program			544.0	
	TOTAL — Visually Impaired			$ 630.4	$ 1,018.6
(3.3)ASF	(-01) Visually Impaired Services (22.5)	$ 630.4	$ 1,018.6		
(23.7)NSF					
	TOTAL — Internal Program Unit	$ 630.4	$ 1,018.6		
	(35-09-00) Facility-Based Long Term Care				
(2.0)NSF	Personnel Costs (1,152.8)				$ 26,542.2
	Travel				4.3
	Contractual Services				2,129.6
	Energy				1,061.8
	Supplies and Materials				2,240.7
	Capital/Equipment				114.9

	Sub-Total				$ 32,093.5
	Debt Service				$ 1,508.0
	TOTAL -- Facility-Based Long Term Care				$ 33,601.5
	(-10) Delaware Hospital for the Chronically Ill (724.5)		$ 20,180.6		
(2.0)NSF	(-20) Emily Bissell (282.3)		8,630.6		
	(-30) Governor Bacon (146.0)		4,790.3		
	TOTAL -- Internal Program Units		$ 33,601.5		
	(35-10-00) Child Support Enforcement				
(67.4)NSF	Personnel Costs (34.7)			$	$ 957.9
	Travel				2.9
	Contractual Services			52.5	281.2
	Energy				5.0
	Supplies and Materials				11.2
	Capital/Equipment				2.1
	TOTAL -- Child Support Enforcement			$ 52.5	$ 1,260.3
(67.4)NSF	(-01) Child Support Enforcement (34.7)	$ 52.5	$ 1,260.3		
	TOTAL -- Internal Program Unit	$ 52.5	$ 1,260.3		
	(35-11-00) Mental Retardation				
(3.0)NSF	Personnel Costs (894.8)				$ 21,758.0
	Travel				12.6
	Contractual Services				1,697.3
	Energy				560.0
	Supplies and Materials				968.6
	Capital/Equipment				171.2
	Other Items:				
	Music Stipends				9.6
	Purchase of Care				6,255.2
	Purchase of Community Services				3,262.8
	Sub-Total				$ 34,695.3
	Debt Service				$ 368.5
	TOTAL -- Division of Mental Retardation				$ 35,063.8
	(-10) Administration - MR (19.0)		$ 776.2		
(3.0)NSF	(-20) Institutional Services (743.0)		20,704.8		
	(-30) Community Services (132.8)		13,582.8		
	TOTAL -- Internal Program Units		$ 35,063.8		
	(35-12-00) State Service Centers				
(30.5)NSF	Personnel Costs (48.0)			$	$ 1,383.7
	Travel				2.9
	Contractual Services			550.0	1,302.8
	Energy			60.0	313.5
	Supplies and Materials			70.0	48.7
	Capital/Equipment				10.0
	Sub-Total			$ 680.0	$ 3,061.6
	Debt Service				$ 95.3
	TOTAL -- State Service Centers			$ 680.0	$ 3,156.9
(30.5)NSF	(-10) Family Support Services (30.5)	$	$ 1,102.3		
	(-20) Service Center Management (17.5)	680.0	2,054.6		

TOTAL — Internal Program Units	$ 680.0	$ 3,156.9		
(35-14-00) Aging				
(25.8)NSF Personnel Costs (27.3)				$ 835.6
Travel				4.3
Contractual Services				802.9
Energy				14.6
Supplies and Materials				5.7
Capital/Equipment				2.0
Nutrition Program				155.0
Sub-Total				$ 1,820.1
Debt Service				$ 3.5
TOTAL — Aging				$ 1,823.6
(8.3)NSF (-10) Community-Based Services (10.7)		$ 1,267.0		
(17.5)NSF (-20) Client Care Services (16.6)		555.8		
TOTAL — Internal Program Units		$ 1,823.6		
TOTAL — DEPARTMENT OF HEALTH AND SOCIAL SERVICES			$ 3,550.2	$229,935.0
TOTAL POSITIONS GF - 3,858.0 ASF - 39.5 NSF - 612.3				
(37-00-00) DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES				
(37-01-00) Administration				
(10.0)ASF Personnel Costs (91.0)			$ 238.2	$ 3,734.3
(5.2)NSF Travel				9.1
Contractual Services			370.4	512.0
Supplies and Materials				62.0
Capital/Equipment			10.0	10.3
Sub-Total			$ 618.6	$ 4,327.7
Debt Service				$ 289.9
TOTAL — Administration			$ 618.6	$ 4,617.6
(-10) Office of the Secretary (5.0)	$	$ 567.7		
(-15) Office of the Director (5.0)		482.1		
(10.0)ASF (-20) Fiscal Operations and				
(2.8)NSF Management (19.2)	618.6	548.0		
(-30) Personnel Services (11.6)		352.3		
(-35) Center for Profess. Developmt. (4.0)		236.8		
(2.4)NSF (-40) Education (46.2)		2,430.7		
TOTAL — Internal Program Units	$ 618.6	$ 4,617.6		
(37-02-00) Child Protective Services				
(96.0)NSF Personnel Costs (139.0)				$ 4,084.1
Travel				2.3
Contractual Services				5,812.3
Energy				27.2
Supplies and Materials				32.2
Capital/Equipment				32.4
Emergency Material Assistance				30.0
TOTAL — Child Protective Services				$ 10,020.5
(3.0)NSF (-10) Office of the Director (18.0)		$ 707.9		
(17.0)NSF (-20) Report Investigation and Risk Assessment (35.0)		1,983.5		

	Sub-Total				$ 32,093.5
	Debt Service				$ 1,508.0
	TOTAL — Facility-Based Long Term Care				$ 33,601.5
	(-10) Delaware Hospital for the Chronically Ill (724.5)		$ 20,180.6		
(2.0)NSF	(-20) Emily Bissell (282.3)		8,630.6		
	(-30) Governor Bacon (146.0)		4,790.3		
	TOTAL — Internal Program Units		$ 33,601.5		
	(35-10-00) Child Support Enforcement				
(67.4)NSF	Personnel Costs (34.7)			$	$ 957.9
	Travel				2.9
	Contractual Services			52.5	281.2
	Energy				5.0
	Supplies and Materials				11.2
	Capital/Equipment				2.1
	TOTAL — Child Support Enforcement			$ 52.5	$ 1,260.3
(67.4)NSF	(-01) Child Support Enforcement (34.7)	$ 52.5	$ 1,260.3		
	TOTAL — Internal Program Unit	$ 52.5	$ 1,260.3		
	(35-11-00) Mental Retardation				
(3.0)NSF	Personnel Costs (894.8)				$ 21,758.0
	Travel				12.6
	Contractual Services				1,697.3
	Energy				560.0
	Supplies and Materials				968.6
	Capital/Equipment				171.2
	Other Items:				
	Music Stipends				9.6
	Purchase of Care				6,255.2
	Purchase of Community Services				3,262.8
	Sub-Total				$ 34,695.3
	Debt Service				$ 368.5
	TOTAL — Division of Mental Retardation				$ 35,063.8
	(-10) Administration - MR (19.0)		$ 776.2		
(3.0)NSF	(-20) Institutional Services (743.0)		20,704.8		
	(-30) Community Services (132.8)		13,582.8		
	TOTAL — Internal Program Units		$ 35,063.8		
	(35-12-00) State Service Centers				
(30.5)NSF	Personnel Costs (48.0)			$	$ 1,383.7
	Travel				2.9
	Contractual Services			550.0	1,302.8
	Energy			60.0	313.5
	Supplies and Materials			70.0	48.7
	Capital/Equipment				10.0
	Sub-Total			$ 680.0	$ 3,061.6
	Debt Service				$ 95.3
	TOTAL — State Service Centers			$ 680.0	$ 3,156.9
(30.5)NSF	(-10) Family Support Services (30.5)	$	$ 1,102.3		
	(-20) Service Center Management (17.5)	680.0	2,054.6		

TOTAL — Internal Program Units	$ 680.0	$ 3,156.9		
(35-14-00) Aging				
(25.8)NSF Personnel Costs (27.3)				$ 835.6
Travel				4.3
Contractual Services				802.9
Energy				14.6
Supplies and Materials				5.7
Capital/Equipment				2.0
Nutrition Program				155.0
Sub-Total				$ 1,820.1
Debt Service				$ 3.5
TOTAL — Aging				$ 1,823.6
(8.3)NSF (-10) Community-Based Services (10.7)		$ 1,267.8		
(17.5)NSF (-20) Client Care Services (16.6)		555.8		
TOTAL — Internal Program Units		$ 1,823.6		
TOTAL — DEPARTMENT OF HEALTH AND SOCIAL SERVICES			$ 3,550.2	$229,935.0
TOTAL POSITIONS				
GF - 3,858.0				
ASF - 39.5				
NSF - 612.3				
(37-00-00) DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES				
(37-01-00) Administration				
(10.0)ASF Personnel Costs (91.0)			$ 238.2	$ 3,734.3
(5.2)NSF Travel				9.1
Contractual Services			370.4	512.0
Supplies and Materials				62.0
Capital/Equipment			10.0	10.3
Sub-Total			$ 618.6	$ 4,327.7
Debt Service				$ 289.9
TOTAL — Administration			$ 618.6	$ 4,617.6
(-10) Office of the Secretary (5.0)	$	$ 567.7		
(-15) Office of the Director (5.0)		482.1		
(10.0)ASF (-20) Fiscal Operations and				
(2.8)NSF Management (19.2)	618.6	548.0		
(-30) Personnel Services (11.6)		352.3		
(-35) Center for Profess. Developmt. (4.0)		236.8		
(2.4)NSF (-40) Education (46.2)		2,430.7		
TOTAL — Internal Program Units	$ 618.6	$ 4,617.6		
(37-02-00) Child Protective Services				
(96.0)NSF Personnel Costs (139.0)				$ 4,084.1
Travel				2.3
Contractual Services				5,812.3
Energy				27.2
Supplies and Materials				32.2
Capital/Equipment				32.4
Emergency Material Assistance				30.0
TOTAL — Child Protective Services				$ 10,020.5
(3.0)NSF (-10) Office of the Director (18.0)		$ 707.9		
(17.0)NSF (-20) Report Investigation and Risk Assessment (35.0)		1,983.5		

(32.6)NSF (-30) Family Preservation Services (60.4)	1,856.9	
(37.3)NSF (-40) Substitute Care Services (16.7)	4,608.0	
(6.1)NSF (-50) Adoption Services (8.9)	864.2	
TOTAL — Internal Program Units	$ 10,020.5	
(37-03-00) Child Mental Health		
(2.0)NSF Personnel Costs (161.0)		$ 5,166.8
Travel		17.1
Contractual Services		8,954.1
Energy		181.9
Supplies and Materials		195.6
Capital/Equipment		43.6
Sub-Total		$ 14,559.1
Debt Service		$ 17.5
TOTAL — Child Mental Health		$ 14,576.6
(2.0)NSF(-10) Office of the Director (23.0)	$ 1,005.8	
(-15) Consultation & Assessment Services (14.0)	609.7	
(-20) Terry Outpatient Treatment (16.5)	627.8	
(-30) Terry Day Treatment (24.5)	973.0	
(-40) Terry Inpatient Treatment (47.0)	1,554.5	
(-50) Outpatient Treatment (1.3)	1,167.8	
(-55) Day Treatment (1.1)	1,223.2	
(-60) Residential Treatment (31.2)	4,068.8	
(-70) Hospital & Other Individualized Contract Treatment (2.4)	3,346.0	
TOTAL — Internal Program Units	$ 14,576.6	
(37-05-00) Youth Rehabilitation Services		
Personnel Costs (182.5)		$ 5,942.9
Travel		13.5
Contractual Services		2,871.2
Energy		237.2
Supplies and Materials		248.1
Capital/Equipment		34.4
Sub-Total		$ 9,347.3
Debt Service		$ 289.7
TOTAL — Youth Rehabilitation Services		$ 9,637.0
(-10) Office of the Director (16.5)	$ 1,010.9	
(-30) Community Based Services (36.0)	1,303.8	
(-40) Alternatives to Incarceration (13.0)	2,902.3	
(-50) Secure Care (117.0)	4,420.0	
TOTAL — Internal Program Units	$ 9,637.0	
(37-08-00) Program Support		
(16.6)NSF Personnel Costs (36.4)		$ 1,213.6
Travel		8.3
Contractual Services		437.6
Supplies and Materials		18.6
Capital/Equipment		14.3
TOTAL — Program Support		$ 1,692.4
(5.6)NSF (-20) Planning, Monitoring and Information Systems (9.4)	$ 488.5	
(4.5)NSF (-30) Office of Case Management (9.5)	332.6	
(-40) Office of Prevention (9.0)	586.6	
(6.5)NSF (-50) Licensing (8.5)	284.7	

TOTAL — Internal Program Units		$ 1,692.4		
TOTAL — DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES			$ 618.6	$ 40,544.1
TOTAL POSITIONS				
GF - 609.9				
ASF - 10.0				
NSF - 119.8				
(38-00-00) DEPARTMENT OF CORRECTION				
(38-01-00) Administration				
Personnel Costs (171.0)				$ 5,760.3
Travel				17.4
Contractual Services				929.6
Energy				34.9
Supplies and Materials				4,094.4
Capital/Equipment				39.5
Medical Services				5,914.7
AIDS Education and Counseling				150.0
Contingency - Shakedowns				40.0
Sub-Total				$ 16,988.8
Debt Service				$ 133.8
TOTAL — Administration				$ 17,122.6
(-01) Office of the Commissioner (64.0)		$ 2,424.7		
(-10) Office of the Bureau Chief (29.0)		1,376.4		
(-20) Food Services (43.0)		4,818.9		
(-30) Medical Services		6,064.7		
(-40) Facilities Maint. & Const. (35.0)		2,437.9		
TOTAL — Internal Program Units		$ 17,122.6		
(38-03-00) Industries and Services				
(8.0)ASF Personnel Costs (55.0)			$ 241.3	$ 2,169.3
(2.0)NSF Travel			2.5	4.0
Contractual Services			389.0	101.2
Energy			10.0	
Supplies and Materials			319.0	135.9
Capital/Equipment			7.3	24.3
TOTAL — Industries and Services			$ 969.1	$ 2,434.7
(-01) Office of the Bureau Chief (13.0)	$	$ 497.5		
(8.0)ASF (-02) Prison Industries (20.0)	968.1	784.1		
(2.0)NSF (-03) Education (22.0)	1.0	1,153.1		
TOTAL — Internal Program Units	$ 969.1	$ 2,434.7		
(38-04-00) Adult Correction				
(1.5)NSF Personnel Costs (1,042.0)			$ 30.0	$ 32,790.9
Travel				26.5
Contractual Services			13.0	1,663.7
Energy				1,302.0
Supplies and Materials			13.0	1,365.0
Capital/Equipment			3.0	115.3
Sub-Total			$ 59.0	$ 37,263.4
Debt Service				$ 3,558.3
TOTAL — Adult Correction			$ 59.0	$ 40,821.7
(1.5)NSF (-01) Office of the Bureau Chief (63.0)	$	$ 2,612.6		

(-02) Pre-Trial Annex (25.0)			931.7		
(-03) Delaware Correctional Center (430.0)		1.0	16,211.0		
(-04) Sussex Correctional Institution (169.0)			6,409.5		
(-05) Women's Correctional Institution (43.0)			1,616.4		
(-06) Multi-Purpose Criminal Justice Facility (214.0)		1.0	9,457.8		
(-07) Morris Correctional Institution (27.0)		1.0	1,051.3		
(-10) Community Corrections (71.0)		56.0	2,531.4		
TOTAL -- Internal Program Units	$	59.0	$ 40,821.7		
(38-05-00) Field Services					
Personnel Costs (175.0)					$ 5,088.0
Travel					4.8
Contractual Services					389.9
Energy					9.7
Supplies and Materials					21.8
Capital/Equipment					12.8
TOTAL -- Field Services					$ 5,527.0
(-10) Community Services (114.0)			$ 3,848.0		
(-20) Special Programs (61.0)			1,679.0		
TOTAL -- Internal Program Units			$ 5,527.0		
TOTAL -- DEPARTMENT OF CORRECTION				$ 1,028.1	$ 65,906.0
TOTAL POSITIONS					
GF - 1,443.0					
ASF - 8.0					
NSF - 3.5					
(40-00-00) DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL					
(40-01-00) Department Management					
(9.0)ASF Personnel Costs (30.5)				$ 331.0	$ 1,105.9
(9.5)NSF Travel				2.9	4.9
Contractual Services				15.8	109.4
Energy					20.1
Supplies and Materials				117.4	21.4
Capital/Equipment				6.0	115.3
Conservationist Magazine				120.0	65.5
Sub-Total				$ 593.1	$ 1,442.5
Debt Service					$ 2,348.0
TOTAL -- Department Management				$ 593.1	$ 3,790.5
(9.0)ASF (-01) Department Management (30.5) (9.5)NSF	$	593.1	$ 3,790.5		
TOTAL -- Internal Program Units	$	593.1	$ 3,790.5		
(40-05-00) Fish and Wildlife					
(43.5)ASF Personnel Costs (66.0)				$ 1,551.4	$ 2,170.6
(1.5)NSF Travel				45.3	13.1
Contractual Services				1,188.2	705.2
Energy				21.3	61.6
Supplies and Materials				455.4	300.7
Capital/Equipment				1,663.8	144.0
Spraying and Insecticides					377.1
Oyster Seeding & Cultivation					75.0
Other Items				73.1	25.0
Sub-Total				$ 4,998.5	$ 3,872.3

	Debt Service				$ 637.6
	TOTAL -- Fish and Wildlife			$ 4,998.5	$ 4,509.9
	(-01) Management and Support -				
(1.0)ASF	Fish & Wildlife (1.5)	$ 126.7	$ 663.0		
(42.5)ASF	(-02) Wildlife/Fisheries (16.5)	4,748.4	993.0		
	(-04) Mosquito Control (18.0)	10.0	1,131.0		
	(-05) Dog Control	110.0	400.0		
(1.5)NSF	(-06) Fish & Wildlife Enforcement (30.0)	3.4	1,322.9		
	TOTAL -- Internal Program Units	$ 4,998.5	$ 4,509.9		
	(40-06-00) Parks and Recreation				
(38.5)ASF	Personnel Costs (77.5)			$ 2,393.5	$ 2,338.1
	Travel			22.3	2.8
	Contractual Services			724.7	142.6
	Energy			81.0	175.7
	Supplies and Materials			898.0	48.4
	Capital/Equipment			2,307.1	81.3
	Other Items			575.5	25.0
	Sub-Total			$ 7,002.1	$ 2,813.9
	Debt Service			$ 70.0	$ 1,227.6
	TOTAL -- Parks and Recreation			$ 7,072.1	$ 4,041.5
	(-01) Management & Support -				
(3.0)ASF	Parks and Recreation (6.0)	$ 59.5	$ 266.7		
(29.5)ASF	(-02) Operations & Maintenance (50.5)	4,232.2	1,790.3		
(5.0)ASF	(-03) Special Programs (5.0)	290.1	224.3		
(1.0)ASF	(-04) Parks Technical Services (16.0)	2,490.3	1,760.2		
	TOTAL -- Internal Program Units	$ 7,072.1	$ 4,041.5		
	(40-07-00) Soil and Water Conservation				
(1.0)ASF	Personnel Costs (43.0)			$ 2.8	$ 1,267.5
	Travel			2.5	5.3
	Contractual Services			794.1	502.0
	Energy				16.3
	Supplies and Materials			7.0	271.2
	Capital/Equipment			6.0	89.3
	New Castle County Dredge				150.0
	Tax Ditches*				180.0
	Sub-Total			$ 812.4	$ 2,481.6
	Debt Service				$ 1,296.4
	TOTAL -- Soil and Water Conservation			$ 812.4	$ 3,778.0
	(-01) Management & Support -				
	Soil & Water (6.0)	$	$ 732.7		
	(-02) Drainage (8.0)		1,050.2		
	(-03) Beach Preservation (11.0)	769.3	846.1		
(1.0)ASF	(-04) District Operations (3.0)	30.0	337.2		
	(-05) Dredge Operations (15.0)	13.1	811.8		
	TOTAL -- Internal Program Units	$ 812.4	$ 3,778.0		

*Pursuant to Section 3921, Title 7, Delaware Code

	(40-08-00) Water Resources		
(42.0)ASF	Personnel Costs (66.0)	$ 1,332.1	$ 2,519.6
(25.0)NSF	Travel	18.6	19.3
	Contractual Services	337.8	287.6
	Energy		47.4

	Supplies and Materials		112.9	133.7
	Capital/Equipment		302.5	22.0
	Estuaries Research			200.0
	Water Resources Agency			65.0
	Sub-Total		$ 2,103.9	$ 3,294.6
	Debt Service			$ 2,384.2
	TOTAL — Water Resources		$ 2,103.9	$ 5,678.8
	(-01) Management & Support -			
(2.0)ASF	Water Resources (3.0)	$ 169.4	$ 365.8	
	(-02) Water Resources Technical			
(20.0)ASF	Services (20.0)	1,022.2	895.0	
(2.0)NSF				
(4.0)ASF	(-03) Planning & Support (4.0)	130.6	294.3	
(4.0)NSF				
(6.0)ASF	(-04) Surface Water Management (16.0)	448.0	3,267.0	
(13.0)NSF				
(10.0)ASF	(-05) Ground Water Management (23.0)	333.7	856.7	
(6.0)NSF				
	TOTAL — Internal Program Units	$ 2,103.9	$ 5,678.8	
	(40-09-00) Air and Waste Management			
(18.0)ASF	Personnel Costs (43.0)		$ 688.0	$ 1,753.1
(57.5)NSF	Travel		29.3	6.8
	Contractual Services		165.8	323.7
	Energy			81.6
	Supplies and Materials		35.1	51.9
	Capital/Equipment		409.3	68.2
	Super Fund		500.0	
	Sub-Total		$ 1,827.5	$ 2,285.3
	Debt Service			$ 242.5
	TOTAL - Air and Waste Management		$ 1,827.5	2,527.8
	(-01) Management & Support -			
(6.0)ASF	Air & Waste (7.0)	$ 344.9	$ 486.0	
(3.0)NSF				
(3.0)ASF	(-02) Air Resources (16.0)	276.5	697.3	
(14.0)NSF				
(9.0)ASF	(-03) Waste Management (20.0)	1,206.1	1,344.5	
(40.5)NSF				
	TOTAL -- Internal Program Units	$ 1,827.5	$ 2,527.8	
	TOTAL — DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL		$ 17,407.5	$ 24,326.5

TOTAL POSITIONS
GF - 326.0
ASF - 152.0
NSF - 93.5

(45-00-00) DEPARTMENT OF PUBLIC SAFETY

(45-01-00) Office of the Secretary

(23.5)NSF	Personnel Costs (48.5)	$	$ 1,627.3
	Travel		30.8
	Contractual Services	100.0	296.5
	Energy		10.2
	Supplies and Materials	89.0	31.6
	Capital/Equipment	35.0	5.5
	Police Training Council		20.0
	Other Items	.7	

	Sub-Total			$ 224.7	$ 2,021.9
	Debt Service				$ 411.6
	TOTAL -- Office of the Secretary			$ 224.7	$ 2,433.5
	(-01) Administration (14.0)	$ 135.0	$ 932.6		
	(-10) Boiler Safety (7.0)		252.8		
	(-20) Communication (16.0)	89.7	779.6		
(22.5)NSF	(-30) EPO (7.5)		295.1		
(1.0)NSF	(-40) Highway Safety (4.0)		173.4		
	TOTAL -- Internal Program Units	$ 224.7	$ 2,433.5		
	(45-06-00) State Police				
(5.0)ASF	Personnel Costs (662.0)			$ 858.7	$ 24,667.1
(5.0)NSF	Travel			5.0	30.7
	Contractual Services			160.5	1,901.3
	Energy				225.7
	Supplies and Materials			202.4	1,158.7
	Capital/Equipment			66.0	811.6
	Pension - 20 Year Retirees				8,910.8
	Crime Reduction Fund				75.0
	Sub-Total			$ 1,292.6	$ 37,780.9
	Debt Service				$ 374.8
	TOTAL -- State Police			$ 1,292.6	$ 38,155.7
	(-01) Executive (35.0)	$	$ 11,343.1		
(3.0)ASF	(-03) Patrol (350.0)	174.9	14,600.2		
	(-04) Criminal Investigation (79.0)		3,242.3		
(5.0)NSF	(-05) Special Investigation (20.0)		858.3		
	(-06) Aviation (18.0)		1,392.7		
(2.0)ASF	(-07) Traffic (22.0)	1,057.7	835.1		
	(-08) State Bureau of Identification (28.0)	60.0	913.0		
	(-09) Training (6.0)		310.8		
	(-10) Communications (78.0)		2,673.0		
	(-11) Transportation (17.0)		1,624.9		
	(-12) Community Relations (9.0)		362.3		
	TOTAL - Internal Program Units	$ 1,292.6	$ 38,155.7		
	(45-07-00) Licenses, Taxes & Registrations				
	Personnel Costs (228.0)			$	$ 5,372.0
(1.0)NSF	Travel			9.0	19.4
	Contractual Services			185.0	565.6
	Energy				79.8
	Supplies and Materials			10.0	452.6
	Capital/Equipment			25.0	18.8
	Sub-Total			$ 229.0	$ 6,508.2
	Debt Service				$ 96.5
	TOTAL -- Licenses, Taxes & Registrations			$ 229.0	$ 6,604.7
	(-01) Administration - LT & R (40.0)	$ 229.0	$ 1,268.2		
(1.0)NSF	(-10) Driver Services (68.0)		1,877.8		
	(-20) Vehicle Services (105.0)		2,824.4		
	(-30) Motor Fuel Tax (15.0)		634.3		
	TOTAL -- Internal Program Units	$ 229.0	$ 6,604.7		
	TOTAL -- DEPARTMENT OF PUBLIC SAFETY			$ 1,746.3	$ 47,193.9

TOTAL POSITIONS
GF - 930.5
ASF - 5.0

NET = 29.5

(50-00-00) DEPARTMENT OF COMMUNITY AFFAIRS

(50-01-00) Office of the Secretary

(50-01-01) Administration

(2.5)NET	Salaries (12.0)	$ 53.4	$ 334.8
	Other Employment Costs	20.1	77.7
	Travel		8.1
	Contractual Services	9.4	109.6
	Supplies and Materials		10.6
	Capital Outlay	5.5	
	Sub-Total	$ 88.3	$ 540.8
	TOTAL == Administration	$ 88.3	$ 540.8

(50-01-02) Commission for Women

	Salaries (3.0)	$ 66.7
	Other Employment Costs	20.5
	Travel	4.7
	Contractual Services	19.0
	Supplies and Materials	2.4
	TOTAL == Commission for Women	$ 113.3

(50-01-03) Office of Handicapped Services

(0.5)NET	Salaries (1.5)	$ 29.3
	Other Employment Costs	7.3
	Travel	.5
	Contractual Services	4.0
	Supplies and Materials	.3
	Sub-Total	$ 42.0
	Debt Service	$ 97.5
	TOTAL == Office of Handicapped Services	$ 139.5
	TOTAL Office of the Secretary	$ 88.3 $ 793.3

(50-02-01) Division of Community Services

(11.0)NET	Salaries (3.0)	$ 98.6
	Other Employment Costs	25.2
	Travel	4.8
	Contractual Services	22.6
	Supplies and Materials	5.9
	Capital Outlay	11.2
	Condominium Training	25.5
	Community Assistance	100.0
	TOTAL Division of Community Services	$$ 2901.0

(50-03-00) Division of Volunteer Services

(50-03-01) Volunteer Services

(11.0)NET	Salaries (0.5)	$$ 220.38	$$ 1100.0
	Other Employment Costs	26.38	227.6
	Travel		33.2
	Contractual Services	35	199.2
	Supplies and Materials		23.2
	Capital Outlay		31.6
	TOTAL Volunteer Services	$$ 227.34	$$ 1903.8

(50-03-03) Foster Grandparents Program

	Salaries (0.5)	$$ 1100.0

	Other Employment Costs		46.1
	Travel		2.7
	Contractual Services		574.6
	Supplies and Materials		5.4
	Capital Outlay		9.8
	TOTAL — Foster Grandparents Program		$ 809.4
	(50-03-04) RSVP - New Castle		
(2.4)NSF	Salaries (3.6)		$ 66.4
	Other Employment Costs		13.4
	Travel		3.5
	Contractual Services		35.4
	Supplies and Materials		6.0
	TOTAL — RSVP - New Castle		$ 124.7
	(50-03-05) RSVP - Sussex		
(1.2)NSF	Salaries (2.8)		$ 54.7
	Other Employment Costs		12.7
	Travel		5.3
	Contractual Services		19.0
	Supplies and Materials		3.6
	Capital Outlay		12.5
	TOTAL — RSVP - Sussex		$ 107.8
	TOTAL — Division of Volunteer Services	$ 27.9	$ 1,235.7
	(50-04-01) Office of the Public Advocate		
(1.0)ASF	Salaries (2.0)	$ 37.2	$ 72.3
	Other Employment Costs	10.9	17.1
	Travel	4.4	4.0
	Contractual Services	73.8	17.9
	Supplies and Materials	5.4	3.4
	TOTAL — Office of the Public Advocate	$ 131.7	$ 114.7
	(50-06-01) Office of Human Relations		
	Salaries (9.0)	$	$ 240.0
	Other Employment Costs		65.2
	Travel	6.0	8.0
	Contractual Services	4.5	25.7
	Supplies and Materials	.5	3.8
	Capital Outlay	11.7	
	TOTAL — Office of Human Relations	$ 22.7	$ 342.7
	(50-10-01) Division of Libraries		
(9.0)NSF	Salaries (10.0)		$ 217.2
	Other Employment Costs		67.3
	Travel		2.5
	Contractual Services		212.6
	Supplies and Materials		39.6
	Library Standards		841.2
	Sub-Total		$ 1,380.4
	Debt Service		$ 2.7
	TOTAL — Division of Libraries		$ 1,383.1
	(50-11-01) Division of Consumer Affairs		
	Salaries (12.0)		$ 315.2
	Other Employment Costs		87.8
	Travel		5.4

NSF - 29.5

(50-00-00) DEPARTMENT OF COMMUNITY AFFAIRS

(50-01-00) Office of the Secretary

(50-01-01) Administration

(2.5)ASF	Salaries (12.0)	$ 53.4	$ 334.8
	Other Employment Costs	20.1	77.7
	Travel		8.1
	Contractual Services	9.4	109.6
	Supplies and Materials		10.6
	Capital Outlay	6.0	
	Sub-Total	$ 88.9	$ 540.8
	TOTAL -- Administration	$ 88.9	$ 540.8

(50-01-02) Commission for Women

	Salaries (3.0)	$ 66.7
	Other Employment Costs	20.5
	Travel	4.7
	Contractual Services	19.0
	Supplies and Materials	2.4
	TOTAL -- Commission for Women	$ 113.3

(50-01-03) Office of Handicapped Services

(4.5)NSF	Salaries (1.5)	$ 29.3
	Other Employment Costs	7.8
	Travel	.5
	Contractual Services	4.1
	Supplies and Materials	.3
	Sub-Total	$ 42.0
	Debt Service	$ 97.8
	TOTAL -- Office of Handicapped Services	$ 139.8
	TOTAL -- Office of the Secretary	$ 88.9 $ 793.9

(50-02-01) Division of Community Services

(11.0)NSF	Salaries (3.0)	$ 98.6
	Other Employment Costs	23.2
	Travel	4.8
	Contractual Services	22.6
	Supplies and Materials	5.9
	Capital Outlay	1.2
	Congregate Feeding	35.5
	Emergency Assistance	100.0
	TOTAL -- Division of Community Services	$ 291.8

(50-03-00) Division of Volunteer Services

(50-03-01) Volunteer Services

(1.0)ASF	Salaries (4.5)	$ 20.8	$ 110.0
	Other Employment Costs	6.8	27.6
	Travel		3.2
	Contractual Services	.3	19.2
	Supplies and Materials		2.2
	Kent County RSVP		31.6
	TOTAL -- Volunteer Services	$ 27.9	$ 193.8

(50-03-03) Foster Grandparents Program

	Salaries (6.8)	$ 170.8

	Other Employment Costs		46.1
	Travel		2.7
	Contractual Services		574.6
	Supplies and Materials		5.4
	Capital Outlay		9.8
	TOTAL — Foster Grandparents Program		$ 809.4
	(50-03-04) RSVP - New Castle		
(2.4)NSF	Salaries (3.6)		$ 66.4
	Other Employment Costs		13.4
	Travel		3.5
	Contractual Services		35.4
	Supplies and Materials		6.0
	TOTAL — RSVP - New Castle		$ 124.7
	(50-03-05) RSVP - Sussex		
(1.2)NSF	Salaries (2.8)		$ 54.7
	Other Employment Costs		12.7
	Travel		5.3
	Contractual Services		19.0
	Supplies and Materials		3.6
	Capital Outlay		12.5
	TOTAL — RSVP - Sussex		$ 107.8
	TOTAL — Division of Volunteer Services	$ 27.9	$ 1,235.7
	(50-04-01) Office of the Public Advocate		
(1.0)ASF	Salaries (2.0)	$ 37.2	$ 72.3
	Other Employment Costs	10.9	17.1
	Travel	4.4	4.0
	Contractual Services	73.8	17.9
	Supplies and Materials	5.4	3.4
	TOTAL — Office of the Public Advocate	$ 131.7	$ 114.7
	(50-06-01) Office of Human Relations		
	Salaries (9.0)	$	$ 240.0
	Other Employment Costs		65.2
	Travel	6.0	8.0
	Contractual Services	4.5	25.7
	Supplies and Materials	.5	3.8
	Capital Outlay	11.7	
	TOTAL — Office of Human Relations	$ 22.7	$ 342.7
	(50-10-01) Division of Libraries		
(9.0)NSF	Salaries (10.0)		$ 217.2
	Other Employment Costs		67.3
	Travel		2.5
	Contractual Services		212.6
	Supplies and Materials		39.6
	Library Standards		841.2
	Sub-Total		$ 1,380.4
	Debt Service		$ 2.7
	TOTAL — Division of Libraries		$ 1,383.1
	(50-11-01) Division of Consumer Affairs		
	Salaries (12.0)		$ 315.2
	Other Employment Costs		87.8
	Travel		5.4

Contractual Services		25.4
Supplies and Materials		4.0
TOTAL — Division of Consumer Affairs		$ 437.8
TOTAL — DEPARTMENT OF COMMUNITY AFFAIRS	$ 271.2	$ 4,599.7

TOTAL POSITIONS
GF - 70.2
ASF - 4.5
NSF - 28.1

(55-00-00) DEPARTMENT OF TRANSPORTATION

(55-01-01) Office of the Secretary

Salaries (3.0)	$ 128.3
Other Employment Costs	26.3
Travel	2.1
Contractual Services	5.0
Supplies and Materials	1.4
TOTAL — Office of the Secretary	$ 163.1

(55-02-01) Office of Administration

Salaries (64.0)	$ 1,787.1
Other Employment Costs	487.9
Travel	5.5
Contractual Services	326.8
Supplies and Materials	20.9
Capital Outlay	39.0
TOTAL — Office of Administration	$ 2,667.2

(55-04-00) Division of Highways

(55-04-01) Office of the Director

(4.0)NSF	Salaries (54.0)	$ 1,781.6
	Other Employment Costs	415.0
	Travel	33.0
	Contractual Services	246.7
	Supplies and Materials	156.3
	Capital Outlay	17.0
	TOTAL — Office of the Director	$ 2,649.6

(55-04-10) Pre-Construction

(98.0)NSF	Salaries (55.0)	$ 2,022.0
	Other Employment Costs	577.7
	TOTAL — Pre-Construction	$ 2,599.7

(55-04-30) Bureau of Materials and Research

(58.0)NSF	Salaries (22.0)	$ 681.0
	Other Employment Costs	192.8
	Travel	3.1
	Contractual Services	24.9
	Supplies and Materials	25.1
	Capital Outlay	22.0
	TOTAL — Bureau of Materials and Research	$ 948.9

(55-04-40) Bureau of Construction

(100.0)NSF	Salaries (91.0)	$ 2,537.3
	Other Employment Costs	734.0
	TOTAL — Bureau of Construction	$ 3,271.3

	(55-04-50) Bureau of Traffic		
(6.0)NSF	Salaries (107.0)		$ 2,646.9
	Other Employment Costs		727.6
	Travel		1.8
	Contractual Services		115.0
	Energy		498.9
	TOTAL — Bureau of Traffic		$ 3,990.2
	(55-04-60) Field Services		
(2.0)NSF	Salaries (16.0)		$ 507.8
	Other Employment Costs		143.2
	TOTAL — Field Services		$ 651.0
	(55-04-70) Bureau of Maintenance		
	Salaries (592.0)		$ 12,037.2
	Other Employment Costs		3,873.9
	Travel		7.5
	Contractual Services		170.2
	Energy		569.0
	Supplies and Materials		588.8
	TOTAL — Bureau of Maintenance		$ 17,246.6
	TOTAL — Division of Highways		$ 31,357.3
	(55-06-01) Delaware Transportation Authority		
(17.0)NSF	Delaware Transportation Authority Operations	$ 2,012.3	
	Delaware Transportation Authority Capital	1,604.0	
(121.0)NSF	Turnpike Operations	4,483.9	
	Turnpike Operating Reserve	45.3*	
	Turnpike Improvements	1,307.0	
	Interstate Operations	2,282.0	
	Interstate Improvements	775.0	
	DART Operations "Public"	3,725.0	
	DAST Operations "E & H"	1,346.0	
	Taxi Services Support "E & H"	140.0	
	Newark Transportation	60.5	
	Kent and Sussex Transportation "E & H"	725.0	
	Rail Commuter Operations	1,000.0	
	Rail Freight Improvements	230.0	
	Aviation	25.0	
	Contingencies	15.0	
	Dover Transportation "E & H"	100.7	
	Administrative Support, DOT	50.0	
	Maintenance/Equipment	8,924.3	
	Traffic Operations/Equipment	1,713.3	
	Sub-Total	$ 30,564.3	
	Debt Service		
	Motor Fuel Tax Bonds	$ 2,435.4	
	General Obligations	28,428.1	
	Transportation Trust Fund	34,625.0	
	TOTAL — Delaware Transportation Authority	$ 96,052.8**	

*The Turnpike Operating Reserve Fund is established at $ 34.9.

**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			$ 96,052.8	$ 34,187.6
TOTAL POSITIONS				
GF - 1,004.0				
NSF - 406.0				
(60-00-00) DEPARTMENT OF LABOR				
(60-01-00) Administration				
(7.2)ASF Personnel Costs (1.8)			$ 305.1	$ 68.0
(17.0)NSF Travel			5.0	1.0
Contractual Services			40.5	11.4
Supplies and Materials			3.7	.6
Capital/Equipment			1.8	.2
TOTAL — Administration			$ 356.1	$ 81.2
(7.2)ASF (-10) Office of the Secretary (.8)	$ 356.1	$ 36.9		
(17.0)NSF (-20) Office of Occupational and Labor Market Information (1.0)		44.3		
TOTAL — Internal Program Units	$ 356.1	$ 81.2		
(60-06-00) Unemployment Insurance				
(3.0)ASF Personnel Costs			$ 66.6	$
(148.0)NSF Travel			.3	
Contractual Services			17.9	193.8
Supplies and Materials			3.0	
TOTAL — Unemployment Insurance			$ 87.8	$ 193.8
(3.0)ASF (-01) Unemployment Insurance (148.0)NSF	$ 87.8	$ 193.8		
TOTAL — Internal Program Unit	$ 87.8	$ 193.8		
(60-07-00) Industrial Affairs				
(5.5)NSF Personnel Costs (44.5)			$	$ 1,302.5
Travel			8.0	15.0
Contractual Services			140.3	126.7
Supplies and Materials			3.7	15.1
Capital/Equipment				5.0
Second Injury			4,859.7	
TOTAL — Industrial Affairs			$ 5,011.7	$ 1,464.3
(1.5)NSF (-01) Workers Compensation, Safety and Health (29.5)	$ 5,011.7	$ 976.5		
(4.0)NSF (-02) Enforcement (15.0)		487.8		
TOTAL — Internal Program Units	$ 5,011.7	$ 1,464.3		
(60-08-00) Vocational Rehabilitation				
(6.2)ASF Personnel Costs			$ 243.0	$
(124.8)NSF Contractual Services				1,316.5
Supplies and Materials				35.3
Sheltered Workshop				308.1
Governor's Committee				12.1
TOTAL — Vocational Rehabilitation			$ 243.0	$ 1,672.0
(6.2)ASF (-10) Vocational Rehabilitation (86.8)NSF Services	$ 243.0	$ 1,672.0		
(38.0)NSF (-20) Disability Determination Services				
TOTAL — Internal Program Units	$ 243.0	$ 1,672.0		

(60-09-00) Employment and Training				
(1.0)ASF Personnel Costs (21.1)			$ 45.1	$ 568.1
(99.9)NSF Travel			.5	7.4
Contractual Services			1,048.8	104.1
Supplies and Materials			1.1	6.9
Capital/Equipment				3.0
Women's Vocational Services				48.2
Dislocated Workers' Program				92.2
Summer Youth Program				145.7
TOTAL — Employment and Training			$ 1,095.5	$ 975.6
(68.9)NSF (-10) Placement Services (7.0)	$	$ 230.3		
(1.0)ASF (-20) Training Services (14.1)	1,095.5	745.3		
(31.0)NSF				
TOTAL — Internal Program Units	$ 1,095.5	$ 975.6		
TOTAL — DEPARTMENT OF LABOR			$ 6,794.1	$ 4,386.9
TOTAL POSITIONS				
GF - 67.4				
ASF - 17.4				
NSF - 395.2				
(65-00-00) DEPARTMENT OF AGRICULTURE				
(65-01-00) Resource Management				
(2.0)ASF Personnel Costs (33.5)			$ 63.9	$ 1,109.8
(1.5)NSF Travel			10.4	17.9
Contractual Services			56.6	96.5
Energy			5.4	57.5
Supplies and Materials			76.4	30.3
Capital/Equipment			37.5	41.3
First State Trotting & Pacing Series				100.0
Sub-Total			$ 250.2	$ 1,453.3
Debt Service				$ 56.8
TOTAL — Resource Management			$ 250.2	$ 1,510.1
(1.0)ASF (-01) Administration (12.0)	$ 40.3	$ 633.3		
(-02) Agricultural Lands Preservation (3.0)		147.5		
(1.0)ASF (-03) Forestry (17.5)	209.9	569.6		
(1.5)NSF				
(-04) Harness Racing Commission (1.0)		159.7		
TOTAL — Internal Program Units	$ 250.2	$ 1,510.1		
(65-03-00) Consumer Protection				
(.5)ASF Personnel Costs (32.5)			$ 19.5	$ 976.6
(1.0)NSF Travel				11.1
Contractual Services			.2	69.9
Energy				9.2
Supplies and Materials			3.2	47.5
Capital/Equipment				32.6
Sub-Total			$ 22.9	$ 1,146.9
Debt Service				$ 9.1
TOTAL — Consumer Protection			$ 22.9	$ 1,156.0
(-02) Agriculture Compliance Lab (7.0)	$ 10.2	$ 287.5		
(-03) Weights & Measures (7.0)		225.5		
(-05) Meat Inspection (14.0)		507.9		
(.5)ASF (-07) Pesticides Compliance (4.5)	12.7	135.1		

(1.0)NSF					
TOTAL -- Internal Program Units	$ 22.9	$ 1,156.0			
(65-04-00) Promotion and Production Support					
(14.5)ASF Personnel Costs (24.5)			$ 589.6	$ 783.5	
Travel			6.5	31.9	
Contractual Services			11.9	439.0	
Energy				12.6	
Supplies and Materials			19.7	58.8	
Capital/Equipment			2.0	31.5	
Agriculture Development Program				60.7	
TOTAL -- Promotion and Production Support			$ 629.7	$ 1,418.0	
(10.5)ASF (-04) Agriculture Products Grading (2.5)	$ 383.8	$ 92.3			
(-05) Marketing & Product Development (4.0)	2.5	470.9			
(-06) Plant Industry (7.0)		409.7			
(-07) Poultry & Animal Health (8.0)		322.2			
(4.0)ASF (-08) Seed Lab (3.0)	243.4	122.9			
TOTAL -- Internal Program Units	$ 629.7	$ 1,418.0			
TOTAL -- DEPARTMENT OF AGRICULTURE			$ 902.8	$ 4,084.1	

TOTAL POSITIONS
GF - 90.5
ASF - 17.0
NSF - 2.5

(70-00-00) DEPARTMENT OF ELECTIONS

(70-01-01) Commissioner of Elections

Salaries (6.0)	$ 128.0
Other Employment Costs	44.3
Travel	1.5
Contractual Services	40.6
Supplies and Materials	4.9
Capital Outlay	5.2
TOTAL -- Commissioner of Elections	$ 232.5

(70-02-01) New Castle County Department of Elections

Salaries (12.0)	$ 295.7
Other Employment Costs	65.8
Travel	10.4
Contractual Services	153.3
Energy	16.4
Supplies and Materials	7.7
Capital Outlay	6.0
Other Items	20.0
TOTAL -- New Castle County Department of Elections	$ 575.3

(70-03-01) Kent County Department of Elections

Salaries (5.0)	$ 136.1
Other Employment Costs	37.9
Travel	3.0
Contractual Services	68.3
Energy	3.4
Supplies and Materials	6.0
Capital Outlay	1.0
Other Items	5.5
TOTAL -- Kent County Department of Elections	$ 261.2

(70-04-01) Sussex County Department of Elections

	Salaries (4.0)		$ 127.8
	Other Employment Costs		25.7
	Travel		1.4
	Contractual Services		22.9
	Supplies and Materials		5.3
	Other Items		8.0
	TOTAL -- Sussex County Department of Elections		$ 191.1
	TOTAL -- DEPARTMENT OF ELECTIONS		$ 1,260.1
	TOTAL POSITIONS		
	GF - 27.0		
	(75-00-00) FIRE PREVENTION COMMISSION		
	(75-01-01) Office of the State Fire Marshal		
(20.3)ASF	Salaries (19.7)	$ 427.6	$ 570.8
	Other Employment Costs	126.4	150.6
	Travel	12.9	6.2
	Contractual Services	66.5	63.8
	Energy		15.4
	Supplies and Materials	43.1	34.5
	Capital Outlay	65.6	56.0
	Juvenile Firesetter Intervention Program		10.0
	Sub-Total	$ 742.1	$ 907.3
	Debt Service		$ 5.1
	TOTAL -- Office of the State Fire Marshal	$ 742.1	$ 912.4
	(75-02-01) State Fire School		
(5.3)NSF	Salaries (12.7)	$	$ 356.4
	Other Employment Costs		107.3
	Travel	2.0	2.0
	Contractual Services	20.0	119.1
	Energy		64.6
	Supplies and Materials	10.0	38.0
	Capital Outlay		25.0
	Sub-Total	$ 32.0	$ 712.4
	Debt Service		$ 270.9
	TOTAL -- State Fire School	$ 32.0	$ 991.3
	(75-03-01) State Fire Prevention Commission		
	Salaries (1.0)		$ 18.7
	Other Employment Costs		7.1
	Travel		20.0
	Contractual Services		20.3
	Supplies and Materials		1.2
	Statewide Fire Safety Education		50.0
	TOTAL -- State Fire Prevention Commission		$ 117.3
	TOTAL -- FIRE PREVENTION COMMISSION	$ 774.1	$ 2,021.0
	TOTAL POSITIONS		
	GF - 33.4		
	ASF - 20.3		
	NSF - 5.3		
	(76-00-00) DELAWARE NATIONAL GUARD		
	(76-01-01) Delaware National Guard		

(43.6)NSF Salaries (30.4)	$ 811.0
Other Employment Costs	205.7
Travel	4.3
Contractual Services	232.1
Energy	325.8
Supplies and Materials	102.4
Capital Outlay	82.1
Educational Assistance	65.0
Sick-Leave Entitlements	19.5
Unit Fund Allowance	15.0
Sub-Total	$ 1,862.9
Debt Service	$ 204.1
TOTAL -- DELAWARE NATIONAL GUARD	$ 2,067.0

TOTAL POSITIONS
GF - 30.4
NSF - 43.6

(77-00-00) ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS

Salaries (2.0)	$ 29.9
Other Employment Costs	5.3
Travel	5.8
Contractual Services	4.1
Supplies and Materials	.7
Capital Outlay	1.4
TOTAL -- ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS	$ 47.2

TOTAL POSITIONS
GF - 2.0

(90-00-00) HIGHER EDUCATION

(90-01-00) University of Delaware

(90-01-01) University of Delaware

Operations	$ 59,077.7
Scholarships	4,126.1
Agricultural Programs	661.4
Other Programs	2,312.2
Beechwood Program	60.0
Sub-Total	$ 66,237.4
Debt Service	$ 5,334.5
TOTAL -- University of Delaware	$ 71,571.9

(90-01-02) Delaware Geological Survey

Operations	$ 804.4
River Master Program	58.0
TOTAL -- Delaware Geological Survey	$ 862.4
TOTAL -- University of Delaware	$ 72,434.3

(90-02-01) Delaware Institute of Medical Education and Research

Operations	$ 1,706.5
TOTAL -- Delaware Institute of Medical Education and Research	$ 1,706.5

(90-03-00) Delaware State College

	(90-03-01) Operations	
100.6 NSF	Operations (392.3)	$ 15,619.7
	Work Study	141.7
	Summer School for Teachers	36.0
	Faculty Development	100.0
	Mishoe Scholarships	50.0
	Cooperative Extension	15.1
	Cooperative Research	88.6
	Title VI Compliance	120.0
	Academic Incentive	50.0
	General Scholarships	112.0
	Athletic Grant	83.1
	Aid to Needy Students	80.0
	Energy	814.7
	Sub-Total	$ 17,310.9
	Debt Service	$ 1,760.4
	TOTAL -- Operations	$ 19,071.3
	(90-03-05) Sponsored Programs and Research	
(37.5) NSF	Salaries	
	TOTAL -- Sponsored Programs and Research	
	TOTAL -- Delaware State College	$
	TOTAL POSITIONS -- Delaware State College GF - 392.3 NSF - 138.1	$ 19,071.3
	(90-04-00) Delaware Technical and Community College	
	(90-04-01) Office of the President	
(5.0)NSF	Salaries (34.0)	$ 1,199.2
	Other Employment Costs	350.8
	Travel	6.5
	Contractual Services	202.5
	Energy	15.0
	Supplies and Materials	31.0
	Capital Outlay	19.8
	Occupational Teacher Program	36.8
	Academic Incentive	50.0
	Dental Program	78.8
	Salary Plan A Contingency	1,347.7
	Salary Plan B Contingency	147.9
	2 + 2 Pre-Technical Curriculum	94.9
	Sub-Total	$ 3,580.9
	Debt Service	$ 149.5
	TOTAL -- Office of the President	$ 3,730.4
	(90-04-02) Southern Campus	
(36.0)NSF	Salaries (144.0)	$ 4,814.6
	Other Employment Costs	1,312.8
	Travel	6.8
	Contractual Services	636.0
	Energy	176.2
	Supplies and Materials	65.5
	Capital Outlay	88.5
	NDSL Match	6.6
	Aid to Needy Students	62.7
	Work Study	16.5

	Sub-Total		$ 7,186.2
	Debt Service		$ 753.7
	TOTAL -- Southern Campus		$ 7,939.9
	(90-04-04) Wilmington Campus		
(24.0)NSF	Salaries (111.0)	$	$ 3,678.0
	Other Employment Costs		890.3
	Travel		4.0
	Contractual Services		466.9
	Energy		284.3
	Supplies and Materials		56.2
	Capital Outlay		95.5
	Aid to Needy Students		67.0
	Work Study		20.0
	Other Items	97.7	
	Dental Program		53.5
	Sub-Total	$ 97.7	$ 5,615.7
	Debt Service		$ 1,471.4
	TOTAL -- Wilmington Campus	$ 97.7	$ 7,087.1
	(90-04-05) Stanton Campus		
(39.0)NSF	Salaries (135.0)	$	$ 4,707.4
	Other Employment Costs		1,221.0
	Travel		5.0
	Contractual Services		43.2
	Energy		16.3
	Supplies and Materials		101.3
	Capital Outlay		57.5
	Aid to Needy Students		57.5
	Work Study		21.0
	Other Items	73.4	
	Sub-Total	$ 73.4	$ 6,230.2
	Debt Service		$ 856.5
	TOTAL -- Stanton Campus	$ 73.4	$ 7,086.7
	(90-04-06) Terry Campus		
(45.5)NSF	Salaries (89.0)		$ 2,854.0
	Other Employment Costs		749.3
	Travel		4.0
	Contractual Services		246.3
	Energy		60.3
	Supplies and Materials		38.7
	Capital Outlay		51.0
	NDSL Match		1.0
	Aid to Needy Students		51.5
	Work Study		8.0
	Sub-Total		$ 4,064.1
	Debt Service		$ 554.7
	TOTAL -- Terry Campus		$ 4,618.8
	TOTAL -- Delaware Technical and Community College	$ 171.1	$ 30,462.9

TOTAL POSITIONS -- Delaware Technical and Community College
GF - 513.0
NSF - 149.5

(90-07-01) Delaware Institute of Veterinary Medical Education

	Subvention				$ 165.5
	TOTAL -- Delaware Institute of Veterinary Medical Education				$ 165.5
	(90-08-01) Delaware Institute of Dental Education and Research				
	Subvention				$ 93.5
	TOTAL -- Delaware Institute of Dental Education and Research				$ 93.5
	TOTAL -- HIGHER EDUCATION			$ 171.1	$123,934.0
	TOTAL POSITIONS -- HIGHER EDUCATION GF - 905.3 NSF - 287.6				
	(95-00-00) PUBLIC EDUCATION				
	(95-01-00) State Board of Education and State Board for Vocational Education				
(7.0)ASF	Personnel Costs (86.0)			$ 364.9	$ 4,523.8
(50.75)NSF	Travel				40.1
	Contractual Services				183.7
	Supplies and Materials				37.6
	Capital Outlay				84.7
	Other Items:				
	Education Compact of the States				30.9
	Teacher in Space				52.8
	Teacher of the Year				46.5
	Principal of the Year				15.0
	Pension - Retired and Disabled Teachers				34.8
	Desegregation Monitoring				125.0
	Films				22.0
	Operating Costs - Training Lab				20.0
	Pupil Accounting System				41.8
	Career Guidance System				16.5
	Operating Costs - Direct			183.4	294.5
	Tallman Scholarships			3.2	
	Mather Library Endowment Fund			2.5	
	Brown Trust Fund			35.0	
(1.25)ASF	Film Library			62.4	
	Department of Public Instruction Library			34.0	
	Trailer Rental Fund			27.5	
	DPI Publications			10.0	
(1.0)ASF	Delaware Secondary School Athletic Fund			69.3	
	Registration Fees			40.0	
	TOTAL -- State Board of Education and State Board for Vocational Education			$ 832.2	$ 5,569.7
(1.0)ASF (0.5)NSF	(-01) State Board & Superintendent (12.5)	$ 81.3	$ 996.9		
(1.25)ASF (14.25)NSF	(-02) Administrative Services (26.5)	174.6	1,554.3		
(6.0)ASF	(-03) Office of Educational Computing Services (6.0)	466.8	657.0		
(1.0)ASF (36.0)NSF	(-04) Instructional Services (41.0)	109.5	2,361.5		
	TOTAL -- Internal Program Units	$ 832.2	$ 5,569.7		
	(95-02-00) School District Operations				
	Division I Units (5688) Formula Salaries (8,968.0)				$ 181,885.4
	Cafeteria Funds				2,196.1

Other Employment Costs		57,994.5
Division II Units (6520)		
All Other Costs		16,230.9
Energy		8,593.4
Division III		
Equalization		28,783.4
Sub-Total		$ 295,683.7
Other Items		$
General Contingency		2,866.6
Other Items		229.3
Delmar Tuition		475.2
Revised Assistant Principal Allocation		596.0
Nurse Staffing Fund		300.0
Sub-Total		$ 4,467.1
Debt Service		
State Board		$ 1,672.1
School Districts		8,798.6
Sub-Total		$ 10,470.7
TOTAL — School District Operations		$ 310,621.5
(-01) Division Funding	$ 295,683.7	
(-02) Other Items	4,467.1	
(-03) Debt Service	10,470.7	
TOTAL — Internal Program Units	$ 310,621.5	
(95-03-00) Pass Through Programs		
School Readiness Programs		
Parent Early Education Center		$ 276.7
Four-Year-Old Development Program		291.8
Regular Elementary/Secondary Programs		
Basic Skills Units		5,740.6
Education Refinement Program		4,097.4
Substitutes in Districts		1,679.6
Non-Public and Summer Driver Education		473.7
Operation and Maintenance - Driver Education Cars		158.3
District Grants - Unit Allocations		460.0
Privately Operated Programs		
Delaware Nature Society		11.0
Beach House		70.0
READ ALOUD Delaware		113.2
STRIVE - Green Circle Program		70.0
Delaware Geographic Alliance		50.0
Special Needs Programs		
Private Placement of the Handicapped		$ 2,483.5
Exceptional Student Unit - Vocational		707.5
Related Services for the Handicapped		1,139.3
Homebound Instruction Program		696.2
Pregnant Students Program		216.7
Children-at-Risk Intervention Program		1,232.6
Alternative Secondary Education Program		540.0
Adolescent Day Program		36.0
Student Advancement Programs		
Gifted and Talented Units		2,325.4
Summer School - Gifted and Talented		112.6
Advanced Studies		108.0
Lecturer in Residence		40.0
Odyssey of the Mind		15.0
Career Readiness/Vocational Programs		
Career Placement Counselors		1,344.3
Educational Resources Program		168.6

Youth Organizations			103.6
Articulation			82.0
Student Work Study			125.0
Summer Occupational and Vocational Education Program			600.0
Adult Programs			
Adult Incarcerated			188.3
Adult Trade Extension			664.8
Apprentice Program			481.6
James H. Groves High School			843.9
Adult Basic Education			172.3
New Castle County Learning Center			145.0
Wilmington Skills Center			244.6
Education Monitoring / Advancement Programs			
Innovation in Teaching and Learning			311.5
Curriculum Improvement			107.9
Center for Economic Education			150.0
Private Business and Trade School			2.0
Evaluation - Higher Education			1.0
Educational Assessment			271.9
Quality Performance Profile			33.6
Teacher Development Programs			
Staff Training			$ 30.0
Education in Math			22.6
Education in Science			22.6
Delaware Institute for Arts in Education			200.0
Tuition Reimbursement			450.0
Delaware Teacher Center			296.0
Critical Curriculum Area			533.5
Professional Development			402.8
Summer Institute			100.0
Mentoring Program			75.0
Minority Scholarships			84.0
TOTAL -- Pass Through Programs			$ 31,404.3
(-01) School Readiness	$ 568.5		
(-02) Regular Elementary/Secondary Programs	12,609.6		
(-03) Privately Operated Programs	314.2		
(-04) Special Needs Programs	7,051.8		
(-05) Student Advancement Programs	2,601.0		
(-06) Career Readiness/Vocational Programs	2,423.5		
(-07) Adult Programs	2,740.5		
(-08) Education Monitoring/Advancement Programs	877.9		
(-09) Teacher Development Programs	2,217.3		
TOTAL -- Internal Program Units	$ 31,404.3		
(95-04-00) Pupil Transportation			
Public School Transportation			$ 29,317.4
Non-Public School Transportation Reimbursement			2,830.7
TOTAL -- Pupil Transportation			$ 32,148.1
(-01) Transportation	$ 32,148.1		
TOTAL -- Internal Program Unit	$ 32,148.1		
TOTAL -- State Board of Education and State Board for Vocational Education		$ 832.2	$ 379,743.6

TOTAL POSITIONS -- STATE BOARD OF EDUCATION
GF - 86.00
ASF - 9.25
NSF - 50.75

TOTAL POSITIONS -- PUBLIC SCHOOL DISTRICTS - 8,968.0			
(95-06-00) Delaware Advisory Council on Career and Vocational Education			
(1.5)NSF Personnel Costs (3.5)			$ 67.3
TOTAL -- *Delaware Advisory Council on Career* and Vocational Education			$ 67.3
(1.5)NSF (-01) Advisory Council (3.5)	$ 67.3		
TOTAL -- Internal Program Unit	$ 67.3		
TOTAL POSITIONS -- DELAWARE ADVISORY COUNCIL ON CAREER AND VOCATIONAL EDUCATION GF - 3.5 NSF - 1.5			
TOTAL -- PUBLIC EDUCATION		$ 832.2	$ 379,810.9
TOTAL POSITIONS - PUBLIC EDUCATION GF - 9,057.5 ASF - 9.25 NSF - 52.25			
TOTALS			
TOTAL -- DEPARTMENTS		$ 229,418.1	$ 626,941.9
TOTAL -- HIGHER EDUCATION		171.1	123,934.0
TOTAL -- PUBLIC EDUCATION		832.2	379,810.9
GRAND TOTAL -- DEPARTMENTS AND EDUCATION		$ 230,421.4	$1,130,686.8
TOTAL POSITIONS GF - 20,682.0 ASF - 658.15 NSF - 2,130.65			

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, 1989.

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, 1990. 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/IPU/APU's holding account, except Title IV-D funds, unless otherwise specified.

Section 10. (a) For the fiscal Year ending June 30, 1990, the salaries displayed below represent the salary effective on July 1, 1989. For those incumbents who on December 31, 1989, have at least six months service with the State of Delaware, the salary effective January 1, 1990, will be the amount indicated. For those incumbents who on December 31, 1989, have less than six months service with the State of Delaware, the salary shall remain at the July 1, 1989, level.

		July 1, 1989		January 1, 1990	
Budget Unit	Line Item	General Funds	All Other Funds	General Funds	All Other Funds
(02-01-00)	Chief Justice	$ 98.7	$	$ 98.7	$
(02-01-00)	Associate Justice	95.2		95.2	
(02-02-00)	Chancellor	94.0		94.0	
(02-02-00)	Vice Chancellor	90.5		90.5	
(02-03-00)	President Judge	94.0		94.0	
(02-03-00)	Judge	90.5		90.5	
(02-03-00)	New Castle County Prothonotary	34.0		34.0	
(02-03-00)	Kent County Prothonotary	12.6		12.6	
(02-03-00)	Sussex County Prothonotary	9.5		9.5	
(02-06-00)	Chief Judge	92.9		92.9	

(02-06-00)	Judge	88.2		88.2	
(02-08-00)	Chief Judge	92.9		92.9	
(02-08-00)	Judge	88.2		88.2	
(02-13-00)	Chief Magistrate	64.9		64.9	
(02-13-00)	Magistrate	36.8		36.8	
(02-13-00)	Court Administrator	44.8		46.807	
(02-17-00)	Director	64.9		64.9	
(02-18-00)	Public Guardian	$ 38.5	$	$ 38.516	$
(02-18-00)	Executive Secretary - Violent Crimes Comp.		43.4		43.4
(02-18-00)	Executive Director - Foster Care Review Board	33.7		35.374	
(10-01-00)	Governor	80.0		80.0	
(10-02-00)	Budget Director	76.1		76.1	
(10-02-00)	Executive Director - Postsecondary Education Commission	49.9		49.9	
(10-02-00)	Executive Director - Information Systems	71.4		74.769	
(10-03-00)	Director - Delaware Development Office	76.1		76.1	
(10-03-00)	Director - State Housing Authority		59.7		62.22
(10-04-00)	Personnel Director	70.9		70.9	
(10-07-00)	Executive Director - CJC	52.4		54.647	
(10-07-00)	Executive Director - DELJIS	44.0		45.901	
(10-07-00)	Executive Director - SAC	56.3		56.3	
(12-01-01)	Lieutenant Governor	35.1		35.1	
(12-02-01)	Auditor	60.4		60.4	
(12-03-01)	Insurance Commissioner	60.4		60.4	
(12-05-01)	State Treasurer	63.0		63.0	
(15-01-01)	Attorney General	81.4		81.4	
(15-02-01)	Public Defender	65.6		65.6	
(15-03-01)	Parole Board Chairman	48.1		48.1	
(20-01-01)	Secretary of State	69.9		69.9	
(20-05-01)	Director - Corporations	27.2	27.2	28.46	28.46
(20-06-01)	Director - Historical and Cultural Affairs	51.4		53.724	
(20-15-01)	State Banking Commissioner		68.3		68.3
(25-01-01)	Secretary - Finance	81.4		81.4	

(25-05-01)	Director - Accounting	58.7		61.178	
(25-06-01)	Director - Revenue	67.1		70.469	
(25-07-01)	Director - State Lottery		58.3		58.3
(30-01-00)	Secretary - Administrative Services	$ 65.6	$	$ 65.6	$
(30-01-00)	Executive Director - Public Employment Relations Board	41.9		43.705	
(30-03-00)	Executive Secretary - Alcoholic Beverage Control Commission	46.9		47.532	
(30-03-00)	Director - Professional Regulation	38.2		40.207	
(30-03-00)	Director - Public Service Commission		44.4		46.301
(30-04-00)	Director - Support Operations		44.5		46.401
(30-05-00)	Director - Facilities Management	52.4		54.724	
(30-05-00)	Executive Secretary - Architectural Accessibility Board	35.0		35.0	
(30-06-00)	Director - Purchasing	46.4		48.589	
(35-01-00)	Secretary - Health and Social Services	81.4		81.4	
(35-01-00)	Director - Business Administration	50.0	5.5	52.379	5.807
(35-01-00)	Planning Research & Evaluation	50.0		52.389	
(35-04-00)	Chief Medical Examiner	94.2		94.2	
(35-05-00)	Director - Public Health	93.5		97.509	
(35-06-00)	Director - Alcoholism, Drug Abuse and Mental Health	80.0		83.546	
(35-07-00)	Director - Economic Services	31.8	31.7	33.321	33.32
(35-10-00)	Director - Child Support Enforcement	16.6	32.1	17.321	33.533
(35-11-00)	Director - Mental Retardation	63.5		66.641	
(35-12-00)	Director - State Service Centers	44.9		46.859	
(35-14-00)	Director - Aging	46.3		48.547	
(37-01-00)	Secretary - Services for Children, Youth, and Their Families	70.9		70.9	
(37-01-00)	Director - Administration	55.2		56.162	
(37-02-00)	Director - Child Protective Services	60.0		62.898	
(37-03-00)	Director - Child Mental Health	77.2		77.2	
(37-05-00)	Director - Youth Rehabilitation Services	56.2		58.983	
(37-08-00)	Director - Program Support	52.8		55.112	
(38-01-00)	Commissioner - Correction	$ 76.1	$	$ 76.1	$

(38-02-00)	Bureau Chief - Administration and Operational Support	51.1		53.489	
(38-03-00)	Bureau Chief - Industries and Services	50.9		53.420	
(38-04-00)	Bureau Chief - Adult Correction	63.5		66.641	
(40-01-00)	Secretary - Natural Resources and Environmental Control	70.9		70.9	
(40-05-00)	Director - Fish and Wildlife	23.4	23.3	24.512	24.512
(40-06-00)	Director - Parks and Recreation	46.7		49.024	
(40-07-00)	Director - Soil and Water Conservation	49.0		51.324	
(40-08-00)	Director - Water Resources	61.7		61.949	
(40-09-00)	Director - Air and Waste Management	66.9		66.9	
(45-01-00)	Secretary - Public Safety	70.9		70.9	
(45-01-00)	Director - Boiler Safety	35.9		36.731	
(45-01-00)	Director - Emergency Planning and Operations	21.2	21.2	22.237	22.236
(45-01-00)	Director - Highway Safety	41.2		42.961	
(45-06-00)	Superintendent - State Police	64.7		67.841	
(45-06-00)	Assistant Superintendent - State Police	54.8		56.162	
(45-07-00)	Director - Motor Vehicles	54.6		57.012	
(50-01-01)	Secretary - Community Affairs	65.6		65.6	
(50-02-01)	Director - Community Services	41.3		43.201	
(50-03-01)	Director - Volunteer Services	36.9		38.485	
(50-04-01)	Public Advocate	51.3		51.3	
(50-06-01)	Director - Human Relations	41.2		42.806	
(50-10-01)	State Librarian	40.3		42.012	
(50-11-01)	Director - Consumer Affairs	41.2		42.961	
(55-01-01)	Secretary - Transportation	76.1		76.1	
(55-02-01)	Chief - Administration	50.8		53.047	
(55-04-01)	Director - Highways	70.4		73.541	
(55-06-01)	Director - Delaware Transportation Authority		62.6		65.383
(60-01-00)	Secretary - Labor	$ 8.5	$ 57.1	$ 8.5	$ 57.1
(60-06-00)	Director - Unemployment Insurance		52.6		55.209
(60-07-00)	Director - Industrial Affairs	44.4		46.301	
(60-08-00)	Director - Vocational				

	Rehabilitation		52.6		55.209
(60-09-00)	Director - Employment and Training	3.4	49.2	3.517	51.692
(65-01-00)	Secretary - Agriculture	60.4		60.4	
(65-01-00)	Director - Consumer Protection, Promotion and Production Support	47.0		49.324	
(70-01-01)	Commissioner - Elections	38.9		39.625	
(70-02-01)	Administrative Director - New Castle County Elections	35.4		36.731	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	34.7		35.912	
(70-03-01)	Administrative Director - Kent County Elections	35.4		36.731	
(70-03-01)	Deputy Administrative Director - Kent County Elections	34.7		35.912	
(70-04-01)	Administrative Director - Sussex County Elections	35.4		36.731	
(70-04-01)	Deputy Administrative Director - Sussex County Elections	34.7		35.912	
(75-01-01)	State Fire Marshal	30.1	14.8	31.492	15.481
(75-02-01)	Director - Fire School	30.1	14.8	31.492	15.481
(76-01-01)	Adjutant General	60.4		60.4	
(95-01-01)	Superintendent - State Board of Education	93.3		93.3	
(95-06-01)	Executive Secretary - Advisory Council on Career and Vocational Education	28.4	28.4	28.4	28.4

(b) For the fiscal Year ending June 30, 1990, the following line item salaries represent the maximum salaries appropriated within Salaries in Section 1 of this Act:

Budget Unit	Line Item	General Funds	All Other Funds
(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

(c) (i) Salaries of designated positions in Section 10 of this Act shall have no further increase applied by any other Section of this Act except as provided in Section 10 (c)(ii) or Section 10 (c)(iii).

(ii) If a position in Section 10 (a) becomes vacant during the fiscal year and the scheduled salary associated with a vacant position is below the position's evaluated midpoint and the appointing authority determines that a suitable replacement cannot be recruited and hired for the compensation provided under this Section, the appointing authority may submit a request to the Personnel Director to increase the salary up to the evaluated midpoint. If the scheduled salary associated with a vacant position is above the position's evaluated midpoint, the appointing authority shall justify to the Personnel Director why the salary of a proposed replacement should be kept above the evaluated midpoint. If adequate justification cannot be provided, the starting salary shall be decreased as appropriate and may be set lower than the evaluated midpoint depending upon the qualifications of the proposed incumbent. In reviewing requests made pursuant to this paragraph, the Personnel Director shall provide an analysis of the request and shall solicit the advice and written consent of the Budget Director and the Controller General.

(iii) Regardless of the provisions of this Act, any State employee who is offered a promotional opportunity to become a Division Level Manager and who at the time such offer is made, is being paid a salary that equals or exceeds the salary for the Division Level Manager position as established by this Section of this Act, shall be eligible for a five percent promotional salary increase. This eligibility shall be conditioned on a determination that the duties and responsibilities of the Division Level Manager position are at least one paygrade higher than the position proposed to be vacated based on a comparison of equivalent value. For the purpose of this paragraph, the equivalent value of one paygrade is defined as a seven percent difference in the constant fiscal year dollar value of the evaluated pay range midpoint of the Division Level Manager position compared to the position that the employee is vacating. If an employee is offered an appointment to a Division Level Manager position that has an equivalent value equal to or less than the paygrade assigned to the position the employee is vacating, the employee may retain his/her current salary, provided that it does not exceed the evaluated pay range midpoint, or the current salary of the Division Level Manager position, whichever is greater.

(d) Effective May 1, 1990, the Office of State Personnel shall submit to the Joint Finance Committee a listing of employees designated in Section 10. The listing shall indicate for each position the number of points applicable for Fiscal Year 1990 and the number of points of any recommended changes for any position for Fiscal Year 1991.

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 1990.

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, 1990, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1989, 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	13,292	16,615
2	10,667	14,222	17,778
3	11,414	15,219	19,024
4	12,212	16,282	20,353
5	13,068	17,424	21,780
6	13,983	18,644	23,305
7	14,960	19,947	24,934
8	16,007	21,343	26,679
9	17,129	22,838	28,548
10	18,329	24,438	30,548
11	19,610	26,146	32,683
12	20,984	27,978	34,973
13	22,453	29,937	37,421
14	24,023	32,031	40,039
15	25,706	34,274	42,843
16	27,505	36,673	45,841
17	29,430	39,240	49,050
18	31,489	41,985	52,481
19	33,694	44,925	56,156
20	36,054	48,072	60,090
21	38,577	51,436	64,295
22	41,278	55,037	68,796
23	44,167	58,889	73,611
24	47,260	63,013	78,766
25	50,567	67,423	84,279
26	54,107	72,142	90,178

* 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	10,634	14,178	17,723
2	11,378	15,170	18,963
3	12,175	16,233	20,291
4	13,026	17,368	21,710
5	13,940	18,586	23,233
6	14,915	19,886	24,858
7	15,958	21,277	26,596
8	17,075	22,767	28,459
9	18,270	24,360	30,450
10	19,550	26,066	32,583
11	20,916	27,888	34,860
12	22,382	29,842	37,303
13	23,949	31,932	39,915
14	25,625	34,167	42,709
15	27,419	36,558	45,698
16	29,339	39,119	48,899
17	31,392	41,856	52,320
18	33,589	44,785	55,981
19	35,941	47,921	59,901
20	38,457	51,276	64,095
21	41,150	54,866	68,583
22	44,030	58,707	73,384
23	47,111	62,814	78,518

24	50,411	67,214	84,018
25	53,939	71,918	89,898
26	57,713	76,951	96,189

* Annual Salary in $

(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, 1990, 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)(i) The defined labor market survey in Section 12(a) for Fiscal Year 1990 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

(ii) The findings of the survey in Section 12(a) for Fiscal Year 1991 shall be calculated in the same manner as Fiscal Year 1990, using the same weighting formula and other components.

(iii) The pay policy for 1991 shall address the salaries for employees at or beyond the midpoint.

(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, 1989, 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, 1989, the salary of each employee shall be increased by 5.0 percent, unless otherwise noted in this Section.

(ii) The salary of employees whose salary in effect as of June 30, 1989, is above the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1989, shall be increased by 2.5 percent.

(iii) The salary of employees whose salary in effect as of June 30, 1989, is near the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1989, and where the general 5.0 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 2.5 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, 1990, 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, 1989, is below the midpoint of the assigned paygrade shall be increased by the lesser of an amount equal to the dollar value of 4 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) Any such reclassifications/regrades 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, 1990, provided that such reclassifications/regrades have been processed as part of the regular budgetary process and the funds for such reclassifications/regrades shall be appropriated.

(f) The classification of any position whose salary is covered by the appropriations in Section 1 of this Act, may be changed to be effective January 1, 1990, or July 1, 1990, 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, 1990, or July 1, 1990; and

(2) The funding source is approved by the State Budget Director; and

(3) The requested change is approved by the Controller General.

(g) Other than those reclassifications/regrades approved in accordance with Section 12(e) or 12(f), no position shall be reclassified or regraded during the fiscal year ending June 30, 1990.

(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 $14,789.00 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) Any Merit System employee who is denied the general salary increase referred to in Section 12(d)(1) due to an unsatisfactory performance rating in accordance with Merit Rule 5.1000, shall become eligible for the general increase six months after the effective date of the scheduled increase, but not retroactively, provided that upon re-appraisal, the employee's overall performance rating is at least satisfactory.

(j) During the fiscal year ending June 30, 1990, paragraph 5.1100 of the Merit Rules for a Merit System of Personnel Administration shall be null and void.

(k) Amend Title 29, Chapter 59, Section 5940, Delaware Code by striking the Section in its entirety and substituting in lieu thereof the following:

"The review date for employees of the classified service shall be July 1 of each fiscal year, except for Fiscal Year 1990. For Fiscal Year 1990, the review date for all employees shall be January 1, 1990, and shall not change during the fiscal year. The review date for employees hired during any fiscal year shall be July 1 of the subsequent fiscal year, except for Fiscal Year 1990. For Fiscal Year 1990, the review date for employees hired before January 1, 1990, shall be January 1, 1990, and for those hired after January 1, 1990, the review date shall be July 1, 1990."

(l) 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.

(m) 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.

(n) 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.

(o) Salary schedules and staffing formulas contained in Delaware Code, Title 14, Chapter 13, shall be revised as specified in this subsection.

(1) Amend Delaware Code, Title 14, Subsection 1305(b), by striking the value, "$14,058.00," as it appears therein and by substituting in lieu thereof the value, "$14,789.00."

(2) Amend Delaware Code, Title 14, Subsection 1307(1), by striking the second salary schedule in said subsection in its entirety and by substituting in lieu thereof the following:

"

Years of Administrative Experience	Number of Division I Units 15-24	25-59	60 plus
0	.08	.09	.10
1	.09	.10	.11
2	.10	.11	.12
3	.11	.12	.13
4	.12	.13	.14

"

(3) Amend Delaware Code, Title 14, Subsection 1307(3), by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(3) During the fiscal year beginning July 1, 1989, and annually thereafter, a reorganized school district may employ one full-time assistant principal in a school which enrolls thirty or more Division I units of pupils; the school district may employ a second assistant principal when the enrollment reaches fifty-five Division I units of pupils; subsequent assistant principals may be employed on the basis of one assistant principal for each twenty Division I units of pupils beyond the first fifty-five for which the principal and the first two assistant principals are 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	.04
1	.05
2	.06
3	.07
4	.08 "

(4) Amend Delaware Code, Title 14, Subsection 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	$ 7,886	$ 8,983	$ 9,610	$10,047	$10,594
1	8,319	9,432	10,062	10,498	11,054
2	8,751	9,881	10,513	10,950	11,514
3	9,185	10,330	10,964	11,401	11,973
4	9,616	10,779	11,416	11,853	12,433
5	10,049	11,228	11,867	12,304	12,892
6	10,481	11,677	12,319	12,755	13,352
7	10,914	12,127	12,770	13,207	13,812
8	11,346	12,576	13,221	13,658	14,271
9	11,779	13,025	13,673	14,110	14,731
10	12,211	13,474	14,124	14,561	15,191
11	12,644	13,923	14,576	15,012	15,650
12	13,076	14,372	15,026	15,464	16,110
13	13,509	14,821	15,478	15,915	16,569
14	13,941	15,270	15,930	16,367	17,029
15	14,374	15,720	16,381	16,818	17,489
16	14,806	16,169	16,833	17,269	17,948
17	15,239	16,618	17,284	17,721	18,408
18	15,671	17,067	17,735	18,172	18,867
19	16,104	17,516	18,187	18,624	19,327
20	16,536	17,965	18,638	19,075	19,787 "

(5) Amend Delaware Code, Title 14, Subsection 1308(b) by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(b) For purposes of implementing the salary schedule contained in Subsection (a) of this Section, the 18-year step on the salary schedule is effective for Administrative Secretaries on July 1, 1989; the 19-year step will be effective for the fiscal year beginning July 1, 1990; and the 20-year step will be effective for the fiscal year beginning July 1, 1991. The 17-year step is effective for Clerks, Secretaries, Senior Secretaries, and Financial Secretaries on July 1, 1989; the 18-year step will be

effective for the fiscal year beginning July 1, 1990; the 19-year step will be effective for the fiscal year beginning July 1, 1991; and the 20-year step will be effective for the fiscal year beginning July 1, 1992."

(6) Amend Delaware Code, Title 14, Subsection 1308(e), by striking said subsection in its entirety and by renaming the existing Subsection 1308(f) as Subsection 1308(e).

(7) Amend Delaware Code, Title 14, Section 1308 by adding a new Subsection 1308(f) to read as follows:

"(f) The total number of secretarial employees to which a reorganized school district is entitled shall be as specified in Subsection (e) of this Section, but the number that may be assigned to each classification beginning July 1, 1989, shall be according to the following and in the order specified:

(1) Up to 8 percent of the total secretarial allocation in each district or a minimum of 2 positions per district, whichever is larger, may be assigned as 'Administrative Secretary.'

(2) Up to 40 percent of the total secretarial allocation in each district or a minimum of 3 per district plus 1 for each school enrolling 15 or more units of pupils, whichever is greater, may be classified as 'Senior Secretary' or 'Financial Secretary.'

(3) Twelve percent of the total secretarial allocation in each district shall be classified as 'Clerk.'

(4) The balance of the total clerical allocation in each district shall be classified as 'Secretary.'"

(8) 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	$10,272	$10,693	$10,906	$11,749	$12,140	$12,485
1	10,588	11,009	11,223	12,066	12,507	12,909
2	10,906	11,325	11,539	12,382	12,875	13,331
3	11,223	11,643	11,855	12,698	13,243	13,753
4	11,539	11,959	12,173	13,015	13,564	14,175
5	11,855	12,274	12,486	13,332	13,979	14,598
6	12,173	12,593	12,804	13,648	14,346	15,020
7	12,486	12,911	13,120	13,965	14,715	15,443
8	12,804	13,225	13,436	14,281	15,082	15,863
9	13,120	13,543	13,753	14,598	15,449	16,287
10	13,436	13,860	14,071	14,914	15,818	16,709
11	13,753	14,176	14,388	15,231	16,185	17,131

"

(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	$ 9,260	$ 9,943	$10,626	$11,309	$11,995	$12,676	$13,362
1	9,601	10,284	10,969	11,652	12,335	13,019	13,702
2	9,943	10,626	11,309	11,995	12,676	13,362	14,045
3	10,284	10,969	11,652	12,335	13,019	13,702	14,387
4	10,626	11,309	11,995	12,676	13,362	14,045	14,730
5	10,969	11,652	12,335	13,019	13,702	14,387	15,073
6	11,309	11,995	12,676	13,362	14,045	14,730	15,413

7	11,652	12,335	13,019	13,702	14,387	15,073	15,755
8	11,995	12,676	13,362	14,045	14,730	15,413	16,098
9	12,335	13,019	13,702	14,387	15,073	15,755	16,440
10	12,676	13,362	14,045	14,730	15,413	16,098	16,780
11	13,019	13,702	14,387	15,073	15,755	16,440	17,132
12	13,362	14,045	14,730	15,413	16,098	16,780	17,492
13	13,702	14,387	15,073	15,755	16,440	17,132	17,833
14	14,045	14,730	15,413	16,098	16,780	17,492	18,177
15	14,387	15,073	15,755	16,440	17,123	17,836	18,520"

(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	$5.34	$5.92
1	5.42	6.00
2	5.53	6.10
3	5.61	6.18
4	5.69	6.27
5	5.82	6.39
6	5.91	6.48
7	5.97	6.55
8	6.04	6.61
9	6.12	6.69
10	6.21	6.80
11	6.32	6.89
12	6.42	6.99
13	6.52	7.09
14	6.60	7.17
15	6.69	7.26
16	6.81	7.38
17	6.90	7.47

"

(11) Amend Delaware Code, Title 14, Subsection 1324(b), by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(b) Aides actually working and paid 10 months per year shall receive annual salaries in accordance with the following schedule:

Years of Experience	Service Aides	Instructional Aides
0	$ 7,622	$ 9,326
1	7,876	9,637
2	8,130	9,948
3	8,384	10,259
4	8,639	10,570
5	8,893	10,881
6	9,147	11,192
7	9,401	11,502
8	9,655	11,813
9	9,909	12,124
10	10,163	12,435
11	10,417	12,746
12	10,671	13,057
13	10,925	13,368
14	11,179	13,679
15	11,433	13,989
16	11,687	14,300
17	11,942	14,611
18	12,196	14,922
19	12,450	15,233
20	12,704	15,544

The 12-year step on the schedule in this subsection is effective July 1, 1989, and one additional step shall be effective in each succeeding fiscal year. Thus, the 20-year step will be effective for the fiscal year beginning July 1, 1997."

(12) Amend Delaware Code, Title 14, Subsection 1326(a), by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"Class A - $53.64 per day

Class B - $43.33 per day

Class C - $32.99 per day"

(p) 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.

(q) Effective July 1, 1989, the State shall pay 37% 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 33% 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.

(r) 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.

(s) Section 1 of this Act provides an amount for salaries and other employment costs for Formula Employees in Public Education. Additional amounts are included in some Pass-Through Programs (95-03-00). 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) which may be charged for local contractual obligations before local current operating funds are used.

(t) Amend Title 14, Section 9219(c), Delaware Code, by striking said Subsection in its entirety and by substituting in lieu thereof the following:

(c) The actual Fiscal Year 1990 salary paid to any Salary Plan A employee shall be determined as follows:

(1) Placement on the index for Fiscal Year 1990 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, 1989. Advancement in any of these areas after that date will become effective for salary purposes on July 1, 1990.

(2) For Fiscal Year 1990 the minimum increase for a 10-month Salary Plan A employee shall be $1,044.0 The minimum increase for a 12-month employee shall be $1,253.0. This will be the last phase of a three-year plan to upgrade Salary Plan A employee salaries at Delaware Technical and Community College.

(u) During Fiscal Year 1990, 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 1990.

2. (a) The class specifications for positions occupied by Delaware Technical and Community College 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.

(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, 1989, 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 will 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 Technical and Community College 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 Technical and Community College 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 Technical and Community College'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, 1990. No Department shall change the total number of positions within each funding source without prior approval of the Delaware State Clearinghouse Committee; and no Department shall transfer a position between divisions/APUs 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, 1989, 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) and (d) and Merit System Rule 13.0110.

(b) The salary of employees whose salary in effect as of June 30, 1989, 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, part-time or casual and seasonal 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 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/her principal employer, with the consent of his/her principal employer, and may be paid additional compensation therefore, provided such additional duties are not a part of his/her 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. All agencies shall absorb termination pay within the appropriations set forth in Section 1 of this Act.

Section 18. The abbreviations set forth in this Act for Special Fund authorized positions means funding from the following:

ASF - Appropriated Special Funds

NSF - Non-appropriated Special Funds

Section 19. (a) The Fiscal Year 1990 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 20. Title 29, Chapter 63, Delaware Code, requires the Governor to submit a proposed budget in a zero-based budgeting format. For Fiscal Years 1990 and 1991 this requirement is waived for those agencies which will be part of a new budgeting format.

Section 21. 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. In the event the federal government approves application of an increased set-aside rate, the effective date will be retroactive to July 1, 1989.

Section 22. All Departments with Internal Programs identified in Section 1 of this Act are hereby authorized to transfer appropriations among Travel, Contractual Services, Supplies and Materials, and Capital Outlay lines within an internal program and amend ASF estimated appropriations/receipts. 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 23. 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 organization restructuring approved in Section 1 of this Act. These transfers shall not require the approval of the Budget Director and Controller General.

Section 24. All transfers requested by the Department of Public Instruction require the approval of the Budget Director and Controller General.

Section 25. (a) Departments and agencies having appropriated special funds in Section 1 of this Act may directly deposit funds into their appropriation lines, not to exceed the total appropriation for each line contained in Section 1 of this Act. Any additional receipts must be deposited in the holding account.

(b) Transfers among the various appropriated special fund appropriation lines, excluding those in Section 22 of this Act, require the approval of the Budget Director and Controller General.

Section 26. 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. The motor fuel tax refunds received from credit cards may be retained and used for Fiscal Year 1990 motor fuel purchases.

Section 27. For the fiscal year ending June 30, 1989, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1990.

Fiscal Year Appropriation	Account Codes	Remarks
1988	(01-01-01-01-98)	Research Grant
1986	(01-05-01-01-80)	Commission on Interstate Cooperation
1986	(01-05-01-03-54)	Commission on Interstate Cooperation
1989	(01-08-02-01-82)	Reapportionment
1987	(01-08-02-01-98)	Capital Outlay
1989	(02-08-40-01-98)	Moving Expense - Kent County Building
1989	(02-08-40-01-87)	Sussex County Furniture
1987	(02-18-01-01-97)	Public Guardian - Special Needs Fund
1989	(02-18-01-01-80)	Public Guardian - Special Needs Fund
1989	(02-18-03-01-80)	Ivyane Davis Scholarship Fund
1988	(10-01-01-01-85)	Court Consolidated Transition
1988	(10-01-01-01-88)	Administrative Expense/Liaison Drug Program
1988	(10-02-01-01-80)	Management Improvement Program
1989	(10-02-01-01-80)	Management Improvement Program
1988	(10-02-01-01-82)	Computer Related One-Times
1989	(10-02-01-01-82)	Computer Related One-Times
1988	(10-02-01-01-85)	Development Fund
1989	(10-02-01-01-85)	Development Fund
1989	(10-02-01-01-91)	Budget Automation Program
1989	(10-02-04-01-88)	Salary Contingency
1988	(10-02-15-01-99)	Information Systems/Telecommunications Development
1989	(10-02-15-01-99)	Information Systems/Telecommunications Development
1989	(10-04-02-01-98)	Employee Performance Evaluation Process
1988	(10-07-02-01-95)	Computer/Software
1988	(12-05-01-01-51)	Upgrade Telephone System
1989	(12-05-01-01-86)	Medicare
1988	(12-05-01-01-98)	One-Time for Upgrade Telephone System
1988	(12-05-01-01-99)	Maintenance/Restoration
1989	(12-05-03-01-85)	1989 Defeasance of Bonds
1989	(15-02-01-01-98)	Office Automation and Networking
1989	(20-01-01-01-98)	One-Time for Veterans' Cemetery Equipment
1987	(20-06-01-01-51)	Folklore
1988	(20-06-01-01-98)	One-Time Bicentennial Projects
1988	(20-06-03-01-98)	One-Time for Survey Catalog - State Match
1989	(25-01-01-01-80)	Fiscal Notebook
1989	(25-01-01-01-81)	Input/Output Model
1989	(25-01-01-01-85)	Information Systems Development
1988	(30-04-20-01-98)	One-Time Appropriation for Telephones for Kent County Family Court and Sussex County Family Court
1988	(30-05-10-01-96)	Property Management
1988	(30-05-10-01-98)	One-Time for Furniture and Office Equipment for the Kent County Family Court Facility
1988	(35-01-20-01-98)	Institutional Client Treatment Tracking System
1989	(35-01-20-01-98)	UB-82 Uniform Billing
1989	(35-06-20-01-98)	Start-up for Kent/Sussex Group Home

1989	(35-11-30-01-98)	Start-up for three MR group homes
1989	(35-12-20-01-98)	Replace telephone system at Williams State Service Center
1989	(38-04-03-01-98)	One-Time for 2 Guard Towers
1988	(38-04-10-01-98)	One-Time for SCI Halfway House Startup Costs
1987	(40-01-01-01-98)	Superfund
1986	(40-07-03-02-81)	Beach Preservation Shore Stabilization
1988	(40-07-05-01-98)	One-Time for Dredging Roy Creek and Silver Lake, Dover
1988	(40-09-03-01-98)	One-Time for Cleanup of Hazardous Spills
1989	(55-04-01-01-98)	CADD System Computer Training
1988	(55-04-70-01-95)	Computer Appropriation for a Card Automated Refueling System
1988	(55-04-70-01-98)	One-Time for a Card Refueling System
1988	(65-01-01-01-80)	Crop Insurance
1989	(65-01-01-01-80)	Crop Insurance
1987	(76-01-01-01-83)	Maintenance/Restoration
1989	(76-01-01-01-70)	Capital - Maintenance/Restoration
1989	(90-03-04-01-80)	Remodeling/Capital Outlay
1989	(95-01-02-01-82)	Educational Assessment
1989	(95-01-06-01-46)	Day Care
1989	(95-01-06-01-53)	Innovation in Teaching and Learning
1989	(95-01-06-01-98)	One-Time for Day-Care Renovation and Extended-Day Latchkey
1989	(95-01-08-01-90)	Public School Transportation
1989	(95-01-09-01-87)	Sabbatical Leave
1989	(95-13-00-01-44)	Children-at-Risk
1989	(95-23-00-01-44)	Children-at-Risk
1989	(95-32-00-01-44)	Children-at-Risk

Section 28. 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 29. Amend Chapter 59, Section 5916(b) (3), Title 29, Delaware Code, by adding the following at the end of said Subsection:

"who are assigned to work in the Division of Youth Rehabilitation Services Facilities."

LEGISLATIVE

Section 30. 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 31. 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 32. 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 33. The Hay points and the salary schedule for the Controller General shall be calculated in a manner comparable to Division Directors.

JUDICIAL

Section 34. Section 1 of this Act authorizes three (3) positions associated with a new Vice-Chancellor. Those positions shall be two (2) Law Clerks and (1) Court Reporter.

Section 35. Amend §4514(a), Title 10, Delaware Code, by striking the amount "$1,000", as it appears therein, and substituting in lieu thereof the amount "$2,500".

Section 36. Amend Title 10, Chapter 23, Section 2324 of the Delaware Code as follows:
(1) Insert "(a)" preceding "The Prothonotary" thereby designating the existing Section as Subsection (a).

(2) Insert after Subsection (a) a new Subsection as follows:

"(b) The Prothonotaries in each county shall distribute interest earned from and after October 1, 1987, on bail bond deposit accounts in the amount of 100 percent to the State Treasurer."

Section 37. County Prothonotary bail bond deposit account interest earned balances as of September 30, 1987, were scheduled for distribution in the amounts of 75 percent to the State Treasurer and 25 percent to the County. Any bail bond deposit account interest balance that was not distributed accordingly at that time shall now be distributed as follows:

(a) 25 percent of the September 30, 1987, interest balance, plus 25 percent of the accrued interest on that interest balance from and after October 1, 1987, shall be distributed to the county;

(b) The remainder of interest earned shall be paid to the State Treasurer.

Section 38. 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 39. Any fees, assessments, costs or other financial obligations imposed by the Family Court for the issuance and service of subpoenas or summons by way of court rules, regulations or administrative procedure may not be charged to the Department of Services for Children, Youth and Their Families. Any such costs associated with these procedures shall be the financial responsibility of Family Court.

Section 40. 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 41. (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, development and procurement services for the following State Department/Agencies development projects and feasibility studies:

DEPARTMENT/AGENCY	SERVICE NEED
Executive	
Office of the Budget	BIS Enhancements
Office of State Personnel	Human Resource Management System
Finance	Information System Enhancements
Health and Social Services	Information System Enhancements
Public Safety	DMV/CDL Information System MFT/Base State Reporting/Motor Carrier Financial Responsibility
Transportation	System Design and Implementation
Labor	Information System Planning Implementation
Elections	Computerized Voting Machines
Public Instruction	Certification Database Development

Allocation of the funds appropriated for this purpose shall be made by the Budget Director in consultation with the affected Department/Agency head. Service need allocations shall not be transferred to another department or service need unless approved by the Budget Director. 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 1990 unless covered by a formalized plan approved by the Department/Agency head, the Budget Director and the Controller General. 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, the Budget Director and the Controller General. 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 quarterly 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 42. 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 43. The amount appropriated to the Office of the Budget - Contingency - Other 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 account for Fiscal Year 1989 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 1989 applicable line code will require the requesting Agency or school district to reimburse the Prior Years' Obligations account 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: proof of circumstances beyond an agency's ability to encumber must be documented on the request for transfer to be 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' Obligations account 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 44. Section 1 of this Act contains $250.0 for an energy contingency. The following nine subsections 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 Office of the Budget - Contingency - One-Time Appropriations (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 1990. 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 $1,925.2, and the new School District Division II allowance for energy is $1,318.00 per unit. The Budget Office shall make, at the discretion of the Budget Director, the necessary adjustment to accommodate the new energy values while loading the Fiscal Year 1990 budget into the State Accounting System. During the budget load process the new energy values will either add to or subtract from the Energy Contingency amount indicated in Section 1 of this Act.

Section 45. The appropriation in Section 1 of this Act to the Office of the Budget - Contingency (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 Budget Director and the Controller General.

Section 46. Section 1 of this Act provides an appropriation to Office of the Budget - Contingency - One-Time Appropriations (10-02-04) for the Fiscal Year ending June 30, 1990. It is the intent that the appropriation for One-Time Appropriations in the amount of $14,949.7 shall be non-recurring expenditure items. The Budget Director shall transfer the appropriations as itemized to the departments. Each receiving department shall identify the line item, object code and, for all practical purposes, complete and separate accountability for each appropriation amount transferred. No appropriation shall be transferred without the Budget Director and Controller General approvals. Any one-time appropriation for computer/word processing hardware and software and telecommunications, which contemplates the development of computer-related systems, shall be transferred into the line computer one-time 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 approval of the Executive Director of the Office of Information Systems or his/her designee, and subject to the same language in Section 41 of this Act.

Further, it is the legislative intent that none of the appropriations for One-Time Appropriations be included, or be considered, as a part of the basic budget request for the Fiscal Year 1991 Appropriation Bill.

Where applicable, the appropriations to Office of the Budget - Contingency - One-Time Appropriations (10-02-04) are subject to the following terms and conditions:

O-O-S	Amount	Purpose
01-08-02	50.0	Legislative Information System Enhancements
	115.0	Office Automation
02-02-10	10.0	Furniture and Equipment
02-03-10	1.0	Office Equipment
02-03-30	3.0	Office Equipment
02-03-40	2.0	Office Equipment
02-03-50	1.7	Air Purification System
02-03-70	2.0	Office Equipment
	5.0	Docket Book Repairs
	2.0	Furniture and Equipment
02-06-10	9.5	Readers/Printers for Kent/Sussex Counties
02-08-40	13.5	Microfiche Readers/Printers
02-13-10	16.5	Furniture and Equipment for New Court Building
02-17-01	4.0	Furniture and Equipment
	200.0	Civil Justice Information System
	100.0	Court Records Management and Control
	124.0	Continue Word Processing and Telecommunications for Networking
	100.0	Serial Killer Investigation
02-17-04	4.0	Furniture and Equipment
10-01-01	45.0	Southern Governors' Association Conference
10-02-09	239.1	Hardware, Software, and Network Enhancements
10-02-11	212.5	MVNF Network

	15.9	Ortiz Implementation
10-02-12	9.0	911 E Location Database
10-02-14	581.0	Statewide Elections Computerization
10-02-15	24.0	Two Vehicles
10-03-02	43.5	Flags and Pins
10-03-03	39.4	Computer Enhancements
	50.0	Foreign Trade Promotional Material
10-03-04	4,000.0	Housing Development Fund
10-04-01	25.0	Network
10-04-02	30.0	Classification review
10-04-02	3.0	Test Scanner
	9.3	One Vehicle
10-04-04	1.0	Initiate Training Program
	38.6	Front-line Leadership
10-07-02	846.0	DELJIS Development
	387.7	Project Hardware
	31.2	Municipal Court Data Input
10-07-03	5.5	Computer Hardware
	8.0	OIS Hardware Communication
	8.0	Computer Hardware/Software
10-08-01	1.2	Office Equipment
12-01-01	3.0	Office Equipment
	5.0	Furniture for Dover Office
12-02-01	10.7	Word Processing Equipment
	12.0	Bond Arbitrage Tracking System Audit
12-05-01	7.0	Microfilm Reader/Printer
	18.0	Check Signer/Burster
15-01-01	40.0	Computer Network
	16.0	Furniture
	50.0	Serial Killer
	6.0	Phone System in Dover Office
15-02-01	50.0	Office Automation and Networking
15-03-01	.3	File Cabinets
	2.6	Personal Computer with Monitor and Printers
20-06-01	1.4	Historical Marker - Governor Nathaniel Mitchell - Old Christ Church, Laurel
	15.0	Paynter Studio repairs
	15.0	Black History exhibit
	2.8	Historical Marker - Milton - Ship Building Town
	1.4	Historical Marker - Bethel - Ship Building Town
	20.0	Historical Markers and Replacements Statewide
	1.4	Historical Marker - Honoring Delaware Governors Who Were Residents of Laurel
	10.0	Robinson House Repairs
20-06-04	41.5	Belmont Hall Furnishings
	2.6	Belmont Hall Audio/Visual Equipment
	20.5	Belmont Hall Grounds Equipment/Tools
	25.0	Truck
25-01-01	100.0	Financial Information Network
25-06-01	60.0	Heat-Applied Cigarette Tax Stamps
30-01-10	100.0	Continued development of Department Computer Network System
30-03-20	60.0	Second of three payments for the Integrated Regulatory Management System Lease Purchase
30-05-10	142.3	Interest replacement to conform with Federal Requirements to Accrue Interest on Oil Overcharge Funds
35-01-20	15.7	Two Vehicles
	10.0	Personal Computers and Related Equipment
35-04-01	7.5	Personal Computers and Related Equipment
35-06-20	40.0	Start-up Psycho-Social Program
	50.0	Start-up Group Home
35-07-01	2.8	Catastrophic Health Furniture
	25.0	Reprogramming of the payment system
	15.0	Long Term Care Furniture
	41.5	Furniture and Equipment - Welfare Reform and Nursing Home Reform
	4.6	Personal Computers

	45.7	Vehicles - Long Term Care Unit, Welfare Reform, and Nursing Home Reform
	438.0	Client Notice Systems Development
	14.0	Cars and Personal Computers
35-08-01	2.2	Office Equipment
	10.0	Car - Client Service
	30.0	Service Vehicle - Sheltered Workshop
	10.0	Car - Rehabilitation Program
	9.0	Talking Calculator - Bus. Enterprises Program
	4.0	Workshop equipment - Sheltered Workshop
	.9	Typewriter - Adult Services
	.3	Computer furniture
35-10-01	1.7	Office Equipment
	6.1	Computer Equipment
35-11-20	5.6	Vehicle
	.7	Furniture and Equipment
	170.0	Wheelchair replacements
35-11-30	12.0	One Vehicle
	50.0	Start-up for ICF/MR Home
	561.2	Start-up of Post 21 Residential Programs
	12.0	Vehicle - Post 21 Program
	2.0	Furniture - Post 21 Program
	50.0	Start-up Neighborhood Home - MR
35-14-20	40.0	Four Vehicles
37-01-15	3.5	Shop Machinery
	.6	Communications Equipment
37-01-20	3.0	Computer hardware - Revenue Unit
	.6	Network cards - Revenue Unit
	.8	Printer
37-02-10	98.0	Twelve Vehicles
37-03-10	9.8	One Vehicle
37-03-15	9.8	One Vehicle
	3.5	Office Furniture
	.7	Manuals and Test Materials
37-03-60	36.0	Two Vans
37-05-30	29.4	Three Vehicles
37-05-40	19.6	Two Vehicles
37-08-20	225.0	Computer Enhancements
	61.0	Office Automation
37-08-50	9.8	One Vehicle
38-01-01	19.4	Two Vehicles
	17.0	Fax Machines
38-01-10	40.0	Refrigeration Truck
38-01-20	35.9	Food Service Equipment
38-03-02	10.0	Tools and shop equipment
38-04-01	36.0	Two Vans
38-04-03	16.0	One Van
38-04-04	14.0	One Pick-up Truck
38-04-06	16.0	Central Laundry System
	14.2	Communications Equipment
38-04-07	15.0	Crew Cab Dump Truck
	14.7	Tractor
	2.0	Transport Trailer
	1.0	Bush Hog
38-04-10	9.8	One Vehicle
	75.0	Half-way House Double Bunking
38-05-10	60.0	Computer Network
	25.0	Communications Equipment
	38.8	Four Vehicles
	14.3	Office Equipment
	19.2	Two Vehicles
	3.0	Bullet Proof Vests
40-01-01	25.0	Radio/Telecommunications - Department Management
	13.0	Computer Workstations
	2.0	Audio Visual Equipment
	3.0	Educational Equipment
40-05-02	1.0	Computer Workstation
	38.5	Stalls - Petersburg C & R Center
	17.0	GF Share of 1 Tractor and 1 Dump Truck

	12.5	Planning & Engineering - Nanticoke River Marina
40-05-04	15.0	Procheck Airspray System
	19.0	Two Ultra Low Volume Foggers
	1.8	Shop Tools
	7.0	Replace Single Phase Wiring at Milford Shop with 3-Phase Wiring
40-05-06	5.9	Equipment to Reduce Poaching
	2.5	Shop Tools
40-06-01	3.0	Computer Workstations
40-06-02	12.0	Cargo Van
	1.0	Plaque - Park
	31.0	Beach Cleaner
	14.0	Tractor Mower
	88.0	Replace and/or Remove Underground Fuel Tanks
40-06-03	17.2	Passenger Van
40-06-04	50.0	Park Asset Maintenance
40-07-01	1.0	Computer Workstation
40-07-02	1.5	Shop Tools
	1.0	Computer Workstation
	25.0	Drainage Projects - Kent County
40-07-03	2.0	Office Equipment for Sand Bypass System
40-07-05	4.0	Outboard Motors
40-08-01	1.0	Computer Workstation
40-08-02	51.2	Lab Computerization Software
	97.9	Lab Computerization Hardware
40-08-05	3.5	Saltwater Intrusion Contractual Test Equipment
	11.0	Vehicle for New Geohydrologist Position
	1.0	Office Equipment for New Geohydrologist Position
	13.0	Microfilm Equipment
40-09-01	12.8	Vehicle and Communications Gear for New EPO Position
	7.0	Safety Equipment
40-09-02	9.8	Vehicle for New Major Source Inspection Position
40-09-03	1.5	Office Equipment for New Solid Waste Engineer Position
	9.8	Vehicle for Solid Waste Engineer Position
	15.5	Service Vehicle for the Industrial Disaster Prevention Program
45-01-01	9.8	Vehicle E911 Administrator
45-01-20	25.0	Two Mini-vans
	3.7	Replacement Computer
	10.0	Radio Repair Tools
45-01-30	12.5	One Vehicle
45-06-03	141.3	Nine Patrol Vehicles
45-06-05	50.0	10 Used Vehicles
	15.0	Radios
	9.1	Body Microphone/Surveillance Equipment
	35.0	Personnel Costs, Overtime & Other Employment Costs
	25.0	Information
	27.7	Bullet-Proof Vests
45-06-06	44.0	Training
45-06-07	25.0	Replacement Radar and Alcohol Testing Equipment
45-06-08	10.0	Personal Computers
45-06-10	5.0	Telecommunication Costs
	30.0	Transmission Tower Move
	30.0	Replacement Highband Stations
45-06-11	15.0	Garage Equipment
45-07-01	9.8	One Vehicle
	14.3	Van
	.7	One Typewriter
	15.5	Capital Outlay - Financial Responsibility Section
45-07-10	15.0	Driver Point Study
	30.0	Brochures,Manuals and Examinations
45-07-20	25.0	Computer Hardware
	11.0	Pilot Drive-in Registration Project
	21.6	Testers
50-01-02	3.5	Computer Hardware
50-01-03	4.0	Computer Hardware
50-02-01	8.5	Computer Hardware
50-03-01	1.5	Computer Terminals
50-10-01	23.5	Shelving
	81.0	DELCAT Equipment
50-11-01	6.0	Computer Hardware

65-01-01	45.0	Departmental Telephone System
65-03-02	6.0	Stereo Microscope
	47.0	LIMS Automated Lab Computerization
65-03-03	13.0	Vehicle for FY 1989 Weights and Measures Position
	1.0	Concealed Gas Tank
	3.0	Weights and Measures Lab Computer
65-04-06	15.0	Vehicle for New Entomologist/Plant Pathologist Position
	.4	Herbicide Application Equipment
65-04-07	4.0	Poultry and Animal Health Lab Computer
	5.0	Blood Centrifuge
70-01-01	2.0	Moving Costs
	5.4	Telephone System
70-03-01	4.5	Moving Costs
	.5	Audio Visual Equipment
	20.0	Voting Machines
70-04-01	28.0	Specialized Truck
75-01-01	23.0	Replace Six Radios
	3.5	One Computer for AIMS Project
	12.5	Landscaping - Administration Building
	17.5	Office furniture - Administration Building
	15.0	Engineering & Architectural
	26.0	Patrol vehicles
	3.0	Communication equipment
	1.2	Fire and safety equipment
75-02-01	33.3	Replacement of Two Underground Fuel Tanks
76-01-01	20.0	Electrical Systems Study of Armories
	25.0	Exhaust System for the Facility Maintenance Shop
	10.0	Underground Tank Testing
	82.1	Dover Armory Upgrade
90-01-01	213.0	Library Books and Periodicals
90-01-02	203.0	Topographical Maps
90-03-01	150.0	Computer Equipment
90-04-02	10.0	Capital Equipment
	25.0	Library Books
90-04-05	2.5	Accreditation Visit of Middle State Association
90-04-06	15.0	Library Books
	26.5	Personal Computers
95-02-02	500.0	Public Education Computing Fund (Administrative and Instructional)
95-03-01	75.0	Four-year-old Development Program, Renovations
95-03-03	80.0	Special Needs Equipment
95-03-04	12.0	Pregnant Students Program, Personal Computers
95-03-05	4.2	Odyssey of the Mind, Travel
95-03-07	12.0	James H. Groves High School, Personal Computers
	25.0	Wilmington Skills Center Air Conditioning
	15.0	Wilmington Skills Center, Welding Equipment
95-03-08	4.5	Evaluation - Higher Education, Travel
95-03-09	9.9	Delaware Teacher Center, NASA Resource Center
95-04-01	659.5	27 School Busses
	41.3	Stop Arms
Total	14,949.7	

Section 47. Section 1 of this Act makes an appropriation to Postsecondary Education Commission (10-02-07) for scholarships: $150.0 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; $200.0 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; $100.0 shall be used for the Engineering and Science Fund in accordance with Senate Substitute 1 for Senate Bill 334 of the 134th General Assembly; $6.0 shall be used for the B. Bradford Barnes Scholarship Program.

Section 48. Amend Title 29, Chapter 88, Sections 8804 and 8805 of the Delaware Code by striking said sections in their entirety and renumbering the remaining sections accordingly, and inserting a new Subchapter within Title 29, Chapter 63, to read as follows:

"Subchapter IV. Office of Information Systems

Section 6351. Office of Information Systems.

There is hereby established the Office of Information Systems within the Office of the Budget, replacing the Division of Central Data Processing, Department of Administrative Services, and the Office of Planning Systems Development, Department of Administrative Services.

Section 6352. Powers, Duties and Functions.

The Office of Information Systems within the Office of the Budget is established having powers, duties and functions as follows:

(a) (1) Provide operations and production support to ensure the efficient and reliable operation of the State's computer and telecommunications network;

(2) Provide technical support and assistance to maintain control programs for computer operations, program development, telecommunications network operation and data base management;

(3) Evaluate the performance of computer/informational systems and equipment;

(4) Provide analytical and programming support to maintain and upgrade existing information systems, applications and programs;

(5) Provide facilities management of certain informational facilities, including certain office-support informational centers;

(6) To make studies of all facets of data/voice/image processing, word processing, computer and computer-related telecommunications, voice and radio telecommunications in state government or systems that may have been or will be installed or are proposed to be installed, and all matters pertaining thereto, including approval or disapproval of systems and equipment installed or to be installed or of changes or additions in or to equipment in any or all of the various state agencies, regardless of size or of the method or source of funding;

(b) No data processing, word processing, voice processing or image processing computer or computer-related telecommunications equipment or software system acquisitions may be purchased, leased, rented or otherwise acquired by any state agency, department or institution without prior written approval of the Executive Director, Office of Information Systems. Such approval shall not be made unless the Executive Director has received complete details, including rental costs, detailed machine and equipment specifications, programs to be processed and any other data which he may require. All the data and pertinent programming information shall be furnished to the Executive Director at least 90 days prior to the execution of any purchase, lease or rental contract;

(c) (1) No new computer or computer-programming related systems study may be initiated by any department or agency unless covered by a formal project approved by the department or agency head. Such project will be in the form prescribed by the Executive Director, Office of Information Systems, but shall include in any case: A statement of work to be done, existing work to be modified or displaced; total cost of system development and conversion effort, including but not limited to systems analyses and programming cost, establishment of master files, testing, documentation, special equipment cost and all other costs, including full overhead; savings or added operating costs that will result after conversion; other advantages or reasons that justify the work; source of funding for the work; conformance with formal (or abbreviated, where applicable) Information Systems Planning methodologies; consideration of shared applications and data elements/bases; consistency with budget submissions and planning components thereof; and whether or not work is within scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(2) No project is to be undertaken which is beyond the scope of work positively funded by the General Fund or a special fund. This paragraph applies to all telecommunications or computer or computer-related systems development performed by the Office of Information Systems, a department or agency itself, or an outside contractor, and also applies to new computer programs or systems purchased or otherwise acquired and placed in use;

(3) All projects are to be signed by the Executive Director, Office of Information Systems and the concerned department or agency head, or their designees, before work is

begun, except such relatively minor feasibility work required to prepare the project. Copies of all projects are to be provided to the Budget Director and the Controller General. In support of all projects executed between the Office of Information Systems and the concerned department or agency, the Office of Information Systems shall provide or maintain staff support to the benefiting department or agency at the projected level of effort until the project work has been accomplished;

(4) 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 shall be the sole province of the Office of Information Systems;

(5) 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, shall likewise be the responsibility of the Office of Information Systems.

(6) To those ends, no agency shall:

(i) Claim unreasonable proprietary ownership of public domain information needed by another agency in the performance of its lawful duties, except as specifically excluded by law.

(ii) Create a computerized data base without the approval of the Executive Director of the Office of Information Systems or his designee.

(d) Responsibility for the development and coordination of new technology-based management or productivity improvement programs is vested within the Office of Information Systems;

(e) The Office of Information Systems shall promote cooperation between the several state agencies, departments and institutions in order that work may be done by one agency for another agency and equipment and/or technical personnel in one agency may be made available to another agency, and promote such improvements as may be necessary in joint or cooperative data processing operations. The Executive Director, with the consent of the Budget Director, is authorized to purchase, lease or rent data processing equipment in the name of the Office of Information Systems and to operate the equipment in providing services to one or more state agencies, departments and institutions. When, in the opinion of the Budget Director, better and more efficient data processing services can be performed, the Executive Director may enter into lease or purchase agreements with state agencies in the acquiring or the use of any data processing equipment and use such equipment in a consolidated or cooperative program. When the Office of Information Systems acts as a cooperative or consolidated data processing operating agency, the cost of the operation shall be prorated among the state agencies utilizing the data processing services provided thereby. The Executive Director shall decide on the number of data processing centers, including the size of each, and shall be empowered to pick the site or sites for the centers and the controlling agency.

(f) Any consolidated or cooperative plan approved by the Executive Director shall be given effect. The Budget Director shall adjudicate disputes in all matters pertaining to the division of cost of data processing operations among the several agencies, and shall resolve differences with respect to data sharing and access privileges among and between using/owning agencies. The Office of Information Systems shall maintain as a paramount consideration the successful internal organization and duties of the several agencies so that efficiency existing in the agencies shall not be adversely affected or impaired by the decisions that are made.

(g) The Office of Information Systems, via the Director 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 Section 6353 of this subchapter.

(b) The Office of Information Systems shall assume such other powers, duties and functions as the Budget Director may assign which are not otherwise inconsistent with the laws of this State.

Section 6353. Communications Powers, Duties and Functions.

To provide for the development of an efficient and reliable communications system for joint use by departments, agencies and subdivisions of state government and effect maximum practical consolidation and joint use of existing and future communications facilities, equipment and services owned or used by the State and generally to obtain maximum practical economies by centralized coordination and budgetary control of all communications functions and activities of state government, the Office of Information Systems, Telecommunications Management, shall:

(a) (1) Approve and authorize all state government communications activities in accordance with this subchapter. The management control of and accountability for the use and operation of communications activities shall be a function of the using agency subject to the policies and intent of this subchapter. Expenditure of any funds, regardless of source, for unauthorized communications activities of any kind, by any agency, for any reason, or for communications activities not in compliance with the policies and intent of this subchapter shall be a violation of law punishable under the applicable statutes or regulations.

(2) Develop, coordinate, publish and administer a comprehensive state communications plan which shall provide for the maximum practical consolidation and joint use of existing and future communications systems, facilities, equipment and services by state government;

(3) Develop, coordinate, publish and administer policies and procedures for identifying, justifying and documenting communications requirements of state government;

(4) Develop, coordinate, publish and administer policies and procedures for the use of communications facilities and services by state government;

(5) Design, procure, install and maintain, or if appropriate, contract for the design, installation and maintenance of communications systems, facilities, equipment, and services for state government in accordance with the determinations directed by this subchapter;

(6) Apply for, receive and hold, or, if appropriate, assist agencies in applying for, receiving and holding such authorizations, licenses, permits and allocations of channels and frequencies as are necessary to carry out the purpose of this subchapter;

(7) Perform periodic audits of the communications facilities and activities of state agencies to insure compliance with the policy and intent of this subchapter, and other applicable laws and regulations;

(8) Perform such other duties in connection with the communications activities of the state government as may be directed by the Governor, or the General Assembly or as may be required by existing or future state or federal statute.

(b) (1) Develop, coordinate, publish and administer policies and procedures for the submission of a communications budget, which shall include all requirements of state government, including identification of detailed requirements by agency;

(2) Require that all state government agencies having communications requirements shall cooperate with and assist in the preparation of the communications budget.

(3) Provide for emergency or unplanned communications requirements by presenting a detailed program item in a supplemental budget request. Justification for the budget request shall be the responsibility of the agency having such emergency or unplanned requirements.

Section 6354. Powers, Duties and Functions of Executive Director.

There is hereby created the Office of the Executive Director, to be appointed by the Budget Director and to serve at his pleasure.

The Executive Director shall:

(1) Supervise, direct and account for the administration and operation of the Office of Information Systems and its subsections, facilities, functions and employees;

(2) Appoint personnel as may be necessary for the administration and operation of the Office of Information Systems within such limitations as may be imposed by law.

(3) Establish, consolidate or abolish such sections within the Office of Information Systems or transfer or combine the powers, duties and functions of the subsections within the Office of Information Systems as the Executive Director, with the written approval of the Budget Director, may deem necessary, providing that all powers, duties and functions required and assigned by law to the Office of Information Systems shall be provided for and maintained;

(4) Make and enter into any and all contracts, agreements or stipulations for equipment, facilities and support services, and retain, employ and contract for the services of private and public consultants, research and technical personnel and to procure by contract consulting, research, technical and other services and facilities from public and private agencies in this State and other states, whenever the same shall be deemed by the Executive Director to be necessary in the performance of the functions of the Office of Information Systems. All necessary legal services shall be provided pursuant to Chapter 25 of this Title;

(5) Delegate any of the Executive Director's powers, duties or functions to a Manager, except the power to remove employees of the Office of Information Systems or to determine their compensation;

(6) Establish and promulgate such rules and regulations governing the services and programs of the Office of Information Systems and such other rules and regulations governing the administration and operation of the Office of Information Systems as may be deemed necessary by the Executive Director and which are not inconsistent with the federal and State law;

(7) Maintain such facilities throughout the State as may be required for the effective and efficient operation of the Office;

(8) Prepare a proposed budget for the operation of the Office to be submitted for the consideration of the Budget Director, the Governor and the General Assembly as directed under this chapter;

(9) Coordinate the activities of the Office with those of other state departments and agencies concerned with the services provided;

(10) Have any and all other powers and duties as are necessary to administer the powers, duties and functions of the Office and implement the purposes of this subchapter.

Section 6355. Exemptions from Merit System.

The Executive Director of the Office of Information Systems shall be exempt from the application of Chapter 59 of this Title.

Section 6356. Advisory Committee.

The "Advisory Committee on Information and Technology" is hereby established 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 and the Controller General; 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 the Department 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 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.

Section 6357. Information Resource Coordination.

To assist the Executive Director 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 the Department of Elections, Public Education (including Higher Education), the Office of the Public Defender, the Attorney General, and Other Elective Offices similarly assign such a coordinator. The Executive Director shall cause the collective body of coordinators to meet regularly for purposes of statewide coordination of Delaware's informational resources.

Section 6358. Assumption of Powers.

As of the effective date of this subchapter, the Office of Information Systems shall have the powers, duties and functions for all data processing, information systems and telecommunications previously vested in the Department of Administrative Services, Division of Central Data Processing, and the Office of Planning Systems Development.

Section 6359. Existing Rights of Appeal Preserved.

Any and all rights of appeal now existing by law with respect to any act or acts constituting the exercise of any function or functions transferred to the Office of Information Systems shall continue to exist with respect to such act or acts as hereafter performed by the Office of Information Systems to which such functions are transferred and each such appeal shall be perfected in the manner heretofore provided by law.

Section 6360. Budgeting and Financing.

(a) The Executive Director, in cooperation with the internal program managers and office administrators, shall prepare a proposed budget for the operation of the Office to be submitted for the consideration of the Budget Director, the Governor and the General Assembly. The Office shall be operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly.

(b) Special funds may be used in accordance with approved programs, grants and appropriations.

Section 6361. Supremacy of Subchapter.

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 49. Amend Title 29, Chapter 69, Section 6903(a)(6) of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"(6) If the material to be purchased is computer/telecommunications hardware and/or software, the primary purpose of which is to process information in the form of data, words, images, graphics or voice, the following conditions shall apply:

a. Materials that contain computers/telecommunications or computer/telecommunications components but do not have a primary purpose of processing information, such as a microwave oven, are specifically excluded from this exception.

b. Nothing in this section shall be construed to permit an agency to procure computer/telecommunications hardware and/or software without the approving authority's signature as otherwise provided in the law.

c. In lieu of competitive bidding, the Budget Director shall establish policies and procedures under which procurement of these materials may take place. Such policies and procedures may not be promulgated without the signed approval of the Secretary of Finance and the Controller General."

Section 50. Amend Title 29, Chapter 79, Section 7917(c)(6) of the Delaware Code by striking said section in its entirety; and renumbering the remaining sections accordingly:

Section 51. Amend Title 29, Chapter 79, Section 8803 (2)(a) of the Delaware Code by striking said section in its entirety; and renumbering the remaining sections accordingly;

Section 52. Listed below are the allocations of Office of Information Systems services for Fiscal Year 1990:

Agency	Fiscal Year 1990 Projections General Funds	Other Funds
Legislative	$ 5.0	$
Judicial	190.0	
Executive	130.0	
Other Elective Offices	185.0	101.0
Legal	35.0	
State	1,170.0	295.0
Finance	5,397.9	16.7
Administrative Services	183.0	
Health and Social Services (Dover)	240.0	35.0
Health and Social Services (Biggs)	821.0	932.9
Children, Youth and Their Families (Dover)	30.0	1.0
Children, Youth and Their Families (Biggs)	126.0	
Correction	148.0	
Natural Resources and Environmental Control	90.0	10.0
Public Safety	2,181.0	343.0
Community Affairs	15.5	
Transportation	585.0	20.0
Labor	40.0	
Agriculture	7.0	
Elections	79.0	
Fire Prevention Commission	28.0	
National Guard	5.0	
Higher Education	36.0	
Public Education	261.0	
Total:	$ 11,988.4	$ 1,754.6
GRAND TOTAL	$ 13,743.0	

Section 53. Section 1 of this Act provides an appropriation to Office of Information Systems - Planning and Development (10-02-14) for the purpose of compiling a central data base for the Department of Elections. Said project shall be administered by and under the project management of the Office of Information Systems. The General Assembly, within the guidelines established by the Office of Information Systems, shall have on-line access to said data base. The General Assembly may extract certain data elements from said data base for the purpose of developing a separate data base to be used for the 1990 - 1991 reapportionment process.

Section 54. 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 55. Section 1 of this Act appropriates $33.5 ASF for Travel to the State Housing Authority (10-03-04). Of this amount, $1.0 shall be used to attend a conference on Manufactured Housing in San Francisco, California.

Section 56. (a) Section 1 of this Act appropriates to the State Housing Authority (the "Authority") $3,449.5 for its Fiscal Year 1990 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, 1990, 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 Director of the Delaware Development Office, requests a lesser amount.

Section 57. Any Department with classified positions filled or unfilled and temporary and/or casual and 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 58. During the fiscal year ending June 30, 1990, 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 59. Section 1 of this Act appropriates $302.6 to the Office of State Personnel Operations (10-04-02) for Generic Aides/Handicapped Employees. This appropriation is intended to encourage and enable qualified mentally and physically handicapped persons to obtain State employment per the provisions of Senate Bill 496 of the 132nd General Assembly and House Bill 136 of the 134th General Assembly.

Section 60. Section 1 of this Act provides an authorization for a Staff Development Officer to be funded with Appropriated Special Funds in the Office of State Personnel, Staff Development and Training (10-04-04). It is the intent of this Act to support this position with funds generated from the assessment of fees on the agencies participating in classes held by the Office of State Personnel. The Office of State Personnel may set fees that are reasonable and adequate to sustain the training program. An Appropriated Special Fund Account will be established by the Budget Director. For the fiscal year ending June 30, 1990, the Office of State Personnel may use their General Fund appropriations to support the initial start-up costs, including the new Staff Development Officer associated with the training program. The training program shall reimburse the General Fund Appropriations on or before June 30, 1990. This shall in no way hinder General Fund or other Appropriated Special Fund program performances for the fiscal year ending June 30, 1990.

Section 61. Amend Section 5201(b) of Title 29 of the Delaware Code by adding a new sentence at the end thereof to read as follows:

"An 'eligible pensioner' shall include those individuals who were employed by the county prothonotary offices immediately prior to October 1, 1987, and who chose to remain in their respective county pension plans and who would otherwise be eligible to receive retirement benefits in accordance with the State Employees' Pension Plan under Chapter 55 of this Title."

Section 62. Amend §8307(2), Chapter 83, Title 29, Delaware Code, by deleting said subsection in its entirety.

Section 63. Amend §8308(b)(3), Chapter 83, Title 29, Delaware Code, by deleting the phrase "Division of the Treasury" as it appears therein and substituting in lieu thereof the phrase "Director of State Personnel".

Section 64. Amend §5910, Chapter 59, Title 29, Delaware Code, by adding a new subsection (d) to read as follows:

"5910(d) The Director of State Personnel shall be responsible for the clerical administration of all state pension funds, the determination of eligibility for nondisability retirement pension benefits as provided for in Chapters 55 and 56 of this title, Chapter 39 of Title 14 and subchapter II of Chapter 83 of Title 11 and the determination of eligibility for paraplegic veterans' benefits as provided for in §1001 of Title 20."

Section 65. There is hereby created the State Employees Pension Benefits Review Committee. The Committee will review the pension plan by using appropriate and accepted comparative analysis, including, but not limited to, the benefit structure of the various State pension systems for the purpose of evaluating current pension plan benefits and recommending improvements.

The Committee membership will consist of the Chairman and the Vice Chairman of the Legislative Joint Finance Committee, one member of the Senate appointed by the President Pro Tem, one member of the House of Representatives appointed by the Speaker, three members appointed by the Chairman of the Board of Pension Trustees, one member of the Pension Advisory Council, the Pension Administrator, the State Personnel Director, the Budget Director, and the Controller General.

The Budget Office, the Controller General's Office, and the Pension Office shall provide the Committee with staff support and such other resources as the Committee may require.

The Committee shall report by January 15, 1990, to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate its findings and recommendations.

Section 66. Amend Subsection 5527(g), Chapter 55, Title 29, Delaware Code, by designating the current subsection (g) as subsection (g)(1) and adding a new subsection (g)(11) to read as follows:

"(g)(11) Notwithstanding the provisions of this section to the contrary, an individual receiving a service or disability pension which was effective prior to July 1, 1989, or an individual with a vested right to a service pension may elect to have his or her service or disability pension reduced by 3%, thereby providing a survivor's pension equal to 75% of such reduced amount to his or her eligible survivor or survivors at the time of his or her death. This election must be made in a form approved by the Board, filed prior to December 15, 1989, to be effective January 1, 1990, for individuals receiving a service or disability pension on July 1, 1989, or, in the case of an individual with a vested right to a service pension, filed prior to the issuance of his or her first pension check."

Section 67. In the event that the amount authorized in the Appropriated Special Fund budget in Section 1 of this Act for the Office of State Personnel, Pensions (10-04-06) for Contractual Services (investment expenses) is insufficient, the Appropriated Special Fund 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 68. 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 69. Amend §5527, Subchapter II, Chapter 55, Title 29, Delaware Code by striking subsection (d) in its entirety and substituting in lieu thereof the following:

"(d) Notwithstanding provisions of this chapter to the contrary, an elected official shall receive a pension computed in accordance with this subsection. The service or disability pension payable to the elected official and the survivor's pension payable to the eligible survivor of such individuals shall be computed on the basis of compensation to the elected official as an elected official irrespective of other credited service, with contribution to be determined based upon compensation as an elected official. The minimum amount of pension payable to an elected member of the General Assembly or a retired elected member of the General Assembly shall be computed by multiplying his or her years of service as an elected member of the General Assembly times the highest rate of payment being paid to any retired member of the General Assembly, such rate to be computed by dividing the monthly pension being paid to such retired member by his or her years of service as an elected member of the General Assembly. An elected official shall be eligible to receive a pension beginning with the first month after the attainment of age 60, provided that he or she shall have served at least 5 years at the time of his or her terminations of service as

an elected official, or beginning with the first month after attainment of age 55, provided that he or she shall have served at least 10 years at the time of his or her termination of service as an elected official. Any pension for credited service other than as an elected official shall be determined under the remainder of this chapter as a separate pension.

The minimum pensions provided for in this subsection shall apply to all elected officials retroactively."

Section 70. The sums appropriated in Fiscal Year 1990 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, 1990, 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 71. Section 1 of this Act makes an appropriation to the Office of the Budget - Contingency - One-Time Appropriations (10-02-04) for one-time items for DELJIS (10-07-02). At the request of the agency, these amounts may be transferred among the various items listed with the approval of the Budget Director and the Controller General.

Section 72. It is recognized that advances in information systems technology may permit sharing of hardware for totally separate applications, and thus allow for savings in these hardware acquisitions. Specifically, computer hardware acquired for Delaware Justice Information System (DELJIS) applications may integrate with those devices acquired for use in applications of the Judicial Information Center (JIC) of the Administrative Office of the Courts (AOC). The Budget Director, with the concurrence of the Controller General, shall transfer an amount up to but not exceeding $45.0 from the DELJIS one-time appropriations to the JIC in support of JIC networking should the Director of the Office of Information Systems Planning and Development judge that ongoing development projects produce integration, and ultimately savings.

Section 73. Amend Title 29, Chapter 63, Subsection 6331(b) and (c), by striking said Subsection in its entirety and substituting in lieu thereof the following:

"(b) On or before November 15, annually, estimates of the financial needs of the State Judiciary for the ensuing fiscal year shall be furnished to the Budget Director by the Clerk of the Supreme Court and certified by him. These estimates shall include without change, salaries of the State judiciary as fixed by law; the estimates of other requirements for the State Judiciary for the ensuing fiscal year shall be included as designated to the Clerk of the Supreme Court.

(c) All of the data relative to the Legislative branch of the government and the State Judiciary shall be for the Budget Director's information and guidance in estimating the total financial needs of the State for the ensuing fiscal year, but none of these estimates shall be subject to revision or review by the Budget Director and must be included in the budget report as prepared by it."

Section 74. Amend Title 29, Chapter 63, Subsection 6332(a), Delaware Code, by deleting the phrase, "in the year next preceding the convening of the General Assembly.", and inserting in lieu thereof the phrase "of each year.".

Section 75. Amend Title 29, Chapter 63, Section 6333, Delaware Code, by deleting the phrase, "the 15th day of December immediately preceding the convening of the General Assembly," and inserting in lieu thereof the phrase "December 15, annually,".

Section 76. Amend Title 29, Chapter 63, Section 6334, of the Delaware Code, by striking said Section in its entirety and substituting in lieu thereof the following:

"§6334. Contents of budget plan to be submitted upon completion of review; zero-based budgeting.

(a) Upon the completion of the review and revision of estimates of all the agencies of the State, the Budget Director shall submit to the Governor an itemized plan for the proposed expenditures of each agency of the State, classified by function and character, and of the estimated revenues and expenditures, for the ensuing fiscal year. Opposite each item of the proposed expenditures the budget shall show, in separate parallel columns, the amounts appropriated for the current fiscal year and the actual expenditures of the immediate preceding fiscal year.

(b) Accompanying the report submitted to the Governor, the proposed budget as prepared by the Budget Director shall include:

(1) A statement of the revenues and expenditures for the preceding fiscal year, classified and itemized in accordance with the official budget classification;

(2) A statement of the classified sources of State taxes and other State revenues, together with total amount of revenue derived from each source during the preceding annual period;

(3) A statement setting forth the total funds required to meet the budget for the ensuing fiscal year, together with any proposed plan for financing these requirements and measures, if any, which the Governor may deem necessary or advisable in relation to State revenue;

(4) Such other statements or data as the Governor may think are necessary for a thorough understanding of the State's financial condition and requirements.

(c) The proposed budget plan, as prepared by the Budget Director, shall be in the format of a zero-based budget. The characteristics of such format shall include:

(1) The designation of appropriate budget units within all agencies of the State. Such budget units shall consist of a limited coherent group of closely related activities and services falling within a single, currently established agency of the State.

(2) The designation of various alternate levels of activity or service within each budget unit. Each service or activity level shall specify the proposed expenditure necessary to operate at that level; a concise description of the services or functions to be provided; indicators of quantity and quality of performance of these services or functions and the number, classes and dollar amounts of employees required. Alternative levels of activity or service may vary the quality, the quantity or propose an alternative method of providing a given level or service. At minimum, each budget unit shall indicate at least two activity or service levels. Additional activity or service levels may be proposed if deemed appropriate.

(3) A numerical priority ranking of all activity or service levels shall be established. Each agency shall prioritize all the activity or service levels contained in the budget plan. Each numerical priority ranking shall be accompanied by a written statement of the criteria utilized in the determination and assignment of priorities.

(4) A recommendation by the Governor as to the numerical priority ranking of activity or service levels for which funds should be appropriated during the ensuing fiscal year, the cumulative cost of which shall not exceed the proposed total funds required as set forth in paragraph (7) of Subsection (b) of this Section."

Section 77. Amend Title 29, Chapter 63, Section 6335, Delaware Code, by deleting the phrase, "each fiscal year in the ensuing biennial period." and inserting in lieu thereof the phrase, "the ensuing fiscal year.".

Section 78. Amend Title 29, Chapter 63, Section 6339, Delaware Code by deleting the phrase, "for the ensuing biennial period" from the last sentence.

Section 79. Amend Title 29, Chapter 65, Section 6502, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§6502. Annual estimates of expenditures.

(a) On or before November 15, annually each agency, except public school districts whose budget request form shall be submitted on or before October 30, shall report to the Budget Director on official blanks furnished for such purpose, an estimate in itemized form showing the amount needed for the ensuing fiscal year.

(b) Any organization, body, committee or person intending to request an appropriation from the General Assembly for any particular object or purpose, or for any expenditure, shall present such request to the Budget Director on official estimate blanks furnished for such purpose on or before November 15, annually. In case of any

organization, body or committee making such request, the request shall be made by some person duly authorized therefor and shall be sworn to by the person making the same."

Section 80. Amend Title 29, Chapter 65, Section 6503, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§6503. Form of estimate Blanks; forms for zero-based budgeting.

(a) On or before September 1, annually, the official estimate blanks, which must be used in making the reports required by §6502 of this Title, shall be furnished by the Budget Director to each of the boards, commissions, agencies receiving or asking financial aid from the State.

(b) The estimate blanks shall be uniform and shall clearly designate the kind of information to be given thereon. They shall provide for an itemized statement of the amount of money considered necessary for the proper maintenance, extension or improvement of the agency during the ensuing fiscal year. It shall also show the actual revenues and expenses for the prior fiscal year of such reporting agency and the amounts by which the estimates for the fiscal year of the succeeding annual period are larger or smaller that the corresponding items of expenditures for the prior year, with full explanation of such changes in the estimates. All the salaries fixed by law shall be included without change in the itemized statement.

(c) The estimate blanks shall contain such other information and provide for such classification of accounts as may be justified by modern accounting practices and deemed necessary by the Budget Director to fully and clearly explain the needs and purposes of any estimated expenditure.

(d) The Budget Director shall furnish to each budget unit a complete set of forms to be used by the budget unit to present its budget. The Budget Director shall furnish instructions on the proper method of completing the forms and shall provide consultation as requested by any budget unit."

Section 81. Amend Title 29, Chapter 65, Section 6511, Delaware Code by striking said Section in its entirety.

Section 82. Amend Title 29, Chapter 65, Section 6528, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

§6528. Transfer of Funds.

(a) No transfer of funds from one item of account to another on the books of any agency shall be made without the written approval of the Budget Director.

(b) No transfer of appropriated General Funds from one item of account to another on the books of any agency shall be made without the written approval of the Budget Director and the Controller General.

(c) Appropriated General Funds shall remain within the department or agency to which appropriated and shall not be transferred for use by another department or agency, except as provided by law or within the provisions of Subsection (g) of this Section.

(d) Appropriated General Funds may be transferred within a department or agency of the State, subject to the authority and limitations set forth in Part VI of this Title, and the approval by the Controller General, except that approval by the Controller General is not required on transfers from the Budget Commission; provided, however, that no funds may be transferred into appropriations for "Personnel Costs", "Salaries" or "Salaries and Wages" from appropriations for non-salary items. Funds appropriated by the Budget Appropriation Bill for "contingency funds" shall not be used for the payment of a line-item salary, except as otherwise specifically provided by law and for the sole purpose of maintaining the salary schedule set forth for school employees in Chapter 13 of Title 14, Delaware Code.

(e) The provisions of Subsection (d) of this Section are waived with respect to central data processing. Requests from the Executive Director of the Office of Information Systems for transfer of unexpended funds appropriated to Personnel Costs to "Contractual Services--Equipment Rental" may be made upon approval of the Budget Director and the Controller General.

(f) In the event the appropriation set forth by the Budget Appropriation Bill to any department or agency is excessive or inadequate, the Budget Director, with concurrence of the Controller General, is authorized to transfer funds among the various departments for:

(1) Specific non-routine requirements, which shall be in writing, recording and controlled through separate accounts within the Budget Office Contingencies.

(2) Salary and Other Employment Costs, Personnel Costs 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 fully documented.

(3) Matching funds and Public Education funds where extended educational components may be administered within other departments or agencies.

OTHER ELECTIVE OFFICES

Section 83. Of the total positions authorized in Section 1 of this Act for the Auditor of Accounts (12-02-01), 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. If during the first three months of Fiscal Year 1990, the State Auditor should experience a cash flow deficit in fulfillment of federal audit responsibilities, the Budget Director, upon the request of the State Auditor, shall attempt to advance sufficient funding from the Federal Audit Set-Aside Accounts.

Section 85. (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 86. Section 1 of this Act provides a Special Fund appropriation of $1,282.1 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 $1,282.1 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 87. A sum of $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, 1990.

Section 88. 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/her designated beneficiary or in the absence of a designated beneficiary, the amount shall be paid to the deceased pensioner's estate.

Section 89. Section 1 of this Act authorizes $157.7 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 90. Section 1 of this Act authorizes an appropriation for Contractual Services for the Office of Attorney General (15-01-01). Of this amount, $327.7 shall be used for the purpose of providing services covering family violence in New Castle County and $167.8 shall be used for the purpose of providing services covering family violence in Kent and Sussex Counties.

Section 91. 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 92. 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.

Section 93. The Budget Office finds that the Attorney General's Office does not have a cooperative agreement with the Division of Child Support Enforcement (35-10-00), Department of Health and Social Services. This Section directs that:

(a) The Department of Justice and the Department of Health and Social Services shall establish 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 Attorney General's Office.

(b) Upon receipt of such reimbursement from the Federal Government, the Department of Justice 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 the Department of Justice and any other agency receiving Title IV-D Funds. 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, 1990.

STATE

Section 94. Section 1 of this Act makes an appropriation to the Department of State, Division of Historical & Cultural Affairs, Administration (20-06-01) for contractual services. Of that amount, $1.0 shall be used for the repair of existing historical markers on a statewide basis.

Section 95. Section 1 of this Act includes the amount of $12.0 in Salaries & Wages (Casual & Seasonal) for grounds maintenance for Dickinson Mansion in the Department of State, Division of Historical & Cultural Affairs, Bureau of Museums and Historic Sites (20-06-04).

Section 96. The allocation of Fiscal Year 1990 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 or other related developments during Fiscal Year 1990. 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.

	Fiscal Year 1990 Projections	
Agency	GF	ASF
Judicial	137.1	
Executive	11.2	
Other Elective Offices	35.6	9.1
Legal	7.1	
State	94.6	24.6
Finance	16.9	
Administrative Services	1.2	2.5
Health and Social Services	70.8	2.0
Children, Youth and Their Families	33.9	
Correction	14.2	
Natural Resources and Environmental Control	11.4	
Public Safety	59.8	
Transportation	34.6	2.5
Labor	13.0	
Agriculture	.9	
Elections	13.9	

Fire Marshal	1.2	
Delaware National Guard	9.5	
Higher Education	2.4	
Public Education - State Board	8.0	
Public Education - School Districts	69.7	
Delaware River and Bay Authority		6.2
Grand Total	$ 647.0	$ 46.9

Section 97. 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 98. Section 1 of this Act includes an appropriation for "Delaware Art" in the amount of $700.0 in the Department of State, Division of Historical & Cultural Affairs, Office of the Arts Council (20-06-16). These funds shall only be expended upon the passage of enabling legislation.

Section 99. For the fiscal year ending June 30, 1990, 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 100. 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 the Division 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 annually to the Budget Director and the Controller General.

Section 101. The Director of the Division 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. Unencumbered balances on June 30, 1990, in excess of $5.0 shall revert to the General Fund. Any transfer into this account shall be reversed prior to June 30, 1990. 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, 1990, before January 1, 1991.

Section 102. The Director of the Division 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 103. 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 104. 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 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 $350.0. Unencumbered balances on June 30, 1990, in excess of $50.0 shall revert to the General Fund. The Director of the Division 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, 1990, and submitted before January 1, 1991.

At the close of Fiscal Year 1990, 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, 1990.

Section 105. (a) In the event that the gross sales of the State Lottery shall exceed the amount specified in Section 1 of this Act, the Appropriated Special Funds budget 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, 1990, shall not exceed 20 percent of gross sales as limited by Title 29, Chapter 48, Delaware Code.

(b) The Appropriated Special Funds budget for the State Lottery Office (25-07-01) provides for the services of two resident auditors and additional audit services under the appropriation for Contractual Services. In addition to the duties of the two resident auditors, other duties shall be performed as assigned by the Secretary of Finance.

Section 106. The Director of the Delaware State Lottery shall have the authority to contract for the operation of an International Lottery. The operation of the International Lottery shall be separate from the Delaware Lottery, and all sales, expenses and profits shall be accounted for separately. All monies received from the sale of International Lottery tickets shall be accounted for to the State Treasurer and all net monies shall be placed into a special International Lottery Fund Account. The International Lottery operations shall be exempt from the limitations on prize payouts, operating expenses and State share as set by Title 29, Chapter 48, Subchapters 4805 and 4815 of the Delaware Code. The Director of the Delaware State Lottery shall be authorized to pay for the operation and administration of the International Lottery from the International Lottery Fund Account as necessary to produce the greatest income for the State. All net proceeds after payment of prizes, operating expenses and participating partner's share shall accumulate in the International Lottery Fund Account in an amount not to exceed $1,000,000; and thirty days after the end of each quarter, any amount in excess of $1,000,000 shall be paid to the General Fund of the State.

The Director of the Delaware State Lottery shall be authorized to use up to $1,000,000 from the net proceeds of the Delaware State Lottery to fund the start-up costs of the International Lottery; such costs to be repaid in full from the proceeds of the International Lottery within one year from start-up.

ADMINISTRATIVE SERVICES

Section 107. Amend Title 29, Chapter 88, Section 8815 of the Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"The following positions set forth in this Section shall be exempt from Chapter 59 of this Title:

(1) Secretary of Administrative Services;

(2) Director of Support Operations;

(3) Director of Purchasing;

(4) Director of Facilities Management;

(5) Director of Alcoholic Beverage Control;

(6) Director of Public Utility Control;

(7) Director of Professional Regulation."

Section 108. 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 109. Amend Title 29, Subsection 8813(d) by striking said section in its entirety and substituting in lieu thereof the following:

" (d) The Fleet Management Administrator shall cause all vehicle titles of the fleet to be held, though not owned, within the Office of Fleet Management. When owner agencies determine a vehicle is in excess of need, the Fleet Management Administrator is empowered to sign or otherwise negotiate vehicle titles held within the Office of Fleet Management."

Section 110. Amend Title 29, Subsection 6902(i), by striking said section in its entirety and substituting in lieu thereof the following:

" (i) Fleet vehicles may not be purchased unless, on a one-for-one 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 111. 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 $131.7 from the Public Service Commission's Revolving Account (8600) to the Public Advocate's Appropriated Special Fund Account.

Section 112. 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 113. 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 114. 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 115. 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 116. 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.

Section 117. With the exception of the custodial work associated with Legislative Hall and the Governor's Office during Fiscal Year 1990, 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 118. The Budget Director and Controller General are authorized to transfer to the Department of Administrative Services all funds necessary to operate and make payments under a lease-purchase or installment sale financing arrangement for the following facilities: the Thomas Collins Building, William Penn Building and the Family Court Building. In addition, the Budget Director and Controller General may transfer to the Department of Administrative Services all funds necessary to make payments under a lease-purchase or installment sale, financing arrangements for the following facilities and equipment: three Group Homes for the Division of Mental Retardation currently owned by the Elwyn Institute, Northeast State Service Center, Seaford State Service Center and automated fingerprint identification system. The Secretary of Administrative Services is also authorized in connection with the acquisition of the William Penn Building to enter into contracts and agreements to expand the William Penn Building by approximately 15,000 square

feet and to apply the funds so transferred to that purpose. From the operating funds transferred to the Department, the Division of Facilities Management will contract custodial and maintenance services for the aforementioned facilities for Fiscal Year 1990. In the event suitable contractors cannot be found or contracted services prove to be less than satisfactory, the Department, with the approval of the Budget Director and the Controller General, may hire up to two additional Building Maintenance Mechanics beyond those provided for in Section 1 of this Act. It is understood that under the supervision of the Department of Administrative Services, custodial and maintenance services will be maintained at least at the current level.

Section 119. The Secretary of Administrative Services shall be empowered to enter into lease purchase, installment sale or other similar contractual arrangements providing for the financing of the occupancy/use and acquisition costs of real property and equipment to be used by the State and its agencies; to grant a mortgage on or security interest in any such property to secure the obligations of the State under any such financing arrangement; and to transfer any such property in satisfaction of any such obligation. The provisions of Chapter 94 of this title shall not apply to any transfer of any such property by the State in satisfaction of any such obligation. Any such financing arrangement shall not constitute a general obligation of the State nor a pledge of its full faith and credit. The State's financial obligation under any such financing arrangement shall be limited to amounts appropriated by the General Assembly and in any case where the State appropriates funds to meet any obligation with respect to such financing, the State covenants to cause those funds to be applied to meet that obligation. Any transactions entered into by the Secretary of Administrative Services pursuant to this provision must be reported to the Budget Director and the Controller General.

Section 120. 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 121. 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 1991.

Section 122. During Fiscal Year 1990, the Department of Administrative Services, Division of Facilities Management, Building Operations/Maintenance IPU (30-05-20) shall retain the rental fees as ASF for the building known as the Wilmington Public Building. The retained portion must be deposited as per State laws and shall be disbursed as per this Act's Section 1 ASF budget for Building Operations/Maintenance (30-05-20).

Section 123. (a) During Fiscal Year 1990, 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 1990, 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 $13.5. Funding for additional copies will be the responsibility of the requesting Agency.

Section 124. All State agencies are required to determine if the Division of Purchasing (30-06-00) can meet the needs of the agency prior to ordering equipment from vendors.

Section 125. During Fiscal Year 1990, the Secretary of Administrative Services is directed, in cooperation with other Cabinet Officers, to study the organization of State procurement activities. The Budget Director and Controller General may transfer during Fiscal Year 1990 up to seven positions and supporting funds from other cabinet agencies to the Department of Administrative Services, Division of Purchasing (30-06-10), if after review of the procurement studies with the Secretary of Administrative Services and other State officials they conclude that any procurement activities should be transferred to the Division of Purchasing.

Section 126. State agencies are encouraged to purchase letterhead stationery and business cards printed on recycled paper by utilizing contracts with the Division of Purchasing.

HEALTH AND SOCIAL SERVICES

Section 127. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Administration, Office of the Secretary (35-01-10) for Contractual Services. Of that amount, $65.0 shall be used to contract for employment, alcohol, and drug counseling and referral for youth and adults to encourage an alcohol and drug-free environment.

Section 128. Results of investigations conducted by the Welfare Fraud Unit concerning any and all Public Welfare programs administered by this Department 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. The Office of the Attorney General 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 the next month after the end of a quarter, which report shall not be subject to prior review by any other authority.

Section 129. 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, 1989.

Section 130. 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 131. If, at any time during the fiscal year ending June 30, 1990, there should be a temporary delay in receiving federal matching funds for the AFDC 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 132. 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 133. 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 134. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Office of the State Medical Examiner (35-04-01) in the line item "Evidence Courier" in the amount of $36.4. These funds shall provide a position and related items for the secure transportation of evidence from Kent and Sussex Counties to the Medical Examiner's laboratory facility in Wilmington. This individual shall be available, when necessary, for court proceedings related to evidence transported.

Section 135. 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

Radon Testing

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 136. 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, 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 137. Section 1 of this Act includes an appropriation to the Division of Public Health, Community Health (35-05-02) for Contractual Services. Of that amount, $127.6 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 138. Section 1 of this Act provides an appropriation for Contractual Services to the Department of Health & Social Services, Division of Public Health, Community Health (35-05-02). Of that amount, $150.0 shall be used to fully fund the operation of School-Based Health Centers in the Capital and Christina School Districts as well as provide planning for future center sites.

Local School Boards of Education shall adhere to the State Board of Education Policy on the establishment and operation of School-Based Health Centers.

Section 139. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Public Health, Community Health (35-05-02) in the line item "Office of Narcotics and Dangerous Drugs" in the amount of $627.1. This amount includes $20.0 which shall be used at the discretion of the Drug Control Administrator.

Section 140. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Public Health, Community Health (35-05-02) for Personnel Costs. Of that amount, $23.3 shall be used for a Plumbing Inspector for Kent County.

Section 141. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Public Health, Community Health (35-05-02) for Contractual Services. Of that amount, $64.0 shall be used for nursing services to be utilized in conjunction with volunteer physicians for the establishment of a Medical Clinic in the Claymont Community Center.

Section 142. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Community Mental Health (35-06-20) for Contractual Services. Of that amount, $10.0 shall be used to provide mental health services for veterans in Kent and Sussex Counties.

Section 143. Section 1 of this Act provides an appropriation to the Inpatient Mental Health (35-06-30) (Delaware State Hospital) for Personnel Costs. Of this amount, $75.0 has

been provided to create a pool of trained, casual and 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, 1990, as to the effectiveness of this strategy in reducing overtime at the State Hospital.

Section 144. 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 145. 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 146. 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 147. 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 148. 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, $67.0 shall be used for a half-way house for alcoholics in Kent County.

Section 149. Section 1 of this Act provides an Appropriated Special Fund line for Contractual Services in (35-06-40). Of that amount, $1.0 shall be deauthorized should Senate Bill No. 102 of the 135th General Assembly not be enacted.

Section 150. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism & Drug Abuse (35-06-40) for Contractual Services. Of that amount, $23.0 shall be used to provide a full-time counselor and part-time administrative support for alcohol and drug counseling in Kent County.

Section 151. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism & Drug Abuse (35-06-40) for Contractual Services. Of that amount, $100.0 shall be used to provide addictions service providers a 6.5% inflationary increase.

Section 152. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism & Drug Abuse (35-06-40) for Contractual Services. Of that amount, $126.0 shall be used to provide outpatient alcohol & drug abuse services for those in the SENTAC Program. Also, an additional amount of $471.0 shall be used for inpatient alcohol and drug services for those in the SENTAC Program.

Section 153. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism & Drug Abuse (35-06-40) for Contractual Services. Of that amount, $248.3 shall be used to provide 12 slots for alcohol and drug inpatient services for women in correctional facilities.

Section 154. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism & Drug Abuse (35-06-40) for Contractual Services. Of that amount, $200.0 shall be used for outpatient treatment. An additional $260.0 shall be used to provide intensive case management/community support for at-risk or relapse prone residential program clients. An additional $143.0 shall be used to provide intensive individual case management in existing outpatient programs.

These additional funds to the base budget will greatly reduce the waiting list for outpatient alcohol/drug treatment services and more effectively deal with "revolving door" clients.

Section 155. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Alcoholism, Drug Abuse, and Mental Health, Alcoholism & Drug Abuse (35-06-40) for Contractual Services. Of that amount, $135.0 shall be used to provide alcohol/drug residential treatment services to the Continuing Care Unit in the Department of Correction.

Section 156. Section 1 of this Act provides an appropriation to the Division of Social 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 157. (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:

(i) 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;

(ii) 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 3 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 and children who from birth are placed with private agencies for the purpose of adoption. Medicaid coverage will be from the date of birth until the child is placed with the prospective adoptive parent(s).

(24) Hospice services

(25) Extended Services for pregnant women

(26) Medicare Premiums

(27) Optional Medicaid Services-Rehabilitative 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 200 percent of the federal Supplemental Security Income (SSI) 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.

(e) Qualified Medicare Beneficiaries (QMBs) with incomes less than 100% of the federal non-farm poverty limit effective 1/1/90 and resources less than two times the SSI resource limits eligible only for Medicare premiums, Title XVIII coinsurance and deductibles, and phased-in drug coverage.

Section 158. 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 AFDC on and after October 1, 1989, shall be as follows, based on family size:

1-person household	$197.00 per month
2-person household	$265.00 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 159. (a) Section 1 of this Act provides an appropriation for Contractual Services to the Division of Social 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 Social 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 Social 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 160. For the fiscal year ending June 30, 1990, the Division of Social 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 161. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Social Services (35-07-01) for Medicaid-Non-State. Of that amount, $51.0 shall be used to increase the personal needs allowance for patients in nursing homes to $36.00 per month.

Section 162. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division for the Visually Impaired (35-08-01) for Personnel Costs. These funds include an additional .5 Account Technician for the Business Enterprises Program and 1.0 Senior Rehabilitation Instructor for the Adult Services Unit to serve those in the community in Kent and Sussex Counties.

Section 163. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division for the Visually Impaired (35-08-01) for Contractual Services. Of that amount, $25.0 shall be used for an additional Rehabilitation Instructor for the Training Center located in the Kent/Sussex Industries facility.

Section 164. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Facility Based, Long Term Care, Delaware Hospital for the Chronically Ill (35-09-10) for Personnel Costs. Of that amount, $13.7 shall be used for a Landscape Horticultural Technician I position.

Section 165. 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, up to $10.0 shall be available for services provided by Camp Barnes.

Section 166. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Mental Retardation, Community Services, (35-11-30) for Contractual Services. Of that amount, $385.0 shall be used to provide sheltered workshop services for current clients while they are actively attending sheltered workshop programs which receive the workshop subsidy and who would qualify for services by normal intake criteria provided by the Divisions of Mental Retardation, Alcoholism, Drug Abuse and Mental Health, and Visually Impaired. Reimbursement to the facilities for these clients shall be based upon a per diem rate, excluding transportation, which shall be derived from a verification of actual client costs, and shall not in the aggregate exceed the appropriation amount of $385.0 in F.Y. 1990.

The Divisions of Mental Retardation, Alcoholism, Drug Abuse and Mental Health, and Visually Impaired are encouraged, where appropriate, to provide supported employment opportunities for these clients within the appropriation limit.

Section 167. 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, Delaware Code, the Division shall be allowed to collect and expend the fees from the aforementioned account.

Section 168. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of State Service Centers, Family Support Services (35-12-10) for Contractual Services. Of that amount, $295.0 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.

Section 169. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of 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 170. The Division of State Service Centers, Service Center Management IPU (35-12-20), currently operates 12 facilities throughout the State for which a Tenant User Fee for service is charged to partially offset the cost of Service Center Operations. The holding account for this function is entitled "Facility Reimbursement".

Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and deposit to the aforementioned accounts. Corresponding Appropriated Special Fund spending authority has been provided in Section 1 of this Act.

Section 171. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Aging, Community-Based Services (35-14-10) for Contractual Services. Of that amount, $100.0 shall be used for the Statewide Respite Care Program. These funds shall be used to provide respite care on a per diem or hourly basis for disabled, physically handicapped and/or mentally ill individuals. The individual's family shall be assessed a fee for this service based on their ability to pay.

Section 172. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Aging, Community Based Services (35-14-10) for Contractual Services. Of that amount, $50.0 shall be used for intergenerational child care coordination and training.

Section 173. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Aging, Community Based Services (35-14-10) for Contractual Services. Of that amount, $25.0 shall be used for a Pilot Nautilus Program.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 174. 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 175. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Division of Administration, Fiscal Operations & Management (37-01-20) for three positions and $58.4 for the establishment of a Billing & Collections Revenue Unit. These funds shall be spent only if enabling legislation is signed into law.

Section 176. 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, 1989, 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 177. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Division of Child Protection Services, Report, Investigation and Risk Assessment (37-02-20) for Contractual Services. Of that amount, $60.0 shall be used to provide an inflationary increase for child shelters in New Castle County, $30.0 for shelters in Kent County, and $30.0 for shelters in Sussex County.

Section 178. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Division of Child Protection Services, Adoption Services (37-02-50) for Contractual Services. Of that amount, $25.0 shall be used for adoption services for the placement of children with special needs.

Section 179. 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 youths shall not take place in Ferris School.

CORRECTION

Section 180. Section 229 of Senate Bill 480 of the 134th General Assembly (F.Y. 1989 Budget Bill) described the Internal Affairs Unit of the Department of Correction and mandated that the Internal Affairs Investigators be exempt positions. The Department of Correction, working with the Office of Personnel (10-04-00), shall convert these positions to exempt status no later than August 31, 1989. Further, the Department of Correction shall, by August 31, 1989, notify the office of the Controller General that such change has been made.

Section 181. Section 1 of this Act includes funding for five positions for an Internal Affairs Unit in the Department of Correction, Office of the Commissioner (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 182. Section 1 of this Act provides an appropriation for the position of Industrial Hygienist in the Office of the Commissioner (38-01-01). This position, in addition to the responsibilities outlined for the classification of Industrial Hygienist, shall be responsible for prison inspections in the areas of maintenance and security. The position shall be reclassified as a Prison Inspector.

Section 183. 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 use or sale of any portion of the Woods Haven-Kruse property.

Section 184. 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 185. Section 1 of this Act provides an appropriation for Contractual Services to the Department of Correction, Office of the Commissioner (38-01-01). If an acceptable contractor for attorney services cannot be selected, $15.0 may be transferred to Personnel Costs for the purpose of employing an attorney on a casual and seasonal basis.

Section 186. Section 1 of this Act appropriates funds to the Department of Correction, Facilities Maintenance and Construction (38-01-40). Of the funds appropriated, $1.504 shall be used for the purpose of providing retroactive pay for the period July 1, 1985, through June 30, 1986 to Budget Position Number 7019.

Section 187. For the Fiscal Year ending June 30, 1989, any sums in Delaware Correctional Center Security 1988 appropriation (38-02-05-01-98) shall remain encumbered and shall not be subject to lapsing until June 30, 1990.

Section 188. Section 1 of this Act provides an appropriation to the Department of Correction, Medical Services (38-01-30). Administration of the Medical Services contract shall be the responsibility of the Bureau Chief - Administration under the supervision of the Commissioner of Correction.

Section 189. Section 1 of this Act provides an appropriation to the Department of Correction (38-00-00), Administration - Medical Services (38-01-30). None of these funds may be transferred and any funds remaining unexpended or unencumbered on June 30, 1990, shall revert to the General Fund of the State of Delaware.

Section 190. Section 1 appropriates funds for contracting for Medical Services (38-01-30). The appropriation is based on a contract in effect through June 30, 1990. For Fiscal Year 1991, the Department of Correction shall obtain bids for Medical Services through the bid process prescribed in Title 29, Chapter 69. The Request for Proposal (RFP) for said bid process shall be reviewed by the Budget Office and Controller General prior to soliciting for bids on the open market.

Section 191. Section 1 of this Act provides for Appropriated Special Funds to the Department of Correction, Education (38-03-03). This appropriation is contingent on passage of Senate Bill No. 102 of the 135th General Assembly.

Section 192. Section 1 of this Act provides Appropriated Special Fund lines for Contractual Services in (38-04-03), (38-04-06), and (38-04-07). Should Senate Bill No. 102 of the 135th General Assembly not be enacted, these line items shall no longer be authorized.

Section 193. Section 1 of this Act appropriates funds to be used for Maintenance and Restoration projects to Facilities Maintenance and Construction (38-01-40). A proposed plan for the expenditure of these funds shall be presented to the Controller General and to the Budget Director by July 31, 1989. 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 preliminary plan for maintenance projects for Fiscal Year 1991 by October 30, 1989, to the Budget Director and Controller General.

Section 194. In addition to the positions authorized in Section 1 of this Act for the Department of Correction (38-00-00), additional positions are authorized in the Office of the Commissioner (38-01-01) 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 195. Section 1 of this Act includes funding for relief positions in the Staff Training Section, Office of the Commissioner of the Department of Correction (38-01-01). These positions shall be used for training relief only.

Section 196. Section 1 of this Act provides funding for the Prison Industries Program (38-03-00). In F.Y. 1990, the Department of Correction shall retain professional services to complete a Business System Plan (BSP) of the Prison Industries Program. Such plan shall, in addition to other items, explain the future direction and requirements of the Prison Industries Program including estimates of capital and operating costs, workload, and potential revenue estimates based on a work force using up to 90% of the inmate population. Said BSP shall be submitted to the Budget Office and Controller General no later than February 1, 1990. The Department of Correction is authorized to expend up to $25.0 from Appropriated Special Funds, Contractual Services, in 38-03-02 to accomplish the mandate of this section.

Section 197. Section 1 of this Act appropriates the sum of $10.0 in "gate money" or "release money" to the Department of Correction, Adult Correction - Office of the 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 his/her 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 198. Section 1 of this Act provides funding for the Greentree Drug Program at the Delaware Correctional Center (38-04-03). The Department or its designee shall evaluate the effectiveness of this program and report their findings to the Budget Director and Controller General by March 31, 1990.

Section 199. (a) Of the total positions authorized in Section 1 of this Act for the Morris Correctional Institution (38-04-07), three positions shall be used to continue the existing highway beautification project.

(b) Of the total positions authorized in Section 1 of this Act for the Delaware Correctional Center (38-04-03), two positions shall be used to continue the existing highway beautification project.

(c) Of the total positions authorized in Section 1 of this Act for the Sussex Correctional Institution (38-04-04), four positions shall be used for a highway beautification project in the Southern District.

Section 200. 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 201. Section 1 provides appropriations in (35-06-40) for outpatient drug treatment and residential treatment for sentenced offenders. These programs shall be administered and directed by the Department of Health and Social Services.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 202. During Fiscal Year 1989, the Water Resources Technical Services Lab (40-08-02), was granted a loan from the Fiscal Year 1987 Superfund account for the purpose of achieving the earliest possible federal Environmental Protection Agency certification of its lab for Superfund site testing purposes. As stated in Volume 66, Chapter 303, Section 245 of the Laws of Delaware, the loan repayment will be made as ASF into a Department Management IPU holding account specific to the purpose of receiving the loan repayments. The Department management 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, 1992. The three Environmental Lab Technicians III's, one Environmental Chemist II, one Environmental Chemist IV, and one Secretary position previously converted from ASF to GF shall remain as such until June 30, 1990.

PUBLIC SAFETY

Section 203. 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 204. Amend Title 17, Chapter 16, Sections 1601, 1602, 1604 and 1605 of the Delaware Code by striking said sections in their entirety.

Section 205. Amend Title 17, Chapter 16, Section 1603 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"There is hereby established, within the Department of Public Safety, a Division of Communications with duties, powers and responsibilities as defined.

The Division of Communications shall:

(1) Possess the technical expertise to maintain the State radio communications systems.

(2) Plan, coordinate, and monitor the procurement of radio systems and associated equipment for the State.

(3) Perform such other duties in connection with the radio communications activities of the state government as may be directed by the Governor, the General Assembly, or the Chief Justice or as may be required by existing or future state or federal statute.

(4) Cooperate with the Budget Office, Office of Information Systems in the preparation of the statewide communications budget."

Section 206. Amend Title 17, Chapter 16, Section 1607 of the Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"§1607. Extension of Service to Others

Pursuant to written agreements of terms and conditions and subject to payment of charges as determined in accordance with Chapter 65 of Title 29, the Division of Communications may, but is not required to, extend the services defined in Section 1603 of this Title, as applicable and reasonable to volunteer fire, rescue and ambulance companies operating and chartered in the State. Any such extension of services shall be subject to availability of resources and secondary to the needs of state government. Moneys received as payment for these services shall be deposited in the Communications Revolving Fund."

Section 207. Section 1 of this Act makes an appropriation to the Division of State Police, Executive Offices (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.

Section 208. Amend Title 29, Chapter 69, Section 6902(d) by deleting in its entirety and substituting in lieu thereof the following:

"(d) (1) The special purpose vehicles of the Department of Public Safety Division of State Police shall be exempt from the provisions of Subsections (a) and (c) of this section

(11) Used vehicles utilized by the Department of Public Safety, Division of State Police, for its under-cover operations may be purchased by negotiations rather than by competitive bidding as provided in this section, provided the negotiated prices are approved by the Budget Director, the Controller General and the Secretary of the Department of Administrative Services."

Section 209. Amend Title 11, Part V, Chapter 83, Section 8301 by adding the following after the last sentence:

"Calculations for determining the number of such positions shall not include any appropriated (ASF) nor non-appropriated (NSF) special funded positions."

Section 210. (a) Of the funds appropriated in Section 1 of this Act to the Administration, Licenses, Taxes and Registration, Department of Public Safety (45-07-01), the following amounts will revert to the General Fund if Senate Bill No. 212 is not enacted into law:

Personnel Costs (11)	$53.5
Contractual Services	2.9
Supplies and Materials	1.5

(b) Of the funds appropriated in Section 1 of this Act to Office of the Budget - Contingency - One-time Appropriations, Office of the Budget, Executive (10-02-04), the following amounts will revert to the General Fund if Senate Bill No. 212 is not enacted into law:

(45-07-01) Capital Outlay - Financial Responsibility Section $15.5

COMMUNITY AFFAIRS

Section 211. 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 212. If at any time during the fiscal year ending June 30, 1990, there should be a temporary delay in receiving federal funds to start up the Low Income Energy Assistance Program (LIHEAP) 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 Exxon Oil Overcharge Funds approved by the Delaware State Clearinghouse Committee for the Weatherization Program. The Department of Community Affairs, Division of Community Services shall promptly reimburse the Exxon Oil Overcharge Fund upon receipt of the federal funds.

TRANSPORTATION

Section 213. 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 214. 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 215. 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 216. The Delaware Transportation Authority budget, as set forth in memorandum form in Section 1 of this Act for the fiscal year ending June 30, 1990, 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 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 1989. 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 217. This Act makes an appropriation to the Department of Transportation, Delaware Transportation Authority (55-06-01) for Traffic Operations/Equipment. This appropriation shall be transferred to the Bureau of Traffic (55-05-00-68-00) for NSF Operations of $1,565.9 and NSF Capital of $147.4.

Section 218. 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 (55-05-00-68-00) for NSF Capital Outlay of $3,197.4 and NSF Operations of $5,726.9.

Section 219. 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 220. Section 1 of this Act appropriates funds 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 221. (a) Section 1 of this Act provides an appropriation of $145.7 to Employment and Training, Training Services (60-09-20) for the Delaware State-wide Summer Youth Employment Program to operate a ten-week program commencing July 1, 1989. 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, youths

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 youths 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 youths 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 State-wide 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 youths 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 222. 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 costs 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 223. (a) Section 1 of this Act provides an appropriation to the Department of Agriculture, Resource Management, Harness Racing Commission (65-01-04). Of the amount appropriated, $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.

ELECTIONS

Section 224. Section 1 of this Act provides an appropriation to the New Castle County Department of Elections (70-02-01) for Salaries and Other Employment Costs. Of those amounts, $22.5 and $5.5 shall be used for a (1.0) Voting Machine Technician position.

FIRE PREVENTION

Section 225. Section 1 of this Act provides an appropriation to the Fire Prevention Commission, Office of the State Fire Marshal (75-01-01) for salaries and other employment costs. Within those amounts, an additional 1.0 Deputy Fire Marshal II position shall be authorized for five months in Fiscal Year 1990. This position shall be deauthorized as of 12/1/89.

Section 226. Section 1 of this Act provides an appropriation of $50.0 to the State Fire Prevention Commission (75-03-01) in the line item "State-wide 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 227. Section 1 of this Act provides an appropriation for Energy to Delaware National Guard (76-01-01). Of this appropriation, $46.2 is included for Laura Little School building energy. Within that sum, $23.2 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 228. (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 $1,925.2 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, Delaware Code or any other fringe benefit costs applicable to the University of Delaware.

Section 229. 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	$ 1,224.0	
Scholarships	973.0	
Title VI Compliance	850.3	
Aid-to-Needy Students	722.0	
Student Employment Program	156.8	
Carvel Scholarships	200.0	
Total		$ 4,126.1
Agricultural:		
Agricultural Experimental Station	$ 90.5	
Agricultural Cooperative Extension	106.4	
Poultry Disease Research	244.0	
Crop Extension	33.4	
Agricultural Environmental Quality	38.1	
Soil Testing and Pesticide Control	96.6	
Diagnostic Poultry Program	52.4	
Total		$ 661.4
Programs:		
Occupational Teacher Education	$ 88.6	
Academic Incentive	100.0	
Sea Grant	373.0	
Summer School for Teachers	206.4	
Urban Agent Program	64.3	

Public Service and Applied Research Projects	123.1	
Research Partnership Fund	1,039.4	
Minority Recruitment	192.0	
Pike Creek Greenway	50.0	
Urban Journalism	4.0	
Financial Services Center	51.4	
Local Government Research and Assistance	20.0	
Total		$ 2,312.2

Section 230. Section 1 of this Act appropriates $1,039.4 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 231. Section 1 of this Act makes an appropriation of $1,706.5 to the Delaware Institute of Medical Educational Research (90-02-01). Of this amount, the allocations for Fiscal Year 1990 shall remain the same as Fiscal Year 1989 with the exception of student research funds.

Section 232. Section 1 of this Act provides funds to the University of Delaware (90-01-01) and Delaware State College (90-03-01) 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 233. 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 $432.4 is reflected by reducing the Contractual Services and Energy lines of the four campuses. This reduction is not intended to affect funds appropriated for the College Parallel Program.

Section 234. Section 1 of this Act makes an appropriation to Delaware Technical and Community College, Office of the President (90-04-01) for 2 + 2 Pre-Technical Curriculum. The responsibility for the 2 + 2 Pre-Technical Curriculum Program is hereby transferred to Delaware Technical and Community College. Of the appropriation in Section 1 of this Act, no more than $10.0 can be spent on tuition without the approval of the Budget Director and the Controller General.

Section 235. 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, 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 236. Amend Title 14, Chapter 6, Delaware Code by striking Subsection 602(d) in its entirety and substituting in lieu thereof a new Subsection 602(d) to read as follows:

"(d) For each pupil attending a public school of another district as of September 30, the receiving district shall bill the sending district, and the sending district shall pay a minimum of one-half of the tuition charges per pupil on or before January 1 with the balance due on or before April 1 of the school year in which the bill is submitted to the sending district for payment. In the case of pupils attending the public schools of the receiving district for less than a full term, the tuition charge shall be prorated by reference to the period of time during which such pupils actually attended the receiving district's schools, provided that attendance for part of any month shall be counted as a full month of attendance."

Section 237. As an incentive to minimize costs and to promote flexibility regarding alternative approaches to handling custodial matters, the State Board of Education is authorized to permit the local school districts to convert up to 15% of their custodial personnel entitlement to engage the services of custodial contracting firms, or to purchase specialized custodial equipment in non-classroom buildings. For the purposes of establishing the appropriation, the value of a custodian with 6 years experience as shown in Title 14, Section 1311, Delaware Code shall be used. For a school district participating in this program, open custodial positions shall be obtained through attrition only.

The district shall provide the State Board of Education with quarterly reports on the value of these efforts, especially with regard to any changes in effectiveness or efficiency which were realized as a result of these efforts.

Section 238. Amend Delaware Code, Title 14, Subsection 1918(b), by striking the words, "within 30 days" as they appear in the third sentence of said subsection and by substituting in lieu thereof the words, "within 60 days".

Section 239. Beginning with the fiscal year ending June 30, 1989, 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 calculation shall not include loans from any source. 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 initiates this Section's provisions.

Section 240. Section 1 of this Act appropriates funds for State Board of Education and State Board for Vocational Education (95-01-01) for Teacher of the Year. Of that appropriation, $41.0 shall revert to the General Fund of the State of Delaware upon failure of the General Assembly to pass Senate Bill 163 of the 135th General Assembly.

Section 241. Section 1 of this Act provides an appropriation to Public Education, State Board of Education and State Board for Vocational Education, State Board of Education and Superintendent (95-01-01) 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 1989 - 1990, 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 242. The provisions of the Delaware Code to the contrary notwithstanding, for the fiscal year ending June 30, 1990, the salary of the incumbent Assistant State Superintendent for Administrative Services shall be $1.5 less than the salary paid to the Deputy State Superintendent for Instruction.

Section 243. (a) Section 1 of this Act provides appropriations of $181,885.4 for Formula Salaries and $58,367.7 for Other Employment Costs to Public Education, School District Operations, Division Funding (95-02-01). 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 Program operated by the Caesar Rodney and Red Clay Consolidated School District's. These sums are $6.8 and $77.4, 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 Programs Appropriation Unit (95-03-00).

(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, the local school district Board of Education shall develop and certify a written repayment plan.

(d) The local school district may choose to make the required General Fund reimbursement from its 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 244. Section 1 of this Act provides an appropriation to Public Education, School District operations (95-02-02) for a Nurse Staffing Fund. A local school district may apply to the State Board of Education by October 15, 1989, to receive resources from this fund for school nurses under the following conditions:

1. The local school district certifies that it receives fewer nurses through the unit system than it has school buildings in the district.

2. That it will provide the local salary supplement for nurses granted under this section.

In the event that the State Board of Education receives more requests than the funding will totally support, the State Board of Education is authorized to allocate the funds on the basis of need.

Section 245. Other Items line item funds appropriated in Section 1 of this Act to Public Education, School District Operations, Other Items (95-02-02) are to cover adjustments in the Appropriation Units of the State Board of Education and State Board for Vocational Education, Pass Through Programs, Pupil Transportation, 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 instruction teachers; pupil transportation costs; non-public and summer driver education programs; and unused sick pay for retirees.

Section 246. Section 1 of this Act provides certain appropriations to Public Education, School District Operations, Other Items (95-02-02) and Pass Through Programs (95-03-00) for School Districts in the State for the fiscal year ending June 30, 1990. 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, 1989, 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, 1989, 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 247. Section 1 of this Act provides certain appropriations to Public Education, School District Operations, Other Items and Debt Service 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 "Other Items" in the Internal Program Unit Other Items (95-02-02) shall be allocated as follows:

1. Caesar Rodney - Americanization	3.1	
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		$ 229.3

Section 248. Section 1 of this Act makes appropriations to Public Education, School District Operations, Division Funding (95-02-01) for Division II - All Other Costs and Energy. During Fiscal Year 1990, 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 - All 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 $1,318.00.

Section 249. Section 1 of this Act provides an appropriation of $16,230.9 to Public Education, School District Operations, Division Funding (95-02-01) 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.

Section 250. Section 1 of this Act provides an appropriation to Public Education, School District Operations, (95-02-01) for Formula Salaries. During the fiscal year ending June 30, 1990, a local school district may choose to take up to 10% of the total units it generates for nurses as a cash option and provided that the unit is not filled. For the purpose of this Section, units taken as options shall have a value of $31.5. The funds obtained shall be used for the purpose of hiring health aides.

Section 251. Section 1 of this Act provides an appropriation of $291.8 to Public Education, Pass Through Programs, School Readiness Programs (95-03-01) for the Four-Year-Old Development Program. The State Board of Education shall implement the recommendations of the Delaware Pilot Four-Year-Old Program Summary Evaluation, Years 1 and 2, as put forth in Early Childhood Initiatives: A Plan for Action, thereby converting the pilot program to a demonstration/training program designed to offer instruction to public, non-public and private sector pre-kindergarten service providers regarding pre-kindergarten developmentally appropriate instructional techniques. The State Board of Education shall provide on-going program evaluation and report the results of its examination to the Governor and General Assembly by December 15, 1989.

Section 252. Section 1 of this Act provides an appropriation of $276.7 to Public Education, Pass Through Programs, School Readiness Programs (95-03-01) for Parent Early Education Center. Of this amount, $111.7 shall be allocated for the continuation of the services of the Parent Early Education Centers operating in the Christina School District and the New Castle County Vocational School District. The remaining $165.0 shall be used to expand Parent Early Education services to three additional school districts.

Section 253. Section 27 of this Act continues an appropriation on the One-Time list of $125.0 (95-03-01) and $39.5 Day Care Support to Public Education in Pass Through Programs, School Readiness Programs (95-03-01). Of this amount, the State Board of Education shall allocate a sum not to exceed $125.0 to the local school districts for the purpose of renovating or otherwise modifying currently under-utilized school building spaces in up to five 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. Any district intending to take advantage of this program shall inform the State Board of Education by September 30, 1989. 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, 1989.

Section 254. Section 27 of this Act continues a one-time appropriation (95-03-01-01-98) for the Extended Day Latchkey Program. The State Board of Education is authorized to continue making one-time grants of up to $5.0 per location to local school districts for the start-up of new Latchkey programs to service student participants in

grades K through 6. The programs shall be operated by third party providers in accordance with the provisions of Title 14, Section 1056, Delaware Code. Of this amount, up to $130.1 shall be used to fund up to 50 locations with a requirement that each school district is eligible for at least one grant. Newly 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 locally.

Section 255. Section 1 of this Act provides an appropriation of $460.0 to Public Education, Pass-Through Programs, Regular Elementary/Secondary Programs (95-03-02) for District Grants - Unit Allocations. 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 256. (a) The total amount of $1,679.6 appropriated in Section 1 of this Act to Public Education, Pass-Through Programs, Regular Elementary/Secondary Programs (95-03-02) for Substitutes in Districts shall be allocated to the local 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, 1989. 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 Appropriation Units (95-03-00) and (95-04-00) and the Delmar Tuition, General Contingency, Teacher of the Year, Principal of the Year, Desegregation Monitoring, and Debt Service Appropriations in Appropriation Units (95-01-00) and (95-02-00) 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 $696.2 to Public Education, Pass-Through Programs, Special Needs Programs (95-03-04) 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 catch all for low-achieving, unmotivated or disruptive pupils without serious physiological or neurological disorders. All pupils classified learning disabled or socially or emotionally maladjusted must be reevaluated at least every two years, except psychological evaluation shall be made at least every three years.

Section 257. Section 1 of this Act provides an appropriation of $4,097.4 to Public Education, Pass Through/K-12 Programs (95-03-02) for the Education Refinement Program. During the fiscal year ending June 30, 1990, 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 $38.0. 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 258. Section 1 of this Act provides an appropriation of $11.0 to Public Education, Pass Through Programs, Privately Operated Programs (95-03-03) for the Delaware Nature Society. It is the intent that this money be used to provide summer programs, including a new eighth grade program in environmental heritage.

Section 259. Section 1 of this Act appropriates an amount of $50.0 to Public Education, Pass Through Programs, Privately Operated Programs (95-03-03) for the Delaware Geographic Alliance. Up to the full amount of these funds shall be used to provide a 50% match to funds provided to the State by the National Geographic Society Education

Foundation for the purposes of improving geography teaching methods and curriculum materials.

Section 260. Section 1 of this Act provides an appropriation of $113.2 to Public Education, Pass Through Programs, Privately Operated Programs (95-03-03) for the READ-ALOUD Program. READ-ALOUD Delaware is to continue to develop and foster programs for the purpose of encouraging regular reading to preschool-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 preschool-aged children. The State Board of Education will report annually on the number of children participating and the effectiveness of the program.

Section 261. Section 1 of this Act provides an appropriation of $2,483.5 for private placement of the handicapped to implement Delaware Code, Title 14, Section 3124. The provisions of the Delaware Code to the contrary notwithstanding, for the fiscal year ending June 30, 1990, the State Board of Education is authorized to implement a pilot project utilizing funds appropriated for private placement of the handicapped in Section 1 of this Act to develop unique program alternatives, in lieu of the private placement, for up to twelve persons who have been, or who would otherwise be, identified as "complex or rare" and unable to benefit from the regularly offered free, appropriate public educational programs and up to three students in present education programs within this State whose individual education plan requires services not presently available within the present unit funding system. Unique program alternatives shall be defined and approved by the State Board of Education and may include, but not be limited to, related and supportive services. The State Board of Education shall report to the Governor and General Assembly on the progress of the pilot project by December 21, 1989.

Section 262. The State Board of 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. This examination shall focus on reallocation of existing resources such that resources "follow" the children who generated them. The State Board of Education shall complete its examination and provide its report to the Governor and the General Assembly by December 15, 1989.

Section 263. Section 1 of this Act provides an appropriation of $707.5 to Public Education, Pass Through Programs, Special Needs Programs (95-03-04) for Exceptional Student Unit - Vocational. 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(i), Delaware Code, shall not apply to the units authorized by this Section.

Section 264. 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 265. Amend Title 14, Section 1703(d) by striking Section 1703 in its entirety and substituting in lieu thereof a new Section 1703(d) to read as follows:

"(d) In the cases of exceptional children the following conditions for the calculations of the number of units shall prevail: Classes for the educable mentally handicapped, 1 unit for 15 children; classes for the trainable mentally handicapped and severely mentally handicapped, 1 unit for 6 children; classes for the socially or emotionally maladjusted, 1 unit for 10 children; classes for the partially sighted, 1 unit for 10 children, except that even though the public count may be less than otherwise required by this chapter, there shall be a minimum of one (1) class for the partially sighted in each county; classes for the orthopedically handicapped, 1 unit for 6 children; classes for the partially deaf or hard of hearing, 1 unit for 6 children; classes for autistic children, 1 unit for 4 children. When classes for the blind are established as approved by the State Board of Education and the Delaware Commission for the Blind, the unit for classes for the blind shall be 8. When classes for the deaf-blind are established as approved by the State Board of Education, the unit for these classes shall be 4. For those children in the classification designated as having 'learning disabilities' the unit shall be 8. For a person identified as an "Intensive Learning Center Pupil" and assigned to an Intensive Learning Center approved by the State Board of Education, the unit shall be 8.6. A major fraction shall be considered a unit and shall consist of any fraction greater than one-half. The number

of children mentioned in this paragraph shall not be counted in any other calculation of units."

Section 266. Section 1 of this Act appropriates a sum of $1,232.6 to Public Education, Pass Through Programs, Special Needs Programs, (95-03-04), for the Children-at-Risk Intervention Program. This program shall serve at-risk children through early intervention and prevention strategies designed to reduce Delaware's dropout rate and to enhance grade level performance. This program will enhance the relationship between the public schools and the Department of Services for Children, Youth and Their Families.

For the purposes of this Section, "Children-At-Risk" are those children who exhibit or who can be reasonably projected to exhibit poor performance in traditional academic programs and classroom settings and are, therefore, considered to have an increased propensity toward dropping out of school or who upon graduation are likely to enter society without the skills necessary to be responsible individuals, competent employees, or successful continuing education students.

During the Fiscal Year ending June 30, 1990, each school district shall submit on or before September 1, 1989 a preliminary program proposal and budget to the State Board of Education. School districts may propose strategies including but not limited to extended-day/school year academic programs, tutorial programs, parent education programs, social service counseling, programs for teenage mothers and the care of their children, lifestyle and personal decision-making curricula, pupil mentoring programs, the development of alternatives to suspension, or implementation of substance abuse prevention programs. Proposals shall clearly state planned program activities and goals; indicate local resource commitments, whether monetary or in-kind contributions; and indicate how other relevant programs that affect at-risk students and are already operating will be integrated. Proposals must include clear program performance measures that can be assessed on an annual (school program year) basis. Such performance measures should be substantively meaningful and educationally sound. For programs operated at the secondary level, the primary program performance measure(s) shall relate to change in the district's dropout rate or change in the return-to-school rate of students who had already dropped out of school. Two or more school districts may submit proposals for joint programs. Teacher planning and parental involvement in developing proposals are encouraged. The Department of Public Instruction may establish additional criteria to be used in developing program proposals.

The State Board of Education shall name an advisory committee to be known as the Children-at-Risk Evaluation and Monitoring Committee. The committee shall be comprised of ten to fifteen members including the State Superintendent of Public Instruction, a member of the State Board of Education, the Secretary of the Department of Services for Children, Youth and Their Families, the Secretary of the Department of Health and Social Services or his/her designee, one member from the House of Representatives to be designated by the Speaker of the House of Representatives and one member from the Senate to be designated by the President Pro Tempore of the Senate. The remaining members shall reflect the expertise of educators, administrators, local Board of Education members, parents, private business leaders, and social service providers. The chairperson of the committee shall be named by the President of the State Board of Education and shall not be one of the individuals incumbent in a specific position designated in this paragraph.

The committee is charged with reviewing school district program proposals submitted under this Section, advising the State Board of Education on suggested modifications, periodically monitoring approved Children-at-Risk Intervention Programs, evaluating program outcomes and assessing the extent to which program performance measures have been met. The committee shall review the first-year program proposal criteria developed by the Department of Public Instruction and the program performance measures submitted by the school districts and shall make recommendations for their improvement. These recommendations shall be submitted in a report to the Governor and General Assembly by April 1, 1990. The committee shall also serve as a forum for the dissemination of effective early intervention strategies and programs which have been demonstrated to be successful.

Funds allocated under this Section may be expended for any approved program. The only exception is that funds may not be used to pay salary and other employment costs that are in excess of what would normally be considered a full state share pursuant to Chapter 13, Title 14, Delaware Code. This provision is applicable both on an annual or equivalent hourly basis. Funds authorized may also be expended for the purchase of professional services, either under contract with a State agency or a private service provider or as a direct hire of the school district. No funds appropriated under this Section may be used to supplant local funds used to operate established programs.

(1) Of the total amount appropriated, an amount of $1,200.0 shall be allocated among all local school districts based upon their proportionate share of the total Division I units in the State as of September 30, 1989. Funds allocated to the local school districts

may only be expended with the approval of the State Board of Education acting with the advice of the Children-at-Risk Evaluation and Monitoring Committee. The State Board of Education may propose alternative one-time uses of funds remaining due to disapproval pursuant to the previous sentence. Funds allocated for approved programs which will operate during the summer months shall not be subject to reversion until September 1, 1990.

(2) Of the total amount appropriated, an amount of $32.6 shall be transferred to the Department of Services for Children, Youth and Their Families for the purpose of supporting informational forums, developing informational materials, and conducting presentations for school district staff that will enhance teachers', counselors', and administrators' understandings of available services and strengthen the ability of the schools to identify children in need of services.

(3) A minimum local match of 25% shall be required. This local match shall supplement State funds. No more than half of this match may be in-kind contributions from the school district. During the first year of implementation, prior year local expenditures or in-kind contributions in support of programs which gain approval for expansion under this Section may be counted toward the minimum local match.

During the Fiscal Year ending June 30, 1990, former Disruptive Pupil Referral Unit programs for which continuing approval under the Children-at-Risk Intervention program is sought shall be permitted to operate in the then current manner.

Section 267. Section 1 of this Act appropriates an amount of $540.0 to Public Education, Pass Through Programs, Special Needs Programs (95-03-04) for the Alternative Secondary Education Program. The State Board of Education shall use these funds to implement the recommendations of the Delaware Alternative Secondary Education Initiative to serve "at risk" children ages 15-21 through services provided to younger children by a "school-within-a-school" concept and to older children through the James H. Groves High School.

Funding will be provided to James H. Groves centers upon approval of the State Board of Education based on proposals submitted from the participating districts and the number of classes conducted throughout the year in the extended year, extended day, and evening programs.

Section 268. Section 1 of this Act makes an appropriation to the Office of the Budget - Contingency - One-Time Appropriations (10-02-04). Of that amount, $80.0 may be granted by the State Board of Education to those local school districts and agencies reporting low-incidence handicapped students for the purpose of providing specialized equipment, and the repair and maintenance of such equipment, textbooks, and materials as required in the Individual Educational plans for those students (excluding personal hearing aids). Low-incidence disabilities include visually impaired, deaf, deaf/blind, hearing impaired, and orthopedically impaired as defined in the Administrative Manual for Programs for Exceptional Children.

The Department of Public Instruction shall disburse the funds to school districts and those public agencies, upon their application, which count low-incidence disabled children for state and/or federal purposes. The counting agency for the Visually Impaired shall be the Division for the Visually Impaired; for the deaf, deaf/blind, and hearing impaired, the Margaret S. Sterck School; and for the orthopedically disabled the orthopedic school from which the child receives services.

As a condition for receiving funds, local school districts and agencies shall assure the redistribution of such equipment once it is no longer needed by a particular child.

The State Board of Education shall report to the Budget Director and Controller General on December 15, 1989, and April 15, 1990, on the use of these funds.

Section 269. Section 1 of this Act makes an appropriation of $15.0 to Public Education, Pass Through Programs, Student Advancement Programs (95-03-05) for Odyssey 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 270. Section 1 of this Act provides an appropriation of $108.0 to Public Education, Pass Through Programs, Student Advancement Programs (95-03-05) 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 271. Section 1 of this Act provides an appropriation of $82.0 to Public Education, Pass Through Programs, Career Readiness/Vocational Programs (95-03-06) 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 272. Section 1 of this Act provides an appropriation of $600.0 to Public Education, Pass Through Programs, Career Readiness/Vocational Programs (95-03-06) for the Summer Occupational and Vocational Education Program. Of that amount, at least $99.6 shall be reserved for programs in school districts in Kent County, and $122.6 shall be reserved for programs in Sussex County, and $218.2 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 of Education approved projects.

Section 273. Section 1 of this Act makes an appropriation of $1,344.3 to Public Education, Pass Through Programs (95-03-06) 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 274. Section 1 of this Act makes an appropriation to Public Education, Pass Through Programs, Adult Programs (95-03-07). Of that amount, $244.6 shall be transferred to New Castle County Vocational Technical School District, Wilmington Skills Center, for Adult Education.

Section 275. Section 1 of this Act provides an appropriation of $843.9 to Public Education, Pass Through Programs, Adult Programs (95-03-07) for the 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 276. Amend Delaware Code, Title 14, Section 1720, by striking the words, "each participating school district's proportion of eligible students to the total number of eligible students as of October 31, in each fiscal year." and by substituting in lieu thereof the following, "those approved by the State Board of Education in the annual program plans submitted by the participating school districts."

Section 277. Section 1 of this Act provides an appropriation of $145.0 to Public Education, Pass Through Programs, Adult Programs (95-03-07) 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 278. Section 1 of this Act provides an appropriation of $188.3 to Public Education, Pass Through Programs, Adult Programs (95-03-07) for the Adult Incarcerated Program. 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 279. Section 1 of this Act provides an appropriation of $172.3 to Public Education, Pass Through Programs, Adult Programs (95-03-07) for Adult Basic Education. Of this amount, $15.0 shall be used to employ three part-time recruiters/counselors.

Section 280. Section 1 of this Act provides an appropriation of $311.5 to Public Education, Pass Through Programs, Education Monitoring/Advancement Programs (95-03-08) for the Innovation in Teaching and Learning Pilot Program. These funds shall be distributed to up to nine 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, one on or before December 15, 1989 and the other on or before June 15, 1990, 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 281. Section 1 of this Act appropriates an amount of $533.5 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for Critical Curriculum Areas. The State Board of Education is directed to perform a summative and formative evaluation of the program and report the results to the Governor and General Assembly by December 15, 1989. The report shall include, but shall not be limited to, a Section which identifies in detail the current employment and placement status of all personnel who have completed the program for the fiscal years ended June 30, 1988 and 1989.

Section 282. Section 1 of this Act provides an appropriation of $30.0 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for Staff Training. 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 $200.0 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for the Delaware Institute for 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 284. Section 1 of this Act provides an appropriation of $296.8 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) 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, Sussex and New Castle County Centers.

Section 285. It is the intent of the General Assembly that the Continuing Appropriation (95-01-09-01-87) for Sabbatical Leave be made available to one person on paid sabbatical leave in each local school district.

Section 286. Section 1 of this Act provides an appropriation of $450.0 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) 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 Bachelors 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. Local school district Boards of Education are encouraged to prioritize the allocation of the funds they receive to support the educational advancement efforts of regular education teachers taking special education and/or mainstreaming-related courses. 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 $450.0, 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, 1989. 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. Funding for each school district shall be divided into two equal parts. The first one-half shall be prorated as described above among eligible employees who complete their courses prior to February 1, 1990. The second one-half shall be prorated as described above among eligible employees who complete their courses prior to June 15, 1990. In the event that funds remain in either half year, the district shall be authorized to reallocate those funds to reimburse eligible employees in the other portion of the year who did not receive full reimbursement. This Section shall not supersede a current collective bargaining agreement.

Section 287. Section 1 of this Act makes an appropriation of $402.8 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for 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 288. Section 1 of this Act provides an appropriation of $75.0 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for the Mentoring Program. The funds appropriated shall be used by the State Board to continue developing recommendations for new teacher incentives and career development proposals.

Section 289.Section 1 of this Act appropriates funds for Teacher Development Programs, Minority Scholarships (95-03-09). This appropriation of $84.0 shall revert to the General Fund of the State of Delaware upon failure of the General Assembly to pass Senate Bill 164 of the 135th General Assembly.

Section 290. (a) Section 1 of this Act provides an appropriation of $2,830.7 to Public Education, Pupil Transportation (95-04-01) 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.

(b) Transportation funds for public school districts during the fiscal year ending June 30, 1990, shall be allocated and shall not exceed $29,317.4, 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 1990 operating allowance adjustment for inflation shall be 3 percent.

(3) For the fiscal year ending June 30, 1990, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 1989 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 1989 for determining the allowable cost for any size bus that it did not bid in Fiscal Year 1989. 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, 1990, 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.

(c) 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.

(d) 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.

(e) An account called the Transportation Incentive Fund shall be established for each school district in the State which has a district-operated pupil transportation system. When the State Board of Education approves the district-operated pupil transportation funding allocation for a school district and initiates the transfer of State funds to the district transportation account, an amount equivalent to 10% of the district's prior year net allocation for district-operated pupil transportation shall be placed into the district's Transportation Incentive Fund account. Into the district's current year

district-operated pupil transportation account shall be placed the difference between the current year district-operated pupil transportation allocation and the amount placed into the district's Transportation Incentive Fund account. Funds in the Transportation Incentive Fund account may be transferred at any time to the district transportation account. On June 1, 1990, any balance remaining in the Transportation Incentive Fund account may be transferred to Division II - All Other Costs if the district so chooses based on a projected year-end transportation surplus. In no case shall district transportation cost overruns be reimbursed with State funds if a transfer identified in the previous sentence has been made. If pupil transportation savings cannot be realized, up to the full balance in the Transportation Incentive Fund account may be transferred to the school district's transportation account.

Section 291. (a) During the fiscal year ending June 30, 1990, 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 Naples 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.

(18) K-3 - New Todd Estates Development to Jeannie Smith - because of hazards of Route 4 at Pierson Drive intersection.

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 292. During the fiscal year ending June 30, 1990, 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 293. Amend §2908, Chapter 29, Title 14 by striking said section in its entirety and inserting in lieu thereof the following new section:

"§2908. Renewal of transportation contracts; transfer.

(a) When a transportation contract is due to expire for a reason other than the fact that the bus described in said contract is of such vintage 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. In the event that a contractor does not wish to renew the contract, said contract shall be opened to all other interested persons in that area by means of notice published in at least two Delaware newspapers of general circulation. Local boards of education shall promulgate rules and regulations for selecting among those contractors who are ready, willing, and able to assume the responsibilities of expiring contracts.

(b) If no parties can be found to assume the responsibilities of contracts expiring pursuant to this section, the department or agency responsible for the transportation of public school pupils shall furnish the transportation previously afforded under the expiring contract.

(c) A school transportation contract may be transferred from a contractor to another party provided that the local board of education shall comply with procedures outlined by the State Board of Education. No contract shall be deemed effectively transferred until said transfer is approved by the State Board of Education."

Approved July 1, 1989.

CHAPTER 48

FORMERLY

HOUSE BILL NO. 127
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO EXPRESSLY REQUIRING THAT ALL ALCOHOLIC LIQUOR COMES TO REST IN DELAWARE PRIOR TO RESALE.

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

Section 1. Amend Subsection (15), §101, Chapter 1, Title 4 Delaware Code by striking said subsection and by substituting in lieu thereof a new subsection (15) to read as follows:

"(15) 'Establishment' means any place located physically in this State where alcoholic liquor of one or more varieties is stored, sold or used by authority of any law of this State, including a hotel, restaurant, tavern or club as defined in this section, or where alcoholic liquor of one or more varieties is manufactured by virtue of any law of this State."

Section 2. Amend §501, Subchapter I, Chapter 5, Title 4, Delaware Code by adding thereto a new subsection designated as subsection (f), which new subsection shall read as follows:

"(f) No person may import into this State any alcoholic liquor unless it is delivered directly to a licensed warehouse or warehouses in Delaware owned, leased or operated by a licensed Delaware importer and is unloaded and physically stored in said warehouse or warehouses."

Section 3. Amend §502, Subchapter I, Chapter 5, Title 4, Delaware Code by striking subparagraph 2 of Subsection (a) in its entirety and substituting a new subparagraph (2) to read as follows:

"(2) The location and description of the premises, located in this State, where it is proposed that such alcoholic liquor is to be manufactured or is to be stored by the importer prior to its resale in the State and whether the premises are owned or leased by the applicant and, if leased, the name of the owner thereof;"

Section 4. This Act shall take effect ninety days after its enactment into law.

Approved July 1, 1989.

CHAPTER 49

FORMERLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 234

AN ACT TO AMEND CHAPTER 41 AND CHAPTER 29, TITLE 14 OF THE DELAWARE CODE RELATING TO THE TRANSPORTATION OF PUPILS TO AND FROM SCHOOL; AND PROVIDING FOR A CHOICE BETWEEN PRIVATE TRANSPORTATION AND BUS TRANSPORTATION.

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

Section 1. Amend Chapter 41, Part I, Title 14 of the Delaware Code by adding thereto a new section, designated as §4115, which new section shall read as follows:

"§4115. Choice of Transportation

The school board of each school district shall have authority to offer, to each student within that district who is licensed to drive a motor vehicle, a choice between driving a private vehicle to the school and transportation to the school by the school bus; provided however, that those who choose to drive a private vehicle shall not be transported by a school bus, and those who choose to be transported by a school bus shall not be permitted to park on school grounds. Each school board shall have authority to permit the principal of each school affected by this section to issue passes for school bus transportation to certain pupils who have chosen to drive a private vehicle, for use on a temporary and emergency basis; and may give each such principal the power to set aside a specific number of parking places, for use on a temporary and emergency basis by pupils who originally chose transportation by school bus."

Section 2. Amend Chapter 29, Part I, Title 14 of the Delaware Code by adding thereto a new section, designated as §2909, which new section shall read as follows:

"§2909. Transportation of Certain Pupils

Each local Board of Education may adopt and enforce rules and regulations whereby pupils may elect to waive bus transportation to and from school in favor of another form of transportation. Any contract between the State Board of Education and a supplier of bus transportation, or between a local school board and a supplier of bus transportation, shall be based upon the number of students who elect to be transported by bus; and shall not be based upon the total number of students in the school or school district."

Approved July 1, 1989.

CHAPTER 50

FORMERLY

SENATE BILL NO. 188

AN ACT TO AMEND CHAPTER 76, TITLE 3 OF THE DELAWARE CODE RELATING TO THE REGISTRATION OF LIVESTOCK DEALERS.

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

Section 1. Amend Section 7602(4), Chapter 76, Title 3, of the Delaware Code by striking the period "." at the end of the sentence and substituting in lieu thereof the following:

"or poultry."

Approved June 29, 1989.

CHAPTER 51

FORMERLY

SENATE BILL NO. 191
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 12, TITLE 3 OF THE DELAWARE CODE RELATING TO PESTICIDE DEFINITIONS, AND TO PESTICIDE PERMITS.

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 1202, Title 3 of the Delaware Code by adding a new subsection to read as follows:

"(36) 'Dealer Permit' means a written certificate, issued by the Department, authorizing the sale of restricted use pesticides and/or state restricted use pesticides."

Section 2. Amend subsection (a), Section 1214, Title 3 of the Delaware Code by striking subsection (a) in its entirety and inserting in lieu thereof the following:

"(a) The Department shall require that:

(1) No person may use a pesticide designed as a 'state restricted use pesticide' until that person has a permit duly issued by the Department, and;

(2) No person may sell a 'restricted use pesticide' or a 'state restricted use pesticide' unless that person has a dealer permit."

Section 3. Amend subsection (c)(7), Section 1224, Title 3 of the Delaware Code by striking the word "or".

Section 4. Amend subsection (c)(8), Section 1224, Title 3 of the Delaware Code by striking the period after the last word "product" and adding a semicolon and the word "or" thereto.

Section 5. Amend subsection (c), Section 1224, Title 3 of the Delaware Code by adding a new subsection to read as follows:

"(9) Selling or offering to sell a 'restricted use pesticide' or a 'state restricted use pesticide' without a duly issued dealer permit."

Approved June 29, 1989.

CHAPTER 52

FORMERLY

SENATE BILL NO. 176
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 81, TITLE 29 OF THE DELAWARE CODE RELATING TO DIVISION DIRECTORS, AND TO THE DIVISION OF STANDARDS AND INSPECTIONS, AND TO THE DIVISION OF PRODUCTION AND PROMOTION, AND TO EXEMPTION, AND TO BUDGETING AND FINANCE.

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

Section 1. Amend §8102(b), Title 29 of the Delaware Code by striking the words "or positions of division director as are vacant" where they appear therein and substituting in lieu the words "of Deputy Secretary if vacant" and by striking the word "directors" where such word appears therein and substituting in lieu thereof the words "Deputy Secretary".

Section 2. Amend §8102(c), Title 29 of the Delaware Code by striking the words "director of any division of the Department" where they appear therein and substituting in lieu thereof the words "Deputy Secretary" and by striking the words "director of a division" and substituting therein the words "Deputy Secretary".

Section 3. Amend §8103, Title 29 of the Delaware Code by striking the words "following division directors" where they appear therein and substituting in lieu thereof the words "Deputy Secretary".

Section 4. Amend subparagraph §8103(2)(a), Title 29 of the Delaware Code by striking subparagraph (a) in its entirety.

Section 5. Amend §8103(2)(b), Title 29 of the Delaware Code by striking subparagraph (b) in its entirety.

Section 6. Amend §8104, Title 29 of the Delaware Code by striking the present section in its entirety and adding a new section thereto to read as follows:

"§8104. Division of Consumer Protection.

The Division of Consumer Protection is established having such power, duties and functions as may be assigned to it by the Secretary consistent with this chapter."

Section 7. Amend §8105, Title 29 of the Delaware Code by striking the present Section in its entirety and adding a new section thereto to read as follows:

"§8105. Division of Promotion and Production Support.

The Division of Promotion and Production Support is established having such powers and duties and functions as may be assigned to it by the Secretary consistent with this chapter."

Section 8. Amend Chapter 81, Title 29, of the Delaware Code by adding a new section to read as follows:

"§8105A. The Division of Resource Management.

The Division of Resource Management is established having such powers, duties and functions as may be assigned to it by the Secretary consistent with this chapter."

Section 9. Amend §8110(2), Title 29 of the Delaware Code by striking the present subsection (2) in its entirety and adding a new subsection thereto to read as follows:

"(2) Deputy Secretary."

Section 10. Amend §8110(3), Title 29 of the Delaware Code by striking the present subsection (3) in its entirety.

Section 11. Amend §8116, Title 29 of the Delaware Code by striking the words "division directors" where they appear therein and substituting in lieu thereof the words "Deputy Secretary".

Approved June 29, 1989.

CHAPTER 53

FORMERLY

SENATE BILL NO. 104
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 67, TITLE 18, DELAWARE CODE RELATING TO LINE-OF-DUTY DISABILITY BENEFITS TO VOLUNTEER FIREMAN.

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

Section 1. Amend Section 6701, Title 18, Delaware Code by striking subsection (1) thereof and substituting in lieu thereof the following:

"(1) 'Covered firemen', shall mean enrolled firemen, ladies auxiliary, volunteer ambulance and rescue company members in good standing either according to the rules of their Delaware volunteer fire company or association or through their assignment to a municipal fire company. The use of the masculine gender throughout this chapter in referring to 'covered firemen' shall also include the feminine gender where applicable."

Section 2. Amend Section 6701(2), Title 18, Delaware Code by striking the words "and ladies auxiliary" as they appear therein and substituting in lieu thereof the following ", ladies auxiliary members and volunteer ambulance and rescue company members"

Approved June 29, 1989.

CHAPTER 54

FORMERLY

SENATE BILL NO. 103
AS AMENDED BY SENATE AMENTMENT NO. 1

AN ACT TO AMEND CHAPTER 66, TITLE 18 DELAWARE CODE RELATING TO LINE-OF-DUTY DEATH BENEFITS.

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

Section 1. Amend §6601, Chapter 66, Title 18, Delaware Code by striking the words "and ladies auxiliary" as they appear in subsection (1)(a) thereof and substituting in lieu thereof the following: ", ladies auxiliary and volunteer ambulance and rescue company".

Section 2. Amend §6601 (1)(a), Chapter 66, Title 18, Delaware Code by striking the word "fire" as the same shall appear between the words "Delaware volunteer" and the word "company".

Approved June 29, 1989.

CHAPTER 55

FORMERLY

SENATE BILL NO. 216
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE, RELATING TO MINIMUM CAPITAL STOCK REQUIREMENTS OF STATE BANKS, BANK FRANCHISE TAX RETURN FILING DEADLINES, AND INSURANCE REQUIREMENTS FOR BUILDING AND LOAN ASSOCIATIONS.

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

Section 1. Amend §745, Chapter 7, Title 5 of the Delaware Code by striking the "." after the phrase "not more than 5,000 persons" and inserting in lieu thereof ", or such greater amount as the Commissioner may require after review of the charter, business plan and proposed activities of the bank."

Section 2. Amend §1104 (a), Chapter 11, Title 5 of the Delaware Code by deleting the phrase "1st day of August" as it appears in the last sentence of said subsection and inserting in lieu thereof the phrase "1st day of March".

Section 3. Amend §1727, Chapter 17, Title 5 of the Delaware Code by striking the phrase "Insured pursuant to Title IV of the National Housing Act (12 U.S.C. Section 1724 et. seq.) and the regulations pursuant thereto." and substituting in lieu thereof the words "federally insured."

Approved June 29, 1989.

CHAPTER 56

FORMERLY

SENATE BILL NO. 177
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 35 OF TITLE 12 OF THE DELAWARE CODE RELATING TO TRUSTS.

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

Section 1. Amend §3534, Chapter 35, Title 12, Delaware Code, by striking §3534 in its entirety.

Section 2. Amend Chapter 35, Title 12, Delaware Code, by adding thereto a new subchapter to read as follows:

" Subchapter V. Compensation of Trustees.

§3560. Trustees Entitled to Compensation in Accordance with Instrument.

(a) Trustees under wills, trustees under inter vivos deeds of trust, both revocable and irrevocable, and successors to such trustees, are entitled to reasonable compensation for their services in accordance with the instrument creating the trust. Subject to other provisions of this paragraph, if a trust instrument fixes the reasonable compensation of a trustee, the trustee is entitled to compensation as so determined. Upon proper showing, the Court of Chancery may fix or allow greater or lesser compensation than could be allowed under the terms of such trust in any of the following circumstances:

(i) Where the duties of the trustee are substantially different from those contemplated when the trust was created;

(ii) Where the compensation in accordance with the terms of the trust would be unreasonable low or high;

(iii) In extraordinary circumstances calling for equitable relief.

(b) An order under this section allowing greater or lesser compensation applies to such actions taken in the administration of a trust as the order shall specify.

§3561. Reasonable Compensation When Trust Instrument Does Not Determine.

(a) As used in this Section: the term "qualified trustee" means any person authorized by the law of this State or of the United States to act as a trustee whose activities are subject to supervision by the Bank Commissioner of the State of Delaware, the Federal Deposit Insurance Corporation, or the Comptroller of the Currency of the United States.

(b) Unless a trust instrument specifically provides that the trustee shall serve without compensation, when a trust instrument does not fix the compensation of the trustee, reasonable compensation shall be allowed. Subject to the provisions of Section 3562 hereof, such compensation shall be determined as follows:

(1) For qualified trustees:

(i) Each qualified trustee shall file with the Register in Chancery for every county in this State, a copy of a schedule or formula by which its allowance as compensation shall be computed. Such schedule or formula may be based upon or reflect the following factors:

A. The time spent or likely to be spent in administering a trust of the type contemplated;

B. The risks and responsibilities involved;

C. The novelty and difficulty of the tasks required of the trustee;

D. The skill and experience of the trustee;

E. Comparable charges for similar services;

F. The character of the trust assets;

G. The time constraints imposed upon the trustee in administering the trust.

(ii) Each qualified trustee shall provide a copy of its current trustee fee schedule or formula as filed upon any filing pursuant to subparagraph (b)(1)(i) of this section to the settlor of any revocable trust and to each current income beneficiary of every other trust from which it will seek to be allowed compensation to be calculated in accordance with such schedule or formula;

(iii) Each qualified trustee shall be allowed as reasonable compensation for services with respect to each trust from which it is entitled to compensation under this section, an amount determined by application of the schedule or formula so filed to trusts of that size and type.

(2) For other trustees, the Court of Chancery shall from time to time promulgate a rule fixing the method by which, trustees other than qualified trustees may be allowed compensation for their services.

(3) There shall be no presumption that a fee schedule filed under Subparagraph (b)(1) of this Section is any more or less reasonable than the schedule promulgated under paragraph (b)(2) of this Section.

§3562. Judicial Review of Trustees' Allowances.

(a) The provisions of subparagraph (b)(1)(iii) of Section 3561 of this Title notwithstanding, the settlor or any current income beneficiary of a trust, or any other person having an equitable interest in a trust from which a fee for trustee compensation is taken or is proposed to be taken pursuant to paragraph (b) of Section 3561 of this Title, who objects to a schedule or formula filed thereunder as being unreasonable, or who objects to the fee fixed by such schedule or formula as being unreasonable in the particular circumstances, may petition the Court of Chancery for judicial review of the reasonableness of the schedule or formula, or of its application, as the case may be.

(b) Upon the filing of any such petition, the Court of Chancery may appoint a disinterested third person to act as master to hear and determine the matters raised by such petition and any answer thereto. Proceedings before such master shall be in conformance with the Rules of the Court of Chancery. The final report of the master shall be in the form of findings of fact, conclusions of law, and recommended decree, and shall be filed with the Register in Chancery. Findings of fact made by the master, if supported by substantial evidence, shall be conclusive. The Court of Chancery shall thereafter enter its decree determining the matter in issue. Costs of the proceeding, including the reasonable fee of the master, shall be assessed against the trust in question if the petition is denied in its entirety and shall be assessed against the trustee in its individual capacity if it is granted in whole. In other instances, costs shall be apportioned equitably."

Section 3. The Act shall be effective upon enactment with respect to all trusts, whether created before or after enactment of this Act.

Approved July 1, 1989.

CHAPTER 57

FORMERLY

SENATE BILL NO. 46

AN ACT TO AMEND CHAPTER 74A, TITLE 16 OF THE DELAWARE CODE RELATING TO ENHANCED 911 EMERGENCY NUMBER SERVICE.

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

Section 1. Amend Chapter 74A, Title 16 of the Delaware Code by adding thereto a new section, to be designated as §7405A which shall read as follows:

"§7405A. Liability of Corporations Providing a 9-1-1 Enhanced Emergency Reporting System Pursuant to this Chapter.

(a) The liability of a corporation providing a 9-1-1 Enhanced Emergency Reporting System ("the System") pursuant to this Chapter for any injury, damage or loss, including, but not limited to: bodily injury, property damage, loss of business or other consequential damages, resulting from an interruption, fault, failure or other deficiency in the system, related telephone services or the provision of the System or related telephone services by the corporation, whether or not due to the negligence or other misconduct of the corporation, shall not exceed $1,000,000 for any and all claims arising out of each occurrence of an interruption, fault, failure or other deficiency in the System, related telephone services or the provision of the System or related telephone services by the corporation.

(b)(1) In any case in which a telephone or other corporation providing a 9-1-1 Enhanced Emergency Reporting System ("the System") shall be found to be liable for any injury, damage or loss, including, but not limited to: bodily injury, property damage, loss of business or other consequential damages, resulting from an interruption, fault, failure or other deficiency in the System, related telephone services or the provision of the System or related telephone services by the corporation, the judgment entered against the corporation shall be limited to an amount equal to that percentage of the total damages awarded to the claimant which is attributable to the negligence or other misconduct of the corporation.

(2) The corporation shall not be liable to pay any portion of that percentage of the total damages awarded to the claimant which is attributable to the negligence or other misconduct of any other person, including the claimant, whether or not that person is a party to the action.

(3) In all cases, a determination shall be made as to the percentages of the total damages awarded to the claimant which are attributable to the negligence or other misconduct of the corporation and the negligence or other misconduct of other persons, including the claimant, whether or not parties to the action."

Section 2. Amend Chapter 74A, Title 16 of the Delaware Code by striking the word "Enhanced 911" wherever they appear in said chapter and substituting in lieu thereof the phrase "9-1-1 Enhanced".

Approved June 29, 1989.

CHAPTER 58

FORMERLY

SENATE BILL NO. 166

AN ACT TO AMEND CHAPTER 13, TITLE 30, DELAWARE CODE, RELATING TO INHERITANCE TAX.

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

Section 1. Amend §1323(b), Chapter 13, Title 30, Delaware Code by inserting between the first and second sentence thereof, the following new sentence:

"For purposes of this section, property shall not fail to qualify for the said federal estate tax marital deduction because the surviving spouse of the decedent is not a citizen of the United States."

Section 2. This Act shall be effective for decedents dying after November 10, 1988.

Approved June 29, 1989.

CHAPTER 59

FORMERLY

SENATE BILL NO. 167
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 25, DELAWARE CODE, RELATING TO PROCEDURES FOR FILING A NOTICE OF PENDENCY OF A LEGAL ACTION THE OBJECT OF WHICH IS TO AFFECT TITLE TO, OR IMPOSE AN EQUITABLE LIEN ON REAL ESTATE.

WHEREAS, under the common law doctrine of lis pendens, any equitable action filed in the courts of this State may be deemed to be notice to the world of the contents of such action; and

WHEREAS, as a consequence, a pending lawsuit could bind a person having an interest in real estate, notwithstanding the absence of actual notice to such person; and

WHEREAS, notices of actions in many different forms are filed with the Recorder of Deeds, which notices cloud title to real estate; and

WHEREAS, there currently exists no established procedure for the filing and canceling of a notice of pendency of an action with the Recorder of Deeds; and

WHEREAS, it is in the best interests of the people of this State that they receive notice of the existence of an action which affects real estate in which they may have an interest, and that procedures be established for the form, content, and means of filing and canceling such notices.

NOW, THEREFORE
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 25 of the Delaware Code by adding thereto a new chapter to read as follows:

"Chapter 16. Lis Pendens

§1601. Written Notice of Pendency of Action;

In any action instituted in any court of this state having civil jurisdiction or in the United States District Court for the District of Delaware, any party asserting a claim, the object of which is to affect the title to, or enforce an equitable lien on, real estate may, after filing of such claim, file in the office of the Recorder of Deeds of any county in which all or any part of the affected real estate is situate a written notice of the pendency of the action, which shall be under oath, and shall set forth. (i) the court in which the action was brought, the caption of the action, and the civil action number, (ii) the object of the action or the affirmative relief sought, (iii) a legal description sufficient to identify the property affected and (iv) a designation of the names of each party against whom the notice is directed to be indexed. No notice of pendency shall be filed under this chapter (i) on a claim relating to real estate which, if sustained, would entitle the party to recovery solely of money or money damages; or (ii) to enforce a mechanic's lien or to foreclose upon a mortgage at law, which actions shall continue to be governed by the notice procedures of this Code specifically applicable thereto.

§1602. Recording; Indexing; Cancellation;

Upon payment of the proper fee, the Recorder of Deeds shall record the notice of pendency. Each notice recorded shall be indexed, direct and indirect, against the name of each party designated in the notice of pendency. Such entry shall note next to such name the book and page number where the notice of pendency is recorded. When so directed by order of the Court, or by the recording party, as provided in this chapter, the Recorder of Deeds shall mark "canceled" across the face page of the recorded notice of pendency and the related index entries.

§1603. Filed Notice of Pendency; Effect as to Persons Claiming Interest in Real Estate Identified in Notice of Pendency;

The recording of a notice of pendency shall be notice to any person acquiring an interest in the real property identified in the notice from or through any party named in the notice from the time of the recording of the notice. Any person claiming an interest in the real property which is the subject of the notice of pendency is bound by

all proceedings taken in the action after such recording and until cancellation or discharge to the same extent as if such person were a party.

Unless and until a notice of pendency is filed as provided by this chapter, no action shall, before final judgment is entered therein, be deemed to be constructive notice to a person acquiring or having acquired a lien on or any other interest in the affected real estate.

§1604. Effective Term;

A notice of pendency shall be effective for a term of three years from the date of recording with the Recorder of Deeds. Before expiration of a term or an extended term, the Court, upon motion of the party recording the notice, for good cause shown, may grant an extension for a like additional term. An extension order shall be recorded with the Recorder of Deeds before expiration of the prior term. An extension order shall be recorded with the Recorder of Deeds before expiration of the prior term and no extension order may be entered by any Court after the expiration of the original term or any extended term.

§1605. Mailing of Notice of Pendency to Parties Against Whom Notice is Indexed;

Within five (5) days after filing the written notice of pendency with the Recorder of Deeds, the party recording the notice of pendency shall serve or mail a copy of such notice by first class mail to the last known address of each party against whom the notice of pendency has been indexed, and to all persons shown on the public records to have an interest in or lien upon the real estate which is the subject of the notice. Not later than ten (10) days after filing the written notice of pendency, an affidavit of the party recording the notice of pendency or of the attorney for such party shall be filed with the Clerk of the Court in which the action has been filed, indicating compliance with the foregoing requirements, including the parties to whom the notice was sent, the date of mailing, and the address(es) to which the notice(s) were sent.

§1606. Mandatory Cancellation;

The Court, upon motion of any party aggrieved, shall direct any Recorder of Deeds to cancel a notice of pendency if (i) mailing of the notice has not been completed within the time required by §1605 hereof, or (ii) the final judgment entered denying the claim covered by the notice of pendency is no longer appealable; or (iii) the claim relating to the real estate is one which, if sustained, would entitle the party solely to recover money or money damages.

§1607. Cancellation Upon Condition of Security;

In an action for the enforcement of an equitable lien, the objective of which is to secure the payment of money, the Court, upon motion of any party aggrieved, as a condition of cancellation of the notice of pendency, may direct that such party post sufficient security to insure the payment of money as may, by the final determination of the action, be ascertained to be chargeable upon the affected real estate. Nothing herein contained shall preclude the posting of bond or other security by agreement of the parties as a condition of cancellation.

§1608. Discretionary Cancellation; Hearing on Probability of Success on the Merits;

The Court, upon motion, supported by affidavit(s), of any party aggrieved, may direct any Recorder of Deeds to cancel a notice of pendency if the Court determines that there is not a probability that final judgment will be entered in favor of the party recording the notice of pendency. The party recording the notice of pendency shall bear the burden of establishing such probability. The Court may order oral argument on the motion. No discovery on such motion shall be permitted unless so ordered by the Court. The order of the Court on the motion may contain such conditions as the Court deems just and proper.

§1609. Voluntary Cancellation by Party Recording the Notice;

At any time, the Recorder of Deeds shall cancel the notice of pendency upon written request, under oath, for such cancellation and upon payment of the proper fee by the party who recorded the notice, or by such party's attorney of record. The written request shall be recorded.

§1610. Effect of Canceled or Expired Notice;

A canceled or expired notice of pendency shall not be deemed to be actual or constructive notice to any person for any purpose.

§1611. Costs and Attorney's Fees;

In an order either upholding a notice of pendency or cancelling a notice of pendency, the court may, for good cause shown, and in the interest of justice, direct a party to pay the prevailing party's damages, if any, together with court costs of the action. In addition, the court, in exceptional cases, may award reasonable attorney's fees to the prevailing party. Attorney's fees may be assessed against a party only if the court finds that such party has willfully asserted a claim or defense thereof without foundation in law or fact and/or not supported by a good faith request for an extension of the law, or for an improper purpose such as to harass or cause unnecessary delay in a legal proceeding or transaction.

§1612. Fee for Recording Notice as Taxable Costs;

The fee for recording a notice of pendency shall be taxable as a part of the costs in the action.

§1613. Recording and Marginal Notation of Judgment or Stipulation of Dismissal;

Whenever a stipulation of dismissal is filed, or whenever a final judgment entered is no longer appealable, notice of the pendency of which action has been filed in the Recorder of Deeds, the party who filed the notice of pendency shall cause a certified copy of the order of final judgment or a copy of the stipulation to be recorded in the Office of the Recorder of Deeds. Upon payment of the proper fee, the Recorder of Deeds shall record the order or stipulation in the manner provided in §1602 of this chapter and shall note the recording thereof on the notice of pendency. If the party who filed the notice of pendency fails or refuses to file a certified copy of the final order or stipulation of dismissal, any party aggrieved by the filing of the notice may cause the order or stipulation to be filed.

§1614. Express Repeal of Common Law

The common law doctrine of lis pendens is hereby abolished and no action instituted after the effective date hereof shall constitute constructive notice to any person unless notice of such action complies with the requirements of this Chapter.

Approved June 29, 1989.

CHAPTER 60

FORMERLY

HOUSE BILL NO. 318

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

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

Section 1. Amend paragraph (e) of §105, Chapter 1, Title 5 of the Delaware Code by deleting the sum of "$50,000" and inserting in lieu thereof the phrase "fifteen percent (15%) of the total budget for the previous year."

Approved June 30, 1989.

CHAPTER 61

FORMERLY

SENATE BILL NO. 155

AN ACT TO AMEND CHAPTER 303, VOLUME 66, LAWS OF DELAWARE, BEING SENATE BILL NO. 480 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, 1989, 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 303, Volume 66, Laws of Delaware, being Senate Bill No. 480 of the 134th General Assembly, by making the following adjustments to General Funds in Section 1:

Page	Line	Organization/Item	From	To	Increase/Decrease
7	37	(10-02-04) Budget Office			
7	40	Contingencies Contingency-Salaries and Other Employment Costs	$1875.8	$1690.8	($185.0)
48	1	(65-00-00) Department of Agriculture			
48	3	(65-01-00) Resource Management			
48	New	Multi-Peril Crop Insurance	-0-	$185.0	$185.0
48	18	(65-01-01) (1.0) ASF Administration (13.0)	$588.9	$773.9	

Section 2. Amend Chapter 303, Volume 66, Laws of Delaware, being Senate Bill No. 480 of the 134th General Assembly, by adding thereto a new section to read as follows:

"Section 324. Section 1 of the Act provides an appropriation of $185.0 to the Department of Agriculture, Administration (65-01-01) for Multi-Peril Crop Insurance. The Department of Agriculture is hereby authorized to expend a sum not to exceed the aggregate of the remaining balance of the Multi-Peril Crop Insurance of 1988 (65-01-01), plus the amount appropriated in Section 1 herein for the purpose of providing a 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 the calendar year 1989. 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 two-thirds of the Federal subsidy. 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 20% of the total cost of the premium, which is equal to two-thirds of the Federal subsidy. 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 11.3% of the total cost of the premium, which is equal to two-thirds of the Federal subsidy. 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 13.1% of the total cost of the premium, which is equal to two-thirds of the Federal subsidy. This subsidy shall be in addition to the 19.7% subsicy provided by the Federal Crop Insurance Corporation.

(e) In no event shall the total amount expended pursuant to the provisions enumerated herein exceed the aggregate of the remaining balance of the Multi-Peril Crop Insurance of 1988 (65-01-01) plus the amount appropriated in Section 1 herein. Should the appropriation here, 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 have an active crop insurance policy for the 1989 crop year.

(g) Disbursement made under this program shall be made directly to the Federal Crop Insurance Corporation."

Section 3. Amend Chapter 303, Volume 66, Section 84, Laws of Delaware being Senate Bill No. 480 of the 134th General Assembly by striking the words "June 30, 1989" and substitute in lieu thereof "June 30, 1990".

Section 4. Amend Section 1 of Chapter 303, Volume 66, Laws of Delaware, being Senate Bill No. 480 of the 134th General Assembly, by recomputing all subtotals and totals accordingly, as a result of this Act.

Approved June 30, 1989.

CHAPTER 62

FORMERLY

HOUSE BILL NO. 449

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 1990; 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 (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:

Accounting Code	Organization/Description	Amount
(10-07-02)	Delaware Justice Information System	
	Local Police Coordination	$ 38,000
	Aid to Local Law Enforcement	350,000
(35-01-10)	Dept. of Health & Social Services - Secretary	
	Adolescent Program	$ 450,000

Accounting Code	Organization/Description	Amount
(35-14-10)	Division of Aging	
	Senior Centers	
	Absolom Jones Senior Center	$ 93,980
	Brandywine Senior Center	65,233
	Bridgeville Senior Center	75,018
	Cape Henlopen Senior Center	121,305
	Chesapeake and Delaware Senior Center	40,633
	Clarence Fraim Senior Center	102,662
	DeLaWarr Senior Center	69,233
	Frederica Adult Center	58,582
	Georgetown CHEER Center	25,835
	Greenwood CHEER Center	25,835
	Harrington Senior Center	55,710
	Harvest Years Senior Center	30,155
	Howard Weston Senior Center	184,663
	Huling Cove Community Center-Lewes CHEER Center	38,294
	Indian River Senior Center	58,060
	Jewish Community Center	56,227
	Jimmy Jenkins Senior Center	58,153
	Julia Tallman Golden Age Center	59,813
	Kenton/Hartly Senior Center	44,031
	Kirkwood United Methodist Church Senior Center	21,539
	Laurel Senior Center	125,792
	Lewes Senior Citizens Center	34,073
	Los Abuelos Senior Center (Methodist Action Program)	19,113
	M.O.T. Senior Center	64,633
	Mid-County Senior Center	116,730
	Milford Senior Center	67,710
	Modern Maturity Center	164,117
	Nanticoke Senior Center	109,605
	New Castle Senior Center	50,525
	Newark Senior Center	95,702
	Northeast Senior Center	62,965
	Oak Grove Senior Center, Inc.	121,390
	Oak Orchard CHEER Center	25,835
	Peoples Settlement - Senior Citizens Program	50,013
	Roxana CHEER Center	25,835

St. Ann's Neighborhood Services	77,980
St. Anthony's Senior Center	80,660
St. Hedwig's Senior Center	155,962
St. Patrick's Senior Center	101,520
St. Peter's Adult Center	78,320
St. Thomas Senior Center	93,795
Sellers Senior Center	72,233
Slaughter Neck CHEER Center	25,835
Smyrna-Clayton Senior Center	21,615
South Wilmington Senior Adult Center	19,113
West Center City Senior Activity Center	72,013
Wilmington Senior Center	138,795
TOTAL - Section 1	$ 4,194,840

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

One-Time Items:

Camp Dimension, Inc.	$ 5,500
Milton Historical Society	1,800
198th Coast Artillery Regiment (AA) Association	4,500
Criminal Justice Council - Aid to Local Law Enforcement	1,000,000

Arts/Historical/Cultural/Tourism

Afro-American Historical Society of Delaware, Inc.	$ 15,000
Associated Community Talents, Inc.-The Everett Theater	12,000
Delaware Academy of Science-Iron Hill Museum	5,000
Delaware Agriculture Museum	32,000
Delaware City Day Committee	11,000
Delaware Humanities Council-Visiting Scholars Program	27,500
Delaware State Fair	166,500
Harrington Historical Society	9,430
Historic Red Clay Valley, Inc. Wilmington & Western Railroad	10,000
Historical Society of Delaware	50,000
Miss Delaware Pageant	6,000
Mohawk Foundation, Inc.	40,000
Naaman's Kill Questors, Inc.	4,500
Nanticoke Indian Association, Inc.	7,000
New Castle - Separation Day	10,000
New Castle Historical Society	5,000
WHYY	350,000

Aging - Other

Boys Club of Wilmington	$ 13,500
Geriatric Services of Delaware, Inc.	85,000
Meals on Wheels - Lewes and Rehoboth	30,500
Rehabilitative Opportunities for Homebound Residents	25,000
Sussex County Home Services (HOPE Program)	32,000
West Center City Community Center - Physical Fitness Program	6,887

Handicapped/Health/Labor

AHEDD, Inc. - Kent/Sussex	$ 20,000
AHEDD, Inc. - Wilmington	15,000
Adult Educable Mentally Retarded	39,027
Alliance for the Mentally Ill	33,000
Arthritis Foundation	10,000
Association for Retarded Citizens	6,000
Career Exploration Program, Inc.	30,000
Delaware Association for Blind Athletes	6,000
Delaware Association for the Blind	42,000
Delaware Elwyn Institute	15,000
Delaware Hospice, Inc.	170,000
Delaware Paralyzed Veterans Prosthetic Foundation, Inc.	15,000

Delaware Special Olympics	10,000
Easter Seal Society for Crippled Children & Adults of Delaware	72,000
Institute for Development of Human Resources	24,000
Jobs for Delaware Graduates	150,000
Kent/Sussex Industries	41,570
Mancus Foundation	30,000
Mary Campbell Center, Inc.	100,000
Mental Health Association in Delaware	15,000
National Multiple Sclerosis Society	8,000

Family and Youth Services

Residential Treatment

Aid-in-Dover, Inc. (Eight-O-One)	$ 40,000
Children's Home, Inc.	42,000
Diamond State Youth, Inc.	100,000
Independent Living - Apartment Training	60,000
Independent Living - Senior Home Share	15,000

Other

Because We Care II	$ 10,000
Big Brothers/Big Sisters of Delaware, Inc.	38,700
Boys Club of Wilmington - Other	15,000
Child Care Connection	50,000
Child, Inc.	65,000
Children's Bureau of Delaware	105,000
Delaware Assn. of Chiefs of Police - Camp Barnes	20,000
Del. Guidance Services for Children & Youth, Inc.	142,500
Del. State Headstart Parents Association	12,000
Family Services of Delaware	40,000
Jewish Family Service of Delaware	15,000
Juvenile Awareness Education Program	25,000
National Council on Agricultural Life and Research Fund, Inc.	25,000
Parents Anonymous of Delaware	25,000
Peoples Place II	80,000
Turnabout Counseling Center/Seaford Action Committee	160,000
United Cerebral Palsy of Delaware, Inc.,	45,000
YMCA of Southern Delaware - Mini-Bike	25,000
Youth Guidance Program	13,000

Adult Day Care

Total Living Care, Inc.	$ 20,000

Alcohol/Drug Abuse

ANKH, Inc.	$ 23,000
1212 Program	18,000
Center for Pastoral Care	30,000
Limen House	35,000
Open Door, Inc.	105,000
Peoples Settlement Association	15,000
Resource Center, Inc.	42,000

Neighborhood/Community Services

Casa San Francisco	$ 46,000
Chesapeake Bay Girl Scout Council, Inc.	18,000
Civil Air Patrol - Cadet Program	13,000
Church Home Foundation, Inc.	29,000
Claymont Community Center	210,000
Community Legal Aid - Social Security Advocacy	89,000
CONTACT Wilmington	55,000
Delaware Crime Stoppers	14,000
Delaware Crop Improvement Association	2,500
Delaware Housing Coalition	10,000
Delaware Safety Council, Inc.	38,000
Delmarva Rural Ministries, Inc.	20,000
Eastlawn Area Human Services, Inc.	80,000
Eastside Citizens, Inc.	42,000

Edgemoor Educational and Recreational Community Center	155,000
First State Games, Inc.	25,000
Food Conservers	100,000
Girls Club of Delaware	31,000
Greater Elsmere Recreation & Education Center	126,000
Hilltop Lutheran Neighborhood Center	32,000
Hockessin Community Center	70,000
Home of Divine Providence, Inc.	35,000
Latin American Community Center, Inc.	30,000
M.O.T. Community Action	56,000
Mary Mother of Hope - House of Joseph	25,000
Mary Mother of Hope House - Phase I	47,000

Neighborhood/Community Services (cont.)

Mary Mother of Hope House - Phase II and III	$ 51,000
Mary Mother of Hope House - Emmanuel Dining Room	50,000
Mary Mother of Hope House - Job Placement Center	19,000
Methodist Mission and Church Extension Society, Inc. - Methodist Action Program	30,000
Neighborhood House, Inc.	46,000
New Castle County Crisis Pregnancy Center	23,000
Newark Housing Ministries	32,000
Richardson Park Community Action	15,000
Rosehill Community Center, Inc.	107,891
Salvation Army Emergency Housing	75,000
Salvation Army - Kent County Crisis Alleviation	25,000
Slaughter Neck Community Action Committee	35,000
South Wilmington Medical Center	75,000
Southwest Wilmington Community Center	92,500
St. Helena's Church - Social Ministry	9,000
Sussex Community Crisis Housing Services, Inc.	15,000
Sussex County Community Action	50,000
Tri-State Bird Rescue and Research	14,000
Union Baptist Services	56,000
West End Neighborhood House, Inc.	30,000
Whatcoat Social Service Agency	47,000
YMCA of Delaware Eastern Sussex Family Branch	15,000
YWCA of New Castle County	119,000
TOTAL - Section 2	$ 6,703,305

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	$ 13,099
Belvedere Volunteer Fire Company	Belvedere	13,099
Brandywine Hundred Fire Co. No. 1	Bellefonte	13,099
Christiana Fire Co.	Christiana	13,099
Claymont Fire Co.	Claymont	13,099
Cranston Heights Fire Co.	Cranston Heights	13,099
Delaware City Fire Co.	Delaware City	13,099
Elsmere Fire Co.	Elsmere	13,099
Five Points Fire Co. No. 1	Richardson Park	13,099
Goodwill Fire Co. No. 1	New Castle	13,099
Hockessin Fire Co.	Hockessin	13,099
Holloway Terrace Fire Co.	Holloway Terrace	13,099
Mill Creek Fire Co.	Marshallton	13,099
Minquadale Fire Co.	Minquadale	13,099
Minquas Fire Co. No. 1	Newport	13,099
Odessa Fire Co., Inc.	Odessa	13,099
Port Penn Volunteer Fire Co., Inc.	Port Penn	13,099
Talleyville Fire Co., Inc.	Talleyville	13,099
Townsend Fire Co., Inc.	Townsend	13,099
Volunteer Hose Co., Inc.	Middletown	13,099
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	13,099

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	$ 13,099

Camden-Wyoming Fire Co.	Camden	13,099
Carlisle Fire Co.	Milford	13,099
Cheswold Volunteer Fire Co.	Cheswold	13,099
Citizens' Hose Co. No. 1, Inc.	Smyrna	13,099
Clayton Fire Co.	Clayton	13,099
Robbins Hose Co. (Dover Fire Dept.)	Dover	13,099
Farmington Volunteer Fire Co.	Farmington	13,099
Felton Community Fire Co.	Felton	13,099
Frederica Volunteer Fire Co.	Frederica	13,099
Harrington Fire Co.	Harrington	13,099
Hartly Volunteer Fire Co.	Hartly	13,099
Houston Volunteer Fire Co.	Houston	13,099
Leipsic Volunteer Fire Co.	Leipsic	13,099
Little Creek Volunteer Fire Co.	Little Creek	13,099
Magnolia Volunteer Fire Co.	Magnolia	13,099
Marydel Volunteer Fire Co., Inc.	Marydel	13,099
South Bowers Fire Co.	South Bowers	13,099

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	$ 13,099
Blades Volunteer Fire Co., Inc.	Blades	13,099
Bridgeville Volunteer Fire Co.	Bridgeville	13,099
Dagsboro Volunteer Fire Co.	Dagsboro	13,099
Delmar Fire Department	Delmar	13,099
Ellendale Volunteer Fire Co.	Ellendale	13,099
Frankford Volunteer Fire Co.	Frankford	13,099
Georgetown Fire Co., Inc.	Georgetown	13,099
Greenwood Volunteer Fire Co.	Greenwood	13,099
Gumboro Volunteer Fire Co.,Inc.	Gumboro	13,099
Indian River Volunteer Fire Co.	Indian River	13,099
Laurel Fire Department, Inc.	Laurel	13,099
Lewes Fire Department, Inc.	Lewes	13,099
Millsboro Fire Co.	Millsboro	13,099
Milton Volunteer Fire Co.	Milton	13,099
Millville Volunteer Fire Co.	Millville	13,099
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	13,099
Roxanna Volunteer Fire Co.	Roxanna	13,099
Seaford Volunteer Fire Dept., Inc.	Seaford	13,099
Selbyville Volunteer Fire Co., Inc.	Selbyville	13,099
Slaughter Beach Memorial Fire Co.	Slaughter Beach	13,099
	TOTAL	$ 785,940

(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	$ 1,794
Blades Volunteer Fire Co., Inc.	Blades	1,794
Bridgeville Volunteer Fire Co.	Bridgeville	1,794
Bowers Volunteer Fire Co., Inc.	Bowers	1,794
Brandywine Hundred Fire Co., No. 1	Bellefonte	1,794
Camden-Wyoming Fire Co.	Camden	1,794
Carlisle Fire Co.	Milford	1,794
Cheswold Volunteer Fire Co.	Cheswold	1,794
Christiana Fire Co.	Christiana	1,794
Claymont Fire Co.	Claymont	1,794
Cranston Heights Fire Co.	Cranston Heights	1,794
Dagsboro Volunteer Fire Co.	Dagsboro	1,794
Delaware City Fire Co.	Delaware City	1,794
Delmar Fire Department	Delmar	1,794
Ellendale Volunteer Fire Co.	Ellendale	1,794
Elsmere Fire Co.	Elsmere	1,794
Felton Community Fire Co.	Felton	1,794
Five Points Fire Co. No. 1	Richardson Park	1,794
Frankford Volunteer Fire Co. No. 1	Frankford	1,794
Frederica Volunteer Fire Co.	Frederica	1,794
Goodwill Fire Co. No. 1	New Castle	1,794
Greenwood Volunteer Fire Co.	Greenwood	1,794
Gumboro Volunteer Fire Co., Inc.	Gumboro	1,794
Harrington Fire Co.	Harrington	1,794
Hartly Volunteer Fire Co., Inc.	Hartly	1,794
Holloway Terrace Fire Co.	Holloway Terrace	1,794

Hockessin Fire Co.	Hockessin	1,794
Laurel Fire Department, Inc.	Laurel	1,794
Leipsic Volunteer Fire Co.	Leipsic	1,794
Lewes Fire Department, Inc.	Lewes	1,794
Magnolia Volunteer Fire Co.	Magnolia	1,794
Mill Creek Fire Co.	Marshallton	1,794
Millville Volunteer Fire Co., Inc.	Millville	1,794
Milton Volunteer Fire Co.	Milton	1,794
Minquadale Fire Co.	Minquadale	1,794
Minquas Fire Co. No. 1	Newport	1,794
Port Penn Volunteer Fire Co.	Port Penn	1,794
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	1,794
Roxanna Volunteer Fire Co.	Roxanna	1,794
Seaford Volunteer Fire Co., Inc.	Seaford	1,794
Selbyville Volunteer Fire Co., Inc.	Selbyville	1,794
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,794
Talleyville Fire Co., Inc.	Talleyville	1,794
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	1,794
	TOTAL	$ 78,936

(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	$ 1,794
Bethany Beach Volunteer Fire Co.	Bethany Beach	1,794
Blades Volunteer Fire Co.	Blades	1,794
Bowers Volunteer Fire Co., Inc.	Bowers	1,794
Brandywine Hundred Fire Co. No. 1	Bellefonte	1,794
Bridgeville Volunteer Fire Co.	Bridgeville	1,794
Camden-Wyoming Fire Co.	Camden	1,794
Carlisle Fire Co.	Milford	1,794
Cheswold Volunteer Fire Co.	Cheswold	1,794
Christiana Fire Co.	Christiana	1,794
Citizens' Hose Co. No. 1, Inc.	Smyrna	1,794
Claymont Fire Co.	Claymont	1,794
Clayton Fire Co.	Clayton	1,794
Cranston Heights Fire Co.	Cranston Heights	1,794
Dagsboro Volunteer Fire Co.	Dagsboro	1,794
Delaware City Fire Co.	Delaware City	1,794
Delmar Fire Department	Delmar	1,794
Robbins Hose Co. (Dover Fire Dept.)	Dover	1,794
Elsmere Fire Co.	Elsmere	1,794
Farmington Volunteer Fire Co.	Farmington	1,794
Felton Community Fire Co.	Felton	1,794
Five Points Fire Co. No. 1	Richardson Park	1,794
Frederica Volunteer Fire Co.	Frederica	1,794
Georgetown Fire Co.	Georgetown	1,794
Greenwood Fire Co. No. 1	Greenwood	1,794
Goodwill Fire Co. No. 1	New Castle	1,794
Harrington Fire Co.	Harrington	1,794
Hartly Volunteer Fire Co., Inc.	Hartly	1,794
Hockessin Fire Co.	Hockessin	1,794
Holloway Terrace Fire Co.	Holloway Terrace	1,794
Indian River Volunteer Fire Co.	Indian River	1,794
Laurel Fire Dept., Inc.	Laurel	1,794
Leipsic Volunteer Fire Co.	Leipsic	1,794
Lewes Fire Department, Inc.	Lewes	1,794
Little Creek Volunteer Fire Co.	Little Creek	1,794
Magnolia Volunteer Fire Co.	Magnolia	1,794
Marydel Volunteer Fire Co.	Marydel	1,794
Mill Creek Fire Co.	Marshallton	1,794
Millsboro Fire Co.	Millsboro	1,794
Millville Volunteer Fire Co., Inc.	Millville	1,794
Milton Volunteer Fire Co.	Milton	1,794
Minquadale Fire Co.	Minquadale	1,794
Minquas Fire Co. No. 1	Newport	1,794
Odessa Fire Co., Inc.	Odessa	1,794
Port Penn Volunteer Fire Co., Inc.	Port Penn	1,794
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	1,794
Roxanna Volunteer Fire Co.	Roxanna	1,794
Seaford Volunteer Fire Department, Inc.	Seaford	1,794

Selbyville Fire Co., Inc.	Selbyville	1,794
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,794
South Bowers Fire Co.	South Bowers	1,794
Ellendale Volunteer Fire Co.	Ellendale	1,794
Houston Volunteer Fire Co.	Houston	1,794
Talleyville Fire Co., Inc.	Talleyville	1,794
Townsend Fire Co.,Inc.	Townsend	1,794
Volunteer Hose Co., Inc.	Middletown	1,794
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	1,794
	TOTAL	$ 102,258

(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	$ 2,675
Brandywine Hundred Fire Co., No. 1	Bellefonte	2,675
Christiana Fire Co.	Christiana	2,675
Claymont Fire Co.	Claymont	2,675
Delaware City Fire Co.	Delaware City	2,675
Elsmere Fire Co.	Elsmere	2,675
Five Points Fire Co. No. 1	Richardson Park	2,675
Goodwill Fire Co.No. 1	New Castle	2,675
Mill Creek Fire Co.	Marshallton	2,675
Talleyville Fire Co., Inc.	Talleyville	2,675
Volunteer Hose Co., Inc.	Middletown	2,675
Wilmington Manor Volunteer Fire Co.	Wilmington Manor	2,675

Kent County

Camden-Wyoming Fire Company	Camden	$ 2,675
Carlisle Fire Co.	Milford	2,675
Citizens' Hose Co., No. 1, Inc.	Smyrna	2,675
Hartly Volunteer Fire Co., Inc.	Hartly	2,675
Robbins Hose Co., (Dover Fire Dept.)	Dover	2,675

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	$ 2,675
Lewes Fire Department, Inc.	Lewes	2,675
Millsboro Fire Co.	Millsboro	2,675
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,675
Seaford Volunteer Fire Co., Inc.	Seaford	2,675
	TOTAL	$ 58,850

(e) There is appropriated to the Mayor and Council of Wilmington the following sums to be used for:

(i) The prevention and extinguishment of fires throughout the City of Wilmington and for the maintenance of the apparatus and equipment of the 8 fire companies organized and equipped in the City. $ 104,792

(ii) The maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguishing highrise fires throughout the City of Wilmington. $ 8,025

TOTAL $ 112,817

(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	$ 17,179
Blades Volunteer Fire Co., Inc.	Blades	17,179
Bowers Volunteer Fire Co., Inc.	Bowers	17,179
Bridgeville Volunteer Fire Co.	Bridgeville	17,179

Camden-Wyoming Fire Co.	Camden	17,179
Carlisle Fire Co.	Milford	17,179
Cheswold Volunteer Fire Co.	Cheswold	17,179
Citizens' Hose Co. No. 1, Inc.	Smyrna	17,179
Clayton Fire Co.	Clayton	17,179
Dagsboro Volunteer Fire Co.	Dagsboro	17,179
Delmar Fire Department	Delmar	17,179
Robbins Hose Co., (Dover Fire Dept.)	Dover	17,179
Ellendale Volunteer Fire Co.	Ellendale	17,179
Farmington Volunteer Fire Co.	Farmington	17,179
Felton Community Fire Co.	Felton	17,179
Frankford Volunteer Fire Co.	Frankford	17,179
Frederica Volunteer Fire Co.	Frederica	17,179
Georgetown Fire Co., Inc.	Georgetown	17,179
Greenwood Volunteer Fire Co.	Greenwood	17,179
Gumboro Volunteer Fire Co., Inc.	Gumboro	17,179
Harrington Fire Co.	Harrington	17,179
Hartly Volunteer Fire Co.	Hartly	17,179
Houston Volunteer Fire Co.	Houston	17,179
Indian River Volunteer Fire Co.	Indian River	17,179
Laurel Fire Department, Inc.	Laurel	17,179
Leipsic Volunteer Fire Co.	Leipsic	17,179
Lewes Fire Department, Inc.	Lewes	17,179
Little Creek Volunteer Fire Co.	Little Creek	17,179
Magnolia Volunteer Fire Co.	Magnolia	17,179
Marydel Volunteer Fire Co., Inc.	Marydel	17,179
Millsboro Fire Co.	Millsboro	17,179
Milton Volunteer Fire Co.	Milton	17,179
Millville Volunteer Fire Co.	Millville	17,179
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	17,179
Roxanna Volunteer Fire Co.	Roxanna	17,179
Seaford Volunteer Fire Dept., Inc.	Seaford	17,179
Selbyville Volunteer Fire Co., Inc.	Selbyville	17,179
Slaughter Beach Memorial Fire Co.	Slaughter Beach	17,179
South Bowers Fire Co.	South Bowers	17,179
	TOTAL	$ 669,981

(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	$ 1,794
American Legion, Sussex Post #8	Georgetown	1,794
American Legion, Kent Post #14	Smyrna	1,794
Sussex Memorial Post #7422, V.F.W.	Millsboro	1,794
TOTAL		$ 7,176

Total - Section 3 $ 1,815,958

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	$ 23,520
Veterans of Foreign Wars, Department of Delaware	23,520
Disabled American Veterans, Department of Delaware	19,597
Vietnam Veterans of America, Department of Delaware	19,597
Paralyzed Veterans of America, Department of Delaware	19,597

(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	$ 5,719
American Legion, Department of Delaware	5,719
Disabled American Veterans, Department of Delaware	5,719
Vietnam Veterans of America	5,719
Jewish War Veterans of the U.S., Department of Delaware	3,274
Delaware Veterans of World War I	2,445
Paralyzed Veterans of America, Department of Delaware	4,903

(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 $4,623 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 $4,623 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 $1,847 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 $ 150,422

Section 5. Section 1 of this Act appropriates $166,500 to the Delaware State Fair. Of that amount, $50,000 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 and shall be paid by the State Treasurer at the beginning of the first quarter of Fiscal Year 1990. The remaining $116,500 shall be paid in quarterly allotments, as provided in Chapter 65, Section 6505 of Title 29, Delaware Code.

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. 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 1991 in grants-in-aid to agencies for the purchase of capital equipment, relocation, rehabilitation, renovation or purchase of buildings.

Section 12. 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, 1990, shall revert to the General Fund of the State of Delaware.

Section 13. (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 1990 for the agencies as follows:

198th Coast Artillery Regiment (AA) Association
Afro American Historical Society
Association for Retarded Citizens
Camp Dimension, Inc.
Delaware Academy of Science - Iron Hill Museum
Delaware Association for Blind Athletes
Delaware Association of Police Chiefs - Camp Barnes

Delaware City Day Committee
Miss Delaware Pageant
Namaan Kill Questors, Inc.
National Multiple Sclerosis Society
New Castle Historical Society
New Castle - Separation Day
West Center City Community Center - Physical Fitness Program

(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 1990 for the municipalities which receive $6,000 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 1990.

Section 14. 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, rehabilitatiol 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 15. (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 1991:

(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. 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 1991.

(f) For Fiscal Year 1990, 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, 1989. Such financial information shall be in the form as defined in Subsection (a)(i) or Subsection (a)(ii) 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 16. Section 1 of this Act makes appropriations to the following new senior centers based on a formula adopted by the Joint Finance Committee:

Georgetown CHEER Center
Greenwood CHEER Center
Huling Cove Community Center-Lewes CHEER Center
Kenton/Hartley Senior Center
Los Abuelos Senior Center-Methodist Action Center
Oak Orchard CHEER Center
Roxana CHEER Center
Slaughter Neck CHEER Center
South Wilmington Senior Adult Center

The University of Delaware will review each new senior center listed above during the first quarter of FY 1990 to verify attendance and programming. Should this review indicate a reduction from the amount appropriated in Section 1, then the remaining quarterly allotments shall be adjusted accordingly. If an increase is indicated by the University of Delaware review, then the additional funding may be reflected in the FY 1991 base rate.

Section 17. Section 1 of this Act makes an appropriation to the West Center City Senior Activity Center. These funds shall be made available on a quarterly basis as long as this organization continues to operate as a Senior Center at its location at 500 West 8th Street, Wilmington.

Section 18. (a) Section 2 of this Act appropriates a one-time item to the Criminal Justice Council - Aid to Local Law Enforcement in the amount of one million dollars ($1,000,000) for the purpose of contracting with local law enforcement agencies for Emergency Illegal Drug Enforcement programs.

(b) There is hereby established a Drug Emergency Fund for Local Law Enforcement Agencies to be administered by the State Aid to Local Law Enforcement Committee (SALLE) and disbursed by the Criminal Justice Council under authorized contracts.

(c) Local law enforcement agencies are encouraged to develop and maintain increased programs to combat illegal drug manufacturing, sale, and abuse. The Criminal Justice Council may contract with any local law enforcement agency which qualifies under standards established by the SALLE Committee to establish and maintain emergency programs to increase their efforts to combat illegal drug use and abuse. No part of this appropriation may be used to supplant funds already committed by a local law enforcement agency to regular police operations, or to pay salaries of full-time police officers and supporting personnel authorized by said agency as of June 30, 1989.

(d) The funds appropriated in Section 2 shall be allocated according to the formula presently used by the SALLE Committee as revised from time to time.

(e) Local law enforcement agencies may combine their allocations, upon approval of the SALLE Committee, to support a pool arrangement to fund a contiguous area served by more than one local law enforcement agency.

(f) Each local law enforcement agency contracting for an allocation shall, not later than April 1, 1990, report in detail the plan under which such funds are being expended, and any other information requested by the SALLE Committee. The SALLE Committee shall report to the General Assembly of the State of Delaware on or before May 1, 1990, as to the agencies that were awarded grants from these funds, the amount of the grant, and the purpose of the grant.

Section 19. Amend Section 6505(d), Title 29, of the Delaware Code by striking the amount "$4,000" as it appears in said section and substituting in lieu the amount "$6,000".

Approved July 1, 1989.

CHAPTER 63

FORMERLY

SENATE BILL NO. 130

AN ACT TO AMEND TITLE 18 DELAWARE CODE CHAPTER 25 TO REQUIRE WORKERS' COMPENSATION RATING ORGANIZATIONS TO INCLUDE DISCOUNTS FOR SAFE WORKPLACES

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

Section 1. Amend Chapter 25, Title 18, Delaware Code by adding a new Section 2533 to read as follows:

"Section 2533. Workers' Compensation Rates.

The rates and rating plans submitted under this chapter for workers' compensation shall provide for discounts on workers' compensation premiums for those Delaware employers who meet criteria as established by the Commissioner to promote and maintain safety in the workplace. The Commissioner shall promulgate a regulation which provides an inspection program to establish the eligibility of any employer for a safe workplace discount, the premium volume to qualify and the percent of discount available to employers."

Section 2. This Act shall become effective upon signature of the Governor.

Approved July 5, 1989.

CHAPTER 64

FORMERLY

HOUSE BILL NO. 157

AN ACT TO AMEND CHAPTER 34, TITLE 14 OF THE DELAWARE CODE RELATING TO THE DELAWARE NURSING INCENTIVE PROGRAM.

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

Section 1. Amend §3432, Chapter 34, Title 14 of the Delaware Code by striking subsection (c) in its entirety, and substituting in lieu thereof the following:

"(c) Awards shall be provided for undergraduate education at regionally-accredited institutions of higher education, or accredited hospital schools of nursing, for the following objectives:

(1) A course of study leading to a Bachelor of Science in Nursing degree, if the award recipient is a registered nurse employed by this State, and also has five years or more of State service; or

(2) For all other recipients, a course of study leading to certification as a registered nurse or practical nurse."

Section 2. Amend §3432, Chapter 34, Title 14 of the Delaware Code by striking the figure "$1,000" as the same appears in subsection (g), and substituting the figure "$3,000" in lieu thereof.

Section 3. Amend §3432, Chapter 34, Title 14 of the Delaware Code by re-designating subsection (f) as new subsection (g); and by re-designating each succeeding subsection accordingly.

Section 4. Amend §3432, Chapter 34, Title 14 of the Delaware Code by adding thereto a new subsection, designated as subsection (f), which new subsection shall read as follows:

"(f) Notwithstanding any other provision of this section, awards may be made available, on a pro-rated basis, to employees of the State who are enrolled as part-time nursing students. The Delaware residence requirement shall not apply to any employee of the State who is enrolled as a part-time nursing student, and who has five or more years of State service."

Approved July 5, 1989.

CHAPTER 65

FORMERLY

SENATE BILL NO. 31
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER VI-A, CHAPTER 19, TITLE 10, DELAWARE CODE RELATING TO JUDICIAL RECORDS AND INDICES.

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

Section 1. Amend Chapter 19, Title 10, Delaware Code by striking sections 1987, 1988 and 1989 in their entirety.

Approved July 6, 1989.

CHAPTER 66

FORMERLY

SENATE BILL NO. 168

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 EXTEND THE EFFECTIVE DATE OF ANNEXATION FOLLOWING A SPECIAL ANNEXATION ELECTION OR ANNEXATION RESOLUTION.

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

Section 1. Subsection (k), Section 3, Chapter 276, Volume 65, Laws of Delaware, as amended, be and the same is hereby amended by striking out the words "ninety (90) days" as they appear throughout said subsection and substituting in lieu thereof the words "one (1) year".

Section 2. Subsection (l), Section 3, Chapter 276, Volume 65, Laws of Delaware, as amended, be and the same is hereby amended by striking out the words "ninety (90) days" as they appear in the last sentence of said subsection and in the third to last sentence of said subsection, and substituting in lieu thereof the words "one (1) year".

Approved July 6, 1989.

CHAPTER 67

FORMERLY

SENATE BILL NO. 184

AN ACT TO AMEND CHAPTER 1, TITLE 26, OF THE DELAWARE CODE RELATING TO TELEPHONE SERVICE FOR PEOPLE WITH SPEECH AND HEARING IMPAIRMENTS.

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

Section 1. Amend Chapter 1, Title 26, of the Delaware Code by adding a new Section 220 to read as follows:

Section 220. Telephone Service for Hearing and Speech Impaired Persons.

(a) The Commission shall, after hearing, by order in writing, establish rules and regulations to require a public utility providing local exchange telephone service to provide a statewide dual party relay service that will allow hearing and speech impaired persons who use a telecommunications device for the deaf to communicate by telephone through attendants or equipment at a service answering facility with persons having normal hearing and speech.

(b) The public utility required to provide dual party relay service may enter into contractual arrangements with one or more other persons or entities requiring such other persons or entities to perform all or any part of the service.

(c) Costs incurred by the public utility in connection with the provision of dual party relay service shall not exceed those reasonably necessary to provide adequate service to the persons subscribing to the service. The Commission shall determine the manner in which the public utility providing this service may recover any costs associated with the implementation and operation of a Dual Party Relay System.

(d) Service enhancements or ancillary services or supporting features which are not necessary for the delivery of basic dual relay service communications features do not fall within the scope of this section.

Approved July 6, 1989.

CHAPTER 68

FORMERLY

SENATE BILL NO. 21

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 PROVIDE A DATE FOR CANDIDATES TO FILE NOTIFICATION OF CANDIDACY.

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 6, Chapter 170, Volume 57, Laws of Delaware, as amended, by striking the words "at least fifteen (15) days prior to the date of the annual election next ensuing" as they appear therein and substituting in lieu thereof the words "prior to close of business on the first Thurday in April".

Approved July 6, 1989.

CHAPTER 69

FORMERLY

SENATE BILL NO. 81

AN ACT AUTHORIZING AND DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO ISSUE A COMMERCIAL GILL NET FOODFISHING PERMIT TO WALTER WISOWATY, SR. OF DELAWARE CITY, DELAWARE WHO IS PRESENTLY PROHIBITED FROM OBTAINING A PERMIT UNDER DELAWARE FINFISHING STATUTES.

WHEREAS, Mr. Walter Wisowaty, Sr., of P.O. Box 5, Delaware City, Delaware, being 76 years old and engaged in commercial gill net fishing for over 50 years prior to the enactment of the Delaware Finfishing Statutes in 1984 that require a person to have a commercial Gill Net Foodfishing Permit to fish a drifting gill net; and

WHEREAS, Mr. Wisowaty qualified in 1984 for a commercial gill net fishing permit according to the provisions of §915, Chapter 9, Title 7, of the Delaware Code; and

WHEREAS, Mr. Wisowaty applied for a commercial gill net foodfishing permit in 1984 but withdrew his application under the presumption he could fish his drifting gill nets under his son's permit, provided his son gave him written permission; and

WHEREAS, Mr. Wisowaty did fish drifting gill nets with written authority from his son during 1984, 1985 and 1986; and

WHEREAS, because of numerous complaints about persons fishing gill nets without a commercial gill net foodfishing permit, the Advisory Council on Tidal Finfisheries requested the Department of Natural Resources and Environmental Control (DNREC) to request an Attorney General's Opinion on July 7, 1986 on the question "To what extent may an individual permitted to fish with gill nets and/or licensed to sell his catch, designate in writing, another to fish his nets and/or sell his catch?"; and

WHEREAS, Attorney General's Opinion (86-I020) issued on October 14, 1986 stated "that a permittee may legally, by prior and express written authority, allow another person to take and/or remove any finfish from that permittee's commercial foodfishing equipment, or to remove that equipment itself, but that is all."; and

WHEREAS, as a follow-up legal advisory issued on December 4, 1986, on the interpretation of Attorney General's Opinion 86-I020 confirmed that a person cannot set a drifting gill net under written authority from a commercial gill net permittee; and

WHEREAS, the son of Mr. Walter Wisowaty, Sr., asked the DNREC in May of 1987, if he could temporarily transfer his commercial gill net foodfishing permit to his father; and

WHEREAS, on August 10, 1987, the Deputy Attorney General advised that permit holders not be allowed to temporarily transfer their permits to their parents since such a transfer is not authorized by Statute; and

WHEREAS, the Department of Natural Resources and Environmental Control (DNREC) is not authorized to issue any new commercial gill net foodfishing permits until the number issued annually falls below 30; and

WHEREAS, the number of commercial gill net foodfishing permits renewed in 1988 was 135; and

WHEREAS, the Department of Natural Resources and Environmental Control (DNREC) has no objection to issuing Mr. Wisowaty a commercial gill net foodfishing 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 foodfishing permit to Mr. Walter Wisowaty, Sr., of P.O. Box 5, Delaware City, DE, notwithstanding the provisions of §915(f), Chapter 9, Title 7, Delaware Code.

Approved July 6, 1989.

CHAPTER 70

FORMERLY

SENATE BILL NO. 130

AN ACT TO AMEND CHAPTER 90, TITLE 29 OF THE DELAWARE CODE, RELATING TO REVENUE COLLECTIONS IN THE DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES.

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 9019, Chapter 90, Title 29, Delaware Code, by striking the title of said Section in its entirety and substituting: "Liability for the Maintenance of Children in the Care of the Department; Collection Remedies."

Section 2. Amend Section 9019(a), Chapter 90, Title 29, Delaware Code, by striking the phrase "residential mental health services", and substituting the phrase "any service".

Section 3. Amend Section 9019, Chapter 90, Title 29, Delaware Code, by adding a new section (d), as follows:

"(d) All fees collected under this section shall be deposited into the General Fund."

Section 4. This Act shall take effect upon enactment into law.

Approved July 6, 1989.

CHAPTER 71

FORMERLY

SENATE BILL NO. 161
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND PART VI, CHAPTER 90, TITLE 11, DELAWARE CODE, RELATING TO THE COMPENSATION OF INNOCENT VICTIMS OF CRIME.

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

Section 1. Amend §9002(3), Chapter 90, Title 11, Delaware Code by inserting a new subparagraph (d) to read as follows:

"(d) Any specific act of delinquency by a child, which if committed by an adult would constitute a specific offense set forth in Chapter 5 of this Title, and contains the characteristics of murder, rape, unlawful sexual intercourse, unlawful sexual penetration or unlawful sexual contact, manslaughter, assault, kidnapping, arson, burglary, robbery, riot, unlawful use of explosives or unlawful use of firearms."

Section 2. Amend §9012(a), Chapter 90, Title 11, Delaware Code by striking it in its entirety and adding a new subsection (a) to read as follows:

"(a) In addition to, and at the same time as, any fine is assessed to any criminal defendant or any child adjudicated delinquent, there shall be levied an additional penalty of 15% of every fine, penalty and forfeiture imposed and collected by the courts for crimes. Where multiple offenses are involved, the penalty assessment shall be based upon the total fine for all offenses. When a fine, penalty or forfeiture is suspended, in whole or in part, the penalty assessment shall not be suspended."

Section 3. Amend §9014, Chapter 90, Title 11, Delaware Code by inserting the words "or the adjudication of delinquency of any child" after the words "conviction of any person" as the same appears in the first sentence of said section.

Approved July 6, 1989.

CHAPTER 72

FORMERLY

SENATE BILL NO. 158

AN ACT TO AMEND CHAPTER 79, TITLE 16, DELAWARE CODE, RELATING TO PLUMBING RULES AND REGULATIONS.

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

Section 1. Amend §7906, Chapter 79, Title 16, Delaware Code, by designating the existing Section as subsection (a) and adding thereto a new subsection (b) to read as follows:

"(b) This section shall not apply to, and no certificate of registration shall be required of or by:

(1) Any person who installs his own plumbing work, service, or equipment in or about his own home and not for sale or any part for rent, except that such person shall be required to file application for inspection with the proper plumbing inspection authority. Nothing in this paragraph shall be construed to prohibit a person from obtaining free assistance in installing his own plumbing work, service, or equipment in his own home not for sale or any part for rent. Permits for persons permitted to do work pursuant to this section shall be available at the Division of Professional Regulation office in Dover and the Division of Public Health office of the Board of Plumbing Examiners.

(2) Property used exclusively for agricultural purposes is excluded from all provisions of this section except for the necessity to file an application for an inspection certificate with the authorized plumbing inspection authority."

Approved July 6, 1989.

CHAPTER 73

FORMERLY

SENATE BILL NO. 256

AN ACT TO AMEND AN ACT, BEING CHAPTER 276, VOLUME 65, LAWS OF DELAWARE, AS AMENDED BY CHAPTER 325, VOLUME 66, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF GEORGETOWN" TO FURTHER PROVIDE FOR ABSENTEE VOTING AT 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. Subsection (i), Section 8, Chapter 276, Volume 65, Laws of Delaware, as amended by Chapter 325, Volume 66, Laws of Delaware be and the same is hereby amended by adding paragraphs at the end thereof to read as follows:

"(4) Because such person is sick or physically disabled;

(5) Because such person is absent from the Town 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 religion."

Approved July 6, 1989.

CHAPTER 74

FORMERLY

SENATE BILL NO. 237

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 INCREASE THE MUNICIPALITY'S INDEBTEDNESS LIMITATION.

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. Paragraph 36, Subsection 1, Section 30, Chapter 276, Volume 65, Laws of Delaware, as amended, be and the same is hereby amended by deleting the words, "twenty-five percent (25%)" in the eighth line of said paragraph and by inserting therein instead the words, "thirty-five percent (35%)".

Section 2. Subsection (b), Section 34, Chapter 276, Volume 65, Laws of Delaware, as amended, be and the same is hereby amended by deleting the words, "twenty-five percent (25%)" in the second line of said subsection and by inserting therein instead the words, "thirty-five percent (35%)".

Approved July 6, 1989.

CHAPTER 75

FORMERLY

HOUSE BILL NO. 329

AN ACT TO AMEND CHAPTER 27 OF TITLE 21 OF THE DELAWARE CODE RELATING TO SCHOOL BUS DRIVERS LICENSES.

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

Section 1. Amend subsection (c) of §2708 of Title 21 of the Delaware Code by adding to the end of said subsection (c) the following:

"provided, however, that a school bus driver's license or endorsement shall be required whenever a school bus is being operated and is transporting public, parochial or private school students, regardless of the nature of the activity. For the purposes of this section the term 'school bus' shall include, but not be limited to, school sponsored or school sanctioned shuttle buses, vans and other similar school sponsored or sanctioned carriers or carriers for hire, where the carrier is primarily engaged in any given trip in the transportation of public, parochial or private school students."

Approved July 10, 1989.

CHAPTER 76

FORMERLY

SENATE BILL NO. 195

AN ACT TO AMEND CHAPTER 11, TITLE 16 OF THE DELAWARE CODE RELATING TO THE LONG-TERM CARE OMBUDSMAN AND PROVIDING FOR THE ESTABLISHMENT OF THE OFFICE OF THE LONG-TERM CARE OMBUDSMAN WITHIN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF AGING.

WHEREAS, States are required by the Older Americans Act Amendments of 1987 (P.L. 100-175) to have an Office of the Long-Term Care Ombudsman as set forth in 42 U.S.C. section 3027(a)(12).

NOW THEREFORE:

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

Section 1. Amend Chapter 11, Title 16 of the Delaware Code by adding a new Subchapter thereto as follows:

"Subchapter V. Office of the Long-Term Care Ombudsman.

Section 1150. Creation of the Office of the Long-Term Care Ombudsman.

There is hereby established within the Department of Health and Social Services, Division of Aging, the Office of the Long-Term Care Ombudsman as provided by the Older Americans Act Amendments of 1987 (P.L. 100-175).

Section 1151. Definitions.

As used in this Subchapter:

(a) 'Agency' means any private or public agency operating in the State of Delaware, one of whose purposes is the funding, provision, or regulation of health care services.

(b) 'Long-Term Care Facility' means any facility, institution, foster home, group living arrangement, adult care home, or any other facility which is required to be licensed under this Chapter.

(c) 'Long-Term Care Ombudsman' or 'Ombudsman' means the person designated under section 307(a)(12) of the Older Americans Act Amendments of 1987 (42 U.S.C. 3027(a)(12)), to perform the mandated functions of the Office of the Long-Term Care Ombudsman in the State of Delaware, or his designee.

(d) 'Record' means any medical, social, or financial information pertaining to a resident of a long-term care facility which is maintained by any agency regulated under this Chapter or Chapter 10 of this Title; provided, however, that 'record' shall not include criminal investigative files.

Section 1152. Purpose and duties.

The purpose of the Ombudsman is to provide a program to advocate for and promote the adequacy of care received and the quality of life experienced by residents of long-term care facilities in Delaware. The Ombudsman shall have the power to:

(a) Investigate and seek to resolve complaints and concerns made by or on behalf of residents of long-term care facilities in the State of Delaware relating to the actions or inactions of any long-term care facility or agencies which may adversely affect the health, safety, welfare or rights of such residents;

(b) Promote the well-being and quality of life of residents of long-term care facilities;

(c) Enter into written agreements of understanding, cooperation and collaboration with other government agencies that provide funding, oversight, inspection or operation of long-term care facilities;

(d) Establish and carry out program policies and procedures for eliciting, receiving, investigating, verifying, referring and resolving residents' complaints;

(e) Receive and investigate complaints of abuse, mistreatment, or neglect in accordance with Subchapter III of Chapter 11, Title 16 of the Delaware Code;

(f) Promulgate rules and regulations and adopt policies to implement this Subchapter; and

(g) Perform other duties as mandated by the Older American Act of 1965, as amended.

Section 1153. Access to facilities and patient records.

(a) The Ombudsman shall have access to any facility or record which is relevant to the performance of his responsibilities under this Chapter, including any record otherwise rendered confidential under Delaware law; provided however, that the Ombudsman shall obtain the consent of any resident who is able to consent or any resident's legal agent or guardian for access to such resident's records.

(b) The Ombudsman may initiate an investigation of any long-term care facility independent of the receipt of a specific complaint.

(c) Any State agency to which the Ombudsman refers a complaint shall periodically advise the Ombudsman of the status of the investigation of the complaint and notify the Ombudsman in a timely manner of the disposition of the complaint.

(d) The Ombudsman shall protect the confidentiality of residents' records and shall permit access to such records only in accordance with regulations of the Office of the Long-Term Care Ombudsman.

(e) The Ombudsman shall protect the confidentiality of files maintained by the Ombudsman and shall permit access to such files only under conditions as the Ombudsman, in his sole discretion, deems appropriate.

(f) Notwithstanding any other provision of this Subchapter, the Ombudsman shall not disclose the identity of any complainant or resident unless a court orders such disclosure or the complainant or resident consents in writing to the disclosure of his identity.

Section 1154. Good faith immunity.

(a) Persons and agencies participating in an investigation under this Chapter shall be immune from civil liability arising from their good faith participation in the investigation.

(b) No long-term care facility, other entity or person shall engage in retaliation or reprisals against any person or agency due to such person or agency's participation in an investigation under this Chapter.

Section 1155. Sanctions for interference with the Ombudsman.

(a) No person, agency, or long-term care facility shall willfully interfere with the performance of the duties and exercise of the powers of the Ombudsman provided in this Chapter.

(b) Whoever violates this Subchapter shall be fined not more than $100 for the first offense and not less than $100 nor more than $1000 for each subsequent offense. Each violation shall be considered a separate offense.

Section 1156. Jurisdiction.

(a) Justices of the Peace shall have jurisdiction over violations of this Subchapter.

(b) The Superior Court shall have jurisdiction over appeals of the decisions entered pursuant to Subsection (a) of this Section. Such appeals shall be on the record.

Section 2. Severability.

If any provision of this Subchapter is held invalid, such invalidity shall not affect the remaining provisions of this Subchapter which can be given effect without the invalid provision, and to this end, the provisions of this Subchapter are declared to be severable.

Section 3. This Act shall become effective upon the signature of the Governor."

Approved July 10, 1989.

CHAPTER 77

FORMERLY

HOUSE BILL NO. 377
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 2 OF THE DELAWARE CODE RELATING TO EMPLOYEES OF SUBSIDIARIES OF THE DELAWARE TRANSPORTATION AUTHORITY.

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

Section 1. Amend Section 1325(3) of Title 2 of the Delaware Code by deleting that Section in its entirety and inserting in lieu thereof a new Section 1325(3) which shall read:

"(3) All employees of any public or specialized transportation administration or of any subsidiary created pursuant to the Chapter. Except as otherwise provided herein, such employees shall not be considered state employees for purposes of wages, salaries, fringe benefits or for purposes of any other benefits which may accrue to state employees whether exempt or merit employees, including benefits that may accrue under Executive Order No. 36 dated November 23, 1977. Such employees shall be considered state employees for the purposes of participating in the group medical insurance plans available to state employees. Participation in, and the terms of, medical insurance programs available through the State shall not be a subject of collective bargaining."

Section 2. This Act shall also apply to all retirees of any public or specialized transportation administration or of any subsidy created pursuant to the Chapter.

Approved July 11, 1989.

CHAPTER 78

FORMERLY

SENATE BILL NO. 205
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO REINCORPORATE THE TOWN OF SOUTH BETHANY.

WHEREAS, it is deemed advisable that the Charter of the Town of South Bethany, Delaware, set forth in Chapter 143, Volume 57, Laws of Delaware with subsequent amendments, be replaced by a new Charter.

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):

1. Incorporation. The inhabitants and property owners of the Town of South Bethany, within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided, are hereby constituted and declared to be a body politic incorporated in law and equity as a single family, detached home community, by the corporate name of the "Town of South Bethany, (hereinafter "Town") with power to govern themselves by such ordinances, rules, resolutions, and regulations for municipal purposes as they, through their duly elected officers and agents may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, nor of the United States; and as such shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts.

The Town shall have perpetual succession and shall succeed to own or possess all property, whether real, personal, or mixed, tangible or intangible, of whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed or enjoyed by the Town of South Bethany previously incorporated at Chapter 143, Volume 57, Laws of Delaware, as amended.

2. Territorial Limits. The present territorial limits of the Town are hereby established and declared to be as follows:

BEGINNING at a point at the mean low water line of the Atlantic Ocean, at a corner of State lands; thence with the mean low water line of the Atlantic Ocean in a northerly direction, a distance of approximately 4,100 feet to the line of the Middlesex Development;

thence, in a west northwest direction with the line of the Middlesex Development to a common corner for Middlesex and South Bethany, and a point on the westerly side of Pine Road;

thence, by and with the westerly side of Pine Road North 08 degrees 23 minutes 19 seconds East, 271.93 feet to a point, said point being a corner of these lands and lands of South Bethany Recreational Association, Inc.

thence, leaving the westerly side of Pine Road, and by and with lands of South Bethany Recreational Association, Inc., the following two (2) courses and distances, North 81 degrees 37 minutes, 31 seconds West, 237.39 feet to a point;

thence, North 08 degrees 20 minutes 11 seconds East, 292.10 feet to a point, said point being a corner of these lands and lands of South Bethany Recreational Association, Inc., and being situate on the south side of Route #361;

thence, by and with Route #361 South 79 degrees 19 minutes 04 seconds West, 126.53 feet to a point; thence, South 84 degrees 14 minutes 46 seconds West, 287.50 feet to a point, said point being a corner of these lands and lands of Sea Colony, Inc.;

thence, leaving said Route #361, and by and with lands of Sea Colony, Inc.; South 11 degrees 05 minutes 02 seconds West, 526.15 feet to a point, said point being a corner of these lands and lands of Sea Colony, Inc.;

thence, continuing with lands of Sea Colony, Inc., North 69 degrees 33 minutes 48 seconds West, 642.01 feet to a point, said point being situate on the easterly right-of-way of the Assawoman Canal;

thence, continuing with the same bearing the distance necessary to extend the line to the centerline of the Assawoman Canal;

thence, southeasterly along the center of the Assawoman Canal to the Jefferson Creek Canal to a point where said low water line intersects the State lands;

thence, by and with the State lands, South 60 degrees 45 minutes 00 seconds East, to the point of beginning.

The above boundaries having previously been established by an Act to Incorporate the Town of South Bethany, 57 Del. Laws Chapter 143, June 14, 1969; as amended by an Act to Amend Chapter 143, Volume 57, Laws of Delaware, dated June 13, 1985.

The Town Council may, at any time hereafter, cause a survey and plot to be made of said Town, and the said plot or any supplement thereto, when made and approved by said Town Council, signed by the Mayor, and attested to by the Secretary, with the Town Seal affixed, upon being recorded in the Office of the Recorder of Deeds in and for Sussex County, State of Delaware, or the record thereof, or a duly certified copy of said record, shall be in evidence in all courts of law and equity in this State.

3. Annexation of Territory. The Town shall have power to annex any additional contiguous territory adjoining the corporate limits of the Town as hereinbefore set forth or as hereafter extended pursuant to the procedure set forth in this section, and to apply to all such additional territory all laws, ordinances, resolutions, and policies in force in the Town so far as they may be locally applicable.

3.1 By Petition of the Property Owners. Any property owner(s) holding record fee title to real property in territory contiguous (subject to Sec. 3.2.9b) to the then existing corporate limits of the Town may petition the Town Council to annex that certain territory in which they own property. Such petition shall be in writing, duly executed and acknowledged by each petitioner, shall describe with reasonable certainty the territory proposed for annexation, indicate the property owned by each petitioner therein and state the reasons for the requested annexation. The Town Council may, within ninety (90) days following the filing of such petition in the Town Office, vote to accept such petition and proceed as hereinafter provided, or to reject such petition. A petition not so accepted within said ninety (90) days shall be null and void. For purposes of this Sec. 3.1.1 and Sec. 3.1.2, "territory contiguous to the then existing corporate limits of the Town" shall include both real property which is proposed to be included in the annexation and real property which would be contiguous under Sec. 3.2.9(b).

3.1.2 By Resolution of the Town Council. The Town Council may, at any time, adopt a resolution proposing the annexation of any territory contiguous to the Town. Such resolution shall describe, with reasonably certainty, the territory proposed to be annexed and state the reasons for the proposed annexation. Upon adoption of such resolution, the Town Council shall proceed as hereafter provided.

3.2 Annexation Procedure. Whether annexation is proposed by petition of the property owners or by resolution of the Town Council, the following procedure shall be complied with:

3.2.1 Resolution and Notice. The Town Council shall adopt a resolution notifying the property owners and the residents of both the Town and the territory proposed to be annexed, that the Town proposes to annex certain territory which adjoins its then corporate limits. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution setting forth the information shall be published at least once in at least two (2) newspapers which shall be of general circulation in the Town and in the territory proposed to be annexed. Such publication shall appear not less than thirty (30) days nor more than sixty (60) days before the date set for the hearing. In the event that such publications do not appear on the same date, the date of the last publication shall control. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto.

In addition to publication as herein provided, the Town Council shall, not less than thirty (30) days nor more than sixty (60) days before the date of such hearing: (1) cause a public notice, containing the full text of the resolution to be posted in at least five (5) public places in the Town and in at least one (1) place, viewable to the public, in the territory proposed to be annexed; and (2) send a copy of such notice, certified mail, to the owners of record of the lands proposed to be included in the annexation at their addresses as shown on the public tax records. Written notice to one co-owner shall be notice to all.

3.2.2 Public Hearing. At the time, date, and place specified in the resolution proposing annexation (or at any revised date, time, or place if duly noticed as provided in Sec. 3.2.1) the Town Council shall sit to hear comments and opinion from any concerned party regarding the proposed annexation. Such public hearing shall be for the purpose of obtaining public opinion and legislative fact finding.

3.2.3 Resolution Ordering Special Election. Following the public hearing, but in no event later than sixty (60) days thereafter, the Town Council may pass a resolution ordering a special election to be held not less than thirty (30) days, nor more than sixty (60) days after the date of such resolution proposing the special election. The passage of this resolution shall be considered the determination of the Town Council to proceed with the matter of the proposed annexation, provided, however, that if the annual municipal election is to be held within 120 days of the date of the resolution adopted by the Town Council pursuant to this section, the election on the proposed annexation may be held in conjunction with the annual municipal election and all provisions hereof shall be construed and applied accordingly.

3.2.4 Notice of Special Election. Notice of the time and place of said special election shall be published not less than thirty (30) days nor more than sixty (60) days before the date set for said special election. Notice shall be published at least once in two (2) newspapers which shall be of general circulation in the Town and in the territory proposed to be annexed. In the event that such publications do not appear on the same date, the date of the last publication shall control. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto. In addition to such publication as herein provided, the Town Council shall, not less than thirty (30) days nor more than sixty (60) days before the date of such special election, cause a public notice containing the full text of the resolution proposing such special election to be posted in at least five (5) public places in the Town and in at least one (1) place, viewable to the public, in the territory proposed to be annexed.

3.2.5 Those Entitled to Vote.

(a) At such special election, any person who is lawfully entitled to vote at the annual Municipal election, if it were being held on that day, and any person who would be so entitled if the area proposed to be annexed were already included in the Town, shall be entitled to one (1) vote. For purposes of this section, "lawfully entitled to vote" shall include "registered to vote" if registration is required; but all persons in the area to be annexed shall be deemed to be registered if they would otherwise be entitled to vote. In addition, each legal entity, other than a natural person, owning property in its own name, either in the Town or in the territory proposed to be annexed, shall be entitled to one (1) vote.

(b) These provisions shall be construed so as to permit "one person, one vote". Should a voter be entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one (1) vote. Should a voter be entitled to vote by ownership of two (2) or more properties, that voter shall be entitled to only one (1) vote.

(c) Any legal entity (other than a natural person) entitled to vote must cast its vote by a duly executed and acknowledged power of attorney. Such power of attorney shall be surrendered to the Board of Special Election which shall file the same in the Office of the Town Manager. Such power of attorney so filed shall constitute conclusive evidence of the right of said person to vote in the special election on behalf of the legal entity granting the power.

3.2.6 Conduct of the Special Election. The Town Council may cause voting machines, electronic voting systems, or paper ballots to be used in the special election, as required by law, the form of ballot to be printed as follows:

_____ For the proposed annexation

_____ Against the proposed annexation.

The Mayor shall appoint three (3) natural persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated the Presiding Officer. The Board of Special Elections shall be the sole and final judge of the legality of the votes offered at such special election. It shall keep a true and accurate list of all natural persons and other legal entities voting. Voting shall be conducted in a public place as designated by the resolution calling

the special election. The polling place shall be open for a minimum of six (6) consecutive hours as set by the Town Council, on the date set for the special election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls. All ballots cast by those persons or other legal entities authorized to vote in the territory proposed to be annexed shall be deposited in designated ballot box(es) or cast in designated voting machine(s), and all ballots cast by those persons or other legal entities who are authorized to vote in the Town shall be deposited in other designated ballot box(es) or cast in other designated voting machine(s).

3.2.7 Results of Special Election.

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

(b) In the event that the special election results in an unfavorable vote for the annexation in either or both the Town and the territory proposed to be annexed, no part of the territory proposed to be annexed shall again be considered for annexation for a period of at least one (1) year from the date of the special election.

(c) If the vote in both the Town and in the territory proposed to be annexed is favorable to the proposed annexation, the Town Council shall at its first meeting following the special election adopt a resolution annexing the said territory and including it within the limits of the Town. Upon the adoption of the resolution of annexation, a copy thereof, signed by the Mayor and certified by the Secretary, with the Town Seal affixed, together with a plot of the area annexed, shall forthwith be filed for recording in the Office of the Recorder of Deeds in and for Sussex County, Delaware. The territory so annexed shall be considered to be a part of the Town from the moment the resolution of annexation is adopted by the Town Council. Failure to record the resolution, or the plot accompanying same, shall not invalidate the annexation, but such recording may be enforced by writ of mandamus or mandatory injunction.

3.2.8 Annexation Agreements. Notwithstanding any provision herein to the contrary, where, pursuant to Sec. 3.1.1 of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the Town, such petition may be made contingent upon an annexation agreement with the Town which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the Town Council approves such an agreement and votes to accept a petition under Sec. 3.1.1 of this Charter, such annexation agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure: (1) the resolutions and notices adopted by the Town Council pursuant to Sec. 3.2.1, Sec. 3.2.3, Sec. 3.2.4 and Sec. 3.2.10 shall recite that the proposed annexation includes and is subject to an annexation agreement, shall briefly summarize its terms, and shall state that copies of the agreement are available upon request at the Town Office; (2) if the results of the election are favorable to the proposed annexation as provided by Sec. 3.2.7(a) of this Charter, the resolution annexing the territory (as provided by Sec. 3.2.7(c) shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference; and all affected parties shall be bound to honor the provision of such agreement. No agreement made at the time of annexation under this Sec. 3.2.8 shall extend beyond seven (7) years from the date the property is annexed into the Town; and such agreements shall be null, void, and unenforceable after the expiration of said seven (7) years.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the Town Council at any time prior to the resolution ordering the special election pursuant to Sec. 3.2.3 of this Charter, but any material modification or amendment shall be deemed to be:

(1) the withdrawal of the original petition, and

(2) the filing of a new petition under Sec. 3.1.1.

3.2.9 Property Owned by the State of Delaware: Highways, Streets, Roads, Alleys and Waterways.

(a) Real property owned by the State of Delaware may be annexed by the Town without the State casting a vote in the special election, provided the State agency having control and supervision thereof does not notify the Town, in writing, of its objection to such annexation within thirty (30) days after receiving written notice of the resolution proposing the annexation, as provided in Sec. 3.2.3.

(b) Contiguity with the Town's existing corporate limits or with other territory which is itself contiguous with the Town's existing corporate limits, shall not be deemed interrupted by the existence of any highway, street, road, alley, or waterway (included but not limited to ponds, creeks, canals, lagoons, wetlands and ditches) which passes through, or lies within the territory to be annexed.

3.2.10 Limitations. No action contesting the annexation of any territory under this section shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two (2) newspapers, both of general circulation in the Town and in the territory annexed, which notice shall contain the following information:

(a) notice that the Town has annexed such territory and a description thereof;

(b) notice that any person or other legal entity desiring to challenge such annexation must bring his/her/its action within sixty (60) days from the date of publication of such notice or forever be barred from doing so. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto. In addition to publication as herein provided, the Town Council shall cause a public notice, containing the information set out in subparagraph (a) and (b) above (using date of posting for date of "publication") to be posted in at least five (5) public places in the Town and in at least one (1) place, viewable to the public in the territory to be annexed. In the event the publication and/or the posting dates do not appear on the same date, the date of the last publication or posting shall control.

4. Powers of the Town.

4.1 General. The Town shall have and enjoy all the powers possible for a municipal corporation to have under the Constitution and Laws of the State of Delaware, as fully and completely as though they were specifically enumerated in this Charter.

4.2 Enumeration of Powers. Not by way of limitation upon the scope of the powers vested in the Town Council to exercise all powers delegated by this Charter to the Town (except as may expressly appear herein to the contrary), but rather by way of enumeration and for purposes of clarity, the Town Council is vested by this Charter with the following powers, that is to say, the Town Council:

4.2.1 may have and use a corporate seal which may be altered, changed, or renewed at any time.

4.2.2 may hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation property both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee simple 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:

(a) public buildings;

(b) parks;

(c) streets, squares, lanes, alleys, and

(d) sewer systems, including but not limited to sewage lines, conduits, sewage disposal or treatment plants, and all appurtenances thereto;

(e) water systems, including but not limited to, water plants, wells, lines, conduits and all appurtenances thereto;

(f) recreational facilities, including but not limited to public bathing beaches, gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddle ball courts and all appurtenances thereto;

(g) adequate municipal services for persons and other legal entities residing either within or beyond the corporate limits of the Town, to their mutual benefit and advantage, upon such terms, charges, and conditions as the Town Council may determine and approve;

(h) slum clearance and redevelopment, urban renewal, revitalization or rehabilitation of blighted areas or removal of dangerous buildings;

(i) protection services for the citizens of the Town to include, but not limited to, police, fire, rescue and paramedic support.

4.2.3 may sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the Town may require except as prohibited by the Constitution or Laws of the State of Delaware or as restricted by this Charter;

4.2.4 may pay for the acquisition, construction, improvement, repair, extension, alteration or demolition of any Town property (real, personal or mixed) from the general fund of the Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the Town by any governmental entity of the United States or the State of Delaware where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired;

4.2.5 may acquire, build, erect, and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;

4.2.6 may purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of abatement of nuisances,or other charge due the Town and sell the same;

4.2.7 may;

(a) ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, improve, dredge, erect, remove, repair and replace any new or present street, highway, road, alley, waterway, park, crosswalk, wharf, dock, sewer, drain, gutter, aqueduct or pipeline or portion thereof, or any new or present curb, or gutter or portion thereof in the Town and the beach or strand in or contiguous to the Town;

(b) specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done;

(c) enter into contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, highway, road, alley, sidewalk or other public thoroughfare within the Town;

4.2.8 may provide, construct, extend, maintain, manage and control groins, bulkheads, embankments, rip rap, piers or fills for the preservation of any waterway, beach, strand or high land within the corporate limits of the Town and contiguous thereto to the end that the same may be preserved and properly protected that the general public might enjoy the use thereof;

4.2.9 may regulate and control the planting, growing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and lands of the Town and may authorize or prohibit the removal or destruction of said trees;

4.2.10 may fully control the drainage of all surface water within the Town, and to that end, may provide, construct, extend, maintain, manage and control a surface water drainage system for the health, sanitation, and convenience of the inhabitants of the Town;

4.2.11 may provide an adequate supply of potable water for the Town and its inhabitants and, to this end, may:

(a) acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, water treatment facilities, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property, or rights used in or about the collection, storage, purification, conveyance or distribution or sale of water;

(b) regulate and prescribe for what public or private purposes the water furnished by the Town may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the water system or the equipment of the Town;

(c) furnish or refuse to furnish water from the Town system to places and properties outside the Town corporate limits; and

(d) contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the Town itself;

4.2.12 may:

(a) provide, construct, extend, maintain, manage and control: a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town:

(b) regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plant or facilities;

(c) furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits;

(d) compel any and all properties in the Town to be connected to the sewer system of the Town; and

(e) contract for and purchase sewer disposal service and resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself;

4.2.13 may provide for and control the lighting of the streets, highways, roads, alleys,, waterways, parks, strands, crosswalks, wharfs, docks, public buildings or other public places in the Town;

4.2.14 may regulate, control or prevent the use or storage of gasoline, naphtha, gun powder, fireworks, tar, pitch, resin and all other combustible or dangerous materials and the use of candles, lamps and other lights in stores, shops, and other places; and may regulate, suppress, remove or secure any fireplace, stove chimney, over broiler or other apparatus which may pose a danger of causing fires;

4.2.15 may:

(a) provide for the organization of a fire department and the control and government thereof;

(b) establish fire limits and do all things necessary for the prevention or extinguishment of fires; and

(c) contribute or donate funds to any volunteer fire company or companies incorporated under the Laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town, provided that any such contribution or donation may be made subject to such conditions as to the use thereof as the Town Council may deem advisable;

4.2.16 may provide for the organization of ambulance, rescue or paramedic services and the control and government thereof, may establish territories within the Town for such services; and may, at the discretion of the Town Council, contribute or donate funds to any such service formed or incorporated under the Laws of the State of Delaware, or to any volunteer service maintaining and operating ambulance, rescue or paramedic equipment and services for the inhabitants of the Town, provided that any such contribution or donation may be made subject to such conditions to the use thereof as the Town Council may deem advisable;

4.2.17 may prohibit drunkenness, use or distribution of controlled substance, gaming and fraudulent devices and riots, disturbances and disorderly assemblies;

4.2.18 may adopt and enforce such ordinances regulating traffic on all streets, highways, roads, alleys and public ways within the Town as are consistent with the motor vehicle laws of the State of Delaware;

4.2.19 may adopt and enforce such ordinances regulating traffic on all waterways within the Town as are consistent with U. S. Cost Guard and Delaware Marine Police regulations;

4.2.20 may regulate or prohibit the use of streets, highways, roads, alleys, beaches, parks, rights-ow-way, other public places and Town-owned lands for commercial use, or activities not otherwise protected from such regulation or prohibition by the Constitution or Laws of either the United States or the State of Delaware;

4.2.21 may regulate or prohibit the use of guns, air guns, spring guns, pistols, sling shots, bean shooters, and any other device for discharging missiles which may cause bodily injury or injuries or harm to persons or property; and may regulate or prevent the use of bonfires, fireworks, bombs and detonating works of all kinds within the Town;

4.2.22 may provide for and preserve the health, peace, safety, cleanliness, beauty, good order and public welfare of the Town;

4.2.23 may prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

4.2.24 may direct the excavation, draining, filling, cleaning, curbing or fencing of privately owned lots, tracts, pieces or parcels of land in the Town which are deemed dangerous or unwholesome, or necessary to carry out any improvements authorized by this Charter and may assess the cost thereof against the owner thereof;

4.2.25 may define, prevent, abate or remove nuisances, obstructions or any other conditions detrimental to the public safety, health or welfare; and may cause the cost of such abatement or removal to be paid by the person or other legal entity causing or permitting same to exist;

4.2.26 may adopt ordinances providing for the condemnation of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinances to be a fire hazard or otherwise unsafe, and may cause the same to be torn down or removed;

4.2.27 may adopt ordinances to establish and regulate animal pounds and restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large within the corporate limits of the Town; authorize the destruction of the same; and may regulate the keeping of dogs within the Town, and provide for registration and fees thereof;

4.2.28 may provide for the punishment of a violation of any ordinance of the town by appropriate fine, penalty, or forfeiture;

4.2.29 may regulate and control the construction, alteration, or removal of dwellings or other structures and provide for granting permits for same;

4.2.30 may regulate and control construction activities by private individuals or companies at such times and seasons of the year and at such hour of the day as the Town Council may determine necessary and appropriate for the public health, welfare and convenience.

4.2.31 may provide for and regulate the naming of the streets and canals and the numbering of houses and commercial establishments within the Town corporate limits;

4.2.32 may:

(a) establish setback lines for buildings and other structures to be erected;

(b) zone or district the Town and make provision for particular zones or districts with regard to construction or building materials;

(c) prohibit any construction except that for which a building permit has been issued as prescribed by the Town Council; and

(d) exercise all powers and authorities pursuant to 22 Del. C., Chapter 3, or any future corresponding provisions of law;

4.2.33 may regulate the conduct of any business, profession or occupation within the corporate limits of the Town;

4.2.34 may license, tax, and collect fees annually for any and all municipal purposes of such various amounts as the Town Council, from time to time, shall fix from any individual, firm, association or corporation carrying on, or practicing any business, profession or occupation within the limits of the Town;

4.2.35 may grant licenses, issue permits, and regulate any activity within the corporate limits of the Town, specifically including any beach property, whether previously dedicated to or owned by the State of Delaware;

4.2.36 may impose upon new development or construction or upon first-time occupancy of new construction such "impact fees" as are reasonably calculated to recover the cost of installing, enlarging, improving or expanding public or municipal improvements which have a rational nexus to such new construction;

4.2.37 may appropriate money to pay the debts and liabilities of the Town, or any portion thereof, from any funds available therefor; and may, in case of emergency, temporarily transfer money from one fiscal account to another fiscal account of the Town;

4.2.38 may raise revenue for the Town by the levying and collecting of taxes on real property, taxes on business activities, special assessments, licensing fees and other charges for services;

4.2.39 may investigate the conduct of any officer, employee or representative of the Town, in the conduct of official duties, and for such purpose may compel the attendance of witnesses and the production of books, records, or other evidence by subpoena, and may administer oaths or affirmations;

4.2.40 May establish a pension plan or a health and welfare plan or both, for the employees of the Town under such terms and conditions as the Town Council may deem appropriate, with the funding accomplished through an insurance company licensed by and authorized to do business in the State of Delaware, approved by the Town Council;

4.2.41 may, by condemnation proceedings, take private property or the right to use private property within the corporate limits of the Town for any of the purposes specified in this Charter, such proceedings to be in conformity with 10 Del. C. Chapter 61, or any future corresponding provision of law;

4.2.42 may adopt, alter, and amend all such ordinances, resolutions, regulations, and rules not contrary to the Laws of the United States and of this State as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any Law of the State relating generally to municipal corporations or which may be deemed proper and necessary for the order, protection, and good government of the Town; the protection of persons and preservation of property; and the protection of the public health and welfare of the Town and its inhabitants. Any ordinance relating to the public health of the Town and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same, shall apply not only within the corporate limits of the Town but as well to all areas and persons outside the Town within one (1) mile from its corporate limits.

4.3 Liberal Construction; Manner of Exercise. The powers of the Town under this Charter shall be liberally construed in favor of the Town, and 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 hereby, or appropriate to the exercise thereof, the Town shall have and may exercise any and all powers which, under the Constitution or Laws of the State of Delaware, it would be competent for this Charter to specifically enumerate.

All powers of the Town, whether express or implied, shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in the manner provided by ordinance or resolution of the Town Council. The Council, may, by ordinance or resolution, do such other act or thing incidental, necessary, or useful in connection with any of the matters duly authorized in this Charter.

4.4 Intergovernmental Cooperation. The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one (1) or more states or civil divisions or agencies thereof, or the United States or any agency thereof, except as prohibited or restricted by the Constitution or Laws of the State of Delaware or by this Charter.

5. Town Council.

5.1 Governing Body. The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided therein, shall be vested in and exercised by a seven (7) member Town Council composed of a Mayor and six (6) other members, each of whom shall be elected by popular vote as hereinafter provided.

5.2 Qualifications.

5.2.1 General. A candidate for the Town Council shall be a natural person at least twenty one (21) years of age, a citizen of the United States, and otherwise qualified to vote at the annual municipal election as provided in Sec. 6.1.

5.2.2 Residency Requirement for Council Candidates. At least three (3) members of the Town Council shall be residents of the State of Delaware, as defined by the laws of the State of Delaware.

(a) If a "resident" member of the Council who is also a freeholder should, during term of office, fail to maintain residency in the State, but continue to be a freeholder during his or her term of office, that person shall continue to be deemed a "resident" member of the Town Council.

(b) If a non-resident member of the Council, during his/her term, establishes residency in the State, that person shall be deemed a resident member of the Council as of the next regularly scheduled annual municipal election..2.3.

5.2.3 Residency Requirement for Mayoral Candidates. The Mayor shall be a resident of and property owner in the Town of South Bethany, Delaware, twenty-one years of age and otherwise qualified as provided in Sec. 5.2.1 and 5.2.2.

5.2.4 Council to Act as Final Judge. The Town Council, by majority vote of its disinterested members, shall be the sole and final judge of the qualifications of its members, and shall interpret and apply the standards set forth in this Charter.

5.3 Term of Office, Staggered Terms.

5.3.1 Term of Office. The term of office for each member of the Town Council shall be two (2) years.

5.3.2 Staggered Terms. The present Mayor and Council members of the Town of South Bethany, and other officers appointed to serve in the office under Chapter 143, Volume4 57, Laws of Delaware, as amended, shall continue to serve as Council members and Officers of the Town from and after the effective date of this Charter, until the successors are duly elected or appointed. At the annual Town election in 1990, the Mayor and three (3) Council members shall be elected to fill the vacancies created by the expiration of the terms of Office of the four (4) then-outgoing Council members. At the annual Town election in 1991, three (3) Council members shall be elected to fill the vacancies created by the expiration of the terms of Office of the three (3) then-outgoing Council members. Thereafter, the Mayor and three (3) members of the Town Council shall be elected in even years and three members shall be elected in odd years.

6. Municipal Elections

6.1 Voter Qualifications. Any natural person shall be qualified to vote in any annual municipal election, special election or referendum who, on voting day shall:

(a) have attained eighteen (18) years of age;

(b) be a citizen of the United States;

(c) shall be registered under the Town's Voter Registration ordinance (if one be in effect); and

(d) shall have been either:

(1) a freeholder in the Town, as defined herein, for a period of ninety (90) consecutive days immediately preceding the date of the election; or

(2) a resident of the Town, as defined herein, for at least nine (9) months, consecutively or non-consecutively of the twelve (12) month period immediately preceding the date of the election in which he or she seeks to vote.

For purposes of this Charter except for Sec. 5.2.2.

(a) a "freeholder" shall be deemed to include any natural person who holds title of record to a fee simple estate or a life estate in and to real property located within the corporate limits of the Town; and

(b) a "resident of the town" shall mean any natural person who has actually lived within the corporate limits of the Town at least nine (9) months, consecutively or non-consecutively, of the twelve (12) month period immediately preceding the date of the election.

6.1.1 Determination of Voter Eligibility. The Board of Elections is responsible to determine voter qualifications as prescribed in this Charter, as provided in Sec. 6.1.

6.2 Voter Registration. The Town Council shall by ordinance provide for the registration of voters and may prescribe registration and voting places. Such ordinance shall not alter the qualifications of voters as defined in this Charter nor unduly impair the right to vote in any election.

6.3 Uncontested Election. Where there is only one official candidate for any office on the day of the annual municipal election, the official candidate shall be deemed elected thereto without the holding of such an election.

6.4 Annual Municipal Election Procedures.

(a) Notice of Candidacy. In order to be listed on the ballot for election of Mayor and Town Council members, each candidate shall file a written notice of intention to seek such office with the Council Secretary at Least forty-five (45) days prior to the date set for the election. If the Election Board (Sec. 6.4(g) determines that any candidate may not meet the qualifications for office, it shall notify the Mayor who shall call a special meeting of the Town Council to be held not less than thirty (30) days prior to the date set for the election, at which the Town Council shall decide the matter. The candidate whose qualifications are at issue shall be notified, by registered mail, of the date, time and place of the meeting, at which he or she may appear and testify. If the Town Council determines that the candidate does not meet the qualifications of office, it shall reject the notice of intention to seek office and his or her name shall not appear on the ballot. In making the determination, only those members of the Town Council who are not running for re-election shall be entitled to vote on the question.

(b) Date, Time, and Place. Annual municipal elections for the Town Council shall be held on the last Saturday before the last Monday in May at such time and place, within the Town, as shall be determined by the Town Council. The polls shall remain open for at least a six (6) hour period to be determined by the Town Council.

(c) Notice of Elections. Public notice of any election to elect members to the Town Council shall be given by posting notice thereof in at least five (5) public places in the Town not less than thirty (30) days before the date of such election and by publishing notice at least once in two (2) newspapers of general circulation in the Town at least thirty (30) days before the date of the election. Such notices shall state the date, time, and place of the election as well as a description of the offices to be filled. Such notices as shall be in bold print or bordered in black in such manner as to call attention thereto. In the event that the publications and/or posting do not appear on the same date, the date of the last publication or posting shall control.

(d) Voting Machines, Paper Ballots. Elections shall be by voting machine, electronic voting system, or by paper ballot as the Town Council shall determine;

provided, however, that voting machines or electronic voting systems shall be used if required by State law.

(e) Absentee Voting. Any qualified voter may vote by absentee ballot at any election.

(f) Rules Governing Conduct of Elections. The Town Council shall adopt rules, consistent with the provisions of this Charter, and with applicable state or federal law governing the conduct of elections, including absentee voting.

(g) Election Board. Every election shall be held under the supervision of an Election Board. The Election Board shall consist of three (3) Judges of Election. Such Judges shall be qualified voters of the Town and shall be appointed for that purpose by the Town Council at least forty five (45) days before such election. If, at the opening of the polls, there shall not be present any member of the Election Board, then in such case, the ranking Town officer available at the opening of the polls shall appoint a qualified voter or voters to act as a member or members of the Election Board to fill vacancies caused by such absence. Members of the Election Board shall be the sole and final judges of the conduct of the election, the legality of the votes offered, and the election results. The Election Board shall have the power to subpoena persons and records relative to the determination of the qualifications of voters and the legality of any vote or votes offered.

(h) Election Results. Upon the close of such election, the votes shall be counted by the Election Board. The persons having the highest number of votes shall be declared by the Election Board to be duly elected to such vacant offices as then exist. Persons holding office shall continue in office until their successors are duly elected and installed.

(i) Tie Vote. In the event of a tie vote for any office, the election to such office shall be determined by lot.

(j) Preservation of Records and Ballots. The custody of election records and all ballots cast shall be maintained by the Town Secretary for a minimum period of six (6) months.

(k) Election Record Book. The Election Board shall enter in an Election Record Book the complete results of the election, to be subscribed by all Election Board members. Such Book shall be preserved by the Town Council.

7. Organization of Town Council.

7.1 Organizational Meeting. An organizational meeting of the Town Council shall be held on the first Saturday following the date of the election. Such meeting shall be held at the usual place for holding regular Town Council meetings and shall be open to the public. The newly elected Mayor and other Town Council members shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity. Such oath or affirmation shall be taken before a Notary Public, a Justice of the Peace, the Town Alderman, or by one of the holdover Town Council members. At the organizational meeting, the Mayor shall appoint a President Pro Tempore, a Secretary, and a Treasurer subject to ratification by majority vote of the Town Council. The Secretary and Treasurer need not be members of the Town Council. Each of these officers of the Town Council shall serve in that position for a term of one (1) year or until the organizational meeting after the next succeeding election.

7.2 Duties of Mayor. The Mayor shall preside at all meetings of the Town Council and shall have a vote on all pending issues. The Mayor shall execute, on behalf of the Town, when authorized by Town Council majority vote, all agreements, contracts, bonds, deeds, leases, and other legal documents. The Mayor shall appoint such standing and other committees as the Town Council shall require, provided that a member of the Town Council shall serve as Chairman of each standing committee. It shall be the duty of the Mayor to see that the ordinances, resolutions, regulations, and rules of the Town are duly executed; he or she shall perform all additional duties as are imposed by this Charter. The Mayor shall be empowered to delegate specific duties and responsibilities and to administer oaths and affirmations.

7.2.1 Emergency Powers. The Mayor shall be empowered to act on behalf of the Town, without prior Town Council approval, in the event of a sudden emergency requiring prompt action, in order to protect the public health, safety, and welfare of the Town, its inhabitants and property owners. A "sudden emergency", for purposes of this section shall include, by way of example and not in limitation, a major fire or conflagration, significant flooding, or serious storm threatening

significant damage, a civic disturbance, or a toxic spill. A "sudden emergency" shall also include any emergency situation as declared by any County, State or federal agency having jurisdiction over the Town where the scope of the emergency so declared includes the Town of South Bethany.

7.3 Duties of President Pro Tempore. The President Pro Tempore shall function as Mayor during the absence or disability of the Mayor.

7.4. Duties of Secretary. The Secretary shall be responsible for recording the proceedings of the Town Council and for maintaining safe custody of other Town records and the Town and shall perform such other duties as directed by ordinance or the Town Council.

7.5. Duties of Treasurer. It shall be the duty of the Treasurer to attend all Town Council meetings. The Treasurer shall be responsible for maintaining custody of all Town funds in a banking institution selected by the Town Council; for deposit of all Town receipts and disbursement of Town funds in payment of bills presented for payment; for presenting an annual financial report to the Town Council at the end of the fiscal year; and for performing such other duties as directed by ordinance of the Town Council. The Treasurer, before assuming the duties of such office, shall be required to give bond with sufficient surety to the Town Council in an amount at least equal to the funds likely to be handled in the discharge of such duties. The Treasurer shall at the end of such term of office deliver to his/her successor in office all fiscal records relating to such office and all Town funds then held in the Treasurer's custody as part of the settlement of final account. The cost of said bond shall be paid out of Town funds. In case of resignation or at the expiration of the term of office an audit shall be performed.

7.6 Filling Vacancies of Appointed Officers. If a vacancy shall occur in the office of any officer appointed pursuant to Sec. 7.1 of this Charter, the successor shall be selected for the unexpired term pursuant to the procedures of Sec. 7.1.

7.7 Code of Ethics.

7.7.1 Conflict of Interest.

No Town Council member, officer, employee, or representative shall represent the Town of South Bethany in any business transaction involving any corporation or other private party in which he or she has a direct or indirect financial interest.

7.7.2 Abuse of Office.

No Town Council member, officer, employee, or representative shall use his or her official position to obtain an undue, unwarranted, or unfair advantage, privilege or exception.

7.7.3 Disclosure of Information.

No Town Council member, officer, employee, or representative shall disclose to any unauthorized person, confidential information gained by reason of official position, nor shall such information be used for personal gain or benefit.

7.7.4 Contracts for Materials and Services.

(a) No Town Council member, officer, employee or representative may contract with the Town to provide personal services or materials for the benefit of the Town, nor may any corporation or other private party in which such official holds a pecuniary interest contract with the Town to provide such services or materials, except with the unanimous consent of all other Town Council members.

(b) Notice of all bids for street, sewer, or water system, installations, improvements, extensions, or repairs shall be published at least once in at least two (2) newspapers having general circulation in the Town of South Bethany.

7.7.5 Competitive Bidding.

All contracts for purchase or lease of materials or services authorized by this Charter shall be consummated by competitive bidding, and each such contract shall be awarded to the lowest responsible bidder who submits a responsive bid, provided, however, that competitive bidding shall not be required where:

(a) the aggregate amount involved is not more than $1,000.00;

(b) the contract is for any service to be rendered by the State of Delaware, or by any political subdivision thereof;

(c) the contract is for any service to be rendered by a university, college, or other educational institution;

(d) the contract is for property for which it is impractical to obtain competitive bids;

(e) The Town Council determines that due to an emergency or special exigency, the time required for competitive bidding is inadequate; or

(f) the Town Council determines that the bids received were:

(1) unreasonable as to all or part of the requirement; or

(2) were not independently reached in open competition.

7.8 Vacancies, Forfeiture of Office.

7.8.1 Vacancies. The office of a Town Council member shall become vacant upon death, incapacitation, resignation or forfeiture of such office.

7.8.2 Forfeiture Proceedings. A forfeiture of such office shall occur when any Town Council member:

(a) is no longer qualified to hold such office;

(b) willfully violates any provision of this Charter;

(c) is convicted of any felony or crime involving moral turpitude; or

(d) fails to attend three (3) consecutive regular Town Council meetings without being excused by Town Council vote.

7.8.3 Determination Concerning Forfeiture. Where the conditions set forth in Sec. 7.8.2 (c) or (d) occur, forfeiture shall be automatic. Where the conditions set forth in Sec. 7.8.2 (a) or (b) are alleged, forfeiture shall be made by the remaining Town Council members. Such decision may be made in executive session and if the Town Council determines by a majority vote that a forfeiture has occurred, it shall, within forty-eight (48) hours thereafter, provide written notice thereof to the affected Town Council member, by certified mail, return receipt requested, sufficiently posted. "Written notice" shall be deemed provided when deposited in First-Class mail with sufficient postage. The affected member shall then have ten (10) days in which to make a written demand for a public hearing before the Town Council, to be held within twenty (20) days of the written demand, at which hearing such member may appear with the assistance of counsel and present evidence to the relevant issues. The Town Council shall also hear any other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be made only by unanimous vote of the Town Council members entitled to vote on the question.

7.8.4 Failure to Request Hearing as a Bar. Failure of the affected member to make written demand for a public hearing as hereinabove stated shall be an absolute bar to his or her other right to challenge the Town Council's decision. If a public hearing is held, the Town Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done if requested in writing by the affected person.

7.9 Filling Vacancies. A vacancy in the office of the Mayor or of any other Town Council member shall be filled for the unexpired term by a person qualified to fill the position.

7.9.1 Procedure; Office of the Mayor. Upon the occurrence of a vacancy in the office of the Mayor, the President Pro Tempore shall assume the duties and responsibilities of Mayor until such time as a new Mayor is elected and installed in office. A vacancy in the office of Mayor shall be filled for the remainder of the unexpired term at the next annual municipal election. If the next annual municipal election is to occur more than 120 days from the occurrence of the vacancy, the Town Council shall, within 24 hours of notice of the vacancy, announce

the existence of the vacancy and the date and time for a special election to be held for the remainder of the term of office. Said election shall be held within 60 days of the announcement of said vacancy. Said special election shall be held pursuant to the provisions as provided in Sec. 6.4 of this Charter.

7.9.2 Other Council Members. A vacancy in the office of any council member other than Mayor shall be filled for the remainder of the unexpired term at the next annual municipal election. If the next annual municipal election occurs more than 90 days after the occurrence of the vacancy, the Town Council, by a majority vote of the remaining members in an open meeting, shall appoint a qualified person to fill such vacancy until the next annual municipal election. If the vacancy occurs within 90 days of the term of office, such vacancy shall not be filled.

7.10 Meetings.

7.10.1 Regular Meetings. The Town Council shall hold at least 11 meetings during the year. The time and place of each regular meeting shall be set by the Town Council each year at its organizational meeting, but such meetings may be rescheduled by the Mayor as need arises, subject to the requirement of adequate public notice. All such meetings shall be open to the public.

7.10.2 Special Meetings. Special meetings of the Town Council shall be called by the Town Secretary upon the written request of the Mayor or any four (4) members of the council stating the day, hour, and place of such meeting and the subject or subjects to be considered thereat. The Secretary shall thereon give notice at least seven days prior to said meeting date to the Mayor and each member of the Council of the day, hour, and place of such special meeting and the subject or subjects to be considered thereat. Provided, however, that a written waiver of such notice, (written, telegraphic, telefacsimile or recorded telephonic message), by all members of the Council prior to or immediately at the beginning of the convening of such special meeting shall make the forty-eight (48) hour written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time and for any purpose named in such waiver, or the transaction of any other business at the meeting, if the waiver so states. Subject to the scope of the notice, the Town Council of the Town shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at a regular meeting. The aforesaid procedure shall not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health or safety.

7.10.3 Adjourned Meetings. The Town Council may adjourn its meetings from time to time, provided that adequate public notice shall be given of the date, place, and time for the resumption of such meetings.

7.10.4 Open Meetings. All meetings of all Town governmental bodies shall be in compliance with the Freedom of Information Act, (Title 29, Chapter 100, Delaware Code), or any future corresponding provision of law.

7.10.5 Place of Meetings. All regular, special, and adjourned meetings of the Town Council shall be held within the corporate limits of the Town, except that emergency meetings may be held elsewhere. (See also, Sec. 7.10.2).

7.11 Town Council Actions.

7.11.1 Council Actions. No Town Council actions may be taken except at a duly convened meeting.

7.11.2 Rules of Procedure, Record of Proceedings. The Town Council shall determine its own rules of procedure and order of business. It shall keep a record of its proceedings which shall be open to public inspection.

7.11.3 Ordinances, Regulations, Resolutions, and Rules. The Town Council is hereby vested with the authority to adopt ordinances, resolutions, regulations, and rules relating to any subject within the powers and functions of the Town, or relating to the government of the Town, its peace and order, sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances, resolutions, regulations, or rules. No provision of this Charter on any particular subject shall be held to be restrictive of the power to enact ordinances, resolutions, regulations, and rules on any subject not specifically enumerated, provided that

they do not violate State or Federal law. In addition to other acts required by law or this Charter to be done, by ordinance, the Town Council may by ordinance:

(a) adopt or amend administrative rules, or establish or reorganize any Town department, office or agency;

(b) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(c) grant, renew, extend, or terminate a franchise; and

(d) amend or repeal any ordinances previously adopted.

Every ordinance shall be introduced in writing. Voting on any ordinance shall be by voice vote and the vote of each Town Council member on any ordinance shall be entered on the record. No ordinance shall be adopted unless it shall have the affirmative vote of a majority of the entire Town Council.

The Town Council shall not have the power to exempt any individual from the application of any ordinance, regulation, resolution, or rule of the Town, except as set out in this Charter or as provided by the United States Constitution or the laws of the State of Delaware.

7.11.4 Emergency Ordinances. To meet a public emergency affecting life, health, property or the public peace, the Town Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Sec. 13 of this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it was introduced, but the majority vote of all Town Council members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 120th day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this Subsection if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for the adoption of emergency ordinances.

7.11.5 Quorum. Four (4) members of the Town Council shall be present in order to constitute a quorum to conduct business. Council decisions shall require voting approval of a majority of the entire Council.

7.11.6 Vote Necessary to Carry Action. All powers of the Town Council, whether expressed or implied, shall be exercised in the manner provided herein, or if not prescribed herein, then by ordinance or resolution. In the general performance of their duties, the acts, doings and determinations of a majority of the entire Council shall be as good as the acts, and determinations of all the members of the Council.

7.11.7 Compensation of Council Members. Each Town Council member may receive compensation for services to the Town as may be prescribed by ordinance.

7.12 Succession of Authority. In the event that the Mayor is absent or incapable of assuming responsibilities, such responsibility shall be carried out by the following Town officials in the following order: 1) President pro tempore, 2) each of the remaining Council members in order of seniority in years of Council service, 3) Secretary, and 4) Treasurer.

8. Appointed Officers.

8.1 Town Manager.

8.1.1 Appointment and Removal. Pursuant to ordinance the Town Council, by a majority vote of all members, may appoint a Town manager who shall be the chief managerial administrative officer of the Town. The terms and conditions of such employment shall be included in a written agreement between the Town Council and the Town Manager. The Town Manager shall be appointed solely on the basis of

professional, executive, and administrative qualifications and experience. Such person need not, when appointed, be a resident of the State of Delaware, but shall, within six (6) months thereafter, as a condition of employment, become domiciled within the State of Delaware no farther than thirty (30) miles from the Town of South Bethany. No member of the Town Council shall, during the term for which elected, be eligible to serve as Town Manager. The Town Manager shall be removable from such office as provided by ordinance or the terms of a written agreement between the Town Manager and the Town of South Bethany. In case of the temporary absence, disability, or other interruption of service of the Town Manager, the Town Council may designate some other competent person to perform the duties of the office during such period.

8.1.2 Functions and Duties of Town Manager. The Town Manager shall be responsible for the administration of all governmental activities of the Town which are assigned by or under this Charter; and to that end shall have the following powers and duties:

(a) shall direct and supervise the administration of all departments, offices, and agencies of the Town;

(b) shall attend all meetings of the Town Council, and may not vote but shall have the right to take part in any discussion;

(c) shall ensure that all laws, provisions of this Charter, and ordinances and resolutions adopted by the Town Council are duly enforced;

(d) shall prepare and submit the annual capital and operating budgets to the Town Council;

(e) shall submit to the Town Council and make available to the public an annual report on the governmental activities of the Town as of the end of each fiscal year;

(f) shall submit such other reports as the Town Council may require concerning the operation of any Town department, office, or agency subject to his or her direction and supervision; and

(g) shall keep the Town Council fully informed as to the financial condition and future needs of the Town and shall make such recommendations to the Town Council concerning the affairs of the Town as deemed necessary.

(h) The Town Manager before assuming the duties of such office shall be required to give bond with sufficient surety to the Town Council in an amount at least equal to the funds likely to be handled in the discharge of such duties; and

(i) If the Town Manager shall be removed from office as herein before provided, he or she shall deliver to the Mayor within five days after removal from office, all the books and papers belonging to the office, and shall pay over to the Treasurer all funds on hand within five days after reviewing the notice of such removal from office. Immediately after the receipt of such books, the Mayor shall require an audit to be made of the books and papers of the Town Manager.

8.1.3 Reassignment of Town Manager Duties. During such period that the office of Town Manager has not been filled or shall be vacant, the duties assigned by this charter thereto shall be the responsibility of the Mayor.

8.2 Town Solicitor. The Town council shall appoint a Town Solicitor who shall be removable at the pleasure of the Town Council. The Solicitor shall be a member in good standing of the Bar of the State of Delaware with law offices in Sussex County. It shall be the Solicitor's duty to give legal advice to the Town Council, the Town Manager, and other officers of the Town, and to perform such other legal services as may be required by the Town Council.

8.3 Other Officers and Employees.

8.3.1 Appointment and Employment. The Town Council may authorize the Town Manager to appoint or employ such other officers and employees deemed necessary for the proper management of the Town.

8.3.2 Termination of Appointment or Employment. The Town Manager may at any time terminate the service of any Town officer or employee unless otherwise proscribed by the terms of a written contract, a written personnel policy, a

written personnel or merit system, a written grievance of disciplinary procedure adopted by the Town Council.

Where an officer or employee appeals a notice of termination, the Town Council shall hold a special meeting to hear the appeal. The Town Manager's decision shall be deemed to be upheld unless a majority of the Town Council votes to overrule the Town Manager.

8.4 Compensation. The Town Council shall by ordinance or resolution fix the amount of any compensation of the officers, employees and representatives of the Town, as well as reimbursement for actual and necessary expenses incurred by them in the performance of their duties.

8.5 Personnel Records. The Town Council shall maintain a full and complete record of all officers, employees and representatives hired by the Town, containing the names of such persons, the date of their employment, job descriptions, compensation paid and the date of termination of their services.

9. Assessment for Taxes.

9.1 Board of Assessment.

9.1.1 Appointment. The Mayor may, with the advice and consent of a majority of the entire Town Council, appoint a Board of Assessment composed of three (3) members, each of whom shall be a property owner within the corporate limits of the Town, and who shall serve for a three (3) year term, established on a staggered basis, one (1) term expiring annually.

The Mayor may, with the advice and consent of a majority of the entire Town Council, appoint a Board of Assessment Review, composed of three (3) members, none of whom shall be a property owner within the corporate limits of the Town, and who shall serve for a three (3) year term, established on a staggered basis, one (1) term expiring annually.

The Town Council may authorize the retention of professional services to assist the Board of Assessment. In all instances the Board of Assessment shall be responsible for making final assessment determinations.

9.1.2 Oaths, Duties, Compensation. The Members of the Board of Assessment shall be sworn or affirmed by the Mayor, a Justice of Peace, or Town Alderman, to perform their duties diligently, with fidelity and without favor to the best of their ability, knowledge and judgment. It shall be the duty of the Board of Assessment to make a fair and impartial assessment of property subject to taxation situate within the limits of the Town and to perform such other duties with reference thereto as shall be prescribed from time to time by the Town Council. The compensation received by such members for the performance of their duties, and the hiring of employees or consultants to assist them in the performance of their duties, shall be approved by the Town Council.

9.1.3 Adoption of Sussex County Assessment. The Town Council may elect to use the assessment by the Sussex County Board of Assessment for all property located within the corporate limits of the Town in lieu of making its own independent valuation and assessment of such property. In such event, the assessed values established by Sussex County shall be conclusive for purposes of levying Town taxes, and the Town Council shall have no authority to hear appeals (under Sec. 9.3) regarding same. If the Town Council elects to adopt the Sussex County assessments, then sections 9.1.1, 9.1.2, 9.2, and 9.3 shall not apply.

9.1.3.1 Addition to Tax Bills. Whether utilizing the Sussex County assessments or those prepared by the Town's own Board of Assessments, the Town Council shall annually, prior to the posting of the assessment list, by resolution, provide for the Mayor/Town Manager, a list of any and all charges, costs or other assessments owed to the Town, which list of charges incurred shall include, but not be limited to, the following: Water assessments, weed and grass cutting bills, trash collection bills and past due water rents.

9.2 Assessment Procedure.

9.2.1 Making the Assessment. If appointed, the Board of Assessment shall, prior to the first day of April of each year, make a just, true and impartial annual valuation and assessment of all real estate located within the Town, based on current fair market value. All real estate shall be described with sufficient

particularity to be identified and shall be assessed to the owner or owners thereof. If such owner or owners of real estate cannot be found or ascertained, the property shall be assessed to "Owner Unknown". A mistake in the name of the owner or owners or a wrong name of an assessment to "Owner Unknown" shall not affect the validity of the assessment or the tax based thereon; provided, however, that the assessment shall specify the last record owner or owners of the property as the same shall appear in the records of the Office of the Recorder of Deeds, in and for Sussex County.

9.2.2 Assessment of Members of the Board of Assessment. The real property of the members of the Board of Assessment shall be valued by an ad hoc group of three (3) local realtors selected by the Town Council.

9.2.3 Delivery of Assessment List. The Board of Assessment, after making such annual valuation and assessment, shall deliver to the Town Council a list containing the names of owners of all properties assessed and the amount of assessment against each.

9.3 Assessment Appeals.

9.3.1 Authorization of Appeal. Any aggrieved property owner may appeal (1) his property assessment and (2) additions to his tax bill pursuant to the provisions of this section and procedures established by the Town Council.

9.3.2 Posting of Assessment List; Notice. Immediately upon receiving the annual assessment list from the Board of Assessment, the Town Council shall cause a full and complete copy of the same, containing the amount assessed to each property, to be made available for public inspection at the Town Office for a period of at least thirty (30) days. Appended thereto, and also in five (5) or more public places in the Town, shall be posted a notice of the date and place where the assessment list has been made available, stating that, upon a certain day mentioned therein (not earlier than thirty (30) days after the assessment list has been made available), the Board of Assessment Review will hear assessment appeals and make such corrections and revisions deemed appropriate. Such notice shall also be published at least once in at least two (2) newspapers of general circulation in the Town not less than thirty (30) days prior to the date set for such appeals.

9.3.3 Appeals Day. On the day set for such appeals, the Board of Assessment Review will hear appeals from the said assessment and correct and revise the assessment as deemed appropriate. The Board of Assessment Review shall have full power and authority to alter, revise, increase, or reduce the said assessment. The decision of a majority of the Board of Assessment Review shall be final and conclusive, unless an appeal to be taken to the Superior Court of the State of Delaware in and for Sussex County within ten (10) days from the date of the Board's decision.

The Board of Assessment shall be present at all appeal hearings and shall furnish to the Board of Assessment Review such information as it may require in respect to any assessment for which an appeal has been taken.

10. Levy of Taxes, Fees and Other Charges.

10.1 Establishment of Balanced Budget. After the valuation and assessment process has been completed, the Town Council shall establish an annual balanced operating budget for the ensuing fiscal year, including sufficient revenue to meet the fixed and anticipated expenses and obligations of the Town, reasonable and appropriate reserves and a reasonable amount to cover emergencies.

10.2 Determination of Revenue Sources. The Town Council shall determine the appropriate revenue sources within the limits prescribed by this Charter, with respect to the amount to be raised from each such source. They shall then determine, assess, fix and/or levy as follows:

10.2.1 Real Estate and Improvements. The rate of tax on real estate including improvements thereon per one hundred dollars ($100.00) of the assessed value; and/or

10.2.2 Real Estate Transfer Tax. Appropriate transfer taxes to be charged upon the transfer of real property, or any interest in real property, situate within the corporate limits of the Town, 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 advalorem real estate taxes; and/or

10.2.3 License Fees. Appropriate license fees to be charged for carrying on or conducting of the several businesses, professions or occupations as authorized by Section 4.2.35 of this Charter; and/or

10.2.4 Municipal Services. Appropriate charges for furnishing water service, front footage assessment, trash collection, and other services authorized by the Town Council; and/or

10.2.5 Other Services. The fees or rates to be charged in respect to any other authorized source of revenue; and/or

10.2.6 Business Taxes. Appropriate taxes on the gross receipts of any business activity, as defined by the Town Council, conducted within the corporate limits of the Town.

10.3 Levy of Real Property Tax. The setting of the tax rate by Town Council resolution shall constitute the levy of such taxes and charges in accordance with the assessment list (subject to any pending assessment appeals to the Superior Court).

10.4 Special Assessment. The Town Council is empowered to levy a special assessment against any or all real property situated within the corporate limits of the Town, when determined by the Council to provide a necessary public work improvement or municipal service. Such assessments shall be duly collected, the proceeds of which shall be applied for the payment of the cost of such work, improvement, or service, provided, however, that is such assessment shall apply to all properties within the Town, it shall first be approved by majority vote of the Town voters in a special election (Sec. 10.4.1).

10.4.1 Procedure; Notice; Hearing; Special Election for Special Assessment. In order to proceed under the powers granted in this Section, the Town Council shall authorize such borrowing in the following manner:

(a) the Town Council, by resolution, shall give notice to the voters of the Town that the Town Council proposes to levy a special assessment against any or all real property situated within the corporate limits of the Town. The resolution shall state the amount of money desired, the purpose for which it is desired, and all other pertinent facts relating to the assessments which are deemed pertinent by the Council in its possession at the time of the passage of the resolution and shall fix a time and place for a public hearing on the said resolution;

(b) notice of the time and place of the public hearing on the resolution authorizing the special assessment shall be published at least once in at least two (2) newspapers having a general circulation in the Town not less than thirty (30) days nor more than forty-five (45) days prior to the public hearing. In addition to such publication, the Town Council shall cause notices to be posted in at least five (5) public places in the Town of South Bethany, not less than thirty (30) days, and not more than forty-five (45) days prior to the day set for the public hearing. Notices concerning such public hearings shall be in bold print or bordered in black, in such manner as to call attention thereto;

(c) If, following the public hearing, the Town Council determines to proceed with the proposed special assessment, it shall pass a second resolution ordering a special election, to be held not less than thirty (30) days, nor more than sixty (60) days after the said public hearing relating to the special assessment. The passage of the second resolution calling a special election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue; provided, however, that if the annual municipal election is to be held within 120 days of the date of the resolution adopted by the Town Council pursuant to this section, the election on the proposed special assessment may be held in conjunction with the annual municipal election and all provisions hereof shall be construed and applied accordingly;

(d) the notice of the time and place of holding such special election shall be printed in one issue of two (2) newspapers having general circulation in the Town of South Bethany, not less than thirty (30) days, nor more than forty-five (45) days prior to the special election, in addition to such publication, the Town shall cause to be posted in at least five (5) public places in the Town of South Bethany, not less than thirty (30) days and not more than forty-five (45) days prior to the special election, public notices concerning the special election, in addition to

the time and place of the special election, such notices shall contain the same information as required under this Sec. 10.4.1(a), and shall be in bold print or bordered in black, in such manner as to call attention thereto;

(e) at such special election, any person who is entitled to vote in the annual municipal election, if it were held on that day, shall be entitled to one (1) vote. (For purposes of this section, "entitled to vote" shall include "registered to vote" if voter registration is required for the annual election); any special election held pursuant to the provisions of this section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

( ) For the proposed Special Assessment

( ) Against the proposed Special Assessment

The Mayor of the Town of South Bethany, by and with the advice and consent of the majority of the Town Council, shall appoint three (3) persons to act as a Board of Special Election. The polling place shall be opened for a minimum of six (6) hours, as specified by resolutions of the Town Council. Persons in the polling place at the time scheduled for closing of the polls shall be entitled to vote;

(f) The Board of Special Election shall be the sole and final judge of the legality of the votes offered at such special election. It shall keep a true and accurate list of all persons voting. It shall count the votes "for" and "against" the proposed special assessment and shall announce the result thereof. The Board of Special Election shall execute a certificate of the number votes cast "for" and "against" the proposed Special Assessment and shall announce the result thereof. The Board of Special Election shall execute a certificate of the number of votes cast "for" and "against" the proposed Special Assessment and the number of void votes, and shall deliver the same to the Town Secretary; said certificates shall be retained by the Secretary, with the other records of the Town;

(g) If a majority of the votes cast at such special election shall be in favor of such special assessment, the Town Council shall proceed with the special assessment.

10.5 Limitation on Taxes. The total amount of money to be raised by real property taxes and special taxes levied or imposed in connection with any municipal bond (Sec. 13.2.7), shall in no year exceed two percent (2%) of the total appraised valuation of all taxable real estate (and improvements thereon) in the Town.

10.6 Savings Clause. Nothing contained in this Charter shall be construed to affect or impair, in any way, the validity of any tax, fee, assessment or other charge lawfully levied, assessed or due the Town of South Bethany under existing laws in reference to said Town.

11. Collection of Taxes, Fees, Special Assessments and Other Charges.

11.1 Collection by Town Manager or Tax Collector, Duly Appointed by Mayor or Town Council.

(a) After the Town Council shall have set the real estate tax rate pursuant to Sec. 10.2.1, the Town Manager or duly appointed Tax Collector, shall proceed to collect the taxes so levied.

(b) The Town Manager or duly appointed Tax Collector, shall collect the additional taxes, fees, special assessments, and charges fixed pursuant to Sec. 10.2.

(c) The Town Council shall obtain a bond for the Town Manager or duly appointed Tax Collector, in a form suitable to the Town Council with sufficient surety, in favor of the Town of South Bethany, in a sum to be determined by the Town Council for the collection of all such taxes and charges and for the payment of them to the Town Treasurer.

11.2 Posting of Charges. Whether utilizing the Sussex County assessments or those prepared by the Town's own Board of Assessment, the Town Council prior to posting the assessment list shall provide annually by resolution for the Town Manager or duly appointed Tax Collector, a list of any and all charges, costs or other assessments owed to the Town, which list of charges shall include but not be limited to, the following: water bond sinking funds assessments, water assessments, weed and grass cutting bills, trash collection bills, and past due water use charges. Said amounts, when adopted and

set forth by such resolution, shall be shown on the copies of the assessment list posted pursuant to the provisions of Sec. 9.3.2 of this Charter.

11.3 Lien. All taxes, fees, and other charges imposed by the Town shall be and constitute a lien, for a period of ten (10) years from the date so levied, upon the real estate against which such charges are imposed. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any charges so levied. Such lien shall have preference and priority over all other prior liens on such real estate, although such lien or liens be of a time and date prior to the time of attaching of such lien for taxes, fees, and other charges.

11.4 Due Date. All taxes and other charges, when and as collected by the Town Manager or duly appointed Tax Collector, shall be paid to or deposited to the credit of the Town of South Bethany in federally insured banking institutions approved by the Town Council. All taxes shall be due and payable at and from the time the tax rate is set pursuant to Sec. 10.2.1.

11.5 Place of Payment. All taxes and other charges shall be payable at the Town Office of the Town of South Bethany during the regular business hours of that office.

11.6 Penalty for Late Payment, Collection Fee. All taxes and other charges, unpaid on such date as specified by ordinance, shall be considered delinquent. On such delinquencies, an appropriate penalty shall be imposed by the Town Council except that the Town Council may make just allowances. In addition, a collection charge, reasonably calculated to recover the cost of such collection, may be imposed.

11.7 Exemption from Taxation. The Council shall have the power by ordinance to allow credits to reduce the taxes otherwise imposed by this section with respect to real property owned by taxpayers of low income who have an annual adjusted gross income not exceeding an amount as set by Town Ordinance, excluding Social Security and/or Railroad Pension Fund, and who are over sixty-two (62) years of age.

12. Remedies, Powers and Methods for Collection of Taxes and Other Charges Due to the Town.

12.1 Prior Notice. Before exercising any of the powers hereinafter given for the collection of taxes and other charges, written notice of the amount due shall be sent to the delinquent taxpayer at his/her last known address.

12.2 Debt Action. When any tax or other charge has become delinquent, the Town Manager may, in the name of the Town of South Bethany, institute suit before any court of competent jurisdiction for the recovery of the unpaid amount in an action of debt. Upon judgment obtained, the Town Manager may sue out writs of execution as in the case of other judgments recovered before any court of competent jurisdiction provided, however, that as to any personal property of the delinquent taxpayer located in Sussex County and levied upon by the Sheriff within sixty (60) days after the writ of execution was delivered into his or her hands, the lien of judgment shall have priority over all other prior liens against such personal property created or suffered by the delinquent taxpayer (excepting only the liens of the Federal, State or Sussex County governments).

12.3 Sale of Lands. Should the Town Manager so elect, and without the necessity of employing any or all of the other remedies provided herein, the Town Manager is authorized and empowered to sell the lands and tenements of a delinquent taxpayer or the lands and tenements alienated by a delinquent taxpayer subsequent to the levy of the tax by the following procedure:

12.3.1 The Town Manager shall present in the name of the Town of South Bethany to the Superior Court of the State of Delaware, in and for Sussex County, a petition in which shall be stated:

(a) the name of the person owing payment;

(b) the year for which tax or other charge was levied, assessed or charged;

(c) the rate of tax, assessment, or other charge;

(d) the total amount due;

(e) the date from which the penalty of nonpayment, if any, shall commence and the rate of such penalty and any collection charge permitted;

(f) a short description of the lands and tenements proposed to be sold, sufficient to reasonably identify same;

(g) a statement that the bill of said tax, assessment or other charge has been mailed to the delinquent taxpayer at his or her last known post office address with return receipt requested by certified mail and postage prepaid, together with a notice that the Town Manager will proceed to sell the lands and tenements of the delinquent taxpayer for payment of the tax, assessment, or other charge due the Town; and the date of such mailing; and

(h) the petition shall be signed by the Town Manager and shall be verified before a Notary Public.

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

12.3.3 Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court, in and for Sussex County, and shall endorse upon the said record of said petition the following:

> This petition, filed the _____ day of _____ A.D._____. (giving year and date) and the Town Manager of the Town of South Bethany is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the delinquent amount. This endorsement shall be signed by the Prothonotary.

12.3.4 Any sale of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the Town of South Bethany, one (1) of which shall be on the premises to be sold and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least fifteen (15) days before the day of the sale.

12.3.5 Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Sussex County at the next Motion Day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, penalty, collection fees and costs. If the sale be approved, the Town Manager making the sale shall execute a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or his alienee; provided however, that no deed shall be delivered to the purchaser until the expiration of one (1) year from the date of the sale within which time the taxpayer or his alienee, heirs, executors, administrators or assigns, shall have the power to redeem the lands on payment to the purchaser, his personal representatives or assigns of the costs, the amount of the purchase price, plus twenty percent (20%), and the expense of having the deed prepared. All taxes assessed after the sale and before the delivery of the deed shall be paid by the purchaser at said sale who shall be reimbursed by the delinquent taxpayer in the event of redemption to which shall be added twenty percent (20%) thereon.

In the event the purchaser refuses to accept the same, or in the event he or she, or his or her heirs or assigns, cannot be located within the State of Delaware, it shall be lawful for the owner, his or her heirs, executors, administrators, and assigns, to pay the redemption money to the Town Manager and upon obtaining from him or her a receipt therefor, such receipt shall be considered for all intents and purposes a valid and lawful exercise of the power to redeem the said lands.

In the event the lands have not been redeemed within the redemption year, the Town Manager shall deliver to the purchaser, his or her heirs, executors, administrator, or assigns, a deed which shall convey the title of the delinquent taxpayer(s).

The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

12.3.6 After satisfying the tax or other charge due and the costs and expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land. If he or she shall refuse to accept said remainder, or if the owner be unknown or cannot be found, the amount remaining shall be deposited in a bank either to the credit of the owner or in a manner in which the fund may be identified.

12.3.7 In the sale of the lands and tenements for the payment of delinquent taxes or other charges, the following cost shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as the case may be, in the amount customarily charged:

(a) to the Prothonotary for filing and recording the petition;

(b) for filing and recording the return of sale; and

(c) to the Town Manger for: (1) preparing the certificate, (2) making the sale of lands and tenements, (3) preparing and filing a return, and (4) posting sale bills; and

(d) attorneys' fees.

In addition, the costs of printing handbills, the publication of the advertisement of sale in a newspaper, and the auctioneer's fee, if any, shall be chargeable as costs. The costs of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware transfer tax shall be paid by the purchaser of said lands and tenements at the tax sale.

12.3.8 If the owner of any lands and tenements against which a tax or other charge shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale and in the petition to the Court.

12.3.9 If any person be assessed for several parcels of land and tenements in the same assessment in the Town of South Bethany, the total of said taxes or other charges may be collected from the sale of any part or portion of said lands and tenements.

12.3.10 In the event of death, resignation, or removal from office of the Town Manager of the Town of South Bethany before the proceedings for the sale of lands shall have been completed, the successor in office shall succeed to all powers, rights, and duties in respect to said sale. In the event of the death of the purchaser at said sale prior to receiving a deed for the property purchased thereat, the person having right by consent, devise, assignment or otherwise, may file with to the Superior Court of the State of Delaware, in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the Town Manager to execute and acknowledge a deed conveying to the petitioner the premises so sold, and thereupon the Court may make such order adjudging the conveyance of the premises as shall be according to justice and equity.

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

13. Borrowing Powers.

13.1 Short-Term Borrowing, Voter Approval not Required. The Town Council shall have the power to borrow money on the full faith and credit of the Town, without approval of the voters and without regard to the provisions of Section 13.2 of this Charter, such principal sum or sums not exceeding in the aggregate one hundred thousand dollars ($100,000.00), for general purposes only when, in the opinion of the majority of the Town Council, the needs of the Town require it; provided, however, that any new borrowing under this Section made after the effective date of this act shall, by their

terms, be repayable in full within five (5) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the Town Council duly authorized by resolution of the Town Council and signed by the Mayor and attested by the Secretary of the Town with the Town Seal affixed. No Town Council member shall be liable for the payment of any such note or any other evidence of indebtedness because it is signed by such Town Council member, provided that such signature be authorized by resolution of the Town Council. Such notes or evidences of indebtedness and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions. Any sum(s) of money borrowed on the full faith and credit of the Town shall be repaid from the general funds of the Town. At no time shall the amount of outstanding principal from any such borrowing or borrowings under this Section exceed the sum of one hundred thousand dollars ($100,000.00).

13.2 Long-Term Borrowing, Voter Approval Required. In addition to other borrowing powers granted to the Town under this Charter or by State law, the Town Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or other evidence of indebtedness to secure the repayment thereof, on the full faith and credit of the Town, or such other security or securities as the Town Council shall elect, for the payment of principal thereof and interest due thereon.

13.2.1 Proper Municipal Purpose. By way of illustration and not in limitation, "any proper municipal purpose" includes, but is not limited to:

(a) refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) erecting, extending, enlarging, maintaining or repairing any plant, building machinery or equipment for the manufacture, supplying or distribution of water, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements, and rights-of-way which may be required therefor;

(c) constructing, paving, laying out, widening, extending repairing and maintaining of curbing and gutters, including storm sewers along the same and the condemning or purchasing of lands, easements or rights-of-way which may be required therefor;

(d) constructing, laying out, widening, extending, repairing and maintaining piers, bulkheads, cross walks, embankments, beach nourishment, revetments, groins or dunes or any of them, and the condemning or purchasing of any lands, easements, or rights-of-way which may be required therefor;

(e) defraying the costs to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter; and

(f) paying all expenses deemed necessary by the Town Council for the issuance of said bonds or other evidence of indebtedness, including bond discount and legal expenses of bond counsel.

13.2.2 Exempt from Taxation. All bonds or other kinds or forms of evidence or evidences of indebtedness issued by the Town pursuant to the provisions of this Section, and the interest thereon, shall be exempt from all State, County, or Municipal taxes.

13.2.3 Limit of Aggregate Long-Term Indebtedness. In no event shall the indebtedness of the Town of South Bethany, authorized by this Section, at any one time exceed, in the aggregate, five percent (5%) of the appraised value of all real property within the corporate limits of the Town and subject to assessment for the purpose of levying the annual taxes as provided in this Charter.

13.2.4 Procedure; Notice, Hearing, Special Election. In order to proceed under the power granted in this Section, the Town Council shall authorize such borrowing in the following manner:

(a) the Town Council, by resolution, shall give notice to the voters of the Town that the Town Council proposes to borrow a certain sum of money for a stated municipal purpose. The resolution shall state the amount of money desired to be borrowed, which may be stated as a "not to exceed" amount, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan which are deemed pertinent by the Council and in its possession at the

time of the passage of the resolution and shall fix a time and place for a public hearing on the said resolution.

(b) notice of the time and place of the public hearing on the resolution authorizing said loan shall be published at least once in at least two (2) newspapers having general circulation in the Town not less than thirty (30) days nor more than forty-five (45) days period to the day set for the public hearing. In addition to such publication, the Town Council shall cause to be posted, in at least five (5) public places in the Town of South Bethany, not less than thirty (30) days and not more than forty-five (45) days prior to the date set for the public hearing and notices concerning such public hearings; such public notice shall be in bold print or bordered in black, in such manner as to call attention thereto, and shall contain the purpose for which the loan is desired and the manner of securing the same, plus all other pertinent facts relating to the loan. The last date of publication or posting shall control.

(c) if at any time following the public hearing, the Town Council determines to proceed with the proposed borrowing it shall pass a second resolution ordering a special election, to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing, to borrow the said money. The said special election shall be for the purpose of voting for or against the proposed loan. The passage of the second resolution calling a special election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue;

(d) the notice of the time and place of holding such special election shall be printed in two (2) consecutive issues of two (2) newspapers having general circulation in the Town of South Bethany not less than thirty (30) days nor more than forty-five (45) days prior to the special election; such public notice shall be in bold print or bordered in black, in such manner as to call attention thereto and the last date of publication or posting shall control; in addition to such publication, the Town Council shall cause to be posted in at least five (5) public places in the Town of South Bethany, not less than thirty (30) days and not more than forty-five (45) days prior to the special election, public notices concerning the special election; in addition to the time and place of the special election, such notices shall contain the same information as required under Sec. 13.2.4(a) above;

(e) at such special election, any person who is entitled to vote in the annual municipal election, if it were held on that day, shall be entitled to one (1) vote. (For purposes of this section "entitled to vote" shall include "registered to vote" if voter registration is required for the annual municipal election); any special election held pursuant to the provisions of this Section shall be conducted by voting machines, electronic voting systems or printed ballots as permitted by law which shall have the following designation:

( ) For the proposed borrowing

( ) Against the proposed borrowing

The Mayor of the Town of South Bethany, by and with the advice and consent of the majority of the Town Council, shall appoint three (3) persons to act as a Board of Special Election. The polling place shall be opened for a minimum of six (6) hours, as specified by resolution of the Town Council. Persons in the polling place at the time scheduled for closing of the polls shall be entitled to vote;

(f) the Board of Special Elections shall be the sole and final judge of the legality of the votes offered at such special election. It shall keep a true and accurate list of all persons voting. It shall count the votes for and against the proposed borrowing and shall announce the result thereof. The Board of Special Election shall execute a certificate of the number of votes cast for and against the proposed borrowing and the number of void votes and shall deliver the same to the Secretary; said certificate shall be retained by the Secretary, with the other records of the Town;

(g) if a majority of the votes cast at such special election shall be in favor of such borrowing, the Town Council shall proceed with the issuance of the said bonds or evidences of indebtedness.

13.2.5 Forms of Bonds. The form of the bonds or evidences of indebtedness, attached coupons, if any, the time or times of payment, the interest rate, the classes, the series, the maturity date, the registration and any callable or

redeemable feature, the denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the Town Council after said special election.

13.2.6 Public or Private Sale. Bonds may be sold at either public or private sale. If the bonds shall be offered for public sale, they shall be sold to the best and most responsible bidder(s) therefor after advertisement in a manner to be prescribed by the Town Council for at least one (1) month before offering the same for sale.

13.2.7 Provision for Payment: Special Tax, Sinking Fund.

The Town Council shall provide for the payment of interest and principal on the said bonds or evidences of indebtedness at the maturity thereof. The Council is authorized and empowered, at its discretion, to levy a special tax upon all the real estate within the Town, or only upon such real estate as is directly benefited by the improvements paid for by the proceeds of such borrowing, to pay interest and/or principal; and at its discretion, to establish a sinking fund adequate to the redemption, at or before maturity, of all bonds or evidences of indebtedness which may be issued under the provisions of this Section; provided, that the amount to be raised under any special tax for this purpose shall not, in any one (1) year, exceed a sum equal to five (5) percent of the total of such indebtedness.

The special tax provided for in this Section shall be collected from the owners of real estate in the same manner as other taxes levied by the Town Council are collected. The Town Council may also appropriate and set aside for such sinking fund as much of the general funds of said Town as it may from time to time think advisable. The sinking fund provided for by this Section shall be deposited in federally insured accounts in a bank, trust company, or other banking institution until such time as it may be needed for the redemption of the bonds.

13.2.8 Full Faith and Credit Unless Otherwise Stated.

Unless any such bond(s) or evidence(s) of indebtedness shall provide otherwise, the full faith and credit of the Town of South Bethany shall be deemed to be pledged for the due payment thereof and the interest thereon issued under the provisions of this Section when the same shall have been properly executed and delivered for value, notwithstanding any other provisions of this Charter.

13.2.9 Statute of Limitations.

No action contesting any proceeding conducted or action taken by the Town Council hereunder regarding the authorization of any bond(s) or evidence(s) of indebtedness issued under this Section shall be brought after the expiration of sixty (60) days from the date of a notice published at least once in at least two (2) newspapers, one (1) of which shall be of general circulation in the Town of South Bethany and one (1) of which shall be of general circulation in the State of Delaware, which notice shall announce the following information:

(a) that the Town Council has determined to borrow a certain sum of money and to issue bonds or evidences of indebtedness therefor;

(b) that the proposal has been approved by a majority of those casting votes at a special election in the Town called for the purpose of voting for or against the borrowing;

(c) the amount of money to be borrowed;

(d) the purpose for which it is to be borrowed; and

(e) that any person desiring to challenge the authorization of such bond(s) or evidence(s) of indebtedness must bring his or her action within sixty (60) days from the date of publication of such notice or forever be barred from doing so.

In the event that two (2) newspapers do not publish the notice on the same date, the date of the last publication shall control. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto.

14. Use of Town Monies.

The Town Council shall have full power and authority to use the money in the Treasury of the Town, or any portion thereof, from time to time, for the improvement,

benefit, protection, ornamentation, and best interest of the Town, as the Council may deem proper, and to use Town money to accomplish and carry into effect all acts and things which it has power to do by virtue of the Laws of Delaware, this Charter and all ordinances and resolutions enacted by Town Council.

14.1 Proposed Capital Expenditure. Any proposed capital expenditure of Town funds in an amount exceeding $100,000.00 shall first be submitted for approval by the qualified voters of the Town in a special election. Funds derived from long-term loans (Sec. 13.2) are not subject to this requirement.

14.2 Procedure; Notice, Hearing, Special Election.

In order to proceed under the power granted in this Section, the Town Council shall propose the expenditure of an amount exceeding $100,000.00 in the following manner:

(a) The Town Council, by resolution, shall give notice to the voters of the Town that the Town Council proposes to spend monies in excess of $100,000.00 for a stated municipal purpose. The resolution shall state the amount of money which may be stated as a 'not to exceed' amount, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the expenditure which are deemed pertinent by the council and in its possession at the time of the passage of the resolution and shall fix a time and place for a public hearing on the said resolution;

(b) notice of the time and place of the public hearing on the resolution authorizing the expenditure shall be published at least once in at least two (2) newspapers having a general circulation in the Town not less than thirty (30) days nor more than forty-five (45) days prior to the day set for the public hearing. In addition to such publication, the Town Council shall cause to be posted, in at least five (5) public places in the Town of South Bethany not less than thirty (30) days and nor more than forty-five (45) days prior to the day set for the public hearing, notices concerning such public hearings; such public notice shall be in bold print or bordered in black in such manner as to call attention thereto, and shall contain the purpose of the expenditure and all pertinent facts relating to the expenditure. The last date of publication or posting shall control.

(c) If, at any time, following the public hearing, the Town Council determines to proceed with the proposed expenditure, it shall pass a second resolution ordering a special election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing, to make the expenditure.

The said special election shall be for the purpose of voting for or against the proposed expenditure. The passage of the second resolution calling for a special election shall ipso facto be considered the determination of the Town Council to proceed with the matter in issue, provided, however, that if the annual municipal election is to be held within 120 days of the date of the resolution adopted by the Town Council pursuant to this section, the election on the proposed expenditure may be held in conjunction with the annual municipal election and all provisions hereof shall be construed and applied accordingly.

(d) the notice of the time and place of holding such special election shall be printed in one (1) issue of two (2) newspapers having general circulation in the Town of South Bethany not less than thirty (30) days nor more than forty-five (45) days prior to the special election; such public notice shall be in bold print or bordered in black in such manner as to call attention thereto and the last date of publication or posting shall control; in addition to such publication the Town Council shall cause to be posted in at least five (5) places in the Town of South Bethany, not less than thirty (30) days nor more than forty-five (45) days prior to the special election, public notices concerning the special election; in addition to the time and place of the special election, such notices shall contain the same information as required under Sec. 14.1 (a) above;

(e) at such special election, any person who is entitled to vote in the annual municipal election, if it were held on that day, shall be entitled to one (1) vote. (For purposes of this section, 'entitled to vote' shall include 'registered to vote' if voter registration is required for the annual municipal election); any special election held pursuant to the provision of this Section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

( ) For the proposed expenditure

( ) Against the proposed expenditure

The Mayor of the Town of South Bethany, by and with the advice of the Town Council, shall appoint three (3) persons to act as a Board of Special Election, the polling place shall be opened for a minimum of six (6) hours, as specified in the resolution of the Town Council. Persons in the polling place at the time scheduled for closing of the polls shall be entitled to vote;

(f) the Board of Special Election shall be the sole and final judge of the legality of the votes offered at such election. It shall keep a true and accurate list of all persons voting. It shall count the votes for and against the proposed expenditure and shall announce the result thereof. The Board of Special Election shall execute a certificate of the number of votes cast for and against the proposed expenditure and the number of void votes and shall deliver the same to the Secretary; said certificate shall be retained by the Secretary, said certificate shall be retained by the Secretary, with the other records of the Town.

15. Annual Audit.

The Town Council shall retain a certified public accountant to be the Auditor of Accounts of the Town of South Bethany. It shall be the duty of the Auditor to audit the accounts of the Town and all its officers whose duties involve the collection, custody and disbursement of Town monies. The Auditor shall audit the books of the Alderman and the Assistant Alderman and the records of all fines, penalties, costs imposed or collected by them pursuant to any judgment, order or decree made, the Auditor shall, on or before expiration of 120 days after the end of each fiscal year, make and deliver a detailed report of all accounts, records, and books examined and audited by such Auditor which report shall be available for public inspection. Notice of the filing of the Auditor's report shall be published at least once in a newspaper of general circulation in the Town of South Bethany within thirty (30) days of its receipt by the Town Council. The Auditor, in the performance of official duties, shall have access to all records and accounts of the Town.

16. Alderman's Court.

16.1 Appointment. The Town Council may by majority vote appoint a suitable person to serve as Alderman who shall serve for a term of two (2) years, or until a successor is duly appointed, subject, however to being removed from office for just cause at any time by majority vote of the Town Council. The Town Council may, in addition, appoint an Assistant Alderman subject to the same conditions.

16.2. Qualifications. Any person appointed to serve as Alderman or Assistant Alderman shall be at least twenty-five (25) years of age, a United States citizen of good character and reputation, and shall reside in Delaware no further than thirty (30) miles from the corporate limits of the Town of South Bethany. Such person shall not be a member of the Town Council, an officer, or any employee of the Town of South Bethany.

16.3 Oath of Office. Before entering upon the duties of such office, the persons appointed to serve as Alderman and Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of such office honestly, faithfully and diligently.

16.4 Duties. It shall be the duty of the Alderman and Assistant Alderman to enforce the law in event of breaches of the peace, offenses and violations of the Town Charter, Town ordinances, and the Constitution and Laws of the State of Delaware, by the imposition of appropriate penalties.

16.5 Jurisdiction. The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all such breaches of the peace, offenses and violations committed within the corporate limits of, or within (1) one mile of the corporate limits of the Town of South Bethany, provided that they shall have no jurisdiction over any dispute between or among private parties. The Alderman and Assistant Alderman shall be authorized and empowered to arrest, hold for bail, set bail, impose fines or imprison offenders for any such breach of the peace, offense or violation in accordance with appropriate penalties, provided, however that the maximum penalty which the Alderman or Assistant Alderman may impose shall not exceed the limits established by the Town Charter, Town ordinances, and the laws of the State of Delaware. The Delaware Correctional Institution, in Georgetown, Delaware, may be used for imprisonment under this Charter.

Neither the Alderman nor the Assistant Alderman shall be authorized to impose any fine in excess of $500.00, exclusive of costs, nor imprisonment for more than thirty (30) days, or both.

16.6 Costs. The Alderman and Assistant Alderman may, in addition to any fine or term of imprisonment permitted to be imposed, assess and collect such costs as are set by an ordinance enacted by the Town Council, provided that no such costs may be imposed which are in excess of those which may be imposed by a Justice of the Peace for like services.

16.7 Alderman's Docket. Appropriate enforcement records shall be provided for the use of the Alderman and the Assistant Alderman. Such records shall be known as the 'Alderman's Docket'. The Alderman and Assistant Alderman shall record all official acts and proceedings in the Alderman's Docket.

16.8 Monthly Report to Town Council. The Alderman and Assistant Alderman shall prepare and submit a monthly report to the Town Council reporting all fines, penalties, and costs imposed during the preceding calendar month and shall pay to the Treasurer of the Town all such fines and costs at such times as the Town Council shall direct. They shall submit periodic reports as required by the State of Delaware.

16.9 Compensation. The Alderman and Assistant Alderman shall receive such compensation as may be fixed from time to time by resolution of the Town Council, which compensation shall not be contingent upon or related to the amount of any fines imposed or collected.

16.10 Bonding. The Alderman and Assistant Alderman shall be bonded by a company duly authorized to do business in the State of Delaware in such amount as determined by the Town Council.

16.11 Removal from Office. If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he or she shall deliver to the Mayor within five (5) days after removal from office, all the books and papers belonging to the office, and shall pay over to the Treasurer all funds on hand within five (5) days after reviewing the notice of such removal from office. Immediately after the receipt of such books, the Mayor shall require an audit to be made of the books and papers of the official so removed from office. Upon the neglect or failure to deliver all the books and papers to the Mayor within the time specified by this Charter, or to pay over all of the moneys to the Treasurer within the time specified, the Alderman or Assistant Alderman, so removed, shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) for each day of such delinquent behavior.

17. Police and Public Safety.

17.1 Appointment of Chief of Police and Other Police Department Personnel. The Town Council shall establish a Police Department consisting of a Chief of Police and such police officers and subordinates as the Town Council shall determine. The Town Council shall from time to time make such administrative rules and regulations as may be necessary for the staffing, organization and operation of the Police Department. The Chief of Police shall be appointed by the Mayor subject to ratification by the Town Council.

17.2 Police Department Operational Control. Staffing and operational control of the Police Department shall be the responsibility of the Chief of Police. The Chief of Police shall be subordinate and answerable to the Town Manager.

17.3 Police Department Duties and Functions. Each member of the Police Department shall have all the police powers and authority of a State Peace Officer and shall be a conservator of the peace throughout the Town of South Bethany, and shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. Such member shall, within the corporate limits of the Town of South Bethany, compel the enforcement of all ordinances enacted by the Town Council of the Town of South Bethany and all criminal laws and motor vehicle laws enacted by the State of Delaware. In the case of a pursuit of an offender, the power and authority of the Police Department shall extend outside the corporate limits of the Town of South Bethany to any part of the State of Delaware. It shall be the duty of the Police Department to suppress riotous, disorderly, or turbulent assemblies of persons in all public places of the Town, and upon view of the above or upon view of any violation of any ordinance of the Town relating to the peace and good order thereof, the Police Department shall have the right and power to arrest without warrant.

17.4 Beach Patrol. There shall be a Beach Patrol, the number of which shall be determined by the Town Council. The Beach Patrol shall consist of a Captain and such other members and subordinates as the Town Council shall determine. The Town Council shall have the power to establish administrative rules and regulations governing the

qualifications of members of the Beach Patrol; provided, however, that each member of the Beach Patrol shall pass a test substantially equal to the test required of a senior lifesaver by the American Red Cross.

17.4.1 Beach Patrol Duties. The primary responsibility of the Beach Patrol shall be the preservation of human life on and adjacent to all beaches of the Town. In addition, the Beach Patrol shall have such other related duties as the Town Manager may prescribe.

18. Subdivision and Land Development.

18.1 Power to Regulate. In order to provide for the orderly growth and development of the Town; to promote the health, safety, prosperity and general welfare of the present and future inhabitants and property owners in the Town; to insure the conservation of property values and natural resources, including the protection and beauty of the Town's open lands, water resources, beaches and recretional potential; and to afford adequate provisions for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the Town Council shall regulate the subdivision of all land in the Town. Such regulation may, through ordinance, include:

(a) procedures for insuring the processing of combining, partitioning, or land subdivision plans within a reasonable period of time, relative to the number of lots or parcels and the extent of improvement required;

(b) procedures for insuring that the arrangement of the lots or parcels of land or improvements thereon shall conform to the existing zoning at the time of recordation and that streets or rights-of-way bordering or within subdivided land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic; that adequate easements of rights-of-way shall be provided for drainage and utilities; that reservations of areas designed for their use as public grounds shall be of suitable size and location for their designated uses; that sufficient and suitable monuments and signage shall be required; that land which might constitute a menace to safety, health or general welfare shall be made safe for the purpose for which it is subdivided; and that adequate provision for water supply is made;

(c) procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions and land development, and for encouraging practices which are in accordance with contemporary and evloving principles of site planning and development;

(d) requiring those persons subject to such regulation to provide, at their own expense, including verification, such municipal or public improvements which are specifically and uniquely attributable to the proposed land subdivision, combining, or partitioning, including by way of example and not in limitation, the paving of streets, installation of curbs, storm sewers, water lines, street signs, access roads, playgrounds, parks and open areas. In imposing such requirements, the Town Council may consider and take into account future as well as immediate needs, and potential as well as present population factors affecting the neighborhood in question;

(e) procedures for insuring that any improvements to be constructed on such lands are in compliance with all appropriate Town ordinances and that the placement and location of such improvements will not have a significant negative impact on adjoining properties;

(f) procedures for securing financial guarantees from the developers of such lands to insure satisfactory completion of all such required improvements, which may include extending the term of such guarantee for a reasonable period of time (not exceeding three (3) years) beyond the actual completion of such improvements by the developer or acceptance of such improvements by the Town Council.

18.2 Recording Plats, Plots or Plans. In the event an ordinance of the Town so provides, no plat, plot or plan of land shall be received for filing or recording by the Recorder of Deeds in and for Sussex County unless and until such plat, plot or plan shall have been approved by the Town body so authorized to grant such approvals and the fact of such approvals shall have been endorsed in writing on such plan documents.

19. Streets.

19.1 'Street' Defined. For all purposes of this Section, the word 'street' shall be deemed to include streets, roadways, lanes, guttering, curbing, crosswalks and parking areas but shall not include any State or Federal highways.

19.2 Power to Lay Out, Locate, Construct, Widen, Alter, Open, Close, Vacate or Abandon.

The Town Council shall have the power and authority to lay out, locate, construct, widen, alter, open, close, vacate or abandon any street within the Town corporate limits.

19.3 Initiation of Proceedings. The procedures for taking the action described in Subsection 19.2 shall be established by ordinance of the Town Council.

19.4 Notice of Hearing. Such procedures shall require a notice of hearing that contains a description of the proposed action and fixes a date, time and place when the Town Council shall hold a hearing to hear comments and objections concerning the proposal. At least thirty (30) days before the date set for such hearing, the notice of hearing shall be printed in a newspaper having a general circulation in the Town of South Bethany and shall be posted in five (5) public places in the Town.

19.5 Notice to Affected Property Owners. The Town Council shall cause to be sent by certified mail, return receipt requested, to the owner(s) of record of the real estate through or over which such street may pass. If the address of the owner be unknown, a copy shall be delivered to any persons occupying the premises, or, if none, posted thereon. Notice to affected property owners under this Subsection shall be provided at least thirty (30) days before the date set for the hearing.

19.6 Hearing. At the time and place specified by the resolution, the Town Council shall permit such residents of the Town or owners of properties affected thereby, to present oral or written comments. After hearing all comments, the Town Council shall, at said meeting, or at a subsequent date, as it may deem proper, adopt a resolution to proceed with the proposed laying out, locating, constructing, widening, altering, opening, closing, vacating or abandoning of any street(s) or parts hereof.

19.7 Payment of Compensation. In every case where the Town Council shall resolve to proceed with the plan contemplated, or a portion thereof, the Town Council shall award just and reasonable compensation to any person or persons who will thereby be deprived of property by virtue of the execution of the plan so contemplated. Such compensation, if any be awarded, shall be paid by the Treasurer of the Town of South Bethany on a warrant drawn upon him by authority of the Town Council upon delivery of a good and sufficient deed conveying a fee simple title unto the 'Town of South Bethany'; which title shall be free and clear of all liens and encumbrances. Notice of compensation shall be given to affected property owners as provided in Subsection 19.4.

19.8 Property Owner Right of Appeal. If the owner of the affected property be dissatisfied with the amount of compensation or damages allowed by the Town, said property owner may, within thirty (30) days after such notice was mailed, delivered, or posted on the property, appeal from the written notice of award of compensation such written appeal shall be deposited in the United States mail, by certified mail with return receipt requested and postage prepaid, to the Mayor of the Town, to the effect that such owner is dissatisfied with the amount of such compensation, and that is it the owner's intention to require the Town to condemn such property, or any compensable interest therein, in accordance with 10 Del. C. Chapter 61, or any future corresponding provisions of law. In such event, the Town shall proceed in accordance with 10 Del. C. Chapter 61, or any future corresponding provisions of law, to condemn such property, or any interest therein, for the purposes herein stated.

19.9 Disposal of Abandoned and Vacated Streets. Whenever any street or part thereof vacated or abandoned under this Section be owned by the Town, the Town Council may, in its discretion, sell such land at public or private sale and for such consideration as the Town Council shall deem proper. The Town Council shall have the right and power to convey to the purchaser or purchasers thereof, a good and sufficient title thereto for whatever estate the Town may have therein.

19.10 Maintaining and Repairing of Streets. The Town Council shall have full power and authority (1) to regrade, redress and otherwise repair and rebuild all existing streets in the Town; and (2) to reconstruct, rebuild, repave and in any manner improve all existing streets now open or to be hereafter opened for public use in the Town.

19.11 Construction Supervision, Standards. The Town Council, in exercising the authority granted by this Section, may use such materials and substances and such

methods of construction and may employ such contractors, engineers, inspectors and other persons as the Town Council may deem necessary. To this end, the Town Council shall have full power and authority to enter into contracts or agreements with the State Highway Department of the State of Delaware for the permanent maintenance and repair of any street within the corporate limits of the Town.

20. Water Systems. The Town Council shall have full power and authority to provide an adequate supply of potable water for the Town and the inhabitants thereof. To this end, it shall have full power and authority to purchase, acquire by grant or gift, lease, erest, construct, maintain, operate, extend, enlarge, renew, replace; and control wells, reservoirs, pumping machines and stations, tanks, standpipes, water mains, fire hydrants and all other instruments for the collection, storage, purification, conveyance and distribution of water, over, on, under or through the lands owned by the Town or belonging to any private individual(s).

The Town Council shall have power to enact ordinances, resolutions, regulations and rules in regard to the use for public or private purposes of water furnished by the Town; the amounts to be paid by the users thereof; the means or methods whereby the same amounts to be paid by the users thereof; the means or methods whereby the same shall be collected; the fixing of fines, or penalties, or both, for any willful or negligent injury or damage to or interference with any water system facilities or equipment of the Town.

The Town Council shall have the power to make contracts for the purchase or sale of water and to distribute the same to users within or without the corporate limits of the Town.

The Town Council shall have the power to enter contracts for the sale of water outside the corporate limits of the Town upon such terms and conditions as the Town Council shall deem necessary; and also to enter into mutual aid agreements with other water suppliers conducting operations near the boundaries of the Town upon such terms and conditions as Town Council shall deem appropriate.

The Town Council shall have the power to enhance ordinances granting franchises for an appropriate term of years to use the present or future streets and beach strands of the Town for the purpose of furnishing water to the Town and the inhabitants thereof.

In the interest of the public's health and welfare, the Town Council shall have the power to compel any and all properties to be connected to the water system of the Town.

21. Water Structures. The Town Council shall have the power and authority to lay out, locate, construct, widen, alter, extend, improve, repair, vacate or abandon structures including, but not limited to, bulkheads, groins, revetments and embankments for the preservation of any beach, strand or waterway within the corporate limits of the Town. In the exercise of such power and authority, such materials and substances and such methods of construction shall be used, and such contractors, engineers, inspectors and other persons shall be employed as the Town Council shall deem necessary, subject to any controlling Federal or State statutes or administrative regulations. In addition, the Town Council may require such actions to be taken.

22. Referendum.

22.1 Referendum Power. The qualified voters of the Town shall have the right of referendum, and may exercise such right in order to approve or reject, at an election provided for herein, any ordinance, resolution, regulation or rule promulgated by the Council of the Town of South Bethany in accord with the provisions of this Charter; provided, however, that such power of referendum shall not extend to any emergency ordinance, to any ordinance authorizing the borrowing of money under Sec. 13.2 ('Long-Term Borrowing'), to any ordinance annexing lands to the Town, to the adoption of the annual operating budget, to any ordinance relating to the appropriation of money, to any ordinance relating to the levy of taxes or to any ordinance otherwise subject to Special Election procedures provided under this Charter.

22.2 Petition for Referendum. In order to initiate a referendum under this Section, a referendum petition shall be presented to the Town Manager or the Town Council, signed by qualified voters, qualified as of the date of such presentation, equal in number to not less than twenty-five percent (25%) of the total number of persons who voted in the most recent annual municipal election. Each copy of such petition shall contain the South Bethany address of each of the signers and shall have attached thereto, throughout its circulation, the full text of the ordinance, resolution, regulation, or rule proposed for reconsideration. The Town shall supply up to five (5) copies of the measure for attachment to the petition(s), and all additional copies shall be furnished by the petitioners. Each signature on a petition shall be

executed in ink or indelible pencil. Each copy of the petition presented to the Town Council shall have attached thereto an affidavit executed by the person circulating such petition, stating that he/she personally circulated the petition and stating further the number of signatures thereon and that such signatures are the genuine signatures of the persons who signed, and that each signer had an opportunity, before signing, to read the full text of the ordinance, resolution, regulation or rule proposed for reconsideration.

22.3 Determination of Sufficiency of Petition. The Town Council shall examine any petition filed under this Section in order to determine whether or not the petition contains the required number of signatures and whether or not each signer is a qualified voter of the Town. If the petition is found to have an insufficient number of valid signatures, such insufficiency may be "cured" by the addition of signatures of qualified voters and re-submitted within sixty (60) days from the date of rejection by the Town Council.

22.4 Appeal of Council Decision. Any person or persons aggrieved by the rejection by the Town Council may present to the Superior Court of the State of Delaware for Sussex County, an appeal petition duly verified, setting forth that such rejection is invalid, in whole or in part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days following the determination by the Town Council as to the insufficiency of the referendum petition. Upon presentation of the appeal petition, the Court may direct the Town Council to reconsider its decision and shall prescribe the time within which a response to the Court must be made and also served upon the petitioner or his attorney. Such time shall not be less than ten (10) days and may be extended by the Court. The Court may reverse or affirm, wholly or in part, or may modify the Council's determination brought up for review.

22.5 Reconsideration Upon Receipt of Petition. Upon a determination that the referendum petition is sufficient, either by the Town Council or by the Superior Court on appeal, the Town Council shall reconsider the referred ordinance, resolution, regulation or rule at its next regular meeting following such determination. If the Town Council fails to repeal such ordinance, resolution, regulation, or rule it shall be submitted to the qualified voters for a referendum election as hereinafter provided.

22.6 Voting Procedure. The election on a referred ordinance, resolution, regulation or rule shall be held not less than sixty (60) days nor more than ninety (90) days from the date on which the Town Council failed to repeal such action. If the annual municipal election is to be held within ninety (90) days from such date, the referendum shall be held at that time. If the annual municipal election is not be be held within ninety (90) days from such date, the Town Council shall specify the date for the referendum. If the Town Council fails to hold a referendum within the time specified in this Section, the measure under review shall be deemed to be repealed at the expiration of the ninety (90) day period.

(b) At any referendum conducted under this Section, a qualified voter shall be any person who would be entitled to vote in the annual municipal election if it were held on that day. Each qualified voter shall be entitled to one (1) vote.

(c) Notice of the time and place of holding the said referendum shall be published at least once in at least two (2) newspapers having a general circulation in the Town not less than thirty (30) days immediately preceding the date of the referendum. Such notice shall also be posted in five (5) public places in the Town, not less than thirty (30) days immediately preceding the date of referendum. In the event that such publications and posting do not appear on the same date, the date of the last publication or posting shall control. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto. The Mayor of South Bethany shall appoint three (3) persons to act as Board of Special Election if the referendum is required. The polling place shall be open for a minimum amount of six (6) consecutive hours, the times shall be set by resolution of the Town Council. Persons in the polling place at the time set for the closing of the polls shall be entitled to vote even though such votes may be cast after the time set for the closing of the polls.

(d) Immediately after the closing of the polls, the Board of Special Election, or the Board of Election if the referendum is held on the day of the annual municipal election, shall count the ballots for and against the proposition as presented, and shall announce the results thereof. Such Board shall certify the number of votes cast for and against the proposed ordinance and the number of void votes, and shall report the same to the Town Council. Such certification shall be filed with the official records of the Town of South Bethany.

(e) The form of the ballot of the referendum whether held on the day of the annual municipal election or at a special referendum, shall be as follows:

( ) For Repealing the Referred Measure

( ) Against Repealing the Referred Measure

(f) If the majority of the qualified voters voting on a referred measure vote in favor of repealing such measure, it shall be considered repealed upon the certification of the result of the referendum by the Board of Special Election or by the Board of Election as the case may be. No ordinance, resolution, regulation or rule which has been repealed as the result of the procedures of Sec. 22 shall be adopted in the same form by the Town Council for a period of six (6) months from the date of such repeal.

22.7 Non-binding Rederendum. The Town Council may, on its own initiative, by resolution, determine to hold a non-binding referendum to obtain the opinion of the qualified voters of the Town on any subject which the Council has under consideration.

Any such referendum shall be conducted in such manner and with such public notice, as the Town Council shall determine by resolution provided, however, that any such resolution, and any public notice regarding such non-binding referendum shall clearly specify that such referendum is non-binding. The results of any non-binding referendum conducted under this Section shall not bind or obligate the Town Council to take any action or refrain from taking any action on the subject referred, but shall be informational in nature regarding the opinion of those qualified voters who voted in such election.

23. Eminent Domain. The Town Council may, by condemnation proceedings, take private property or may exercise the right to use private property within the corporate limits of the Town for any of the purposes authorized by this Charter. The proceedings for such condemnation shall be as prescribed in 10 Del. C. Chapter 61 or any future corresponding provision of law. The right of condemnation shall not extend to property owned by the United States, the State of Delaware or any agency thereof.

24. Limitation on Liability.

No claim or cause of action shall arise, and no judgment, damages, penalties, costs or other money entitlement shall be awarded or assessed against the Town of South Bethany, or any board, commission or agency of the Town, or any Town public officer, employee or member of such Town instrumentalities, whether elected or appointed, and whether now or previously serving as such, in any civil suit, or before any administrative tribunal on any and all tort claims seeking recovery of damages, unless made pursuant to Subchapter II, entitled 'County and Municipal Tort Claims', consisting of Sections 4010-4013, Title 10 of the Delaware Code or its successor.

25. Indemnification. The Town shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by appropriate insurance, any person who is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Town of South Bethany itself) by reason of the fact that he or she is or was a member of the Town Council, Mayor or other duly elected or appointed Town official or employee of the Town of South Bethany, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Town of South Bethany and with respect to any criminal action or proceeding had reasonable cause to believe that his or her conduct was unlawful; provided, however, that in the event of a monetary settlement, the Town Council shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

Indemnification as provided in this section shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the members of the Town Council, Mayor, Town Officer and/or employee is proper in the circumstances because he or

she met the applicable standards of the conduct set forth above. Such determination shall be made:

(a) by a majority vote of a quorum of the Town Council consisting of Council members who are not parties to such action, suit or proceeding, or

(b) if such quorum is not obtained, by independent legal counsel in a written opinion.

26. Compendium.

It shall be the duty of the Town Council to compile and reproduce the minutes of official meetings as well as ordinances, regulations, orders, rules or other decisions adopted by Town governmental bodies. The Town shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. Copies of such documents shall be made available to private persons at a reasonable cost. At least two copies of the Charter which shall have incorporated within it all amendments enacted by the General Assembly shall be kept at the Town office. Such copies may be typed, written, photographic processed or a combination of both. The Mayor shall make such further copies of the Charter, from time to time, as may be necessary. Copies of the Town Charter shall be available at the Town Hall for the perusal of the Town citizens.

27. Survival of Powers and Validating Section.

27.1 All powers conferred upon or vested in the Town Council of South Bethany by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the Town of South Bethany and/or the Town Council of South Bethany precisely as if each of said powers was expressly set forth in this Charter.

27.2 All ordinances and resolutions adopted by the Town Council and in force on the effective date of this Charter, as amended, are continued in force until repealed, modified or altered by the Town Council under the provisions of this Charter.

27.3 All actions of the Town Council or of any Town official taken under the provisions of Delaware law, any Town ordinance or any prior Charter of this Town prior to the effective date of this Charter, as amended, shall continue in effect unless otherwise provided herein.

27.4 All taxes, assessments, license fees, penalties, fines, forfeitures and other charges due to the Town, and all debts owed to or by the Town, prior to the effective date of this Charter, as amended shall remain due and unimpaired.

27.5 All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Town of South Bethany.

27.6 The bonds given by or on account of any official of the Town of South Bethany shall not be impaired or affected by the provisions of this Charter.

27.7 Each member of the Town Council who holds office at the time of approval of this Charter, as amended, shall continue to serve until the expiration of such term of office, as prescribed at the time of election.

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

28. Separability.

If any section, sub-section, paragraph, sentence, clause or other provision of this Charter shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions, sections, sub-sections, paragraphs, sentences, clauses or other provisions of this Charter.

29. Public Act.

This Charter shall be deemed to constitute a Public Act of the State of Delaware.

30. Effective Date.

This Charter shall take effect as of August 1, 1989."

Approved July 7, 1989.

CHAPTER 79

FORMERLY

SENATE BILL NO. 218
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 16 OF THE DELAWARE CODE, RELATING TO STANDARDS OF CARE FOR NURSING HOMES PROVIDING CARE TO MEDICAID RECIPIENTS.

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

Section 1. Amend Chapter 11, Title 16 of the Delaware Code by adding the following subchapter:

"SUBCHAPTER IV. Nursing Home Compliance with Title XIX of the Social Security Act.

§1141. Standards of Care for Nursing Homes Providing Care to Medicaid Recipients

(a) Any nursing facility as defined in 42 U.S.C. sec. 1396r(a) shall comply with all requirements regarding such facilities contained in Title XIX of the Social Security Act [42 U.S.C. sec. 1396 et seq.] and in any federal regulation issued pursuant thereto.

(b) For any violation of subsection (a), a nursing facility shall be subject to one or more of the following remedies:

(1) Denial of payment with respect to any recipient under the State Medicaid program admitted to the nursing facility, with notice to the public and the facility as provided for by regulations promulgated by the Department.

(2) A civil fine between 2% to 100% of a facility's current per diem rate, which shall be collected with interest at the legal rate of interest, for each day in which a facility fails to comply with a requirement constituting a separate violation. Funds collected as a result of imposition of such a penalty shall be applied to the protection of the health or property of residents of the nursing facility found to have been in violation, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

(3) The appointment, pursuant to regulations adopted by the Department, of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's resident.

(4) In the case of an emergency, the closure of the facility, the transfer of residents in that facility or other facilities, or both.

(c) In the case of a nursing facility which, on 3 consecutive standard surveys conducted pursuant to the rules or regulations promulgated by the Department, has been found to have provided substandard quality of care or has otherwise failed to comply with the requirement imposed pursuant to (a) or (e) of this section, the Department shall (regardless of what other remedies are provided):

(1) impose the remedy described in subsection (b) (1) and;

(2) monitor the facility pursuant to regulations promulgated by the Department, until the facility has demonstrated, to the satisfaction of the Department, that the facility is in compliance with the requirements imposed pursuant to (a) or (e) of this section, and that the facility will remain in compliance with such requirements.

(d) If a nursing facility has failed to comply with any of the requirements pursuant to (a) or (e) of this section, within 3 months after the date the facility is found to be out of compliance with such requirements, the Department shall impose the remedy described in (b) (1) for all individuals who are admitted to the facility after such date.

(e) The Department may establish and promulgate such rules and regulations governing the administration and operation of this section as may be deemed necessary and which are not inconsistent with the laws of this State.

(f) The State Board of Health shall have jurisdiction to hear any matter arising under subsection (a) and (e) and shall have the power to impose any remedy listed under subsection (b), (c), and (d). Any party who is not satisfied with a decision of the Board may appeal to the Superior Court for the County in which the facility is located. Such appeal must be filed within 30 days from the date of the Board's decision and shall be on the record made before the Board.

(g) This section is intended to be applicable solely to nursing facilities as defined by 42 U.S.C. sec. 1396r(a) and shall not alter, amend, repeal, restrict, or otherwise affect any existing Medicaid appeals procedures established by the Department."

Section 2. 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 3. This Act shall take effect October 1, 1989.

Approved July 10, 1989.

CHAPTER 80

FORMERLY

SENATE BILL NO. 219

AN ACT TO AMEND LAWS OF DELAWARE, VOLUME 66, CHAPTER 291, AS AMENDED, THE CHARTER OF THE TOWN OF CLAYTON, RELATING TO THE POWER OF THE TOWN OF CLAYTON TO IMPOSE AND COLLECT A REALTY TRANSFER TAX.

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 IV, Section 4.4 of the Charter by adding a new Sub-Paragraph (d) at the end thereof to read as follows:

"(d) Notwithstanding any statute to the contrary, the Town of Clayton 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 Town not to exceed one per cent (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 Town of Clayton pursuant to the authority granted herein. Council of the Town of Clayton 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 Town of Clayton are affixed thereto showing payment of the tax."

Approved July 7, 1989.

CHAPTER 81

FORMERLY

SENATE BILL NO. 247

AN ACT TO AMEND AN ACT, BEING CHAPTER 32, VOLUME 47, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF FREDERICA" BY INCREASING THE AMOUNT OF ANNUAL TAXES TO BE RAISED AND BY INCREASING THE AMOUNT WHICH COUNCIL IS PERMITTED TO BORROW.

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 6, Chapter 32, Volume 47, Laws of Delaware, as amended by Chapter 49, Volume 57, Laws of Delaware by striking the phrase "Fifteen Thousand Dollars ($15,000)" and inserting in lieu thereof the following:

"Twenty-Five (25%) percent of the assessed value of real property within the Town limits, but added thereto shall also be fixed a rate which will produce an amount sufficient to provide for interest on bonds the redemption thereof at their general maturities and to cover the sinking fund requirements and a reasonable sum for delinquencies, discounts and cost of collection".

Section 2. Amend Section 16, Chapter 32, Volume 47, Laws of Delaware, as amended by Chapter 49, Volume 57, Laws of Delaware, by striking the phrase "Fifteen Thousand Dollars ($15,000)" and inserting in lieu thereof the phrase "Twenty-Five (25%) percent of the total assessed value of real property within the town limits.

Approved July 7, 1989.

CHAPTER 82

FORMERLY

SENATE BILL NO. 255

AN ACT TO AMEND CHAPTER 302, VOLUME 49, LAWS OF DELAWARE, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF FENWICK ISLAND, DELAWARE" RELATING TO TAXES; AND PROVIDING FOR A REALTY TRANSFER TAX.

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 24, Chapter 302, Volume 49, Laws of Delaware, by designating all of present Section 24 as new subsection A., and entitling said new subsection A. as follows:

"A. Town taxes, generally."

Section 2. Amend Section 24, Chapter 302, Volume 49, Laws of Delaware, by adding thereto a new subsection, which new subsection shall read as follows:

"B. Realty Transfer Tax.

(a) Amount of tax.

(1) Each person who makes, executes, delivers, accepts or presents for recording any deed or lease, except as excluded by paragraph (h), or in whose behalf any deed or lease is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect of the transaction or any part thereof, a reality transfer tax at the rate of one percent (1%) of the value of the property represented by such deed or lease. Such tax shall be payable at the time of making, execution, delivery, acceptance or presenting of such document at closing.

(2) The transfer tax shall be apportioned equally between the parties to the transaction in the absence of an agreement to the contrary.

(3) No tax shall be imposed on any conveyance when the actual value of the property being transferred is less than One Hundred Dollars ($100.00).

(b) Judicial Sales.

The tax imposed by this Ordinance shall be paid from the proceeds of any judicial sale of real estate as part of the costs of such judgement or estate and of the writ upon which the sale is made.

(c) Affixing of Notation of Payment.

The payment of the tax imposed by this Ordinance shall be evidenced by a notation of payment on the document. The collector shall note on the document the payment of the tax, the amount of payment, the date of payment and the initials of the person receiving payment and his or her office. Such notation shall be conclusive evidence of payment as to any subsequent purchaser relying thereon.

(d) Responsibility for Collection and Remitting.

It shall be the responsibility of any settlement attorney, bank, trust company or other agent handling the settlement of each transaction covered hereby to collect the tax from the appropriate party(ies) and to remit such amount to the Town within fifteen (15) days of such settlement.

(e) Prohibited Act.

No person shall make, execute, deliver, accept or present for recording or cause to be made, executed, delivered, accepted or presented for recording any document without the full amount of tax thereon being duly paid.

(f) Additional Tax; Refunds

In the event the State of Delaware determines that additional taxes are due under Title 30 Del. C. Chapter 54, then additional taxes shall be due to the

Town in accordance with the valuation of the transfer as determined by the State, together with interest thereon at the legal rate. Refunds shall likewise be determined and paid.

(g) Definitions.

(1) "Deed" shall mean and include any instrument or writing pursuant to which title or possession of any real estate situate within the corporate limits of the Town which shall be quitclaimed, granted, bargained, sold, conveyed or transferred by a seller, vendor, grantor, assignor or transferor to any purchaser, buyer, vendee, grantee, assignee or transferee, except as provided in paragraph (a) of this subsection.

(2) "Lease" shall mean and include any document or instrument in writing transferring or purporting to transfer a title or possessory interest by a seller, vendor, lessor, assignor or transferor to any purchaser, buyer, vendee, lessee, assignee or transferee in or to any of the following:

(i) A condominium unit or any property or properties subject to the Unit Property Act (25 Del. C. §2201, et seq.) for a determinable term of five (5) years or more;

(ii) An interest in land owned by another and/or improvements owned by another located on land owned by another for a determinable term of five (5) years or more;

(iii) The exercise of any right or option to renew or extend the title possessory interest in an existing document or instrument in writing when such renewal or extension is for a period of five (5) years or more.

(3) "Transaction" shall mean and include the making, executing, delivering, accepting or presenting for recording of a deed or lease as defined herein.

(4) "Value" shall mean and include in the case of a deed the amount of the actual consideration thereof, including liens or other encumbrances thereon and ground rents or a commensurate part of the liens or other encumbrances thereon where such liens and encumbrances and ground rents also encumber or are charged against other lands, tenements or hereditaments; provided that where such documents shall set forth a small or nominal consideration, values shall be determined from the price set forth in, or actual consideration for, the contract of sale or lease, or, in the case of a gift or any other document without consideration, from the actual consideration for, the contract of sale or lease, or, in the case of a gift or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which, in either event, shall not be less than the amount of the assessment of such lands, tenements or hereditaments as shown on the books of Sussex County.

(h) Deeds and Leases.

"Deed" and "lease" shall not include any of the following:

(1) Any conveyance by will;

(2) Any mortgage;

(3) Any lease other than those described or defined in Section 7 (b);

(4) Any conveyance between persons who were previously husband and wife but who have since been divorced, provided such conveyance is made after the granting of the Final Decree in Divorce;

(5) Any conveyance between husband and wife;

(6) Any conveyance between parent and child or a spouse of such child;

(7) Any conveyance to a trustee, nominee or straw party for the grantor as beneficial owner;

(8) Any conveyance for the beneficial ownership of a person other than a grantor where, if such person were the grantee, no tax would be imposed upon the conveyance pursuant to this Ordinance;

(9) Any conveyance from a trustee, nominee or straw party to the beneficial owner;

(10) Any conveyance between a parent corporation and a wholly owned subsidiary corporation, provided such conveyance is without actual consideration;

(11) Correctional deed without actual consideration;

(12) Any conveyance to or from the United States, the State of Delaware, or any instrumentality, agency or political subdivision of the State;

(13) Any conveyance to or from a corporation or a partnership where the grantor or grantee owns stock of the corporation or an interest in the partnership in the same proportion as his interest in or ownership of, the real estate, or interest therein being conveyed;

(14) Any conveyance by the owner of a previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises were taken in trade by such builder as a part of the consideration from the purchaser of new, previously unoccupied peremises;

(15) Any conveyance to the lender holding a bona fide mortgage, which is genuinely in default either by a sheriff conducting a foreclosure sale or by the mortgagor in lieu of foreclosure;

(16) Any conveyance to a religious organization or other body or person holding title to real estate for a religious organization, if such real estte will not be used following such transfer by the grantee or by any privy of the grantee for any commercial purpose;

(17) Any conveyance made pursuant to a contract executed prior to July 1, 1989;

(18) Any conveyance made by or to an individual, a corporation or partnership when there is no change in beneficial interest;

(19) Any conveyance made by or to any organization exempt from ad valorem real estate taxes.

(l) Special Account.

The Town Council or its appropriate authorized representative shall open and maintain a special bank account to be designated as "Town of Fenwick Island - Beach Renourishment" account into which all proceeds of this tax shall be deposited and accumulated. Such funds shall be earmarked for beach renourishment costs but in the discretion of the Town Council may be used for general budgetary requirements if needed."

Section 3. No ordinance providing for a tax on the transfer of real property or any interest in real property authorized under this Act shall become effective until it shall be approved by a majority of the qualified voters of the Town of Fenwick Island at a Special Election to be held pursuant to a Resolution adopted by the Town Council of the Town of Fenwick Island. 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 Fenwick Island 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 Fenwick Island or who would be entitled at the time of the holding of the said Special Election to register and vote in the Annual Municipal Election, if such Annual Municipal Election were held on the day of the Special Election 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 Town Council of the Town of Fenwick Island 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 Town Council. 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 established by the Town Council and shall be clearly noted, together with notice of date

and place in the Resolution calling said Special Election. Such persons who are in the polling place at the hour appointed for said Special Election to end shall be entitled to vote even though such votes may be cast after the appointed hour. 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 July 7, 1989.

CHAPTER 83

FORMERLY

SENATE BILL NO. 251

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 GRANTING AUTHORITY TO THE TOWN OF MILTON TO LEVY TAX ON TRANSFERS OF REAL ESTATE WITHIN THE TOWN OF MILTON; BY EXTENDING THE HOURS IN WHICH VOTES MAY BE CAST WITH RESPECT TO THE ANNUAL MUNICIPAL ELECTION AND BY ALSO PROVIDING FOR ABSENTEE VOTING; BY CHANGING THE PAY THE MAYOR AND COUNCILMEN MAY RECEIVE FOR ATTENDANCE AT MEETINGS; AND BY ELIMINATING THE FORMAL PROCEEDINGS CONCERNING THE TERMINATION OF THE TOWN CLERK'S EMPLOYMENT.

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), Chapter 501, Volume 61, Laws of Delaware, as amended by Chapter 265, Volume 64, and Chapter 266, Volume 65, Laws of Delaware, by adding a new subparagraph, designated as (31) and then renumbering as (32) the previously existing subparagraph (31) and thereafter renumbering the remaining subparagraphs to reflect the addition of such additional subparagraph to read as follows:

"(31) To levy and collect taxes upon the transfer of real property or any interest in real property situate within the corporate limits of the Town of Milton, 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."

Section 2. Amend Section 7(a), 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 subparagraph and inserting in lieu thereof a new sub-paragraph 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 Milton on the first Saturday in March of each and every year from 10:00 a.m., prevailing time, until 6:00 p.m., prevailing time."

Section 3. Amend Section 7(i), 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 sub-section in its entirety and substituting in lieu thereof the following:

"(i) All votes offered in the annual municipal election shall be offered in person or by absentee vote submitted in accordance with rules and procedures governing absentee ballots as set forth in the ordinances of the Town of Milton."

Section 4. Amend Section 9(b), 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 sub-section in its entirety and substituting in lieu thereof the following:

"(b). The Mayor may be paid up to $30.00 for each regular monthly meeting attended by him/her and there shall be no compensation for Special Meetings attended by him/her. Each member of the Town Council may be paid up to $30.00 for each regular monthly meeting attended by such councilman and there shall be no pay for any special meetings attended by such councilman. The Mayor and the members of the Town Council shall receive no other compensation for their services but shall receive an allowance for every mile necessarily driven in his or her private automobile to be the same as that assessed by the Sheriff of Sussex County for the serving of papers, and shall be reimbursed for expenses necessarily incurred while on the business of the Town, provided a voucher for such expenses is delivered to the town treasurer."

Section 5. Amend Section 19(c), Chapter 501, Volume 61, Laws of Delaware, as amended by Chapter 265, Volume 64, and Chapter 266, Volume 65, Laws of Delaware, by striking after the first sentence of Section 19(c) and the remainder of said subsection.

Approved July 7, 1989.

CHAPTER 84

FORMERLY

SENATE BILL NO. 129

AN ACT TO AMEND PART VI, CHAPTER 90, TITLE 11, DELAWARE CODE, RELATING TO THE MAXIMUM COMPENSATION THAT CAN BE AWARDED BY VIOLENT CRIMES COMPENSATION BOARD TO INNOCENT VICTIMS OF CRIME.

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

Section 1. Amend §9007(d), Part VI, Chapter 90, Title 11, Delaware Code by striking the figure "$20,000" as it appears in the first sentence of said subsection (d) and substituting in lieu thereof the figure "$25,000".

Section 2. This Act shall become effective on July 1, 1989 and shall apply only to those crimes occurring on or after the effective date of this Act.

Approved July 7, 1989.

CHAPTER 85

FORMERLY

SENATE BILL NO. 206

AN ACT TO AMEND CHAPTER 87, TITLE 11, DELAWARE CODE, RELATING TO THE CRIMINAL JUSTICE COUNCIL.

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

Section 1. Amend subsection (b) of §8701, Chapter 87, Title 11 of the Delaware Code, by renumbering paragraphs (15) and (16) thereof as paragraphs (19) and (20), and by inserting new paragraphs numbered (15), (16), (17) and (18) as follows:

"(15) The Chief Medical Examiner;

(16) The Secretary of Health and Social Services;

(17) The Secretary of Labor;

(18) The United States Attorney for the District of Delaware;".

Approved July 7, 1989.

CHAPTER 86

FORMERLY

SENATE BILL NO. 197

AN ACT TO AMEND CHAPTERS 83 AND 88, TITLE 11, DELAWARE CODE AND CHAPTERS 55 AND 55-A, TITLE 29, DELAWARE CODE RELATING TO PORTABILITY OF PENSION CREDIT BETWEEN STATE ADMINISTERED PENSION SYSTEMS.

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

Section 1. Amend §8351(6), Subchapter III, Chapter 83, Title 11, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(6) Equalized State service shall mean;

(a) Years of service as an "employee" as defined in §5501(a)(1) and (2), Subchapter I, Chapter 55, Title 29, multiplied by 25/30, provided that the individual is not accruing nor collecting benefits under Chapter 55, Title 29, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §5530, Subchapter II, Chapter 55, Title 29, or the refund provided by §5523(b), Subchapter II, Chapter 55, Title 29, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized.

(b) Years of service as an "employee" as defined in §5551(5), Subchapter I, Chapter 55A, Title 29, multiplied by 25/30, provided that the individual is not accruing nor collecting benefits under Chapter 55A, Title 29, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §5580, Subchapter II, Chapter 55A, Title 29, or the refund provided by §5573(b), Subchapter II, Chapter 55A, Title 29, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized.

(c) Years of service as an "employee" as defined in §8801(5), Chapter 88, Title 11, multiplied by 25/25, provided that the individual is not accruing nor collecting benefits under Chapter 88, Title 11, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §8824, Chapter 88, Title 11, or the refund provided by §8814(d), Chapter 88, Title 11, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized."

Section 2. Amend §8801(6), Chapter 88, Title 11,Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(6) Equalized State service shall mean;

(a) Years of service as an "employee" as defined in §5501(a)(1) and (2), Subchapter I, Chapter 55, Title 29, multiplied by 25/30, provided that the individual is not accruing nor collecting benefits under Chapter 55, Title 29, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §5530, Subchapter II, Chapter 55, Title 29, or the refund provided by §5523(b), Subchapter II, Chapter 55, Title 29, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service maybe equalized.

(b) Years of service as an "employee" as defined in §5551(5), Subchapter I, Chapter 55A, Title 29, multiplied by 25/30, provided that the individual is not accruing nor collecting benefits under Chapter 55A, Title 29, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §5580, Subchapter II, Chapter 55A, Title 29, or the refund provided by §5573(b), Subchapter II, Chapter 55A, Title 29, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized.

(c) Years of service as an "employee" as defined in §8351(5), Subchapter III, Chapter 83, Title 11, multiplied by 25/25, provided that the individual is not accruing nor collecting benefits under Subchapter III, Chapter 83, Title 11, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §8374, Subchapter III, Chapter 83, Title 11, or the refund provided by §8364(d), Subchapter III, Chapter 83, Title 11, unless such benefit or refund is first

repaid with interest at a rate determined by the Board before such service may be equalized."

Section 3. Amend §5501(b)(13), Chapter 55, Title 29, by striking said subsection (b)(13) in its entirety and substituting in lieu thereof the following:

"(13) Equalized State service shall mean:

(a) Years of service as an "employee" as defined in §5551(5), Subchapter I, Chapter 55A, Title 29, multiplied by 30/30, provided that the individual is not accruing nor collecting benefits under Chapter 55A, Title 29, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §5580, Subchapter II, Chapter 55A, Title 29, or the refund provided by §5573(b), Subchapter II, Chapter 55A, Title 29, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized.

(b) Years of service as an "employee" as defined in §8351(5), Subchapter III, Chapter 83, Title 11, multiplied by 30/25, provided that the individual is not accruing nor collecting benefits under Subchapter III, Chapter 83, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §8374, Subchapter III, Chapter 83, Title 11, or the refund provided by §8364(d), Subchapter III, Chapter 83, Title 11, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized.

(c) Years of service as an "employee" as defined in §8801(5), Chapter 88, Title 11, multiplied by 30/25, provided that the individual is not accruing nor collecting benefits under Chapter 88, Title 11, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §8824, Chapter 88, Title 11, or the refund provided by §8814(d), Chapter 88, Title 11, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized."

Section 4. Amend §5551(4)(b), Chapter 55A, Title 29, by striking said subsection (4)(b) in its entirety and substituting in lieu thereof the following:

"(b) Equalized State service shall mean;

(a) Years of service as an "employee" as defined in §5501(a)(1) and (2), Subchapter I, Chapter 55, Title 29, multiplied by 30/30, provided that the individual is not accruing nor collecting benefits under Chapter 55, Title 29, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §5530, Subchapter II, Chapter 55, Title 29, or the refund provided by §5523(b), Subchapter II, Chapter 55, Title 29, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized.

(b) Years of service as an "employee" as defined in §8351(5), Subchapter III, Chapter 83, Title 11, multiplied by 30/25, provided that the individual is not accruing nor collecting benefits under Subchapter III, Chapter 83, Title 11, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §8374, Subchapter III, Chapter 83, Title 11, or the refund provided by §8364(d), Subchapter III, Chapter 83, Title 11, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized.

(c) Years of service as an "employee" as defined in §8801(5), Chapter 88, Title 11, multiplied by 30/25, provided that the individual is not accruing nor collecting benefits under Chapter 88, Title 11, Delaware Code. It shall not include service for which the employee has received the withdrawal benefit provided by §8824, Chapter 88, Title 11, or the refund provided by §8814(d), Chapter 88, Title 11, unless such benefit or refund is first repaid with interest at a rate determined by the Board before such service may be equalized."

Section 5. Amend Chapter 55, Title 29, Delaware Code by adding new sections to read as follows:

"§5520. RETIREMENT OPTION.

When an employee applies for a pension, he or she shall choose either a unified pension or an ordinary pension.

§5521. AMOUNT OF UNIFIED SERVICE, DISABILITY OR SURVIVOR PENSION.

The amount of the unified pension payable to an employee, former employee or survivor shall be the sum of:

(a) The amount computed according to Chapter 55 of this title exclusive of service credited under §5501(b)(13) of this title; plus

(b) The sum of the amounts computed, based on credited service as an employee, according to Subchapter II, Chapter 55A, Title 29; Subchapter III, Chapter 83, Title 11; and Chapter 88, Title 11."

Section 6. Amend Chapter 55A, Title 29, Delaware Code by adding new sections to read as follows:

"§5569. RETIREMENT OPTION.

When a member applies for a pension, he or she shall choose either a unified pension or an ordinary pension.

§5570. AMOUNT OF UNIFIED SERVICE, DISABILITY OR SURVIVOR PENSION.

The amount of unified pension payable to an employee, former employee or survivor shall be the sum of:

(a) The amount computed according to Chapter 55A of this title, exclusive of service credited under §5551(4)(b) of this title; plus

(b) The sum of the amounts computed, based on credited service as an employee, according to Subchapter II, Chapter 55, Title 29; Subchapter III, Chapter 83, Title 11; and Chapter 88, Title 11."

Section 7. Amend §8369, Chapter 83, Title 11, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§8369. AMOUNT OF UNIFIED SERVICE, DISABILITY OR SURVIVOR PENSION

The amount of the unified pension payable to an employee, former employee or survivor shall be the sum of:

(a) The amount computed according to Subchapter III, Chapter 83, of this title, exclusive of service credited under §8351(6) of this title; plus

(b) The sum of the amounts computed, based on credited service as an employee, according to Subchapter II, Chapter 55, Title 29; Subchapter II, Chapter 55A, Title 29; and Chapter 88, Title 11."

Section 8. Amend §8819, Chapter 88, Title 11, Delaware Code by striking said section and substituting in lieu thereof the following:

"§8819. AMOUNT OF UNIFIED SERVICE, DISABILITY OR SURVIVOR PENSION.

The amount of the unified pension payable to an employee, former employee or survivor shall be the sum of the following:

(a) The amount computed according to Chapter 88 of this title, exclusive of service credited under §8801(6) of this title; plus

(b) The sum of the amounts computed, based on credited service as an employee, according to Subchapter II, Chapter 55, Title 29; Subchapter II, Chapter 55A, Title 29; and Subchapter III, Chapter 83, Title 11."

Section 9. Amend §8362, Chapter 83, Title 11, Delaware Code by striking the word "service" as it appears therein.

Section 10. Amend §8812, Chapter 88, Title 11, Delaware Code by striking the word "service" as it appears therein.

Section 11. Amend §8814, Chapter 88, Title 11, Delaware Code by adding a new subsection to read as follows:

"(d) A former employee's vested right shall be forfeited upon his or her application for a refund of his or her accumulated contributions."

Section 12. Amend §8364, Chapter 83, Title 11, Delaware Code by adding a new subsection to read as follows:

"(d) A former employee's vested right shall be forfeited upon his or her application for a refund of his or her accumulated contributions."

Section 13. Amend the Title of §5527, Chapter 55, Title 29, Delaware Code by inserting between the words "of" and "service" the word "ordinary".

Section 14. Amend the Title of §5577, Chapter 55A, Title 29, Delaware Code by inserting between the words "of" and "service" the word "ordinary".

Section 15. Amend the Titles of §5528, Chapter 55, Title 29, Delaware Code and §5578, Chapter 55A, Title 29, Delaware Code by inserting the word "ORDINARY" at the beginning of said titles.

Section 16. Amend the titles of §8372, Chapter 83, Title 11, Delaware Code and §8822, Chapter 88, Title 11, Delaware Code by inserting the word "ORDINARY" at the beginning of said titles.

Section 17. Amend §5551(9), Chapter 55A, Title 29, Delaware Code by striking the phrase "§5541" as it appears therein and substituting in lieu therein the phrase "§5593".

Section 18. Amend Chapter 55A, Title 29, Delaware Code by adding a new section to read as follows:

"§5593. ESTABLISHMENT OF FUND.

There shall be established a County and Municipal Employees' Retirement Fund, hereinafter referred to as the "Fund", separate and distinct from the fund established under Chapter 55 of this title, to which county or municipal appropriations and other employer contributions shall be deposited monthly, and to which member contributions shall be deposited upon deduction from the member's paycheck, and to which earnings on investments, refunds and reimbursements shall be deposited upon receipt, and from which benefits shall be paid and fees and expenses authorized by the Board shall be paid."

Approved July 11, 1989.

CHAPTER 87

FORMERLY

HOUSE BILL NO. 169

AN ACT TO AMEND CHAPTER 23, TITLE 21 OF THE DELAWARE CODE RELATING TO TITLE AND LIENS.

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

Section 1. Amend Section 2331, subchapter II, Chapter 23, Title 21, Delaware Code by designating the existing text as subsection "(a)" and by adding a new subsection to read as follows:

"(b) The requirement under subsection (a) is waived if the Department already has the lien information or if the lien information is available on an out-of-state title being exchanged for a Delaware certificate of title."

Approved July 11, 1989.

CHAPTER 88

FORMERLY

HOUSE BILL NO. 319

AN ACT TO AMEND CHAPTER 27, TITLE 5, OF THE DELAWARE CODE, RELATING TO THE CASHING OF CHECKS, DRAFTS AND MONEY ORDERS.

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 §2742, Chapter 27, Title 5, Delaware Code, by deleting "one-half of 1 percent thereof, or 25 cents," and inserting in lieu thereof the words "one (1) percent, thereof or $4.00,"

Section 2. Amend §2713, Chapter 27, Title 5, Delaware Code, by deleting "the sum of $50 as a fee for investigating the application and the additional sum of $100" and inserting in lieu thereof the words "the nonrefundable sum of $150 as a fee for investigating the application and the additional sums of $200."

Section 3. Further Amend §2713, Chapter 27, Title 5, Delaware Code, by deleting "$100, and the license fee shall be $200." and inserting in lieu thereof the words "$200, and license shall be $250."

Approved July 11, 1989.

CHAPTER 89

FORMERLY

SENATE BILL NO. 106
AS AMENDED BY SENATE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND TITLE 10, SECTION 921, DELAWARE CODE RELATING TO DISPOSITION OF FORMER MARITAL PROPERTY.

WHEREAS, by virtue of 13 Delaware Code, Chapter 15, the Family Court retains jurisdiction to equitably divide marital property following a divorce proceeding; and

WHEREAS, on occasion parties fail to request the Court's retention of jurisdiction for such purposes; and

WHEREAS, it is then necessary for the parties to seek relief through the Court of Chancery; and

WHEREAS, it appears that such jurisdiction should vest with Family Court.

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

Section 1. Title 10, §921, Delaware Code is amended by adding thereto a new subsection to read:

"(14) Petitions by persons formerly married to each ~~other seeking~~ an interest in or disposition of jointly titled real property, acquired during their marriage where such property was not disposed of (a) by agreement of the parties, or (b) by virtue of ancillary proceedings pursuant to 13 Del. C., §1513. In dividing said property the Family Court shall apply equitable principles unless there is a written agreement signed by the parties regarding the disposition of said property. Unless there is a written agreement signed by the parties the Family Court shall not consider the factors enumerated in 13 Del. C., §1513. This subsection shall apply to all actions filed after its effective date."

Approved July 11, 1989.

CHAPTER 90

FORMERLY

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

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE, RELATING TO UNLAWFUL USE OF CONTROLLED-ACCESS HIGHWAYS.

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

Section 1. Amend §4126(a) by striking paragraph (10) thereof, and inserting a new paragraph (10) to read as follows:

"(10) Lead or participate in a convoy or procession, either walking or riding, except a riding funeral procession which proceeds at the prevailing rate of speed and which does not prevent or interfere with the entrance into or exit off of the controlled access highway by others."

Approved July 11, 1989.

CHAPTER 91

FORMERLY

SENATE BILL NO. 179
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 9, TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS; AND PROVIDING FOR A VOLUNTARY FINE ASSESSMENT PLAN

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

Section 1. Amend Chapter 9, Title 4 of the Delaware Code by adding thereto a new section, designated as §915, which new section shall read as follows:

"§915. Licensees Pleading Guilty; Voluntary Fines; Limitation

The Commission is authorized to create a 'Voluntary Fine Assessment Plan,' with fines not to exceed $500, available to any licensee who pleads guilty to any violation of the Commission Rules or the provisions of this Title; provided, however, that the plan shall not apply to violations involving any of the criminal offenses set forth in Chapter 9 of this Title. Where a licensee chooses to pay a voluntary fine under the plan, such licensee shall have waived his right to and shall forego a formal hearing before the Commission, and shall be deemed to have waived any right to appeal relating to the offense(s). The Plan shall be administered by the Executive Secretary or by such other persons as shall be designated by the Commission. The plan shall be published as a Commission rule."

Approved July 11, 1989.

CHAPTER 92

FORMERLY

SENATE BILL NO. 259

AN ACT TO AMEND SUBCHAPTER XI OF CHAPTER 17, TITLE 6 OF THE DELAWARE CODE TO REVISE THE LIMITS ON FEES CHARGED FOR SPECIAL REQUEST SERVICES WITHIN THE DIVISION OF CORPORATIONS, FOR LIMITED PARTNERSHIPS.

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 §1107(b), Subchapter XI of Chapter 17, Title 6 of the Delaware Code by striking said subsection (b) in its entirety and substituting in lieu thereof a new subsection (b) to read 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 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, an additional sum of up to $200.00; 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, an additional sum of up to $100.00.

The Secretary of State shall establish (and may from time to time amend) a schedule of specific fees payable pursuant to this subsection."

Approved July 7, 1989.

CHAPTER 93

FORMERLY

SENATE BILL NO. 243

AN ACT TO AMEND CHAPTER 41, TITLE 31, DELAWARE CODE, RELATING TO VIOLATIONS OF THE DELAWARE STATE HOUSING CODE.

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

Section 1. Amend §4131(b), Chapter 41, Title 31 of the Delaware Code by deleting the last sentence of the subsection in its entirety and substituting in lieu thereof a new sentence which shall read as follows:

"The Justice of the Peace Court in the County in which the property is located shall have exclusive jurisdiction over offenses prosecuted under this Chapter".

Section 2. Amend Section 4133(b), Chapter 41, Title 31 of the Delaware Code by deleting the words "Superior Court" as they appear in said section and substituting in lieu thereof the words "Justice of the Peace Court".

Section 3. Amend Section 4133(c), Chapter 41, Title 31 of the Delaware Code by deleting the words "court of record" as they appear in said subsection and substituting in lieu thereof the words "Justice of the Peace Court."

Section 4. This Act shall be effective immediately upon signature by the Governor.

Approved July 11, 1989.

CHAPTER 94

FORMERLY

SENATE BILL NO. 232

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO RECOMMENDATIONS BY POLICE CHIEFS FOR THE RE-EXAMINATIONS OF CERTAIN DRIVERS.

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

Section 1. Amend Title 21, Chapter 27, Section 2714 by striking subsection (b) in its entirety and inserting a new subsection (b) to read as follows:

"(b) The Department shall also cause to be examined any person whom the State Police Superintendent, State Police Troop Commanders or Chief of Police of any city, town or county in this State recommends for such examination."

Approved July 11, 1989.

CHAPTER 95

FORMERLY

SENATE BILL NO. 146
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO SAFETY INSPECTIONS OF VEHICLES BY POLICE OFFICERS.

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

Section 1. Amend Title 21, Chapter 21, Section 2144(a) by striking the words "state police officer" as it appears in the first sentence and insert in lieu thereof the words "police officer".

Approved July 11, 1989.

CHAPTER 96

FORMERLY

SENATE BILL NO. 109

AN ACT CONCURRING IN A PROPOSED 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.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 134th General Assembly, being Chapter 342, Volume 66, Laws of Delaware, as follows:

"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."

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 134th 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.

Effective June 30, 1989.

CHAPTER 97

FORMERLY

SENATE BILL NO. 290

AN ACT TO AMEND CHAPTER 26, TITLE 24, DELAWARE CODE RELATING TO ATHLETIC TRAINERS AND PHYSICAL THERAPY.

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 2602, Chapter 26, Title 24, Delaware Code, by renumbering existing subsection (4) to be subsection (11).

Section 2. Amend Section 2602, Chapter 26, Title 24, Delaware Code, by adding thereto new subsections (4), (5), (6), (7), (8), (9), and (10) as follows:

"(4) 'Athletic Training' means and includes: (1) prevention of athletic injuries, (2) recognition and evaluation of athletic injuries, (3) management, treatment, and disposition of athletic injuries, (4) rehabilitation of athletic injuries, (5) organization and administration of athletic training programs, and (6) education and counseling of athletes regarding a program(s) of athletic training. Athletic Training shall also include prevention, conditioning, and reconditioning of non-athletic injuries as defined by law and in regulation by the Board.

(5) 'Athletic Trainer' shall mean a person licensed by the State Board of Physical Therapy Examiners as an athletic trainer after meeting the requirements of this act and rules and regulations promulgated pursuant thereto. The athletic trainer functioning in the non-clinical setting may evaluate, treat, and provide appropriate first aid to injuries incurred by the athlete during participation in or training for scholastic, professional, or sanctioned amateur athletic activities. All treatments for injuries to athletes require a physician's referral, except for minor sprains, strains, and contusions, first aid excluded Evaluation and/or treatment by the athletic trainer to supportive staff, spectators, and other persons other than the athlete shall be limited to first aid. An athletic trainer functioning in a clinical setting may use therapeutic exercises and modalities such as heat, cold, light, air, massage, water, sound, and electricity, for the treatment of musculoskeletal injuries. The athletic trainer may also provide first aid in the clinical setting. All treatment by the athletic trainer in a clinical setting must be performed while under the direct, on-site supervision of a physical therapist. The athletic trainer in a clinical setting may not independently initiate, modify, or discharge a patient's program.

(6) 'Athlete' is an individual who is participating in, or training for scholastic, professional, or sanctioned amateur athletics.

(7) 'Clinical Setting' shall mean a hospital, outpatient facility, or clinic where a physical therapist is on site, or any other facility as approved by the Board.

(8) 'Non-Clinical Setting' shall mean a location where school, professional, or sanctioned amateur athletic activities are being held.

(9) 'Visiting Athletic Trainer' is an individual certified by the National Athletic Trainers Association who resides and works with a visiting team, in an athletic training capacity, located outside of the State of Delaware. A visiting athletic trainer may only work in a non-clinical setting or educational environment.

(10) 'First Aid' is emergency care and treatment of an injured person before definitive medical and surgical management can be secured."

Section 3. Amend Section 2603(a), Chapter 26, Title 24, Delaware Code, by striking it in its entirety and substituting therein the following:

"(a) There is hereby created the State Examining Board of Physical Therapists. The Board shall consist of nine members all of whom shall be residents of Delaware. Four members shall be physical therapists licensed to practice in Delaware, provided they have worked at least three years in Delaware as physical therapists immediately preceding their appointment One member shall be a physical therapy assistant, licensed to practice in Delaware. One member shall be an athletic trainer licensed to practice

in Delaware who has worked at least three years in Delaware as an athletic trainer immediately preceding his appointment. Three members shall be from the public who are not physical therapists, physical therapy assistants, or athletic trainers and who shall not be related to any person actively engaged in said profession in the State, nor shall said members have any interest in a business or institution engaged in physical therapy or athletic training."

Section 4. Amend Section 2603(b), Chapter 26, Title 24, Delaware Code, by striking said subsection in its entirety and substituting therein the following:

"The Governor shall appoint the members to serve on the Board. In appointing persons to fill vacancies in the nine Board positions designated to be held by persons licensed under this Chapter, the Governor may select members who reside in different regions in the State in an effort to provide statewide representation of physical therapists, physical therapist assistants, and athletic trainers."

Section 5. Amend Section 2603(c), Chapter 26, Title 24, Delaware Code, by striking said subsection in its entirety and substituting therein the following:

"Members of the initial Board shall be appointed in such a manner that the terms of four members expire on June 30, 1991 and the terms of the remaining five members shall expire on June 30, 1992. Thereafter, appointments shall be made for terms of three years. A member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term, except that each member shall serve until his successor is duly appointed and qualified."

Section 6. Amend Section 2605(a), Chapter 26, Title 24, Delaware Code, by deleting it in its entirety and by substituting therein the following:

"(a) No person shall practice nor hold himself out as being able to practice physical therapy or athletic training in this State or act as a physical therapist, physical therapist assistant, or athletic trainer in any manner whatsoever whether or not compensation is received or expected unless he is licensed or registered in accordance with this Chapter and such license or registration is in good standing or has not been suspended or revoked."

Section 7. Amend Section 2605(c), Chapter 26, Title 24, Delaware Code, by deleting it in its entirety and by substituting therein the following:

"(c) This Chapter shall not prohibit students, whether or not licensed in Delaware, who are enrolled in either schools or post-graduate courses of physical therapy or athletic training recognized by the Board from performing such work or acts of physical therapy or athletic training as is incidental to their respective course of study while under the direct supervision of a licensed physical therapist or licensed athletic trainer in their respective training mode."

Section 8. Amend Section 2605(d), Chapter 26, Title 24, Delaware Code, by inserting the words "or athletic training" between the words "physical therapy" and the words "in this State".

Section 9. Amend Section 2605(e), Chapter 26, Title 24, Delaware Code, by striking it in its entirety and substituting therein the following:

"(e) This act shall not prohibit visiting athletic trainers from performing athletic training in the State of Delaware in a non-clinical setting during the designated times of an event; however, while in the State of Delaware, all visiting athletic trainers must abide by Delaware laws, rules, and regulations relating to athletic training."

Section 10. Amend Section 2605, Chapter 26, Title 24, Delaware Code, by adding a new subsection (f) to read as follows:

"(f) This act shall not limit or restrict those who are engaged in certain occupations or jobs which may or may not require a license or registration such as, but not limited to, physical education teachers, coaches, health or recreation directors and instructors at health clubs or spas, water safety instructors, and masseurs. The duties which may be properly undertaken in such occupation or job include the non-therapeutic administration of baths, massage, normal conditioning, and the like to normal subjects, that is those persons who have no specific pathology, first aid subjects are excluded."

Section 11. Amend Section 2606, Chapter 26, Title 24, Delaware Code, by striking it in its entirety and substituting therein the following.

"To be eligible for licensure as a physical therapist, physical therapist assistant, or athletic trainer, an applicant shall submit to the Board satisfactory evidence of:

(1) Suitability to practice;

(2) Graduation from a school offering a program offering physical therapy, physical therapist assistant, or athletic training, which program as offered by such school has been approved for the education preparation of physical therapists, physical therapist assistants, or athletic trainers by the appropriate accrediting agency recognized by the Council on Post Secondary Accreditation or the United States Commission of Education, at the time of graduation; and

(3) Passes to the satisfaction of the Board a national examination administered or designated by the Board to determine the applicant's fitness to practice physical therapy or act as a physical therapist assistant or as an athletic trainer as herein provided;

(4) Meets additional educational requirements set forth in rules and regulations. A physical therapist applicant whose application is based on a diploma issued to him by a foreign physical therapy school shall furnish evidence satisfactory to the Board of the completion of a physical therapy school or schools resident course of professional instruction equivalent to that required in subsection (a) of this section. Before a license may be issued, each foreign applicant must meet the requirements of paragraph (1) of this subsection and pass a written examination as provided under §2608 of this title."

Section 12. Amend Section 2607(b), Chapter 26, Title 24, Delaware Code by inserting the words "or athletic training" after the words "physical therapy".

Section 13. Amend Section 2608, Chapter 26, Title 24, Delaware Code, by renumbering existing subsection (b) as subsection (c) and by adding a new subsection (b) to read as follows:

"(b) The Board shall designate a national examination to applicants for licensure as an athletic trainer who comply with Sections 2605 and 2606.

Each athletic training examination shall include both a written and a practical examination which shall test the applicant's knowledge of basic clinical sciences as they relate to athletic training and, athletic training theory, practice and other subjects the Board may deem useful to test the applicant's fitness to practice athletic training."

Section 14. Amend Section 2609, Chapter 26, Title 24, Delaware Code, by inserting the words "or athletic trainer applicant" after the words "physical therapist assistant applicant" as they appear therein.

Section 15. Amend Section 2610, Chapter 26, Title 24, Delaware Code, by deleting it in its entirety and by substituting therein the following:

"§2610. Licensure without examination; reciprocity; application fee; limitations.

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 physical therapist, physical therapist assistant, or athletic trainer without examination, who is licensed or registered as same by another state of the United States, its possessions or the District of Columbia, if the requirements for licensure or registration in such other state, possession or district at the time of licensure or registration by such state are equal to the requirements set forth in this act."

Section 16. Amend Section 2611(a), Chapter 26, Title 24, Delaware Code, by inserting the words "or athletic trainers" after the words "physical therapist assistant" and by deleting the word "or" before the words "physical therapist assistant".

Section 17. Amend Section 2612, Chapter 26, Title 24, Delaware Code, by designating the existing provision as subsection (a) and adding a subsection (b) as follows:

"(b) Any person licensed under this act as an athletic trainer working in a clinical setting, shall not treat any persons by athletic training or otherwise, except after an evaluation by the supervising physical therapist, and while the athletic trainer is under the direct, on-site supervision of a licensed pnysical therapist, first

aid excluded. Any person licensed under this act as an athletic trainer working in a non-clinical setting will require a physician's referral for treatment and/or rehabilitation of injuries other than treatment of minor sprains, strains and contusions - first aid excluded. An athletic trainer shall refer an individual to another health practitioner if symptoms are present for which athletic training is contra-indicated or which are indicative of conditions for which treatment is outside the scope of his knowledge. Physicians will also include dentists, podiatrists, chiropractors, and osteopaths."

Section 18. Amend Section 2613, Chapter 26, Title 24, Delaware Code, by striking it in its entirety and by substituting therein the following:

"§2613. False representation of professional title.

It shall be unlawful for any person, or for any business entity, its employees, agents or representatives to use in connection with its name or business activity the words "physical therapy", "physical therapist", "physiotherapy", "physiotherapist", "physio-hydrotherapist", "registered physical therapist", "licensed physical therapist", "physical therapist assistant", "athletic training", "athletic trainer", "trainer", "certified athletic trainer", "licensed athletic trainer", the letters "PT", "LPT", "RPT", "PTA", "AT", "ATC", "LAT", or any words, letters, abbreviations, or insignia indicating or implying directly or indirectly that physical therapy services or athletic training services or to bill for physical therapy or athletic training unless such services are provided by a physical therapist or athletic trainer licensed and practicing with this Chapter."

Section 19. Amend Section 2614, Chapter 26, Title 24, Delaware Code, by designating the existing provision as §2614(a) and by adding a new subsection (b) thereto to read as follows:

"(b) Any person who holds a license pursuant to this act as an athletic trainer may use the words "athletic trainer", "trainer", "certified athletic trainer", or "licensed athletic trainer" and may use the letters "LAT", "ATC", or "AT" in connection with his name to denote his/her licensure hereunder."

Section 20. Amend Section 2615, Chapter 26, Title 24, Delaware Code, by inserting the words "athletic trainers", after the words "physical therapist assistants".

Section 21. Amend Section 2616(a)(1), Chapter 26, Title 24, Delaware Code, by inserting the words "or athletic trainer" after the words "physical therapist assistant" as they appear therein.

Section 22. Amend Section 2616(a)(3), Chapter 26, Title 24, Delaware Code, by inserting the words "athletic trainer" after the words "physical therapist assistant" as they appear therein.

Section 23. Amend Section 2616(a)(6), Chapter 26, Title 24, Delaware Code, by inserting the words "or athletic trainer" after the words "physical therapist assistant" as they appear therein.

Section 24. Amend Section 2616(a)(7), Chapter 26, Title 24, Delaware Code, by inserting the words "or athletic training practice" after the words "physical therapy practice" as they appear therein.

Section 25. Amend Section 2616(a)(8), Chapter 26, Title 24, Delaware Code, by inserting the words "or athletic trainers" after the words "physical therapist" as they appear therein.

Approved July 11, 1989.

CHAPTER 98

FORMERLY

SENATE BILL NO. 275

AN ACT TO AMEND AN ACT BEING CHAPTER 401, VOLUME 62, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF FRANKFORD" TO CONFER UPON THE TOWN COUNCIL OF THE TOWN OF FRANKFORD CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN THE TOWN OF FRANKFORD.

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

Section 1. Chapter 401, Volume 62, Laws of Delaware, is hereby amended by striking the word and quotation mark "thereof." as they appear at the end of Section 14 (K) and all words following, including the words: "LEVY OF ANNUAL TAXES Section 15.(A). Prior" and substitute in lieu thereof the following:

"Section 15. TAXATION.

(A) Levy of Annual Taxes.

(1) Prior"

Section 2. Amend Section 15, Chapter 401, Volume 62, Laws of Delaware, by redesignating present Subsections 15 (B) through (G) as new Paragraphs (2) through (7) of Subsection (A).

Section 3. Further Amend Section 15, Chapter 401, Volume 62, Laws of Delaware, by adding a new "Subsection (B)" thereto, to read as follows:

"(B) Taxation of Real Estate Transfers.

(1) The Town Council of the Town of Frankford, 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 Frankford, 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 shall be levied upon an organization exempted from ad valorem real estate taxes.

(2) No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this Subsection 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 Frankford. If the taxing power authority granted under this Subsection 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 stamps are affixed thereto.

(3) The Town Council of the Town of Frankford may adopt an ordinance or ordinances to provide for the effective administration, regulation and collection of an tax adopted pursuant to the provisions of this Subsection.

(4) No tax levied under this Subsection 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; 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, Delaware Code, shall be applicable to any realty transfer tax imposed pursuant to this Act.

(5) The Town Council may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, or such other agent as may be appointed by the Commissioners and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Subsection.

Section 4. This Act shall not become effective until it shall have been approved by a majority of the qualified voters who vote at a Special Election to be held pursuant to a Resolution adopted by the Town Council of the Town of Frankford. 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 Frankford 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 Frankford 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 President of the Town Council 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 President of the Town Council of the Town of Frankford. 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 Resolution adopted by the Town Council of the Town of Frankford giving notice of the Special Election shall name the date and time of the Special Election and the location of the polling place. Such persons who are in the polling place at the time named in said Resolution for the Special Election to end, shall be entitled to vote even though such votes may be cast after the designated hour. 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 July 11, 1989.

CHAPTER 99

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 245

AN ACT TO AMEND CHAPTER 3, TITLE 8 OF THE DELAWARE CODE TO REVISE THE LIMITS ON FEES CHARGED FOR SPECIAL REQUEST SERVICES WITHIN THE DIVISION OF CORPORATIONS.

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 §391(h), Chapter 3, Title 8 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"(h) In addition to those fees charged under §391(a) of this Title, there shall be collected by and paid to the Secretary of State the following:

(1) For all services described in §391(a) of this Title that are requested to be completed within the same day as the day of the request, an additional sum of up to $200.00; and

(2) For all services described in §391(a) of this Title that are requested to be completed within a 24-hour period from the time of the request, an additional sum of up to $100.00.

The Secretary of State shall establish (and may from time to time alter or amend) a schedule of specific fees payable pursuant to this subsection."

Approved July 7, 1989.

CHAPTER 100

FORMERLY

SENATE BILL NO. 217

AN ACT TO AMEND SUBCHAPTER V, TITLE 11 OF THE DELAWARE CODE RELATING TO OFFENSES RELATING TO CHILDREN AND INCOMPETENTS.

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

Section 1. Amend Subchapter V, Title 11, Delaware Code by adding thereto a new section designated as Section 1100 to read as follows:

"Section 1100. Dealing in Children

A person is guilty of dealing in a child if he intentionally or knowingly trades, barters, buys, or negotiates to trade, barter, buy or sell a child under the age of eighteen; provided however, that payment of reasonable medical expenses related to the pregnancy and reasonable room and board to the providers of those services in conjunction with placement of a child for adoption in accordance with §904 (2) of Title 13 shall not constitute a violation of this section.

Dealing in a child is a Class E Felony."

Approved July 13, 1989.

CHAPTER 101

FORMERLY

SENATE BILL NO. 224
AS AMENDED BY
SENATE AMENDMENT NOS. 1 AND 3 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 49, TITLE 6, DELAWARE CODE, RELATING TO MOTOR VEHICLE FRANCHISING PRACTICES.

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

Section 1. Amend §4915(a), Chapter 49, Tile 6, Delaware Code, by striking the word "if" immediately following the word "thereafter" in the third sentence of said subsection (a) and inserting in lieu thereof the word and comma "unless" and further deleting the word "not" immediately preceding the word "permitting" in the same third sentence.

Section 2. Amend §4915(c), Chapter 49, Title 6, Delaware Code, by striking the word "not" immediately preceding the word "entering" in said subsection (c).

Section 3. Amend §4915(d), (e) and (f) of Chapter 49, Title 6, Delaware Code, by striking said subsections in their entirety and substituting in lieu thereof the following new subsections to read as follows:

"(d) The manufacturer and proposed additional or relocating new motor vehicle dealer shall have the burden of proof to establish that good cause exists for permitting the proposed addition or relocation under this Section.

(e) The Public Service Commission or his designee shall conduct the hearing and render its final determination within 90 days after a protest is filed.

(f) Any parties to a hearing by the Public Service Commission concerning the establishing or relocating of a new motor vehicle dealer shall have a right of review of the decision in the Superior Court; if no decision is made by the Public Service Commission within 90 days of the protest then the matter shall be heard and determined by the Superior Court on application by either party filed within 120 days after the protest.

(g) All new motor vehicle dealers in the State shall bear the costs of the administration of this Chapter by means of an annual assessment which shall be established by the Commission and shall be no more than what is reasonably needed to defray the annual cost of administering this Chapter; provided, in the event the Commission determines that any action or actions by a manufacturer pursuant to this Section are frivolous, the Commission may assess the reasonable cost of the hearing against the manufacturer. Such assessment shall be paid by each new motor vehicle dealer on or before March 31 of each year. If a new motor vehicle dealer fails to pay the as essment, it shall pay a penalty of 12 percent of the amount due for each month or fraction thereof that the amount is unpaid. The Commission many enforce the collection of any delinquent assessment, or portion thereof, by legal action or in any other manner by which the collection of debts due the State may be enforced. All assessments under this Section shall be deposited in the State Treasury to the credit of a New Motor Vehicle Dealer Fund to be used for the administration of this Chapter by the Commission, as authorized by the General Assembly in its annual operating budget. Any amount which remains in the fund at the end of any fiscal year shall be applied on an equal basis to the assessment charged against each new motor vehicle dealer for the next succeeding fiscal year."

Approved July 12, 1989.

CHAPTER 102

FORMERLY

SENATE BILL NO. 133

AN ACT TO AMEND PART I, TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE; AND PROVIDING FOR A LONG-TERM CARE INSURANCE ACT.

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

Section 1. Amend Part I, Title 18 of the Delaware Code by adding thereto a new Chapter, designated as Chapter 71, which new Chapter shall read as follows:

"CHAPTER 71. LONG-TERM CARE INSURANCE

§7101. Statement of Purpose

The purpose of this Chapter is to promote the public interest; to promote the availability of long-term care insurance policies; to protect applicants for long-term care insurance, as defined in this Chapter, from unfair or deceptive sales or enrollment practices; to establish standards for long-term care insurance; to facilitate public understanding and comparison of long-term care insurance policies; and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

§7102. Scope

The requirements of this Chapter shall apply to policies delivered or issued for delivery in this State on or after its effective date. This Chapter is not intended to supersede the obligations of entities subject to this Chapter to comply with the substance of other applicable insurance laws insofar as such laws not conflict with this Chapter; provided however, that laws and regulations designed and intended to apply to Medicare supplement insurance policies shall not be applied to long-term care insurance. A policy which is not advertised, marketed or offered as long-term care insurance or nursing home insurance need not meet the requirements of this Chapter.

§7103. 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) "Applicant" shall mean:

(1) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(2) In the case of a group long-term care insurance policy, the proposed certificate holder.

(b) "Certificate" shall mean, for the purposes of this Chapter, any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

(c) "Commissioner" shall mean the Insurance Commissioner of this State.

(d) "Group long-term care insurance" shall mean a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(1) one or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof, or for members or former members or a combination thereof, of the labor organization;. or

(2) any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and such association has been maintained in good faith for purposes other than obtaining insurance; or

(3) an association or a trust or the trustee(s) of a fund established, created or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this state, each such association or the insurer of such association, shall file evidence with the Commissioner that the association has at the outset a minimum of one hundred persons; has been organized and maintained in good faith for purposes other than that of obtaining insurance; has been in active existence for at least one year; and has a constitution and by-laws which provide that:

(i) the association holds regular meetings not less than annually to further purposes of the members;

(ii) except for credit unions, the association collects dues or solicits contributions from members; and

(iii) the members of the association have voting privileges and representation on the governing board and committees.

Thirty days after such filing the association shall be deemed to satisfy such organizational requirements, unless the Commissioner makes a finding that the association does satisfy those organizational requirements.

(4) a group other than as described in paragraphs (1) through (3) of this subsection, subject to a finding by the Commissioner that:

(i) the issuance of the group policy is not contrary to the best interest of the public;

(ii) the issuance of the group policy would result in economies of acquisition or administration; and

(iii) the benefits are reasonable in relation to the premiums charged.

(e) "Long-term care insurance" shall mean any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual policies or riders whether issued by insurers; fraternal benefit societies; nonprofit health, hospital, and medical service corporations; prepaid health plans; health maintenance organizations or any similar organization. The words "long-term care insurance" shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

(f) "Policy" shall mean, for the purposes of this Chapter, any policy, contract, subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; non-profit health, hospital, or medical service corporation; prepaid health plan; health maintenance organization or any similar organization.

§7104 Extraterritorial Jurisdiction; Group Long-Term Care Insurance

No group long-term care insurance coverage may be offered to a resident of this state under a group policy issued in another state to a group described in §7103(d)(4), unless this state or another state having statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state has made a determination that such requirements have been met.

§7105. Disclosure and Performance Standards for Long-Term Care Insurance

(a) The Commissioner may adopt regulations that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent

conditions of eligibility, non-duplication of coverage provisions, coverage of dependents, pre-existing conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms.

(b) No long-term care insurance policy may:

(1) be cancelled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) provide coverage for skilled nursing care only, or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

(c) Pre-existing conditions

(1) No long-term care insurance policy or certificate, other than a policy or certificate thereunder issued to a group as defined in §7103 (d)(1), shall use a definition of "pre-existing condition" which is more restrictive than the following: "Pre-existing condition" shall mean a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person.

(2) No long-term care insurance policy or certificate, other than a policy or certificate thereunder issued to a group as defined in §7103 (d)(1), shall exclude coverage for a loss or confinement which is the result of a pre-existing condition, unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

(3) The Commissioner may extend the limitation periods set forth in paragraphs (1) and (2) of this subsection as to specific age group categories in specific

policy forms, upon findings that the extension is in the best interest of the public.

(4) The definition of "pre-existing condition" shall not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant; and, on the basis of the answers on that application, from underwriting standards. Unless otherwise provided in the policy or certificate, a pre-existing condition, regardless of whether or not it is disclosed on the application, need not be covered until the waiting period described in paragraph (2) of this subsection expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions beyond the waiting period described in said paragrah (2).

(d) Prior hospitalization and/or institutionalization

(1) No long-term care insurance policy may be delivered or issued for delivery in this state if such policy conditions eligibility for any benefits on a prior hospitalization requirement; or if such policy conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care.

(2) Each long-term care insurance policy which contains any limitation or condition for eligibility, other than those prohibited in paragraph (1) of this subsection, shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

(3) A long-term care insurance policy containing a benefit advertised, marketed or offered as a home health care or home care benefit shall not condition receipt of benefits on a prior institutionalization requirement. A long-term care insurance policy which conditions eligibility of noninstitutional benefits on the prior receipt of institutional benefits on the prior receipt of institutional care

shall not require a prior institutional stay of more than thirty (30) days for which benefits are paid.

(4) No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

§7106. Administrative Procedures

Regulations adopted pursuant to this Chapter shall be in accordance with the provisions of Chapter 101, Title 29 of the Delaware Code."

Section 2. This Act shall be known and may be cited as the "Long-Term Care Insurance Act."

Section 3. Severability.

If any provision of this Act or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 4. Effective Date.

This Act shall be effective on January 1, 1990.

Approved July 12, 1989.

CHAPTER 103

FORMERLY

SENATE BILL NO. 128

AN ACT TO AMEND CHAPTER 59, TITLE 10 AND CHAPTER 8, TITLE 13 OF THE DELAWARE CODE RELATING TO CERTAIN NAME CHANGES.

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

Section 1. Amend §5901, Title 10, Delaware Code by striking the last sentence thereof in its entirety and by substituting in lieu thereof the following:

"Family Court shall have jurisdiction over a change of name as part of divorce proceedings or as part of establishment of paternity under the uniform parentage act."

Section 2. Amend Chapter 8, Title 13, Delaware Code by adding a new §819, to read as follows:

"§819 Change of Name

If a party to an action filed under this Chapter requests the name of the child be changed by order of the Court, the party shall file a motion with the Court which shall set forth the following:

(1) The position of the other parties to the action; and

(2) The reason the request is being made; and

(3) If a child is over the age of 14, the position of the child on having his/her name changed.

The Court shall grant the motion if it is deemed to be in the child's best interest and is consistent with the Court's determination of the existence or nonexistence of parentage."

Approved July 12, 1989.

CHAPTER 104

FORMERLY

SENATE BILL NO. 193

AN ACT TO AMEND CHAPTER 31, TITLE 20 OF THE DELAWARE CODE RELATING TO PENALTIES FOR VIOLATION OF WATER USE RESTRICTIONS EMPLACED PURSUANT TO DECLARED DROUGHT WARNING AND/OR DROUGHT EMERGENCY CONDITIONS.

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 31, Title 20, §3132(b) by striking the subsection in its entirety and replacing it with:

"(b) Whoever violates any order, rule, regulation or measure issued or provided for by the Governor pursuant to this section shall be punished by a fine of not less than $50 nor more than $500 for each violation. Each day of violation shall be considered a separate violation. The courts of the justices of the peace shall have jurisdiction of offenses under this section."

Section 2. Amend Chapter 31, Title 20, §3133(e) by striking the subsection in its entirety and replacing it with:

"(e) Whoever violates any order, rule, regulation or measure issued or provided for by the Governor pursuant to this section shall be punished by a fine of not less than $50 nor more than $500 for each violation. Each day of violation shall be considered a separate violation. The courts of the justices of the peace shall have jurisdiction of offenses under this section."

Approved July 12, 1989.

CHAPTER 105

FORMERLY

SENATE BILL NO. 213

AN ACT TO AMEND CHAPTER 68, PART I, TITLE 18 OF THE DELAWARE CODE RELATING TO THE DELAWARE HEALTH CARE INJURY INSURANCE STUDY COMMISSION.

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

Section 1. Amend Chapter 68, Part I, Title 18 of the Delaware Code by striking Subchapter VIII in its entirety.

Approved July 12, 1989.

CHAPTER 106

FORMERLY

SENATE BILL NO. 201

AN ACT TO AMEND SUBCHAPTER I, CHAPTER 9, TITLE 13, DELAWARE CODE, RELATING TO ADOPTIONS.

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

Section 1. Amend Subchpater I, Chapter 9, Title 13, Delaware Code, by redesignating §929 as §930 and adding thereto a new §929 to read as follows:

"§929. Exchange of Identifying Information

(a) As part of the adoption planning and placement process, the Department or authorized agency may provide, when in the best interest of the child, identifying information to the birth parent(s) and to the adoptive parent(s) as follows:

(1) In the preplacement planning of adoption for children, identifying information shall be limited to the viewing of photographs, provided that such viewing is with the consent of birth parent(s) and adoptive parent(s) and further provided that no additional identifying information is contained in the photographs;

(2) After the placement selection process has been completed, and prior to the finalization of the adoption, identifying information may include, but is not limited to, the exchange of names, addresses, photographs, and face to face meetings provided that:

(i) The birth parent(s) and adoptive parent(s) request the exchange of identifying information in writing; and

(ii) birth parent(s), adoptive parent(s) and the Department or authorized agency agree to the exchange of identifying information as specified in writing; and

(iii) the birth parent(s) and adoptive parent(s) acknowledge in writing their understanding that no legal right of or assurance of continuing contact after finalization of the adoption exists; and

(iv) the birth parent(s) and adoptive parent(s) acknowledge in writing and under oath that there has been no violation of Section 928 of this title; and

(v) the written agreements and acknowledgements required by subparagraphs (i) to (iv) shall be attached to the social report required by Section 912 of this chapter.

(3) Written consent to the exchange of identifying information, duly acknowledged, must be given by any child 14 years of age or over unless the Department or authorized agency deems it to be in the best interest of the child that such consent be waived. Such consent, when obtained, or the waiver of consent shall be annexed to the social report required by Section 912 of this title as an exhibit thereto.

(b) The Department or authorized agency may participate in the exchange of identifying information after the finalization of the adoption only with the agreement of the parties required to consent in accordance with subsection (a) or an order of the Court."

Section 2. Amend Section 924, Subchapter I, Chapter 9, Title 13 of the Delaware Code by adding at the beginning of the third sentence the following language:

"Except as otherwise provided in Section 929 of this title,"

Section 3. Amend Section 912, Subchapter I, Chapter 9, Title 13 of the Delaware Code by redesignating subsection (b)(7) as (b)(8) and adding a new subsection (b)(7) as follows:

"(7) Copies of the documents required by Section 929 (2)(v) of this title when identifying information has been exchanged;"

Approved July 13, 1989.

CHAPTER 107

FORMERLY

SENATE BILL NO. 262

AN ACT TO AMEND CHAPTER 59, TITLE 7 OF THE DELAWARE CODE RELATING TO PUBLIC RECREATION ON PRIVATE LAND AND THE LIMIT OF LIABILITY THEREIN.

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

Section 1. Amend § 5901, Chapter 59, Title 7, Delaware Code by striking the period (.) and inserting in lieu thereof the words ", whether such persons entered upon the land of the owner with or without consent of the owner."

Section 2. Amend §5903, Chapter 59, Title 7, Delaware Code by adding thereto a new sentence to read as follows:

"The limitation of duty of the owner granted by this section applies whether such persons entered upon the land of the owner with or without consent of the owner."

Section 3. Amend §5904, Chapter 59, Title 7, Delaware Code designating the existing paragraph as subsection (a) and by adding thereto a new subsection to read as follows:

"(b) The limits of liability of an owner as set forth under this section shall apply whether the person entered upon the land of the owner with or without consent of the owner."

Approved July 13, 1989.

CHAPTER 108

FORMERLY

SENATE BILL NO. 136

AN ACT TO AMEND CHAPTER 27, TITLE 21, DELAWARE CODE, RELATING TO DRIVER LICENSE QUALIFICATIONS.

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

Section 1. Amend §2707(b), Chapter 27, Title 21, Delaware Code, by adding thereto a new subsection (10) to read as follows:

"(10) A person who, being under the age of 21 years, who has been convicted of any of the offenses listed hereinafter or who has been adjudicated delinquent as a result of acts which would constitute such offense if committed by an adult, for a period of two years from the date of conviction or adjudication of delinquency, or until said person's 18th birthday, whichever is longer. The following shall constitute offenses under this subsection:

(i) Any drug offense under Title 16, Delaware Code.

(ii) Any drug offense under Chapter 5, Title 11, Delaware Code.

(iii) Driving under the influence of alcohol or drugs as defined in Section 4177 of this Title.

(iv) Any offense punishable under the laws of the United States or any State of the United States substantially conforming to the provisions of the Delaware Code listed in (i), (ii), or (iii) of this subsection."

Upon entry of conviction or adjudication of delinquency for any offense included in this subsection, the Clerk of the Court or other person designated by the Court shall forthwith report such conviction or adjudication of delinquency to the Division of Motor Vehicles for action pursuant to the provisions of this subsection."

Approved July 12, 1989.

CHAPTER 109

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 183
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS; AND PROVIDING FOR THE AMENDMENT OR REPEAL OF CERTAIN PROVISIONS WHICH ARE NO LONGER APPLICABLE TO THE REGULATION OF ALCOHOLIC LIQUORS.

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

Section 1. Amend §101, Chapter 1, Title 4, Delaware Code, by striking the designation "§713" as the same appears in subsection (6) thereof and substituting in lieu thereof the designation "§708".

Section 2. Amend §304, Chapter 3, Title 4, Delaware Code, by striking subsections (a)(3) and (a)(4) thereof and renumbering the following subsections of (a) accordingly.

Section 3. Amend new subsection §304(a)(9), Chapter 3, Title 4, Delaware Code, by substituting a period (.) for the comma (,) appearing therein and striking the remainder of said subsection.

Section 4. Amend §305, Chapter 3, Title 4, Delaware Code, by striking the phrase ", in which his or her duties are concerned with the selection, ordering, sale, preparation for sale, handling or transportation of alcoholic liquor," as it appears therein.

Section 5. Amend Chapter 3, Title 4, Delaware Code, by striking §310, §315 and §316 thereof in their entirety and renumbering the remaining sections accordingly.

Section 6. Amend §502(b), Chapter 5, Title 4, Delaware Code, by striking the figure "20" as it appears therein and substituting in lieu thereof the figure "21".

Section 7. Amend §508, Chapter 5, Title 4, Delaware Code, by striking the words "Affirmation and" as they appear in the section heading thereof and striking subsections (a), (b), (c), (d), (e), (f) and (g) in their entirety and substituting new subsections (a) and (b) to read as follows:

"(a) All manufacturers and distilleries offering for sale in the State alcoholic liquors other than beer or wine, shall file by January 15 of each year or within 30 days of the first time they become licensed in the State to sell such alcoholic liquors, a verified schedule, in writing, in the number of copies and on the form required by the Commission, which schedule shall contain the following information as to each item they are offering for sale at that time, in the State, by brand or trade name:

(1) The capacity of each package thereof so offered for sale;

(2) The nature of the contents thereof;

(3) The age and proof thereof where stated on the container label;

(4) The number of bottles thereof contained in a case of such items;

(5) The bottle and case price to the Delaware wholesaler or importer, which prices in each such instance shall be individual for each item and not in combination with any other item; and

(6) The discount given for quantity or time of payment, if any.

Any such schedule need not contain any such information as to any brand which is owned exclusively by a retailer and sold at retail in Delaware exclusively by such a retailer.

(b) Such schedule of prices or price of individual item need not be filed at any time other than provided for in subsection (a) of this section and need not be updated any time a manufacturer or distillery changes such prices between such required filing times."

Section 8. Amend §512(a), Chapter 5, Title 4, Delaware Code, by inserting after the words "may apply" and before the words "for a license" as they appear in the first sentence thereof the words "to the Commission" and by striking the words "from the Commission but not otherwise, or to purchase beer from the Commission or through the Commission, as provided in §702 of this title," as they appear therein and substituting in lieu thereof the words "or to purchase beer".

Section 9. Amend §512(b), Chapter 5, Title 4, Delaware Code, by inserting after the words "may apply" and before the words "for a license" as they appear in the first sentence thereof the words "to the Commission", and by striking the words "from the Commission, or through the Commission as provided in §702 of this title," as they appear therein, and by striking the figure "714" as it appears therein and substituting in lieu thereof the figure "709".

Section 10. Amend §512(c), §512(f), and §512(g), Chapter 5, Title 4, Delaware Code, by inserting after the words "may apply" and before the words "for a license" as they appear therein the words "to the Commission" and striking the words "from the Commission or through the Commission, as provided in §702 of this title," as they appear in §512(g).

Section 11. Amend §513 by inserting after the words "may apply" and before the words "for a license" wherever they appear therein the words "to the Commission" and by striking the words "from the Commission or through the Commission, as provided in §702 of this title" wherever they appear in said section.

Section 12. Amend §515, Chapter 5, Title 4, Delaware Code, by inserting after the words "may apply" and before the words "for a license" the words "to the Commission" and by striking the words "from the Commission or through the Commission, as provided in §702 of this title, but not otherwise," as they appear therein.

Section 13. Amend §516, Chapter 5, Title 4, Delaware Code, by inserting after the words "may apply" and before the words "for a license" as they appear in subsections (a) and (b) thereof the words "to the Commission" and striking the words "from the Commission or through the Commission, as provided in §702 of this title, but not otherwise," as they appear in subsection (a) thereof and the words "from or through the Commission, as provided in §702 of this title," as they appear in subsection (b) thereof.

Section 14. Amend §522(b), Chapter 5, Title 4, Delaware Code, by striking the figure "20" wherever it appears therein and substituting in lieu thereof the figure "21".

Section 15. Amend §543, Chapter 5, Title 4, Delaware Code, by striking subsection (g) thereof in its entirety.

Section 16. Amend §554(1)(1) and §554(1)(2), Chapter 5, Title 4, Delaware Code, by striking the subsection reference "§714(e)" as it appears therein and substituting in lieu thereof the subsection reference "709(e)".

Section 17. Amend §561, Chapter 5, Title 4, Delaware Code, by striking the figure "713" as it appears therein and substituting the figure "708".

Section 18. Amend §701, Chapter 7, Title 4, Delaware Code, by striking the words "made by the Commission," as they appear therein and substituting in lieu thereof the word "by".

Section 19. Amend Chapter 7, Title 4, Delaware Code, by striking §702, §703, §704, §705, and §706 thereof and renumbering the remaining sections accordingly.

Section 20. Amend new §703 by striking the words "other than to the Commission," thereof.

Section 21. Amend new §709, Chapter 7, Title 4, Delaware Code, by striking the words "Good Friday" as they appear in subsection (e) thereof.

Section 22. Amend new §714, Chapter 7, Title 4, Delaware Code, by striking subsection (1) in its entirety and renumbering the remaining subsections accordingly.

Section 23. Amend new §715, Chapter 7, Title 4, Delaware Code, by striking subsection (1) in its entirety and renumbering the remaining subsections accordingly.

Section 24. Amend new §716, Chapter 7, Title 4, Delaware Code, by striking subsection (5) thereof in its entirety and renumbering subsection (6) as subsection (5).

Section 25. Amend new §717, Chapter 7, Title 4, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following new §717 to read as follows:

"§717. Transportation of Alcohol.

No person shall transport alcohol in the State, except where it is expressly permitted by the Commission to transport such alcohol."

Section 26. Amend new §722, Chapter 7, Title 4, Delaware Code, by striking subsection (c) thereof in its entirety.

Section 27. Amend §901(3), Chapter 9, Title 4, Delaware Code, by striking the phrase ", otherwise than by purchasing alcoholic liquor in the manner mentioned in §307(b) of this title" in its entirety.

Section 28. Amend §902, Chapter 9, Title 4, Delaware Code, by striking the figure "729" as it appears in subsection (4) thereof and substituting in lieu thereof the figure "725" and by striking subsection (7) in its entirety.

Section 29. Amend §903, Chapter 9, Title 4, Delaware Code, by striking the figure "711" as it appears in subsection (4) thereof and substituting in lieu thereof the figure "706" and by striking the figure "713" as it appears in subsection (6) thereof and substituting in lieu thereof the figure "708", and by striking the figure "714" as it appears in subsection (5) thereof and substituting in lieu thereof the number "709".

Section 30. Amend §906(a), Chapter 9, Title 4, Delaware Code, by striking the figure "723" as it appears therein and substituting in lieu thereof the figure "718".

Section 31. Amend §1101, Chapter 11, Title 4, Delaware Code, by striking the figure "721" as it appears therein and substituting in lieu thereof the figure "716" and by striking the figure "723" as it appears therein and substituting the figure "718" therefore.

Approved July 12, 1989.

CHAPTER 110

FORMERLY

SENATE BILL NO. 182
AS AMENDED BY SENATE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 3, TITLE 4 OF THE DELAWARE CODE RELATING TO THE ALCOHOLIC BEVERAGE CONTROL COMMISSION: AND PROVIDING CERTAIN EXCEPTIONS TO COMMISSION RULES AND REGULATIONS.

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

Section 1. Amend Subsection (a), Section 304, Chapter 3, Title 4 of the Delaware Code by striking the last sentence of paragraph (2) of said subsection (beginning with the words "However, such rules and regulations"), and substituting in lieu thereof the following:

"However, such rules and regulations, as established by the Commission, shall not control or regulate:

a. Recreational equipment located on the business premises of any business selling alcoholic beverages;

b. Credit transactions between licensed wholesalers, and licensed retailers, to the extent permitted by federal law;

c. Purchases of one case or less of alcoholic beverages per day by the holder of a retail license from another holder of a retail license."

Approved July 12, 1989.

CHAPTER 111

FORMERLY

SENATE BILL NO. 252
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 273, VOLUME 46, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF ODESSA IN NEW CASTLE COUNTY" BY CONFERRING UPON THE TOWN COUNCIL CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN THE TOWN LIMITS OF ODESSA.

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

Section 1. Amend Section 4 of Chapter 273, Volume 46, Laws of Delaware, as amended, by adding thereto the following:

"The Town Council of the Town of Odessa, in addition to all other powers conferred upon it by this Section, 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 Odessa, 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 such tax shall be levied upon an organization exempted from ad valorem real estate taxes.

No tax levied under this subsection shall exceed the greater of 50% of the tax levied upon the same property by the State of Delaware or 1% of the sales price. The provisions of §5401 and §5403, Title 30, Delaware Code, shall be applicable to any real estate transfer tax imposed pursuant to this subsection.

No ordinance or ordinances providing for a tax on the transfer of real property or any interest in real property authorized under this Subsection shall become effective unless it receives an affirmative vote of three fifths (3/5) of all elected members of the Town Council of the Town of Odessa. 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 New Castle County, shall not receive for record any document subject to such tax unless such stamps are affixed thereto.

The Town Council of the Town of Odessa may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this Subsection.

The Town Council may provide by Ordinance for the collection of such tax by an agent of the Town appointed by majority vote of Council, and shall proscribe in such Ordinance the charge that will be paid for such collection of such real estate transfer tax authorized by this Subsection."

Section 2. No ordinance providing for a tax on the transfer of real property or any interest in real property authorized under this Act shall become effective until it shall be approved by a majority of the qualified voters of the Town of Odessa at a Special Election to be held pursuant to the provisions of Chapter 273, Volume 46, as amended, Laws of Delaware. The Town Council shall give notice of such Special Election by printing a copy of the Referendum 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 Odessa within thirty (30) days immediately preceding the date of such Special Election. The notice shall also include the appointed polling place of such Special Election and the hours when it shall be held. Such qualified voters who are in the polling place at the hour appointed for the Special Election to end shall be entitled to vote even though such votes may be cast after the closing time. 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. 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 July 13, 1989.

CHAPTER 112

FORMERLY

HOUSE BILL NO. 367

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."

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 5.103, Chapter 64, Volume 63, Laws of Delaware by deleting the phrase 'One Hundred Thousand Dollars ($100,000.00).' and substituting in lieu thereof the phrase "Two Hundred Thousand Dollars ($200,000.00)."

Approved July 13, 1989.

CHAPTER 113

FORMERLY

HOUSE BILL NO. 170

AN ACT TO AMEND CHAPTER 81, TITLE 10 OF THE DELAWARE CODE RELATING TO LIMITING THE LIABILITY OF CERTAIN PERSONS PERFORMING HAZARDOUS DISCHARGE MITIGATION OR CLEANUP SERVICES.

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

Section 1. Amend Chapter 81, Title 10 of the Delaware Code by adding a new Section 8134 to read as follows:

"Section 8134. Limitation on liability for hazardous discharge cleanup.

The provisions of any other law, rule or regulation to the contrary notwithstanding, the liability of any person performing hazardous discharge mitigation or cleanup services in accordance with procedures established pursuant to State or Federal law for any injuries or property damage caused by or related to these services shall be limited to acts or omissions of the person during the course of performing these services which can be shown, based on a preponderance of the evidence, to have been the result of negligent, reckless, willful, wanton, and/or intentional acts of misconduct or breach of contract; provided, however, such person is an independent outside contractor specifically engaged for the purpose of discharge mitigation or cleanup services. For the purposes of this Act, the demonstration that acts or omissions of a person performing mitigation or cleanup services were in accordance with generally accepted practice and state-of-the-art scientific knowledge, and utilized the best technology reasonably available to the person at the time the mitigation or cleanup services were performed, shall create a rebuttable presumption that the acts or omissions were not negligent."

Approved July 13, 1989.

CHAPTER 114

FORMERLY

HOUSE BILL NO. 365

AN ACT TO AMEND CHAPTER 20, VOLUME 67 OF THE LAWS OF DELAWARE (FORMERLY KNOWN AS HOUSE BILL NO. 66) RELATING TO ELIGIBILITY OF DEPENDENTS FOR SURVIVORS PENSION BENEFITS.

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

Section 1. Amend Chapter 20, Volume 67 of the Laws of Delaware (formerly known as House Bill No. 66) to add a new Section 4 to read as follows:

"Section 4. Any children who have previously received a pension pursuant to §8325 and/or §8326 of Title 11 of the Delaware Code that has been terminated and who now qualifies to receive such a pension under the provisions of §8325 and/or §8326 of Title 11 of the Delaware Code shall have such pension reinstated on July 1, 1989, until they fail to qualify for such pension pursuant to this Act."

Approved July 13, 1989.

CHAPTER 115

FORMERLY

SENATE BILL NO. 142
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, TITLE 16, DELAWARE CODE, RELATING TO TRAFFICKING IN MARIJUANA, COCAINE, ILLEGAL DRUGS, OR METHAMPHETAMINE.

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

Section 1. Amend §4753A, Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figure "15 grams" wherever it appears in said section and inserting in lieu thereof the figure "5 grams".

Section 2. Amend §4753A(a)(3), Subchapter IV, Chapter 47, TItle 16, Delaware Code, by striking the figure "8" wherever it appears therein and inserting in lieu thereof the figure "5".

Section 3. Amend §4753A(a)(2)(a), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figure "100" as it appears therein and substituting in lieu thereof the figure "50".

Section 4. Amend §4753A(a)(2)(b), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figures "100" and "250" as they appear therein and substituting in lieu thereof the figures "50" and "100" respectively.

Section 5. Amend §4753A(a)(2)(c), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figure "250" as it appears therein and substituting in lieu thereof the figure "100".

Section 6. Amend §4753A(a)(4)(a), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figure of "100" as it appears therein and substituting in lieu thereof the figure "50".

Section 7. Amend §4753A(a)(4)(b), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figures "100" and "250" as they appear therein and substituting in lieu thereof the figures "50" and "100" respectively.

Section 8. Amend §4753A(a)(4)(c), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figure "250" as it appears therein and substituting in lieu thereof the figure "100".

Section 9. Amend §4753A(a)(5)(a), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figure "100" as it appears therein and substituting in lieu thereof the figure "50".

Section 10. Amend §4753A(a)(5)(b), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figures "100" and "250" as they appear therein and substituting in lieu thereof the figures "50" and "100" respectively.

Section 11. Amend §4753A(a)(5)(c), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figure "250" as it appears therein and substituting in lieu thereof the figure "100".

Section 12. Amend §4753A(a)(6)(a), Subchapter IV, Chapter 47, Title 16, Delaware Code, by strking the figure "100" as it appears therein and substituting in lieu thereof the figure "50".

Section 13. Amend §4753A(a)(6)(b), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figures "100" and "250" as they appear therein and substituting the figures "50" and "100" respectively.

Section 14. Amend §4753A(a)(6)(c), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the figure "250" as it appears therein and substituting in lieu thereof the figure "100".

Section 15. Amend §4753A(a)(3)(a), Subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the numbers "8" and "20" as they appear therein and substituting in lieu thereof the numbers "5" and "15" respectively.

Section 16. Amend §4753A(a)(3)(b), Subchapter IV, Chapter 47, Title 16, Delaware Code by striking the number "20" as it appears therein and substituting in lieu thereof the numbers "15".

Approved July 13, 1989.

CHAPTER 116

FORMERLY

HOUSE BILL NO. 23
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 2

AN ACT AWARDING SPECIAL PENSION BENEFITS TO EDWINA B. JONES, 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 PURSUANT TO CHAPTER 55, TITLE 29, DELAWARE CODE.

Whereas, Edwina B. Jones was employed as a public school teacher in the State for over 20 years; and

WHEREAS, under the statutes and the rules and regulations of the Board of Pension Trustees, Edwina B. Jones will not receive a State pension for her many years of service for 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 Edwina B. Jones a pension, effective July 1, 1989, in the amount of $250.00 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 $20,851.00 from the Budget Office Contingency Appropriation in Senate Bill No. 480 of the 134th 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 17, 1989.

CHAPTER 117

FORMERLY

HOUSE BILL NO. 202

AN ACT TO AMEND TITLE 14, CHAPTER 13, DELAWARE CODE, RELATING TO SICK LEAVE.

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

Section 1. Amend subsection (a), Section 1318, Title 14, Delaware Code, by striking the last sentence as it appears in said subsection and substituting in lieu thereof the following:

"Any unused days of such leave shall be accumulated to the employee's credit without limit."

Approved July 17, 1989.

CHAPTER 118

FORMERLY

SENATE BILL NO. 181
AS AMENDED BY SENATE AMENDMENT NO. 2 AND HOUSE AMENDMENT 1

AN ACT TO AMEND SUBCHAPTER II, CHAPTER 5, TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS; AND PROVIDING FOR NOTICE BY MAIL OF A PERSON'S INTENTION TO APPLY FOR A LICENSE.

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

Section 1. Amend §524, Subchapter II, Chapter 5, Title 4 of the Delaware Code by striking the word "Publication" as the same appears in the Title of said section, and substituting the word "Notice" in lieu thereof.

Section 2. Amend §524, Subchapter II, Chapter 5, Title 4 of the Delaware Code by re-designating all of the present section as new subsection (a); and by adding to said section a new subsection which shall read as follows:

"(b) In addition to the notice by publication set forth in subsection (a), each person who intends to apply for a license under this Title shall give notice by mail of his intent to apply, together with the substance of the application and type of license sought, to all property owners within two hundred feet of the location of the premises to which the license is to apply. Said notice shall be by certified mail, return receipt requested, and each letter sent by the prospective applicant shall be mailed at least five days prior to the date that the application is filed with the Commission."

Approved July 17, 1989.

CHAPTER 119

FORMERLY

SENATE BILL NO. 233

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 3350(9), Chapter 33, Title 19 of the Delaware Code by adding a new subsection c. to read as follows:

"c. For any calendar year beginning January 1, 1990, 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 $130 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:

New Employer/ Basic Assessment Rate	Supplemental Assessment Rate
.1 - 3.9%	.9%
4.0 - 5.9%	1.1%
6.0 - 7.9%	1.2%
8.0%	1.5%

Section 2. Amend 3350(9), Chapter 33, Title 19 of the Delaware Code by adding a new subsection d. to read as follows:

"d. For any calendar year beginning January 1, 1990, 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 $130 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 table in subsection a. or subsection b. of this section as determined by the balance in the Unemployment Insurance Trust Fund."

Section 3. Amend Section 3313, Chapter 33, Title 19 of the Delaware Code by redesignating subsections "(e), (f), (g), (h), (i), and (j)" as they appear therein as subsections "(f), (g), (h), (i), (j), and (k)", respectively.

Section 4. Amend Section 3313, Chapter 33, Title 19 of the Delaware Code by adding a new subsection (e) to read as follows:

"(e) For claims establishing a benefit year beginning January 1, 1990, and thereafter, an individual's weekly benefit amount shall be determined in accordance with subsection c. or subsection d. of this section as determined by the balance in the Unemployment Insurance Trust Fund. However, for such claims, the minimum and maximum weekly benefit amount shall not be less than $20 nor more than $225 unless the Unemployment Trust Fund balance, as certified by the Director of Unemployment Insurance to the Secretary of Labor, as of the preceding September 30, is less than $90 million. When the Unemployment Insurance Trust Fund balance is less than $90 million, the maximum weekly benefit amount shall be no more than $205. Computation for any change in the maximum weekly benefit amount shall commence with new claims filed to establish a benefit year on or after January 1 of each year."

Approved July 17, 1989.

CHAPTER 120

FORMERLY

SENATE BILL NO. 294

AN ACT TO AMEND CHAPTER 20, TITLE 30, DELAWARE CODE AND 64 DELAWARE LAWS, CHAPTER 460 RELATING TO ELIGIBILITY FOR BUSINESS TAX CREDITS.

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

Section 1. Amend Section 2010 of Chapter 20, Title 30, Delaware Code by striking the date "1990" as the same appears in subsections (4) and (5) thereof, and substituting in lieu thereof the date "1991".

Section 2. The second sentence of Section 12(b) of 64 Delaware Laws, Chapter 460, is hereby repealed.

Section 3. Amend Section 12 of 64 Delaware Laws, Chapter 460, by striking the date "1990" as the same appears in said section and substituting in lieu thereof the date "1991".

Section 4. This Act shall be effective upon enactment into law.

Approved July 17, 1989.

CHAPTER 121

FORMERLY

SENATE SUBSTITUTE NO. 2
TO
SENATE BILL NO. 42
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 29, TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE BROKERS, SALESMEN AND THE CERTIFICATION OF REAL ESTATE APPRAISERS.

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 2901(a)(1), Title 24, Delaware Code by striking the final sentence of the section which reads as follows:

"The term 'real estate broker' shall also include real estate appraisers."

Section 2. Amend Sections 2901(a)(3), (a)(4) and (a)(5), Title 24, Delaware Code by redesignating them as Sections 2901 (a)(4), (a)(5) and (a)(6) respectively and by adding a new Subsection 2901(a)(3) as follows:

"(3) 'Real estate appraiser' means any person who, whether or not heretofore certified as a real estate broker or real estate salesperson pursuant to this chapter, for compensation or valuable consideration, advises, consults or prepares analyses with respect to real estate values, uses, sales developments or disposition, including acquisitions by eminent domain, or renders opinions relevant to the marketability of real estate, as a whole or partial vocation.

This definition does not apply to (1) any real estate licensee who prepares a competitive market analysis survey used only for the purpose of listing a property for sale or lease; or (2) any individual who prepares an appraisal for his full-time employer for the employer's internal use only and which is performed in the regular course of the employee's position."

Section 3. Amend Section 2904, Title 24, Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§2904. Record of Licensees

The Real Estate Commission shall keep a record of all meetings of the Commission and maintain a register of names of all brokers, salespersons, and appraisers licensed under this Chapter, which shall at all times be open for inspection."

Section 4. Amend Title 24, Section 2905, Delaware Code by striking subsections (8), (9) and (10) thereof.

Section 5. Amend Title 24, Section 2905, Delaware Code by redesignating the existing section as subsection (a) and adding new subsections (b) and (c) to read as follows:

"(b) The Commission shall establish a Real Estate Appraiser Certification Committee consisting of eight members appointed by the Chairman of the Commission subject to approval by a majority of the entire Commission. The Real Estate Appraiser Certification Committee shall be composed of three real estate appraisers, three real estate brokers and two members of the public. The Committee shall annually elect a Chairman, a Vice-Chairman and a Secretary from its members. Initial composition of the Real Estate Appraiser Certification Committee shall consist of three members (1 real estate appraiser, 1 real estate broker and one public member) being appointed for a one year term, three members (1 real estate appraiser, 1 real estate broker and one public member) being appointed for a two year term, and each of the remaining two members (one real estate broker and one real estate appraiser) being appointed for a three year term. Thereafter, all new appointments shall be for a three year term. Any person appointed to fill an unexpired term shall hold that position for the balance of the unexpired term of the former member. Committee members may be reappointed but no member shall be appointed to serve more than two complete terms on the Committee.

The Real Estate Appraiser Certification Committee shall:

(1) hold meetings, public hearings, and administrative hearings for the purpose of establishing and reviewing real estate appraiser licensing qualifications.

(2) review examination specifications for all real estate appraiser licensing examinations.

(3) solicit bids with one or more national educational testing services or organizations for the preparation of questions and answers for the real estate appraiser licensing examinations.

(c) The Division of Professional Regulation shall contract with a nationally recognized testing service for the preparation and grading of a written examination for the licensing of real estate brokers, real estate salespersons and real estate appraisers."

Section 6. Amend Section 2906, Title 24, Delaware Code by striking this Section in its entirety and substituting the following:

"The Commission shall establish classes of certification for real estate appraisers as follows:

(1) Residential Real Estate Appraiser

This appraiser classification shall consist of those persons who meet the requirements that relate to the appraisal of residential real estate of one to four units and to the appraisal of residential real estate of up to twelve units when a net income capitalization analysis is not required by the terms of the assignment. This classification shall also include the appraisal of unimproved residential and agricultural real property.

(2) General Real Estate Appraiser

This appraiser classification shall consist of those persons who meet the requirements for certification relating to the appraisal of all types of real estate.

The Commission may create other classes of certification for brokers, salespersons or appraisers as it deems necessary and appropriate.

No person, copartnership, association or corporation shall act as a real estate broker, real estate salesperson or real estate appraiser, or advertise or assume to act as such real estate broker, real estate salesperson or real estate appraiser without being registered and without a certificate of registration issued by the Commission.

No copartnership, association or corporation shall be granted a certificate unless every member or officer of such copartnership, association or corporation who actively participates in the brokerage or appraisal business of such copartnership, association or corporation holds a certificate as a real estate broker or appraiser and unless every employee who acts as a saleperson or appraiser for such person, copartnership, association or corporation holds a certificate as a real estate saleperson or appraiser."

Section 7. Amend Section 2907, Title 24, Delaware Code by striking the first and second sentences and substituting in lieu thereof the following:

"A certificate shall be granted only to persons who bear a good reputation for honesty, truthfulness and fair dealing, and are competent to transact the business of a real estate broker, real estate salesman or real estate appraiser in such manner as to safeguard the interests of the public.

Application for a certificate whether as a real estate broker, real estate salesperson or real estate appraiser shall be made to the Commission upon forms prescribed by the Commission."

Section 8. Amend Section 2908, Title 24, Delaware Code by striking the section in its entirety and substituting in lieu thereof the following:

"Section 2908. 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 Commission, as well as the proportional expenses incurred by the

Division of Professional Regulation in its services on behalf of the Commission. 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."

Section 9. Amend Section 2909(a), Title 24, Delaware Code by striking the subsection in its entirety and substituting in lieu thereof the following:

"(a) A nonresident of this State who is a licensed broker, salesperson or appraiser in another state may obtain similar license as a broker, salesperson or appraiser in this State by complying with this chapter, provided that the nonresident broker, salesperson or appraiser is regularly engaged in the real estate business in the other state, and provided that such other state requires standards for licensure equal to or greater than the standards in Delaware. Such nonresident licensed broker, salesperson or appraiser need not maintain a place of business within this State. The Commission shall license such nonresident broker, salesperson or appraiser without examination if such person has been duly licensed for a broker's, salesperson's or appraiser's license in another state. When an applicant for licensure by reciprocity as a real estate appraiser can show that he or she possesses the relevant background the Commission shall license the applicant as a real estate appraiser. Upon receipt of an application for reciprocity, the Commission 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. An application for licensure by reciprocity shall be accompanied by full payment of the reciprocity fee."

Section 10. Amend Section 2912(a), Title 24, Delaware Code by striking the first sentence and substituting in lieu thereof the following:

"The Commission may, upon its own motion, and shall upon the verified complaint in writing of any person, provided such complaint, together with evidence documentary or otherwise presented in connection therewith, shall make out a prima facie case, direct all complaints to the investigative staff of the Division of Professional Regulation for the investigation of the actions of any real estate broker, real estate salesperson or real estate appraiser or any person who shall assume to act in any of such capacities within this State, and may suspend or revoke any certificate issued under the provisions of this chapter or reprimand any licensee at any time where the certificate holder has by false or fraudulent representation obtained a certificate, or where the certificate holder, in performing or attempting to perform any of the acts mentioned herein, is guilty of:"

Section 11. Amend Section 2912(a)(6), Chapter 29, Title 24, Delaware Code by striking subsection (6) in its entirety and substituting in lieu thereof the following:

"(6) Being incompetent to act as a real estate broker, salesperson or appraiser in such manner as to safeguard the interest of the public; or"

Section 12. Amend Section 2912, Chapter 29, Title 24, Delaware Code by adding a new Subsection (d) thereto to read as follows:

"(d) The Commission may request from the Secretary of Administrative Services a waiver of the requirement that the investigation be conducted by the Division of Professional Regulation. Granting of this waiver would permit the Commission itself to investigate the particular complaint(s)."

Section 13. Amend Section 2916, Chapter 29, Title 24, Delaware Code by striking the first sentence and substituting in lieu thereof the following:

"The Commission shall publish annually the names of the duly certified real estate brokers, salespersons and appraisers."

Section 14. Amend Section 2921(a), Chapter 29, Title 24, Delaware Code by striking the phrase "real estate broker or real estate salesman" each time it appears and substituting in lieu thereof "real estate broker, real estate salesperson or real estate appraiser."

Section 15. Amend Section 2921(b), Chapter 29, Title 24, Delaware Code by striking the phrases "real estate broker and real estate salesman," "real estate broker's or real estate salesman's" and "broker or salesman" and substituting in lieu thereof "real estate broker,

real estate salesperson and real estate appraiser," "real estate broker's, real estate salesperson's or real estate appraiser's," and "broker, salesperson or appraiser."

Section 16. Amend Section 2921(d), Chapter 29, Title 24, Delaware Code by striking the phrase "real estate broker and real estate salesman" and substituting in lieu thereof "real estate broker, real estate salesperson and real estate appraiser."

Section 17. Amend Section 2921(e), Chapter 29, Title 24, Delaware Code by striking the phrase "real estate broker or real estate salesman" and substituting in lieu thereof "real estate broker, real estate salesperson or real estate appraiser."

Section 18. Amend Section 2921(f), Chapter 29, Title 24, Delaware Code by striking the phrase "real estate broker or real estate salesman" and substituting in lieu thereof "real estate broker, real estate salesperson or real estate appraiser."

Section 19. Amend Section 2921(g), Chapter 29, Title 24, Delaware Code by striking the phrase "real estate broker or real estate salesman" each time it appears and substituting in lieu thereof "real estate broker, real estate salesperson or real estate appraiser."

Section 20. Amend Section 2921(h), Chapter 29, Title 24, Delaware Code by striking the phrases "real estate broker or real estate salesman" and "broker or salesman" each time it appears and substituting in lieu thereof "real estate broker, real estate salesperson or real estate appraiser" and "broker, salesperson or appraiser."

Section 21. The Delaware Real Estate Commission shall submit the certification requirements for the Residential Real Estate Appraiser, General Real Estate Appraiser classifications and other certification classes created by the Real Estate Commission to the General Assembly on or before March 1, 1990. Licensure under the new certification requirements shall become effective one year after enactment into law in bill form by the General Assembly.

Section 23. Amend Chapter 29, Title 24 Delaware Code by striking the words "salesman", "salesman's", "salesmen" and "salesmen's" wherever they appear therein and substituting in lieu thereof the words "salesperson", "salesperson's, "salespersons", "salespersons'".

Approved July 17, 1989.

CHAPTER 122

FORMERLY

HOUSE BILL NO. 303

AN ACT TO AMEND CHAPTER 5, TITLE 4 OF THE DELAWARE CODE RELATING TO THE DEFINITION AND LICENSING REQUIREMENTS OF "BOTTLE CLUBS".

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

Section 1. Amend §515, Chapter 5, Title 4 of the Delaware Code by striking the last sentence of said section in its entirety.

Section 2. Amend subsection (c), §515A, Chapter 5, Title 4 of the Delaware Code by adding the words "during which time no alcoholic liquors shall be consumed upon the premises of such establishment." at the end of said subsection.

Approved July 14, 1989.

CHAPTER 123

FORMERLY

HOUSE BILL NO. 105

AN ACT TO AMEND CHAPTER 15 OF TITLE 13 OF THE DELAWARE CODE RELATING TO A BILL OF CHILDRENS' RIGHTS.

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

Section 1. Amend §1507 of Title 13 of the Delaware Code by adding thereto a new subsection (g), as follows:

"(g) In any case where there are living children of the marriage, the petitioner shall submit with the petition an affidavit signed by the petitioner showing that the petitioner has read or has been advised of the following childrens' rights, which shall be set forth in full in said affidavit:

1. The right to a continuing relationship with both parents.

2. The right to be treated as an important human being, with unique feelings, ideas and desires.

3. The right to continuing care and guidance from both parents.

4. The right to know and appreciate what is good in each parent without one parent degrading the other.

5. The right to express love, affection and respect for each parent without having to stifle that love because of fear of disapproval by the other parent.

6. The right to know that the parents' decision to divorce was not the responsibility of the child.

7. The right not to be a source of argument between the parents.

8. The right to honest answers to questions about the changing family relationships.

9. The right to be able to experience regular and consistent contact with both parents and the right to know the reason for any cancellation of time or change of plans.

10. The right to have a relaxed, secure relationship with both parents without being placed in a position to manipulate one parent against the other."

Section 2. Amend §1511 of Title 13 by adding thereto a new subsection (e), as follows:

"(e) In any case where there are living children of the marriage, the respondent shall submit with the response, or other responsive pleading, an affidavit signed by the respondent showing that the respondent has read or been advised of the childrens' rights' set forth in §1507(g) of this Title, which rights shall be set forth in full in said affidavit."

Section 3. The childrens' rights as set forth in this Act are a statement of policy only, advisory or cautionary in nature, and not intended to carry the force of law.

Approved July 17, 1989.

CHAPTER 124

FORMERLY

SENATE BILL NO. 174
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, TITLE 29 OF THE DELAWARE CODE RELATING TO APPROVED LEAVES OF ABSENCE.

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

Section 1. Amend Subsection 5501(b), Chapter 55, Title 29 of the Delaware Code by adding a new paragraph (12) which shall read as follows and renumbering subsequent paragraphs appropriately:

"(12) Approved leave granted to an employee without pay, for a definite period of time, authorized by the head of the employee's department or agency to assume an elected position in an employee organization as defined in Chapter 40, Title 14, Chapter 13, Title 19 and Chapter 16, Title 19, provided that the employee pays into the Fund three months following the conclusion of such leave contributions equal to the sum of the employee contributions and state appropriations which would have been made to the Fund based on the salary paid to the employee by the employee organization during such periods of such leave, with the amount of such contributions to be determined in accordance with rules and regulations adopted by the Board."

Section 2. Amend Subsection 5522(a), Chapter 55, Title 29, Delaware Code by deleting the phrase "Subsection 5501(b)(4) or (5)" and substituting in lieu thereof the phrase "Subsection 5501(b)(4), (5), and (12)."

Section 3. Amend Subsection 5522(c), Chapter 55, Title 29, Delaware Code by deleting the phrase "Subsection 5501 (b)(4) or (5)" and substituting in lieu thereof the phrase "Subsection 5501(b)(4), (5), and (12)."

Section 4. Amend Subsection 5523(a), Chapter 55, Title 29, Delaware Code by deleting the phrase "Subsection 5501(b)(4) or (5)" and substituting in lieu thereof the phrase "Subsection 5501(b)(4), (5), and (12)."

Section 5. Amend Subsection 5524(a), Chapter 55, Title 29, Delaware Code by deleting the phrase "Subsection 5501(b)(4) or (5)" and substituting in lieu thereof the phrase "Subsection 5501(b)(4), (5), and (12)."

Section 6. Amend Subsection 5528(a), Chapter 55, Title 29 Delaware Code by deleting the phrase "Subsection 5501(b)(4) or (5)" and substituting in lieu thereof the phrase "Subsection 5501(b)(4), (5), and (12)."

Section 7. Amend §5501(b)(1), Chapter 55, Title 29, Delaware Code, by striking the phrase "and (11)" as the same appears in said subsection (b)(1) and inserting in lieu thereof the following:

"(11) and (12)."

Section 8. This Act shall be effective upon the signature of the Governor.

Approved July 17, 1989.

CHAPTER 125

FORMERLY

HOUSE BILL NO. 441

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE RELATING TO MAXIMUM GROSS WEIGHT FOR VEHICLES ELIGIBLE FOR SPECIAL HANDICAPPED REGISTRATION PLATES.

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

Section 1. Amend Section 2134, Chapter 21, Title 21, Delaware Code by striking the figure "8,000" as it appears in Section 2134(b) and substituting in lieu thereof the figure "14,000".

Approved July 14, 1989.

CHAPTER 126

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 328

AN ACT TO AMEND CHAPTER 32, TITLE 5, AND CHAPTER 69, TITLE 29, DELAWARE CODE, RELATING TO THE TRANSPORTATION OF MONEY AND VALUABLES AND THE CONTRACTS AWARDED FOR THAT PURPOSE.

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 (1), §3207, Chapter 32, Title 5, Delaware Code, by striking "$150" and substituting in lieu thereof "$250".

Section 2. Amend subsection (c), §3209, Chapter 32, Title 5, Delaware Code, by striking the language "the applicant shall file certificates or other acceptable evidence with the State Bank Commissioner," and substituting in lieu thereof the following new language:

"the applicant shall file with the State Bank Commissioner true copies of its insurance contracts, including all documents not attached physically to such contracts but which are incorporated into and made a part of such contracts by reference or otherwise,"

Section 3. Further amend subsection (c), §3209, Chapter 32, Title 5, Delaware Code, by inserting after the phrase "(except for customary war risk" the words "and nuclear".

Section 4. Further amend subsection (c), §3209, Chapter 32, Title 5, Delaware Code, by striking the language "Such certificates shall be furnished annually," and substituting in lieu thereof the following new language:

"True copies of such insurance contracts and such non-attached documents shall be furnished annually,"

Section 5. Further amend subsection (c), §3209, Chapter 32, Title 5, Delaware Code, by inserting the following two new sentences immediately before the sentence commencing with the phrase "If the insurance contracts required by this subsection shall lapse or be cancelled,":

"The Commissioner may, in his discretion, upon a showing of good cause, issue a license to an applicant whose insurance contracts (including the non-attached documents incorporated into and made a part of such contracts) show that it has less than $5 million of such all risk coverage if it is established to the Commissioner's satisfaction that the amount of such applicant's all risk coverage is adequate, taking into consideration the aggregate value of such money and/or valuables as are being transported or as may be transported by the applicant for all of its customers pursuant to such contracts for transportation, handling or storage, provided, however, that under no circumstances shall a license be issued to any applicant where the amount of its all risk insurance coverage under this subsection (c) is less than $2 million. Each such contract for such transportation, handling or storage shall contain in bold print a verbatim quotation of (i) all conditions precedent to any recovery under, and (ii) all warranties of the licensee relating to coverage under, the licensee's all risk insurance policies."

Section 6. Amend Chapter 32, Title 5, Delaware Code, by adding a new §3219 to read as follows:

"§3219. State Government Contracts

No contract shall be awarded by the State for the transportation, handling or storage of moneys, including lawful currency and coin, negotiable and non-negotiable securities, stocks, bonds, coupons and things of unusual value, in the absence of a certificate that (i) the provider was licensed under this Chapter at the time its bid for the contract was submitted or that at such time the provider had an application for such a license filed with the Commissioner with all fees required by §3207 of this Chapter paid and awaiting action by the Commissioner, and (ii) also that at the time of the award of such contract the provider was fully licensed under this Chapter. All bids for such contracts shall include a statement that the bidder is licensed under Chapter 32, Title 5 of the Delaware Code, or that the bidder has an application filed with the

Commissioner for such a license with all fees required by §3207 of this Chapter paid and awaiting action by the Commissioner. Officials responsible for awarding and administering such contract shall establish that the provider is fully licensed under this Chapter and is in good standing with the Commissioner as of the date of the award of the contract and for each year of the contract thereafter."

Section 7. Amend §6903, Chapter 69 of Title 29, Delaware Code, by adding a new subsection thereto to read as follows:

"(l) No contract shall be awarded which includes the transportation, handling or storage or moneys, including lawful currency and coin, negotiable and non-negotiable securities, stock, bonds, coupons and things of unusual value unless the provider shall have produced proof that at the time of the award of the contract he held a valid license as required by Chapter 32, Title 5, Delaware Code, and that at the time of the submission of his bid he also held such a license or that he had filed an application for such a license with the State Bank Commissioner and had paid all fees required by such Chapter 32."

Approvved July 17, 1989.

CHAPTER 127

FORMERLY

HOUSE BILL NO. 122
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 46 OF TITLE 25 OF THE DELAWARE CODE RELATING TO LIENS FOR RECOVERY OF COSTS INCURRED BY MUNICIPALITIES OR POLITICAL SUBDIVISIONS FOR MAKING IMPROVEMENTS TO THE EXTERIORS OF VACANT BUILDINGS WITHIN THEIR RESPECTIVE JURISDICTIONS AND TO AMEND CHAPTER 29, TITLE 25, DELAWARE CODE TO ESTABLISH THE PRIORITY OF SUCH LIENS AND OF SIMILAR LIENS.

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 46 of Title 25 of the Delaware Code by striking the title of said Chapter in its entirety and substituting in lieu thereof the following:

"CHAPTER 46. LIENS FOR RAZING OR DEMOLITION AND FOR IMPROVEMENTS TO THE EXTERIORS OF STRUCTURES BY PUBLIC EXPENDITURE."

Section 2. Amend Chapter 46, Title 25, Delaware Code by adding to said chapter the following two new sections:

"Section 4603. Notice; reimbursement; lien; lien docket.

(a) Except where a building or structure is improved under emergency conditions, no lien or personal judgment, as provided in subsections (b) and (c) of this section, may be obtained for the recovery of costs of duly authorized improvements to the exteriors of vacant buildings and the land on which they are situate, including but not limited to repairs to or replacement of structural components, sidewalks, steps, porches, windows, doors, and roofing, hereinafter "exterior improvement costs," so incurred by any municipality or other political subdivision unless notice to the record owner or owners of such building or structure and to any record lien holders thereof has been given prior to commencement of such exterior improvements. For purposes of this subsection, the mailing of a certified letter, return receipt requested, at least thirty (30) days prior to commencement of any exterior improvements, to the last known address of the record owner, owners or lien holders and notifying same of the address of the property to be improved, the condition of the property and the legal right of the municipality or political subdivision to obtain a judgment against the owner and a lien against the property after completion of the exterior improvements, shall be deemed sufficient notice. Where a building or structure is improved under emergency conditions, a municipality or political subdivision may subsequently secure a personal judgment or obtain a lien against the property without first having complied with the foregoing notice provisions.

(b) In the event any municipality or other political subdivision of this State, in the exercise of its slum clearance and redevelopment authority or its urban renewal authority or its authority in carrying out any duly adopted building code, shall have expended public funds for the purpose of exterior improvements to any abandoned or vacant building deemed to be unsafe or to any other vacant building or structure within its jurisdiction, after such notice as is provided for in subsection (a) of this section, the sums so expended, with legal interest thereon from the date of expenditure, shall be reimbursed to such municipality or political subdivision, on demand, by the person or persons who were the owner or owners of such building or structure at the time such work of exterior improvement commenced; and if not so reimbursed, said sums, with interest accrued thereon, may be collected from such owner or owners in an action at law commenced by such municipality or political subdivision within six (6) years after the date of the final expenditure of funds for such exterior improvement costs.

(c) Where a municipality or other political subdivision of this State shall expend public funds for the purpose of exterior improvements to any vacant or abandoned building deemed to be unsafe or any other vacant building or structure within its jurisdiction, after such notice as is provided for in subsection (a) of this section, such municipality or political subdivision may enter a lien for the amount so expended, with interest accrued thereon, on the lands and premises on which such work of exterior improvement was performed, in the office of the prothonotary for the county in which such lands and premises are situate in the docket provided for in subsection (d) of this section and such liens shall continue until paid and discharged.

(d) The prothonotary of each county shall prepare a docket to be known as the "lien docket for public expenditures for exterior improvements" in which shall be recorded all liens provided for by subsection (b) of this section. Such liens shall be certified in writing to the prothonotary by the municipality or other governmental subdivision of this State entitled to the same, which certification shall list the owner of the lands and premises as such owner appears on the tax assessment records of such municipality or other political subdivision on the date of lien certification, the principal amount of the lien and the applicable interest rate, and shall identify the lands and premises by brief description and by the parcel number thereof as said parcel number appears on the real estate tax records of such municipality or other governmental subdivision. Such information and the date of filing shall be entered by the prothonotary in the lien docket, which docket shall contain in the back thereof an index according to the name of the owner of the property against which such lien is entered. When any such lien is satisfied by payment, the prothonotary, acting under the supervision of the municipality or other political subdivision holding such lien, shall enter thereon the date of final payment and the words "satisfied in full." The prothonotary shall receive a fee of one dollar($1.00) for each satisfaction.

Section 4604. Priority of lien; transfer of Lien upon executed sale.

Any lien filed pursuant to this chapter shall have priority over any other lien upon or interest in the lands and premises upon which the building or structure which has received exterior improvements was situated, even though such other lien was entered of record or such interest vested prior to the date of filing of the lien arising under this chapter, excepting any lien for taxes. In the case of sale under execution process of any premises upon which any lien for such public expenditures exists, the lien shall be transferred to the fund arising from the sale in the hands of the officer making the sale, and the premises so sold shall be discharged therefrom."

Section 2. Amend §2901 (b)(1) Chapter 29, Title 25, Delaware Code by adding the following two new subparagraphs:

"f. Charges for the costs of razing or demolition of buildings done through public expenditure; and

g. Charges for duly authorized improvements to the exteriors of buildings done through public expenditure."

Approved July 14, 1989.

CHAPTER 128

FORMERLY

HOUSE BILL NO. 331
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 87, TITLE 29 OF THE DELAWARE CODE, RELATIVE TO THE DEPARTMENT OF STATE.

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

Section 1. Amend §8708, Title 29 of the Delaware Code by deleting in subsection (5) the "." after the word "Commissioner" and by inserting in lieu thereof the following words "; and (6) Director of Division of the Arts."

Section 2. Amend Chapter 87, Title 29 of the Delaware Code by adding thereto the following new sections.

"§8726. Definitions.

(a) "Director" means the Director of the Division of the Arts.

(b) "Division" means the Division of the Arts.

(c) "State" means the State of Delaware.

(d) "Council" means the Delaware State Arts Council created by this chapter.

§8727. Division of the Arts.

The Division of the Arts is established and it shall function, as required, as an advisory, coordinating or implementing agency:

(a) to promote and encourage public interest in the cultural heritage of our State and to expand the State's cultural resources, and to promote public education in all fields of artistic and cultural activities, including but not limited to, music, theater, dance, painting, sculpture, architecture, and allied arts and crafts;

(b) to encourage and assist freedom of artistic expression;

(c) to encourage, promote and provide technical and professional assistance to arts programs of individuals, organizations and institutions in the State;

(d) to make such surveys as may be deemed advisable of public and private institutions engaged in artistic and cultural activities, and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the needs and aspirations of persons in all parts of the State; and

(e) to cooperate with and assist public and private institutions and organizations with a view toward mutual promotion and improvement of the performing and fine arts.

§8728. The Delaware State Arts Council.

(a) The Delaware State Arts Council is hereby established for the purpose of promotion and encouragement of the arts and shall provide guidance to the Director on matters of arts policy and shall consider such other matters as may be referred to it by the Governor, by the Secretary of the Department, or by the Director. The Council may study, research, plan and advise the Director, the Secretary and the Governor on matters it deems appropriate to enable the Division to function in the best possible manner.

(b) The Delaware State Arts Council shall be composed of Delaware citizens broadly representative of all fields of the performing and fine arts known for their interest in these areas appointed by the Governor. Each such citizen shall serve as a member of the Delaware State Arts Council for the period of his unexpired term unless he vacates his position by resignation, death or incapacity. The Council shall be composed of not more than 15 members When the number of members has been reduced to less than 15 by reason of the expiration of terms, resignation, death or incapacity, the Governor shall appoint new members. The terms of newly appointed members will be staggered so that no more than one-third will expire annually. All new appointees shall serve for a term of 3 years and no member shall serve more than 2 consecutive terms.

(c) Members of the Council and Chairman shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties related to the Council.

(d) A Chairman of the Council shall be designated in addition to the members of the Council by the Governor and shall serve in that capacity at the pleasure of the Governor.

(e) 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.

§8729. Assistance for the Development of the Arts.

(a) The Director is hereby authorized and directed to establish a special fund of the State to encourage instrumentalities, agencies and political subdivisions of the State and private and public nonprofit associations in the development of the arts in the State and to enhance the appreciation of artistic expressions by citizens of the State.

(b) The Director may contract with any instrumentality, agency or political subdivision of the State, and with any private or public nonprofit association, to accomplish any work authorized by this chapter.

(c) The Director and the Council shall establish such rules and regulations as are necessary to determine the eligibility of any instrumentality, or agency or political subdivision, private or public nonprofit association for participation in contracts authorized by this section. A private or public nonprofit association shall submit a letter of exemption from the Internal Revenue Service as proof of nonprofit status.

(d) The Director shall be responsible for fiscal matters and auditing of funds appropriated under this section. Expenditures from this special fund shall be in accordance with State law and shall be limited to appropriations provided therefore. Moneys on deposit in this special fund which are unexpended or unencumbered shall not revert at the end of each fiscal year.

§8730. Exemption from Bid Law.

The Division shall be exempt from Chapter 69 of this title."

Section 3. This Act shall be effective immediately on the date of its enactment.

Approved July 17, 1989.

CHAPTER 129

FORMERLY

SENATE BILL NO. 87

AN ACT CONCURRING IN A PROPOSED 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".

Effective June 30, 1989.

CHAPTER 130

FORMERLY

SENATE BILL NO. 58
AS AMENDED BY
SENATE AMENDMENT NOS. 1 AND 2 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 AND TIT_E 16 TO PROVIDE FOR TRUTH IN SENTENCING.

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

Section 1. This Act shall be known as the "Truth in Sentencing Act of 1989".

Section 2. The purposes of this Act are:

A. To achieve truth in sentencing by assuring that the public, the State and the Court will know that the sentence imposed by the Court will be served by the defendant; and that, the defendant will know what the actual effect of the sentence will be.

B. To require accountability of the Court in fashioning a sentence designed to meet the objectives of SENTAC legislation including, but not limited to providing the least restrictive sentence that assures the public safety, makes use of sentencing alternatives and incarcerates the violence prone offender.

C. To encourage the Courts to impose sentences combining incarceration (where appropriate) with quasi-incarceration and probationary follow-up to assure continued supervision of offenders and their successful reentry into society with minimum risk to society.

Section 3. The provisions of this Act will take effect with respect to all crimes which are committed as of 12:01 a.m., June 30, 1990 or thereafter.

Section 4. The provisions of Title 11 and Title 16, which are repealed by this Act shall remain in force and effect for the purpose of trial and sentencing for all crimes which occur prior to 12:01 a.m., June 30, 1990.

Section 5. Amend Title 11 of the Delaware Code by striking Sections 4381, 4382, 4383 and 4384 in their entirety and enacting the following sections in lieu thereof:

"§4381. Earned Good Time.

(a) All sentences imposed for any offenses other than a life sentence imposed for Class A felonies may be reduced by earned good time under the provisions of this Section and Rules and Regulations adopted by the Commissioner of Corrections.

(b) 'Good time' may be earned for good behavior while in the custody of the Department of Corrections when the person has not been guilty of any violation of discipline, rules of the Department, or any criminal activity and has labored with diligence toward rehabilitation according to the following conditions:

(1) During the first year of any sentence, good time may be awarded at the rate of 2 days per month beginning on the first day of his confinement.

(2) After completing 365 days of any sentence, good time may be awarded at the rate of 3 days per month.

(3) No person shall be awarded more than 36 days of good time under this subsection for good behavior in any one year consisting of 365 calendar days actually served.

(c) 'Good time' may be earned for participation in educational and/or rehabilitation programs as designated by the Commissioner under the following conditions:

(1) Good times may be awarded for satisfactory participation in approved programs at a rate of up to 2 days per calendar month.

(2) No more than 24 days of program good time total as established in this subsection may be awarded in any one year consisting of 365 days actually served

(c) Members of the Council and Chairman shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties related to the Council.

(d) A Chairman of the Council shall be designated in addition to the members of the Council by the Governor and shall serve in that capacity at the pleasure of the Governor.

(e) 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.

§8729. Assistance for the Development of the Arts.

(a) The Director is hereby authorized and directed to establish a special fund of the State to encourage instrumentalities, agencies and political subdivisions of the State and private and public nonprofit associations in the development of the arts in the State and to enhance the appreciation of artistic expressions by citizens of the State.

(b) The Director may contract with any instrumentality, agency or political subdivision of the State, and with any private or public nonprofit association, to accomplish any work authorized by this chapter.

(c) The Director and the Council shall establish such rules and regulations as are necessary to determine the eligibility of any instrumentality, or agency or political subdivision, private or public nonprofit association for participation in contracts authorized by this section. A private or public nonprofit association shall submit a letter of exemption from the Internal Revenue Service as proof of nonprofit status.

(d) The Director shall be responsible for fiscal matters and auditing of funds appropriated under this section. Expenditures from this special fund shall be in accordance with State law and shall be limited to appropriations provided therefore. Moneys on deposit in this special fund which are unexpended or unencumbered shall not revert at the end of each fiscal year.

§8730. Exemption from Bid Law.

The Division shall be exempt from Chapter 69 of this title."

Section 3. This Act shall be effective immediately on the date of its enactment.

Approved July 17, 1989.

CHAPTER 129

FORMERLY

SENATE BILL NO. 87

AN ACT CONCURRING IN A PROPOSED 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".

Effective June 30, 1989.

CHAPTER 130

FORMERLY

SENATE BILL NO. 58
AS AMENDED BY
SENATE AMENDMENT NOS. 1 AND 2 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 AND TITLE 16 TO PROVIDE FOR TRUTH IN SENTENCING.

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

Section 1. This Act shall be known as the "Truth in Sentencing Act of 1989".

Section 2. The purposes of this Act are:

A. To achieve truth in sentencing by assuring that the public, the State and the Court will know that the sentence imposed by the Court will be served by the defendant; and that, the defendant will know what the actual effect of the sentence will be.

B. To require accountability of the Court in fashioning a sentence designed to meet the objectives of SENTAC legislation including, but not limited to providing the least restrictive sentence that assures the public safety, makes use of sentencing alternatives and incarcerates the violence prone offender.

C. To encourage the Courts to impose sentences combining incarceration (where appropriate) with quasi-incarceration and probationary follow-up to assure continued supervision of offenders and their successful reentry into society with minimum risk to society.

Section 3. The provisions of this Act will take effect with respect to all crimes which are committed as of 12:01 a.m., June 30, 1990 or thereafter.

Section 4. The provisions of Title 11 and Title 16, which are repealed by this Act shall remain in force and effect for the purpose of trial and sentencing for all crimes which occur prior to 12:01 a.m., June 30, 1990.

Section 5. Amend Title 11 of the Delaware Code by striking Sections 4381, 4382, 4383 and 4384 in their entirety and enacting the following sections in lieu thereof:

"§4381. Earned Good Time.

(a) All sentences imposed for any offenses other than a life sentence imposed for Class A felonies may be reduced by earned good time under the provisions of this Section and Rules and Regulations adopted by the Commissioner of Corrections.

(b) 'Good time' may be earned for good behavior while in the custody of the Department of Corrections when the person has not been guilty of any violation of discipline, rules of the Department, or any criminal activity and has labored with diligence toward rehabilitation according to the following conditions:

(1) During the first year of any sentence, good time may be awarded at the rate of 2 days per month beginning on the first day of his confinement.

(2) After completing 365 days of any sentence, good time may be awarded at the rate of 3 days per month.

(3) No person shall be awarded more than 36 days of good time under this subsection for good behavior in any one year consisting of 365 calendar days actually served.

(c) 'Good time' may be earned for participation in educational and/or rehabilitation programs as designated by the Commissioner under the following conditions:

(1) Good times may be awarded for satisfactory participation in approved programs at a rate of up to 2 days per calendar month.

(2) No more than 24 days of program good time total as established in this subsection may be awarded in any one year consisting of 365 days actually served

(d) 'Good time' may be earned by participation in work programs as authorized by §6532 of this Title at a rate of up to 2.5 days per month with a limit of 30 days earned during any one year consisting of 365 days actually served.

(e) No more than a total of 90 days of 'good time' may be earned in any one year consisting of 365 days actually served.

§4382. Forfeiture of Good Time.

(a) Any person subject to the custody of the Department at Levels IV or V shall, upon the conviction of any crime during the term of his sentence, forfeit all good time accumulated to the date of the criminal act, this forfeiture is not subject to suspension.

(b) Any person subject to the custody of the Department of Corrections at Level IV or V who is determined to have violated the Rules of the Department of Corrections shall under the Rules and Procedures of the Department forfeit all or part of the good time accrued to the date of such offense. Forfeiture under this subsection may be suspended by the Department for the purposes of encouraging rehabilitation or compliance with discipline.

(c) When good time is actually ordered forfeit, it may not be recovered by the incarcerated person."

Section 6. Amend Title 11 of the Delaware Code by striking Sections 4201, 4202, 4204(b), 4205, 4206, 4207 and 4209A in their entirety, and enacting the following sections in lieu thereof:

"§4201. Classification of Felonies.

(a) Felonies are classified, for the purpose of sentence, into seven (7) categories:

(1) Class A Felonies;

(2) Class B Felonies;

(3) Class C Felonies;

(4) Class D Felonies;

(5) Class E Felonies;

(6) Class F Felonies;

(7) Class G Felonies.

(b) Any crime or offense which is designated as a felony but which is not specifically given a class shall be a Class G Felony and shall carry the sentence provided for said class felony.

§4202. Classification of Misdemeanors.

(a) Misdemeanors are classified for the purpose of sentence into two (2) categories:

(1) Class A Misdemeanors;

(2) Class B Misdemeanors.

(b) Any offense defined by statute which is not specifically designated a felony, a Class A Misdemeanor, a Class B Misdemeanor or a Violation shall be an unclassified Misdemeanor.

§4204. Authorized Disposition of Convicted Offenders.

(b) A person convicted of a class A felony may be sentenced to life imprisonment in accordance with §4205 of this Title, unless the conviction is for first-degree murder, in which event §4209 of this Title shall apply. Notwithstanding any other statute, a sentence under §4209 of this Title may not be suspended or reduced by the court.

§4205. Sentence for Felonies.

(a) A sentence of incarceration for a felony shall be a definite sentence.

(b) The term of incarceration which the Court may impose for a felony is fixed as follows:

(1) For a Class A Felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first degree murder in which event §4209 of this Title shall apply.

(2) For a Class B Felony not less than 2 years up to 20 years to be served at Level V.

(3) For a Class C Felony up to 10 years to be served at Level V.

(4) For a Class D Felony up to 8 years to be served at Level V.

(5) For a Class E Felony up to 5 years to be served at Level V.

(6) For a Class F Felony up to 3 years to be served at Level V.

(7) For a Class G Felony up to 2 years to be served at Level V.

(c) In the case of the conviction of any felony, the Court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this Section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) for each class of felony.

(d) Where a minimum sentence is required by subsection (b) of this Section, such sentence shall not be subject to suspension by the Court.

(e) Where no minimum sentence is required by subsection (b), or with regard to any sentence in excess of the minimum required sentence, the Court may suspend that part of the sentence for probation or any other punishment set forth in §4204 of this Title.

(f) Any term of Level V incarceration imposed under this Section must be served in its entirety at Level V, reduced only for earned 'good time' as set forth in §4381 of this Title.

(g) No term of Level V incarceration imposed under this Section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the Court for such other level sanction.

(h) The Department of Corrections, the remainder of this Section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first five (5) days of any sentence to Level V, not suspended by the Court, must be served at Level V.

(i) The Department of Corrections, the remainder of this Section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(j) No sentence to Level V incarceration imposed pursuant to this Section is subject to parole.

(k) In addition to the penalties set forth above, the Court may impose such fines and penalties as it deems appropriate.

(l) In all sentences for less than one year the Court may order that more than five (5) days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

§4206. Sentence for Misdemeanors.

(a) The sentence for a Class A Misdemeanor may include up to 1 year incarceration at Level V and such fine up to $2,000, restitution or other conditions as the Court deems appropriate.

(b) The sentence for a Class B Misdemeanor may include up to 6 months incarceration at Level V and such fine up to $1,000, restitution or other conditions as the Court deems appropriate.

(c) The sentence for an unclassified Misdemeanor may include up to 30 days incarceration at Level V and such fine up to $500, restitution or other conditions as the Court deems appropriate.

(d) The Court may suspend any sentence imposed under this Section for probation or any of the other sanctions set forth in §4204 of this Title.

(e) Any term of Level V incarceration imposed under this Section must be served in its entirety at Level V, reduced only for earned 'good time' as set forth in §4381 of this Title.

(f) No term of Level V incarceration imposed under this Section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the Court for such other level sanction.

(g) The Department of Corrections, the remainder of this Section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first five (5) days of any sentence to Level V, not suspended by the Court, must be served at Level V.

(h) The Department of Corrections, the remainder of this Section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.

(i) Any sentence for issuing a worthless check pursuant to §900 of this Title shall require restitution to the person to whom the check was given. For the purposes of this subsection, restitution shall mean the amount for which the check was written plus a service fee of $30.00 for processing a worthless check, or a fee of $50.00 if more than one check by same person was processed.

(j) In all sentences for less than one year the Court may order that more than five (5) days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

§4207. Sentences for Violations.

(a) The Court may impose a fine of up to $300 for the first offense of any violation, up to $600 for the second offense of that same violation and up to $1,000 for the third offense of the same violation, provided that only violations which occurred within 5 years of the violation for which sentence is imposed shall be considered in determining sentence.

(b) The Court may impose a period of Level I probation up to 1 year for any violation."

Section 7. Amend Chapter 43, of Title 11 of the Delaware Code by adding a new §4354 thereto which shall read as follows:

"§4354. Applicability to Sentences Imposed Pursuant to Truth in Sentencing.

No sentence imposed pursuant to the provisions of the Truth in Sentencing Act of 1989, shall be subject to parole under the provisions of this subchapter."

Section 8. Amend Title 11 of the Delaware Code by designating the following offenses to the following classification:

"Section	Classification
501	Class A Misdemeanor
502	Class F Felony
503	Class E Felony
511	Class A Misdemeanor
512	Class G Felony
513	Class E Felony
601	Unclassified Misdemeanor

602	Unclassified Misdemeanor
603	Class A Misdemeanor
604	Class E Felony
611	Class A Misdemeanor
612	Class D Felony
613	Class C Felony
621	Class A Misdemeanor
625	Class A Misdemeanor
626	Class G Felony
627	Unclassified Misdemeanor
628	Class B Misdemeanor
629	Class A Misdemeanor
630	Class F Felony
630A	Class E Felony
631	Class E Felony
632	Class C Felony
635	Class B Felony
636	Class A Felony
645	Class F Felony
651	Class F Felony
652	Class A Misdemeanor
653	Class B Misdemeanor
763	Unclassified Misdemeanor
764	Unclassified Misdemeanor
765	Class A Misdemeanor
766	Class A Misdemeanor
767	Class A Misdemeanor
768	Class G Felony
769	Class F Felony
770	Class E Felony
771	Class D Felony
772	Class C Felony
773	Class C Felony
774	Class B Felony
775	Class A Felony
781	Class A Misdemeanor

782	Class G Felony
783	Class C Felony
783A	Class B Felony
785	Class A Misdemeanor
	Class G Felony if child removed from DE
791	Class A Misdemeanor
801	Class G Felony
802	Class D Felony
803	Class C Felony
804	Class A Misdemeanor
811(b)(1)	Class G Felony
811(b)(2)	Class A Misdemeanor
811(b)(3)	Unclassified Misdemeanor
820	Class B Misdemeanor
821	Violation
822	Unclassified Misdemeanor
823	Class A Misdemeanor
824	Class F Felony
825	Class D Felony
826	Class C Felony
828	Class F Felony
831	Class E Felony
832	Class B Felony
840	Class G Felony - $500 or more
	Class A Misdemeanor - less than $500
841	Class G Felony - $500 or more
	Class A Misdemeanor - less than $500
846	Class E Felony
848	Class G Felony - $500 or more
	Class A Misdemeanor - less than $500
850	Class B Misdemeanor
851	Class G Felony - $500 or more
	Class A Misdemeanor - less than $500
853	Class A Misdemeanor
859	Class G Felony

861(b)(1)	Class F Felony
861(b)(2)	Class G Felony
861(b)(3)	Class A Misdemeanor
862	Class G Felony
871	Class A Misdemeanor
873	Class A Misdemeanor
876	Class E Felony
877	Class A Misdemeanor
878	Class G Felony
881	Class A Misdemeanor
882	Class A Misdemeanor
891	Class A Misdemeanor
892	Class A Misdemeanor
893	Class A Misdemeanor
900	Class G Felony - $500 or more
	Class A Misdemeanor - less than $500
903	Class G Felony - $500 or more
	Class A Misdemeanor - less than $500
906	Class A Misdemeanor
907	Class A Misdemeanor
908	Class G Felony
909	Class A Misdemeanor
910	Class B Misdemeanor
911	Class G Felony
912	Class G Felony
913	Class G Felony
920	Class G Felony
921	Class A Misdemeanor
922	Unclassified Misdemeanor
937(a)	Class D Felony
937(b)	Class E Felony
937(c)	Class F Felony
937(d)	Class G Felony
937(e)	Class A Misdemeanor
1001	Class G Felony
1101	Class A Misdemeanor

1102	Class A Misdemeanor
1105	Class A Misdemeanor
1106	Class B Misdemeanor
1107	Unclassified Misdemeanor
1108	Class B Felony
1109	Class D Felony
1110	Class B Felony
1201	Class E Felony
1203	Class E Felony
1205	Class A Misdemeanor
1206	Class A Misdemeanor
1207	Class A Misdemeanor
1211	Class A Misdemeanor
1212	Class A Misdemeanor
1221	Class A Misdemeanor
1222	Class F Felony
1223	Class D Felony
1233	Class A Misdemeanor
1241	Class B Misdemeanor
1243	Class A Misdemeanor
1244	Class A Misdemeanor
1245	Unclassified Misdemeanor
1246	Class A Misdemeanor
1251	Class A Misdemeanor
1252	Class G Felony
1253	Class D Felony
1254(a)	Class D Felony
1254(b)	Class B Felony
1256	Class A Misdemeanor
	Class F Felony (weapon)
1257	Class A Misdemeanor
1259	Class G Felony
1261	Class E Felony
1262	Class E Felony
1263	Class E Felony
1263A(a)(2)	Class E Felony

1263A(a)(3)b	Class E Felony
1263A(a)(4)(b)	Class E Felony
1263A(a)(1)	Class G Felony
	Class F Felony
	(if witness is complaining witness)
1263A(a)(3)a	Class G Felony
	Class F Felony
	(if witness is complaining witness)
1263A(a)(4)a	Class G Felony
	Class F Felony
	(if witness is complaining witness)
1264	Class E Felony
1265	Class E Felony
1266	Class A Misdemeanor
1267	Class A Misdemeanor
1269	Class G Felony
1271(1)	Class B Misdemeanor
1271(2)	Class A Misdemeanor
1271(3)	Class A Misdemeanor
1271(4)	Class A Misdemeanor
1271(5)	Class A Misdemeanor
1271(6)	Class A Misdemeanor
1271(7)	Class A Misdemeanor
1271(8)	Class A Misdemeanor
1273	Class B Misdemeanor
1301	Unclassified Misdemeanor
1302	Class F Felony
1311	Unclassified Misdemeanor
1312	Class B Misdemeanor
1313	Class B Misdemeanor
1315	Unclassified Misdemeanor - if 2 prior convictions within one year, otherwise a Violation
1320	Violation
1321	Violation
1322	Unclassified Misdemeanor
1323	Violation

1324	Unclassified Misdemeanor
1325	Class A Misdemeanor
1326	Violation
1331	Class A Misdemeanor
1332	Class A Misdemeanor
1335	Class A Misdemeanor
1336(b)	Class G Felony
1336(d)	Class G Felony
1336(r)	Class A Misdemeanor
1338	Class D Felony
1339	Class G Felony - unless injury
	Class E Felony - if injury
	Class A Felony - if death
1340	Class A Misdemeanor -provided mandatory fine shall remain as is
1341	Class B Misdemeanor
1342	Class B Misdemeanor
1343	Violation
1351	Class F Felony
1352	Class E Felony
1353	Class C Felony
1355	Class B Misdemeanor
1361	Class E Felony - for sale to minor
	Class G Felony - otherwise
1365	Class A Misdemeanor
1401	Class A Misdemeanor
1402	Class A Misdemeanor
1403	Class A Misdemeanor
1404	Unclassified Misdemeanor - unless previous conviction within 5 years then Class A Misdemeanor
1405	Class A Misdemeanor
1406	Class A Misdemeanor
1407	Violation
1411	Class A Misdemeanor
1428	Class A Misdemeanor
1442	Class G Felony - unless second offense within 5 years then Class E Felony

1443	Class A Misdemeanor
1444	Class E Felony
1445	Unclassified Misdemeanor
1446	Unclassified Misdemeanor
1447	Class B Felony
1448	Class F Felony
1449	Class B Felony
1450	Class F Felony
1451	Class F Felony
1452	Class B Misdemeanor
1453	Class B Misdemeanor
1504(a)	Class B Felony".

Section 9. Amend Title 16 of the Delaware Code by designating the following offenses to the following classifications:

"Section	Classification
4752	Class E Felony
4752A	Class D Felony
4753	Class A Misdemeanor
4753A(a)(1)	Class B Felony
4753A(a)(2)	Class B Felony
4753A(a)(3)	Class B Felony
4753A(a)(4)	Class B Felony
4753A(a)(5)	Class B Felony
4753A(a)(6)	Class B Felony
4753A(a)(7)	Class B Felony
4753A(a)(8a)	Class B Felony
4754	Class B Misdemeanor
4754A	Class B Misdemeanor
4755(a)(1)	Class F Felony
4755(a)(2)	Class F Felony
4755(a)(3)	Class A Misdemeanor
4755(a)(4)	Class F Felony
4755(a)(5)	Class F Felony
4756	Class F Felony
4757(c)	Unclassified Misdemeanor
4757(d)	Class G Felony

4761(1)	Class C Felony
4761(2)	Class E Felony
4761(3)	Class B Felony
4761(4)	Class C Felony
4771	Class A Misdemeanor
4772	Class G Felony
4773	Class E Felony
4774	Unclassified Misdemeanor".

Section 10. Amend Title 16, §4763(a)(1) by striking the number of years in each subsection and inserting in lieu thereof the following years:

"Subsection	Years
a.	2
b.	3
c.	5
d.	10
e.	9
f.	17".

Section 11. Notwithstanding any provision of this Act to the contrary, the fines and mandatory sentence provisions of the following sections of Title 16 shall remain in effect as indicated.

"Section	Mandatory Sentence Provision
4752	Fines remain in effect
4753A	All mandatory fines and minimum mandatory terms of incarceration remain in effect
4761(3) & (4)	All minimum mandatory terms of incarceration remain in effect
4763(a)(2)	All minimum mandatory terms of incarceration remain in effect".

Section 12. Notwithstanding any provision in this Act to the contrary, the mandatory sentence provisions of Title 11, Sections 630(b), 630(a)(b), and 831(b) shall remain in effect as indicated.

Section 13. Amend Title 11, Section 832 by striking said subsections (b), (c) and (d) in their entirety and substituting in lieu thereof the following language:

"(b) A person convicted of Robbery First Degree for a second or subsequent offense shall receive a minimum sentence of four (4) years at Level V notwithstanding the provisions of §§4205(b)(2) and 4215 of this Title.

(c) The sentencing provisions of this section apply to Attempted Robbery First Degree as well as Robbery First Degree."

Section 14. Amend Title 11, Chapter 42 by adding a new subsection 4216 thereto which shall read as follows:

"§4216. Transition Provisions.

(a) Where an inmate is serving a sentence to Level V (incarceration) imposed not under the Truth in Sentencing Act of 1989 and receives a subsequent sentence to Level V

under the provisions of the Truth in Sentencing Act serving of the earlier sentence shall be suspended and the inmate shall serve the new Level V sentence until it is completed and then resume serving the original sentence.

(b) Where an inmate is serving a 'non-mandatory' Level V (incarceration) sentence and is subsequently sentenced to a mandatory term of incarceration, serving of the earlier sentence shall be suspended and the inmate shall serve the new mandatory Level V sentence until it is completed and then resume serving the earlier sentence.

(c) Where an inmate is serving Level V (incarceration) sentence imposed not under the Truth in Sentencing Act of 1989, and is subsequently sentenced to Level V under the provisions of the Truth in Sentencing Act and had less than three years remaining on his prior sentence, the Court at the time of sentencing under the Truth in Sentencing Act may in its discretion suspend the remainder of the prior on-Truth in Sentencing Level V sentence.

(d) Any individual convicted of a crime on or after January 1, 1990, which crime occurred prior to that date may elect to be sentenced under the provisions of this Act rather than under the prior provisions of this Title."

Section 15. Amend §4751 of Title 16 by repealing said section in its entirety and inserting in lieu thereof the following section:

"§4751. Prohibited Acts A; Penalties

(a) Except as authorized by this Chapter, any person who manufactures, delivers or possesses with intent to manufacture or deliver a controlled substance or a counterfeit controlled substance classified in Schedule I or II which is a narcotic drug is guilty of a Class C felony and shall be fined not less than $5,000 nor more than $50,000.

(b) Except as authorized by this Chapter, in cases where death occurs as a result of the use or consumption of a controlled substance or counterfeit controlled substance classified in Schedule I or II which is a narcotic drug, any person who is convicted of manufacturing or delivering such drug shall be guilty of a Class B felony and shall be fined not less than $10,000 nor more than $100,000.

(c) Where an individual is convicted of a violation of subsection (a) or (b) of this section and the Attorney General may move to sentence the defendant as a non-addict, the Court shall conduct a hearing at which the Attorney General shall have the burden of proof by a preponderance of the evidence that the defendant is a non-addict. If the Court, after hearing, is satisfied that the defendant is, and was at the time of the offense, not addicted to controlled substances, then the following enhanced penalties shall apply:

(1) for the first violation of this section a mandatory minimum sentence of 6 years to be served at Level V.

(2) for the second or subsequent violation of this section a mandatory minimum sentence of 12 years to be served at Level V.

These minimum sentences may not be suspended by the Court."

Section 16. Amend Title 11 of the Delaware Code of 1974 by enacting a new §4216 thereto which shall read as follows:

"§4216. Jurisdiction Over Sentence Retained.

(a) In any case where the trial Court has imposed a sentence in excess of two years incarceration at Level V custody the Court shall retain jurisdiction to modify such sentence to reduce the level of custody or time to be served under the provisions of this section.

(b) The Court may modify such sentence solely upon the basis of an application filed by the Department of Correction for good cause shown.

(c) Good cause under this section shall include, but not be limited to, exception rehabilitation of the offender, serious medical illness or infirmity of the offender and prison overcrowding.

(d) Any application by the Department of Correction under this section shall be filed with the Board of Parole which shall hold a hearing under the provisions of

subsection 4350(a) of this Title for the purpose of making a recommendation to trial court as to approval or disapproval of the application for modification.

(e) Upon receipt of the recommendation of the Board of Parole, the Court may in its discretion grant or deny the application for modification of sentence. The Court may request additional information, but need not hold further hearings on the application."

Section 17. Amend Title 11 of the Delaware Code of 1974 by enacting a new subsection 4204(l) thereto which shall read as follows:

"(l) Whenever a Court imposes a period of incarceration at Level V custody for one or more offenses that totals one year or more, then that Court must include as part of its sentence a period of custodial supervision at either Level IV, III or II for a period of not less than six months to facilitate the transition of the individual back into society."

Section 18. Amend Title 11 of the Delaware Code of 1974 by enacting a new subsection 4204(m) thereto to read as follows:

"(m) Whenever a court imposes a period of incarceration at Level V custody in excess of 30% of the maximum allowable penalty or imposes a period of incarceration at Level V custody less than 20% of the maximum allowable penalty, such court shall explain, in writing, the aggravating or mitigating circumstances for imposing such penalty. The basis for mitigating or aggravating circumstances shall be prescribed and adopted by the Sentencing Accountability Commission."

Approved July 17, 1989.

CHAPTER 131

FORMERLY

HOUSE BILL NO. 348

AN ACT TO AMEND CHAPTER 35, TITLE 7 OF THE DELAWARE CODE RELATING TO COMMERCIAL FOREST PLANTATIONS.

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

Section 1. Amend Section 3503, Chapter 35, Title 7 of the Delaware Code by adding in said section immediately following the second sentence thereof and before the third sentence thereof the following:

"Additionally, all applications for tax exemption must be accompanied by a forest management plan approved by the State Forester."

Approved July 18, 1989.

CHAPTER 132

FORMERLY

HOUSE BILL NO. 349

AN ACT TO AMEND CHAPTER 29, TITLE 7 OF THE DELAWARE CODE RELATING TO FORESTRY.

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 2908, Chapter 29, Title 7 of the Delaware Code, by adding two new sentences to paragraph 6 of said Section to read as follows:

"Said program for issuing permits for various activities on State Forest Land shall include but is not limited to the authority to adopt standards and regulations for issuances of permits including fees for the use of State forest property by private parties by the Department of Agriculture. It is expressly provided that said fees collected by the Department shall not exceed $30.00 per activity and shall not affect the State appropriation or be deducted therefrom, but shall be so much additional monies available for carrying out the provisions of this subsection, and said fees shall be paid to the State Treasurer and credited by him/her to the State Forestry Fund for carrying out the purposes of this subchapter."

Approved July 18, 1989.

CHAPTER 133

FORMERLY

HOUSE BILL NO. 350

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 Title 7, Section 2961 of the Delaware Code by adding the State of Ohio and a comma as "Ohio," to the list of states forming the compact after the comma following the state "New Jersey" and before the state "Pennsylvania".

Approved July 18, 1989.

CHAPTER 134

FORMERLY

HOUSE BILL NO. 351
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 29, TITLE 7 OF THE DELAWARE CODE RELATING TO THE CONSERVATION AND REFORESTATION OF CERTAIN TREES.

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 29, Title 7 of the Delaware Code by adding a new subchapter, designated as subchapter V, which shall read as follows:

"Subchapter V. Pine and Yellow-Poplar Tree Conservation and Reforestation.

§2965. Findings; policy; purpose.

(a) The General Assembly finds and declares that the pine and yellow-poplar forest resource of the State provides significant recreational, aesthetic, wildlife and environmental benefits as well as wood fiber essential to commerce and industry for the citizens of the State. The General Assembly has also determined that the pine and hardwood forest resources are being harvested at a greater rate than they are being replanted or reproduced and unless measures are instituted to ensure that the forest resources are sustained, this natural resource will be depleted to the detriment of the citizens of the State. It is, therefore, the declared public policy of this State to preserve and protect the pine and yellow-poplar forest resource of the State. The purpose of this Chapter is to regulate the maintenance and reproduction of the pine and yellow-poplar forest resource of the State in the public interest.

§2966. Definitions.

As used in this subchapter:

(1) "Cutting operation" shall mean the cutting of timber for commercial purposes from ten acres or more of land on which loblolly pine (Pinus taeda), shortleaf pine (Pinus echinata), or pond pine (Pinus serotina), yellow-poplar (Liriodendron tulipifera), singly or together occur and constitute twenty-five (25%) percent or more of the live trees on each acre.

(2) "Live tree" shall mean trees that have their crowns in the uppermost layers of the canopy (dominant and co-dominant trees), are largely free growing, free of insect and disease infestation, windfirm, and old enough to produce fertile seed crops.

(3) "Diameter" shall mean the distance through the tree at the point of average thickness as measured from outside the bark to outside of bark at a point eight inches above the ground level.

(4) "Landowner" shall mean any person holding title to the land or possessing the right to contract for the cutting operation thereon.

(5) "Operator" shall mean any person, including a landowner, who conducts any cutting operation.

(6) "Person" shall mean the State, any county, municipality, corporation or other political subdivision of the State, or any of their units, or an individual receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation or any other entity, or principal(s) in business ventures operating under more than one name.

(7) "Pine" shall mean any loblolly pine (Pinus taeda), shortleaf pine (Pinus echinata), or pond pine (Pinus serotina).

(8) "Secretary" shall mean the Secretary of the Department of Agriculture.

(9) "Seedling" shall mean a young pine or yellow-poplar plant less than one inch in diameter.

(10) "Tree" or "timber" shall mean any tree of a currently commercially valuable species which is six inches or more in diameter.

(11) "Free to grow" shall mean to increase stem and crown diameter, basal area, height, volume, and quality of individual tree.

§2967. Conservation or reforestation plan required; applicability; regulations.

(a) No person shall commence a cutting operation unless seed trees have been reserved pursuant to the natural regeneration method set forth herein or pursuant to an alternate management plan approved by the State Forester or his designee.

(b) This subchapter shall not apply to cutting operations of timber from land being cleared for reservoirs, military installations, agriculture, residential, ditch and utility right-of-ways, industrial sites, railroad, or to cutting operations undertaken pursuant to a contract executed prior to January 1, 1989.

(c) The Department of Agriculture shall have the authority to adopt, amend, modify or repeal such rules and regulations as it deems necessary to effectuate the policies and the purposes of this Chapter.

§2968. Natural regeneration.

(a) Operators and landowners shall leave uncut and uninjured at least 6 seed bearing pine or yellow-poplar trees, 14 inches diameter or larger on each acre involved in a cutting operation. If an acre lacks one or more of the required seedtrees, then two seed-bearing pine or yellow-poplar of the next smallest diameter shall be chosen to replace each missing tree.

(b) Trees reserved pursuant to subsection (a) for the purpose of reseeding shall be healthy, windfirm, well-distributed throughout each acre and have well developed crown possessing viable cones.

(c) Seed-bearing pine or yellow-poplar trees need not be reserved, if at least 400 pine or yellow-poplar seedlings exist on each acre which are vigorous, well distributed throughout, and free to grow upon completion of the cutting operation.

(d) Any operators or landowners proposing to utilize the natural regeneration method shall notify the State Forester at the Delaware Department of Agriculture, Forestry Section of the proposed natural regeneration plan at least ten working days prior to initiation of a cutting operation.

(1) Operators or landowner shall be responsible to have seed trees physically marked prior to notification of the State Forester.

(2) Within ten working days, the State Forester or his designated agent shall inspect the proposed site and provide the operator or landowner with approval, approval with modifications or rejection of the natural regeneration plan.

(e) Once approval is given, but before the cutting operation begins, the landowner will agree, on a form furnished by the Department of Agriculture's Forestry Section, that he will not cut or permit to be cut any pine or yellow-poplar tree required to be reserved for reseeding for two years after completion of the cutting operation. The provisions of this subsection do not apply if the landowner places the land in any of the uses enumerated in §2967(b).

(f) Prior to the sale or other transfer of rights of the land or perpetual timber rights subject to the obligation to reserve the trees, the transferor shall notify the transferee of the existence and nature of the obligation and the transferee shall sign a notice of the obligation indicating the transferee's knowledge thereof.

(1) The notice shall be on a form furnished by the Department of Agriculture's Forestry Section and shall be sent to the Department of Agriculture by the transferor at the time of sale or transfer of rights of the land or perpetual timber rights.

(2) If the transferor fails to notify the transferee about the obligation to reserve the trees, the transferor shall pay the transferee's costs related to fulfilling the obligation to reserve the trees or reforest all trees cut,

including all legal costs and reasonable attorneys fees incurred by the transferee in enforcing the obligation against the transferor.

(3) Failure by the transferor to send the required notice to the Department of Agriculture's Forestry Section at the time of transfer shall be prima facie evidence, in any action by the transferee against the transferor for costs related to reserving the trees or reforestating all trees cut, that the transferor did not notify the transferee of the obligation to reserve the trees prior to transfer.

§2969. Reforestation method.

(a) The land involved in a cutting operation may be reforested pursuant to an approved reforestation plan in lieu of the natural regeneration method. The plan shall be prepared by the landowner or his agent and shall be designed to assure the reproduction and maintenance of growth of young, vigorous pine or yellow-poplar trees.

(b) The reforestation plan shall be accompanied by a statement of the landowner, on a form furnished by the Department of Agriculture's Forestry Section, that the landowner will not perform any act or permit any act to be performed which prevents reforestation. This provision does not apply if the landowner places the land in any of the uses enumerated in §2967(b).

(c) Ten working days prior to the initiation of the cutting operation, the landowner, his agent or operator shall notify the State Forester of the intention to reforest and shall submit a reforestation plan.

(d) The landowner, his agent or operator shall submit the reforestation plan to the State Forester at the Department of Agriculture's Forestry Section for approval.

(1) The Department of Agriculture's Forestry Section shall approve, approve with modifications, or reject any reforestation plan submitted within ten working days.

(2) The determination of the Department of Agriculture's Forestry Section shall be in writing, setting forth the reasons for approval with modifications or rejection and shall be forwarded to the operator or landowner.

(3) In cases where a reforestation plan has been rejected by the State Forester, the landowner, his agent or operator shall be required to submit another reforestation plan for approval. Under no circumstances, shall a cutting operation begin prior to approval of a reforestation plan by the Forestry Section.

(e) Prior to the sale or other transfer of rights of land or perpetual timber rights subject to a reforestation obligation, the transferor of land shall notify the transferee of the existence and nature of the obligation and the transferee shall sign a notice of reforestation obligation indicating the transferee's knowledge thereof:

(1) The notice shall be on a form furnished by the Department of Agriculture's Forestry Section and shall be sent to the Department of Agriculture by the transferor at the time of sale or transfer of rights of land or perpetual timber rights.

(2) If the transferor fails to notify the transferee about the reforestation obligation, the transferor shall pay the transferee's costs related to reforestation including all legal costs and reasonable attorney's fees incurred by the transferee in enforcing the reforestation obligation against the transferor.

(3) Failure by the transferor to send the required notice to the Department of Agriculture at the time of the sale shall be prima facie evidence, in any action by the transferee against the transferor for costs related to reforestation, that the transferor did not notify the buyer of the reforestation obligation prior to sale.

§2970. Prohibitions.

No person shall cut or permit to be cut any pine or yellow-poplar tree or seedling required to be reserved for reseeding or planted under a reforestation plan or perform any act or permit any act to be performed which prevents reseeding or reforestation of any area in which a cutting operation has been conducted.

§2971. Right of entry.

The State Forester or his duly authorized representative may enter, at reasonable times, upon any public or private property for the purpose of determining whether a violation of the provisions of this Chapter or any of the regulations promulgated thereunder exists upon given verbal notice and after presenting official identification to the landowner, operator, custodian or agent of said property.

§2972. Cease and desist orders.

The Secretary shall have the power to issue a cease and desist order to any person violating any provision of this subchapter or rule or regulation promulgated thereto. Any such cease and desist order shall remain in effect until withdrawal of said order by the Secretary, or until the order is superseded by an injunction, whichever occurs first.

§2973. Injunctive relief.

Whenever it appears that any person has engaged or is about to engage in any act or practice constituting a violation of any provisions of this Chapter or rule or regulations adopted pursuant to it, the Secretary may bring an action in the Court of Chancery to restrain or to enjoin the acts or practices and to enforce compliance with this subchapter. The Court shall not require the Department of Agriculture to post a bond.

§2974. Appeals.

(a) Any person whose interest is substantially affected by an action of the State Forester or his designee may request a hearing to demonstrate compliance with this subchapter or any regulations promulgated thereunder.

(b) Such hearing shall be scheduled within 15 days of the request and shall be held by the Secretary or his designee. The decision of the Secretary or his designee may be appealed to Superior Court on the record within 30 days of the decision.

(c) No appeal shall operate to automatically stay any action of the Secretary.

§2975. Penalties.

(a) Any person who violates any provision of this subchapter shall, upon conviction, be subject to a fine not exceeding $2,000 or imprisonment not exceeding three months or both.

(b) Any person found guilty of a second or subsequent violation of any provision of this Chapter is subject to a fine not exceeding $4,000 or imprisonment not exceeding one year, or both. For the purpose of this subsection, a second or subsequent violation is one which has occurred within two years of any prior violation of this subchapter.

(c) The Justices of the Peace Court shall have original jurisdiction to hear and determine violations of this subchapter.

Approved July 18, 1989.

CHAPTER 135

FORMERLY

HOUSE BILL NO. 378

AN ACT TO AMEND CHAPTER 60, TITLE 7, OF THE DELAWARE CODE RELATING TO OCEAN DUMPING.

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

Section 1. Amend Chapter 60, Title 7, Delaware Code by adding thereto a new subchapter to read as follows:

"SUBCHAPTER IV. Ocean Dumping.

§6070. Title.

This Act shall be known as the Ocean Solid Waste Dumping Elimination Act.

§6071 Purpose.

The General Assembly finds that historically millions of tons of solid waste have been disposed in the ocean, that these solid wastes are ocean rather than land disposed in recognition of the threat posed by the presence of contaminants, or that it is simply cheaper to dispose of such wastes in the ocean; that the United States Environmental Protection Agency has affirmed a termination of ocean dumping as its adopted policy, a goal undermined by continuing ocean disposal of solid waste; and that there are deleterious effects of waste disposal on the ocean environment. Therefore, it is the intent of this General Assembly to prohibit ocean disposal of solid waste.

§6072. Prevention.

The provisions of any other law, rule or regulation to the contrary notwithstanding, all disposal of solid waste into the ocean waters of the State is hereby prohibited.

§6073. Penalty.

Whoever violates §6072 of this Act shall be fined not less than $100,000 nor more than $500,000 for each violation and there shall be no suspension of the fine. The Superior Court shall have jurisdiction over violations of §6072.

Approved July 18, 1989.

CHAPTER 136

FORMERLY

HOUSE BILL NO. 421
AS AMENDED BY
HOUSE AMENDMENT NOS. 1 AND 2 AND SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 64, TITLE 7 OF THE DELAWARE CODE RELATING TO THE POWERS AND DUTIES OF THE DELAWARE SOLID WASTE AUTHORITY FOR MANAGING THE COLLECTION, TRANSPORTATION, AND DISPOSAL OF SOLID WASTE, INCLUDING INFECTIOUS WASTE, AND PROVIDING FOR INCREASED ENFORCEMENT AUTHORITY AND INDEMNIFICATION OF DIRECTORS OF THE DELAWARE SOLID WASTE AUTHORITY.

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 §6401(b), Chapter 64, Title 7 of the Delaware Code, by redesignating subsections (9) and (10) as subsections (10) and (11) respectively and inserting as subsection (9) the following:

"(9) That infectious waste be disposed of by the Authority on a statewide basis in accordance with applicable statutes, regulations and inspection procedures approved by the Department of Health and Social Services and issued by the Department of Natural Resources and Environmental Control to assure adequate and proper disposal in a manner to protect the public health and welfare."

Section 2. Amend §6401(c), Chapter 64, Title 7 of the Delaware Code, by redesignating subsection (5) as subsection (6) and inserting as subsection (5) the following:

"(5) That a statewide program for disposal of infectious waste, giving special attention to the management and operation of an infectious waste facility, be established."

Section 3. Amend §6402, Chapter 64, Title 7 of the Delaware Code, by adding a new subsection (17) to read as follows:

"(17) "Infectious waste" means those wastes which may cause human disease and may reasonably be suspected of harboring human pathogenic organisms, or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. Types of wastes designated as infectious include, but are not necessarily limited to, the following:

(a) Biological wastes which shall include, but not be limited to:

i. "Biological liquid wastes" which shall mean blood and blood products, excretions, exudates, secretions, suctionings and other body fluids including liquid waste: from renal dialysis.

ii. "Pathological wastes" which shall mean all human tissues and anatomical remains, including human fetal remains, which emanate from surgery, obstetrical procedures, autopsy, and laboratory procedures.

iii. "Cultures and stocks of etiologic agents and associated biological wastes" which shall mean, but is not limited to, specimen cultures, cultures and stocks of etiologic agents, and wastes from production of biologicals and serums.

iv. "Laboratory wastes" which shall mean those wastes which have come in contact with pathogenic organisms and blood or body fluids. Such wastes include, but are not limited to, disposable materials, culture dishes, devices used to transfer, inoculate and mix cultures, paper and cloth which have come in contact with specimens or cultures which have not been sterilized or rendered noninfectious; or laboratory wastes, including cultures of etiologic agents, which pose a substantial threat to health due to their volume and virulence.

v. Animal tissue, bedding and other waste from animals known or suspected to be infected with a pathogen which also causes human disease, provided that prevailing evidence indicates that such tissue, bedding or other waste may act as a vehicle of transmission to humans.

vi. Human dialysis waste materials including blood lines and dialysate membranes.

(b) "Sharps" which shall mean any discarded article that may cause puncture or cuts. Such wastes include but are not limited to, needles, intravenous (IV) tubing with needles attached, scalpel blades, glassware, and syringes that have been removed from their original sterile containers.

(c) "Discarded biologicals" which shall mean serums and vaccines produced by pharmaceutical companies for human or veterinary use. These products may be discarded because of a bad manufacturing lot (i.e., off-specification material that does not pass quality control or that is recalled), out-dating or removal of the product from the market or other reasons. Because of the possible presence of etiologic agents in these products, the discarded material constitutes infectious waste.

(d) "Other infectious wastes" which shall mean any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of any infectious waste."

Section 4. Amend §6402, Chapter 64, Title 7 of the Delaware Code, by adding a new subsection (18) to read as follows:

"(18) "Infectious waste generator" means hospitals, in or out patient clinics, laboratories, medical offices, dental offices, nursing homes, and in-patient residential facilities serving persons with diseases which may be transmitted through contact with infectious wastes as well as veterinarian facilities and research laboratories operating within the State."

Section 5. Amend §6417, Chapter 64, Title 7 of the Delaware Code, by deleting subsection (a) of that Section in its entirety and by inserting a new subsection (a) in lieu thereof to read as follows:

"(a) Any person who violates a regulation or a license condition, or who violates §6428 of this title, shall be subject to the following sanctions:

(1) If the violation is of a regulation or license condition promulgated or imposed under §6401 through §6429 of this title and the violation has been completed, a civil penalty of not less than $100 and not more than $5,000 shall be assessed. If a violation continues for a number of days, each day of such violation shall be considered a separate violation. Jurisdiction of lawsuits under this subsection shall be in any Court of Common Pleas.

(2) If the violation is of a regulation or license condition promulgated or imposed under §6430 or §6431 of this title and the violation has been completed, a civil penalty of not less than $1,000 and not more than $10,000 shall be assessed. If a violation continues for a number of days, each day of such violation shall be considered a separate violation. Jurisdiction of lawsuits under this subsection shall be in any Superior Court.

(3) If the violation is continuous, or there is a substantial likelihood that it will reoccur, the Authority may seek a temporary restraining order, preliminary injunction or permanent injunction in the Court of Chancery."

Section 6. Amend §6417, Chapter 64, Title 7 of the Delaware Code, by deleting subsection (b) of that Section in its entirety and by inserting a new subsection (b) in lieu thereof to read as follows:

"(b) Any person who violates a regulation or license condition, or who violates §6428 of this title, shall be subject to revocation of such license and/or suspension of such license for such period as determined by the Authority and the assessment of an administrative penalty of not less than $500 and not more than $2,500 for each violation. If a violation continues for a number of days, each day of such violation shall be considered a separate violation. The procedure to be followed regarding any revocation or suspension of license and assessment of an administrative penalty shall be as follows:

(1) The Authority shall notify the alleged violator of the alleged violation by registered mail at least 20 days in advance of the time set for hearing on the violation;

(2) A hearing shall be held on the violation at which time the manager of the Authority shall present evidence in support of the alleged violation;

(3) The alleged violator may appear personally or by counsel at the hearing and produce any competent evidence in his behalf;

(4) Upon request of the manager or an alleged violator the Chairman of the Authority shall issue subpoenae requiring the testimony of witnesses and production of books, records or other documents relevant to any matter involved in such hearing. In case of contumacy or refusal to obey a subpoena issued under this paragraph, the Superior Court in the county in which the hearing is held shall have jurisdiction upon application of the Chairman to issue an order requiring such person to appear and testify or produce books, records or other documents requested;

(5) All testimony at the hearing shall be taken under oath. The Chairman shall administer oaths and all directors shall be entitled to examine witnesses. A verbatim transcript of testimony at the hearing shall be prepared and shall, along with the exhibits introduced into evidence, constitute the record;

(6) Decisions regarding revocation or suspension of a license or assessment of an administrative penalty shall be made by majority vote of directors constituting the quorum. In the event the directors render a decision revoking or suspending a license or assessing an administrative penalty the Chairman shall make findings of fact based on the record supporting the decision, and state the reasons for rendering the decision. Any director who takes exception to the decision may submit a dissenting opinion which shall set forth the reasons for such exception. Dissenting opinions shall be attached to and constitute a part of the decision of the Authority. Deliberations on decisions regarding revocations or suspensions of licenses or assessments of administrative penalties shall be held in executive sessions which shall be closed to the public. In the event a decision is rendered revoking or suspending a license, the Authority may impose conditions for reapplication for a license or for continued operation of the violator under the license;

(7) The Authority shall notify the alleged violator by registered mail of any decision reached under this subsection.

(8) In the event of nonpayment of the administrative penalty after all legal appeals have been exhausted, a civil action may be brought by the Authority through its legal counsel in Superior Court for collection of the administrative penalty, including interest, attorney's fees and costs, and the validity, amount and appropriateness of such administrative penalty shall not be subject to review."

Section 7. Amend §6417, Chapter 64, Title 7 of the Delaware Code, by deleting subsection (c) of that Section in its entirety and by inserting a new subsection (c) in lieu thereof to read as follows:

"(c) Any person whose license is revoked or suspended or who is assessed an administrative penalty may appeal the decision of the Authority to the Superior Court in and for the county in which the hearing was held. Such appeals shall be made within 30 days of the date of receipt of notification of the Authority's decision. Appeals shall be on the record. If the Court finds that additional evidence should be taken, the Court may remand the matter to the Authority for completion of the record. No appeal shall operate to stay automatically any decision of the Authority, but upon application and for good cause, the Authority or the Superior Court may stay the decision pending disposition of the appeal."

Section 8. Amend §6426, Chapter 64, Title 7 of the Delaware Code, by deleting subsection (d) thereof and by redesignating subsections (e), (f), and (g) thereof as subsections (d), (e), and (f) respectively.

Section 9. Amend Chapter 64, Title 7 of the Delaware Code, by adding a new Section 6430 to read as follows:

"§6430. Collection and transportation of infectious waste.

(a) Any person who collects or transports infectious waste from an infectious waste generator shall obtain from the Authority a license specifically for collection or transportation of infectious waste in the State.

(b) The Authority may, after public notice and hearing, adopt rules and regulations governing the licensing of infectious waste collectors and transporters.

(c) The Authority may, after public notice and hearing, adopt rules and regulations for the tracking of infectious waste generated by infectious waste generators, by requiring infectious waste generators and transporters to file with the Authority a copy of any infectious waste tracking form or manifest that may be required under laws or regulations of the State."

Section 10. Amend Chapter 64, Title 7 of the Delaware Code, by adding a new Section 6431 to read as follows:

"§6431. Infectious waste disposal.

(a) It is hereby determined and declared that it is necessary for the health and welfare of the inhabitants of the State that the facilities and services of the Authority shall be used by all infectious waste generators within the State for the disposal of all infectious waste generated within the State, and the Authority may by regulation require all infectious waste generators, collectors and transporters therein to use the services and facilities of the Authority under such rules and regulations as the Authority shall fix and establish for the disposal of infectious waste, provided, however, that the infectious waste generators with on-site incineration for the disposal of infectious waste as of July 1, 1989, may continue to use such on-site incineration for the disposal of infectious waste generated on-site. The Authority, after public notice and hearing, may adopt rules and regulations requiring such infectious waste generators to report not less often than annually on the quantity and types of infectious waste incinerated on-site. This section shall not be construed, however, to affect or impair any contract entered into prior to July 1, 1989.

(b) The Authority is directed to study, finance, design, develop, implement, and operate, or cause the same to occur, an infectious waste incineration facility at the sites where it now owns and operates landfills in New Castle County, Kent County or Sussex County, or where it now owns and operates the Delaware Reclamation Project in New Castle County, or at such other site as it may select in accordance with this chapter. The Authority is hereby authorized to dispose of ash from any such infectious waste incineration facility in the Authority's landfills, subject to regulations promulgated by the Department of Natural Resources and Environmental Control."

Section 11. Amend §6428, Chapter 64, Title 7 of the Delaware Code by adding the words, "including infectious waste," between the words "waste" and "generated" as they appear in the first sentence of that Section.

Approved July 18, 1989.

CHAPTER 137

FORMERLY

HOUSE BILL NO. 336
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 12, TITLE 3, OF THE DELAWARE CODE RELATING TO PESTICIDES.

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 (b), §1207(b), Chapter 12, Title 3, of the Delaware Code by striking it in its entirety and by substituting in lieu thereof the following:

"(b) The Department shall require a yearly fee of $50 for each licensee."

Approved July 18, 1989.

CHAPTER 138

FORMERLY

HOUSE BILL NO. 423
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 4

AN ACT TO AMEND CHAPTER 61, TITLE 30 OF THE DELAWARE CODE RELATING TO THE AUTHORITY OF THE STATE OF DELAWARE TO LEVY AND COLLECT A PUBLIC LODGING TAX AND DEDICATING THE PROCEEDS OF THE TAX TO THE STATE BEACH PRESERVATION PROGRAM AND COUNTY CONVENTION AND VISITORS BUREAUS.

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 6102, Chapter 61, Title 30 of the Delaware Code by deleting the existing provisions and substituting therein the following:

"§6102. Levy of tax.

(a) There is imposed and assessed an excise tax at the rate of 8% of the rent upon every occupancy of a room or rooms in a hotel, motel, or tourist home within this State.

(b) The proceeds of this tax shall be distributed as follows:

6% to the State General Fund, 1% to the Beach Preservation Program of the Department of Natural Resources and Environmental Control of the State of Delaware, and 1% annually shall be designated, in the proportion in which collected, to the duly established convention and visitors bureau in each county."

Section 2. Amend Chapter 61, Part V, Title 30, Delaware Code by designating the current Chapter 61 as "Subchapter I. Lodging Tax Collection" and by creating a Subchapter II as follows:

"Subchapter II. County Convention and Visitors Bureaus

§6121. Eligible Organizations

Each county-based convention and visitors bureaus, to be eligible to receive such monies as enumerated in §6102 of this Title must be a registered Delaware non-profit corporation, qualified under terms of the Internal Revenue Code of 1954 as amended, Section 501(c)(6). For the Counties of Kent, New Castle and Sussex, the following organizations are designated to receive the 1% funding:

(a) Kent County: A Convention & Visitors Bureau shall be established in a manner to be determined by the Governor of the State of Delaware and the Administrator of the Kent County Levy Court.

(b) Sussex County: A Convention & Visitors Bureau shall be established in a manner to be determined by the Governor of the State of Delaware and the Administrator of the Sussex County Council, and representatives from the Lewes Chamber of Commerce, Rehoboth Beach - Dewey Beach Chamber of Commerce and the Bethany - Fenwick Area Chamber of Commerce.

(c) In New Castle County: A qualifying county-based Convention & Visitors Bureau (The Greater Wilmington Convention & Visitors Bureau), has been chartered by the Governor of the State of Delaware, the County Executive of New Castle County, and the Mayor of the City of Wilmington.

§6122. Reporting and Operating Conditions

Such recipient organization shall be subject to all reporting and operating conditions normally imposed upon Delaware non-profit corporations and public bodies.

§6123. Period to Establish

During the period required for Kent and Sussex Counties to establish their County-based Convention & Visitors Bureaus, funds due them shall be paid to the Delaware Development Office. The Delaware Development Office will administer the funds, making them available to non-profit organizations in each county in such amounts and for such tourism related purposes as the Delaware Tourism Office deems appropriate.

Section 3. This Act shall take effect July 1, 1989.

Section 4. Notwithstanding any other provision of this Act to the contrary, all funds received by the State from this Act which are or would be designated for the Beach Preservation Program shall first be paid over, equally, to the Town of Fenwick Island; to the Town of Bethany Beach; to the Town of South Bethany and to Sussex County until each of them is reimbursed for funds which each has expended for beach replenishment during the years 1988 and 1989. After the county and towns have each been fully reimbursed, the said funds shall be paid over to the Beach Preservation Program. It is specifically authorized that the funds received by this Act which are or would be designated for the Beach Preservation Program shall be counted as non-state matching funds as required by Section 43, Chapter 360, Volume 66, Laws of Delaware.

Approved July 19, 1989.

CHAPTER 139

FORMERLY

HOUSE BILL NO. 325
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT MAKING A SUPPLEMENTARY APPROPRIATION TO THE DELAWARE COMMUNITY FOUNDATION TO BE HELD AS PERMANENT UNRESTRICTED ENDOWMENT AND CONDITIONS THEREFORE.

WHEREAS, the Delaware Community Foundation ("DCF") has been organized on a statewide basis by a group of non-partisan, community leaders, solely with the best interest of the people of Delaware in mind; and

WHEREAS, the DCF is governed by a Board of Directors who are well known in the community, represent Sussex, Kent and New Castle Counties, and have been elected because of their community interest and involvement; and

WHEREAS, the mission of the DCF is to encourage greater philanthropic activity to benefit the people of the State of Delaware in all three counties; and

WHEREAS, the DCF is developing permanent Unrestricted Endowment funds, the income from which will be used in support of establishing institutions and ongoing projects, to assist new organizations by providing start-up funds, and to respond to emerging and changing needs of the people of Delaware; and

WHEREAS, the DCF's permanent Unrestricted Endowment funds will make charitable distributions for Cultural Affairs, Economic Development, Education, Environment, Health, Human Services and other areas of interest to assist needy causes in all three counties (such as AIDS, Child Care Services, Drug and Alcohol Programs, Homelessness, Low Income Housing, Mental Health and Scholarships); and

WHEREAS, several local companies, including Bank of Delaware, DuPont, Hercules, ICI and Wilmington Trust have financially supported the initial operations of the DCF; and

WHEREAS, the DCF will continue to attract and accumulate charitable resources from a broad range of sources, both from within and outside the State; and

WHEREAS, the DCF's Board of Directors has authorized a one-time endowment campaign, for both unrestricted and operating purposes, to ensure fully the success of this new initiative; and

WHEREAS, the DCF hereby requests that the State of Delaware provide a one-time leadership contribution to the DCF to be held as permanent Unrestricted Endowment, to benefit the people of the State and to act as a catalyst in attracting and accumulating additional donations from a wide variety of other local and national donors.

NOW, THEREFORE:

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

Section 1. The sum of Two Million Dollars ($2,000,000) is hereby appropriated to the Delaware Community Foundation (DCF), to benefit the people of the State of Delaware, subject to the terms and conditions set forth herein.

Section 2. The funds so appropriated herein shall be held as a permanent unrestricted endowment, with principal being kept invested and income therefrom being used for general charitable purposes in the State of Delaware. For an initial period of five (5) years, income generated from these funds will be distributed solely to worthy organizations for capital purposes, including, but not limited to, purchases of equipment and the renovation or construction of buildings or shelters, consistent with the mission and objectives of the DCF.

Section 3. This appropriation is contingent upon the DCF obtaining an equal amount of matching funds from public or private sources, for use in fulfilling the mission and objectives of the DCF. Should the DCF not procure an equal amount of matching funds from non-State sources within five (5) years from the date of this appropriation, that portion of this appropriation for which matching funds have not been pledged or received shall be returned to the General Fund of the State of Delaware.

Section 4. So long as the monies appropriated herein remain part of the DCF, the following shall apply:

a. the State of Delaware shall have the right to be represented on the Board of Directors of DCF by at least one person designated by the Governor of the State; and

b. any agency which receives a State Grant-in-Aid shall only be eligible to receive funds for capital expenditures.

Section 5. This is a supplementary appropriation and the funds hereby appropriated shall be paid by the State Treasurer out of the funds in the General Fund in the State of Delaware not otherwise appropriated.

Approved July 19, 1989.

CHAPTER 140

FORMERLY

HOUSE BILL NO. 422

AN ACT TO AMEND CHAPTER 63, TITLE 7, DELAWARE CODE RELATING TO HAZARDOUS WASTE MANAGEMENT.

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

Section 1. Amend §6302, Chapter 63, Title 7, Delaware Code by striking subsection 6302(4) in its entirety and substituting in lieu thereof the following:

"(4) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land, water or into the air so that such hazardous waste or any constituent thereof may enter the environment to be emitted into the air, or discharged into any water including groundwaters, or any other management of hazardous wastes in which the handler voluntarily relinquishes control of the waste in a manner inconsistent with the requirements of this chapter and the regulations promulgated thereunder."

Section 2. Amend §6302, Chapter 63, Title 7, Delaware Code by striking subsection 6302(7) in its entirety and substituting in lieu thereof the following:

"(7) 'Hazardous wastes' means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating irreversible, illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed."

Approved July 18, 1989.

CHAPTER 141

FORMERLY

HOUSE BILL NO. 72
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 3 AND SENATE AMENDMENT NOS. 2, 4 AND 5

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

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

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

"(a) Every employer shall pay wages at the rate of not less than $3.35 per hour to every employee in any occupation, except as may be otherwise provided under this Chapter, until such time as the minimum wage is set by the United States government at an amount in excess of $3.35 per hour. Upon the establishment of a Federal minimum wage in excess of $3.35, the minimum wage in this State shall be equal in amount to the Federal minimum wage, except as may otherwise be provided under this Chapter."

Section 2. Amend §906 of Title 19, Delaware Code by adding to the end of said section, the following:

"Notwithstanding the foregoing, an employer may pay wages at a rate less than the minimum wage, but no less than $3.35 per hour, to employees aged 18 years or younger who have been employed by the employer for a period of 90 days or less."

Section 3. Amend §902(b), Chapter 9, Title 19, Delaware Code by striking the phrase "not to exceed 33 1/3%" and substituting in lieu thereof the following:

"equal to the tip credit percentage, as set by the federal government,".

Section 4. Amend §902(b), Chapter 9, Title 19, Delaware Code by adding at the end of said subsection the following:

"In no event shall the minimum rate, under this subsection, be less than $2.23 per hour."

Section 5. This Act shall take effect January 1, 1990.

Approved July 20, 1989.

CHAPTER 142

FORMERLY

HOUSE BILL NO. 197
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2, HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2 AND HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 39, TITLE 18, DELAWARE CODE RELATING TO CANCELLATION OF AUTOMOBILE INSURANCE POLICIES.

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

Section 1. Amend Chapter 39, Title 18, Delaware Code by adding a new Section 3915 thereto to read as follows:

"Section 3915. (a) No insurer shall honor a request for a cash refund on cancellation of a policy by the insured until such time as the insured has provided sufficient evidence to the insurer that one of the following has occurred:

(1) The insured has other insurance in effect which provides at least such minimum insurance coverage as is set forth in §3902 of this chapter.

(2) The insured vehicle is no longer owned by the insured.

(3) The vehicle is no longer operable or capable of being repaired so as to become operable.

(4) The insured becomes self-insured under the provisions of 21 Delaware Code §2904.

(b) The requirement of 'sufficient evidence' under subsection (a) hereof is satisfied by the insured providing the insurer with an affidavit certifying that any one of the conditions set forth in subsection (a) has occurred. The insurer shall notify any insured who requests a cash refund on cancellation of a policy of the requirements of this section, and shall provide an appropriate form of affidavit, approved by the Insurance Commissioner (who is expressly authorized to approve appropriate forms of such affidavit), for execution by the insured. Any form of affidavit presented to or executed by an insured under this section shall bear a notice to the effect that false statements therein are punishable pursuant to 11 Del. C. §1233."

Section 2. This Act shall take effect and apply to all new automobile casualty insurance contracts being issued or taking effect on or after January 1st of the calendar year immediately following its enactment into law. Renewal of an existing policy shall be considered issuance of a new policy for purposes of this Act.

Approved July 19, 1989.

CHAPTER 143

FORMERLY

HOUSE BILL NO. 285
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE VALIDITY AND CONFIDENTIALITY OF HEALTH DATA.

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

Section 1. Amend Part VIII, Title 16 of the Delaware Code by adding thereto a new chapter, designated as Chapter 20, which new Chapter shall read as follows:

"Chapter 20. UNIFORM HEALTH DATA ACT.

§2001. Purpose.

It is the purpose of this Chapter to establish a health information data base that will assist the health care system to advance the general well-being of the population by better directing and improving the availability of health care services.

It is the policy of this State to foster appropriate and efficient use of health care resources by requiring information necessary for evaluating utilization patterns and costs to the community and the State for health care services. This information (in the aggregate with respect to charges or diagnoses) shall be available to health care purchasers, health care insurers, health care providers, health care planners and the general public without compromise of patient confidentiality. Such information will improve decision-making with regards to access, identified needs, patterns of health care delivery, charges and use of health care services.

§2002. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meaning ascribed to them in this section, except where the context indicates a different meaning:

(1) 'Council' shall mean the Health Resources Management Council, a body established pursuant to Chapter 93 of this title.

(2) 'Delaware uniform claims and billing data set' shall mean that data approved for use by the State Uniform Billing Committee.

(3) 'Hospital' shall mean any non-federal facility licensed as such pursuant to Chapter 10 of this title.

(4) 'Individual' shall mean a singular human being.

(5) 'Nursing home' shall mean any non-federal facility licensed as such pursuant to Chapter 11 of this title and more particularly Sections 57 (Skilled Care) and 58 (Intermediate Care) of the State Board of Health Regulations.

(6) 'Person' shall mean an individual, 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.

(7) 'Raw data' shall mean any information collected pursuant to this Chapter which has not been approved for release by the Council.

(8) 'State agency' shall mean the Bureau of Health Planning and Resources Management within the Department of Health and Social Services. The Bureau of Health Planning and Resources Management shall serve as the designated Statistical Agency under Public Law 95-623 for data analysis and statistical research related to The National Center for Health Statistics activities and for the designation of Health Manpower Shortage Areas (HMSAs) and Medically Underserved Areas (MUAs) by the U.S.Department of Health and Social Services.

(9) 'Third-party payers' shall mean any person authorized to transact health insurance or to engage in the business of a health service corporation in this State.

§2003. Duties and authority of Health Resources Management Council.

(a) The Council shall compile, correlate, analyze and develop data which it collects pursuant to this Chapter. The Council shall prepare and distribute or make available reports to health care purchasers, health care insurers, health care providers and the general public. The data shall be collected in the most efficient and cost-effective manner. Data collected shall be limited to that contained in the Delaware Uniform Claims and Billing data set (UB-82 or successor form).

(b) Staff support for the Council in carrying out activities pursuant to this Chapter shall be provided by the State agency.

(c) The Council shall periodically compile and disseminate reports on the data collected such as, but not limited to: aggregate charge levels, age-specific utilization patterns, morbidity patterns, patient origin, and trends in health care charges. No data for specific hospitals or nursing homes shall be released by the Council without the written approval of the Association of Delaware Hospitals or the Delaware Health Care Facilities Association respectively. Prior to release or dissemination of any compilations, the Council shall provide a specified time period for hospitals and nursing homes to review the information they have submitted and to submit corrections. The Council shall incorporate any valid corrections prior to release. Hospitals and nursing homes shall have the right to provide independent data interpretation which shall be disseminated along with the report.

(d) The Council shall adopt such policies and procedures as necessary to carry out this Chapter.

(e) The Council shall establish a technical advisory committee, including individuals who are not Council members, to study issues such as the collection, compilation, dissemination and confidentiality of data and may establish other committees as deemed appropriate.

(f) The Council shall issue annual reports to the General Assembly outlining actions and accomplishments as well as recommendations for changes needed to further the purpose of this Chapter.

(g) The Council may study and issue reports on special medical needs, demographic characteristics, access to health care services and need for financing of health care services for the entire population or various population sub-groups.

(h) The Council may also study and issue reports on health status issues such as:

(1) the incidence of medical and surgical procedures;

(2) mortality rates for specified diagnoses and treatments;

(3) rates of infection for specified diagnoses and treatments;

(4) morbidity rates for specified diagnoses and treatments;

(5) readmission rates for specified diagnoses and treatments; and

(6) rate of incidence for selected diagnoses and procedures.

§2004. Reporting requirements.

(a) The Delaware Uniform Claims and Billing data set (UB-82 or successor form) shall be completed for all hospital inpatient discharges after June 30, 1991 and shall be submitted by all hospitals to the Council according to a schedule established pursuant to sub-section (d) of this section. All third-party payers shall be required to accept this Uniform Claims and Billing form. The Council shall recognize the capabilities of each hospital in specifying the medium or mediums to be used in submitting data (hard copy, data tape or other appropriate electronic media).

(b) The Delaware Uniform Claims and Billing data set (UB-82 or successor form) shall be completed for all nursing home inpatient discharges beginning not sooner than June 30, 1991 and shall be submitted by all nursing homes to the Council according to a schedule established pursuant to sub-section (d) of this section. All third-party payers shall be required to accept the Delaware Uniform Claims and Billing form. Prior to this time, nursing homes shall continue to submit data in a medium and format as agreed to by the Council and the Delaware Health Care Facilities Association.

(c) The development of any report that includes comparative data between specific hospitals or nursing homes shall contain modifiers as determined by the Council to be necessary to assure that such comparisons are reliable, valid and informative. The Council may request that providers submit the data needed to develop these modifiers. No data for specific hospitals or nursing homes with respect to charges or diagnoses shall be released by the Council without the written approval of the Association of Delaware Hospitals, Inc. or the Delaware Health Care Facilities Association respectively.

(d) The Council shall establish schedules for the timely submission of data and information collected pursuant to this section. The Council may grant waivers from such schedules for good cause shown.

§2005. Confidentiality and access to data.

(a) The collection, compilation, data analysis and dissemination of reports and studies shall be done in a manner that protects the privacy of any individual about whom information is given. The Council shall consider confidential any information that explicitly or implicitly identifies an individual. Raw data shall not be available for public inspection nor is it a public record within the meaning of the Delaware Freedom of Information Act.

(b) All compilations prepared and authorized by the Council for release and dissemination shall be public records and efforts will be made to assure their accessibility.

§2006. Sanctions.

(a) A hospital or nursing home which willfully violates this Chapter shall be reported to the State Board of Health which may take such action as deemed appropriate to enforce compliance. No action shall be taken by the Board without first providing an opportunity to the hospital or nursing home for a fair hearing.

(b) A hospital or nursing home which is aggrieved by any action taken by the State Board of Health pursuant to this section may, within 30 days of being notified of such action, appeal to the Superior Court.

§2007. Immunity.

No person shall be subject to, and 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.

Approved July 19, 1989.

CHAPTER 144

FORMERLY

HOUSE BILL NO. 340
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 24 AND 29 OF THE DELAWARE CODE RELATING TO EMPLOYEES, INVESTIGATIONS AND ADMINISTRATIVE PROCEDURES FOR REGULATORY BOARDS AND COMMISSIONS.

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

Section 1. Amend Paragraph (7), subsection (a), Section 1730, Chapter 17, Title 24, Delaware Code by deleting paragraph (7) in its entirety and by renumbering the remaining paragraphs 7 through 16.

Section 2. Amend Section 1905, Chapter 19, Title 24, Delaware Code by deleting the first sentence of the section.

Section 3. Amend Section 1906, Chapter 19, Title 24, Delaware Code by deleting subsections 14, 15, and 16 in their entirety and renumbering the remaining subsections 14 through 18.

Section 4. Amend Section 2904, Chapter 29, Title 24, Delaware Code by deleting the first sentence of the section.

Section 5. Amend Section 2905, Chapter 29, Title 24, Delaware Code by deleting subsections 8, 9, and 10 in their entirety.

Section 6. Amend Section 8810(a), Chapter 88, Title 29 of the Delaware Code by adding the word "exclusive" before the word "investigative" and striking the word "support" after the word "investigative".

Section 7. Further Amend Section 8810(a), Chapter 88, Title 29, of the Delaware Code by inserting between the word "agencies" and the colon (:) at the end of the second sentence thereof the following:

", with the exception that the Secretary of the Department of Administrative Services shall not be precluded from entering into a memorandum of understanding with the Secretary of the Department of Health and Social Services for the purpose of allowing employees of the Department of Health and Social Services to function as inspectors, investigators and administrative support for the Board of Pharmacy."

Section 8. Further amend Section 8810, Title 29 of the Delaware Code, by adding thereto a new subsection (i) to read as follows:

"(i) The following procedure for the investigation of complaints by the Division of Professional Regulation for boards, commissions and agencies regulated pursuant to this Chapter shall apply:

(1) A practitioner or member of the public desiring to file a complaint against a practitioner and/or licensee regulated by the Boards, Commissions and agencies covered under this Chapter shall file a written complaint with the Director of the Division of Professional Regulation who shall mail a certified copy, return-receipt requested of the complaint to the respective commission, board or agency which regulates the practitioner or licensee named in the complaint.

(2) The Division's staff shall within fifteen days of receipt of the complaint fill out a complaint card, assign a complaint number, and log the complaint in the Division's records. A record of each complaint shall be kept for a period of five years.

(3) The Division shall thereafter mail a copy of the complaint to the named practitioner or licensee. Said mailed copy of the complaint shall constitute notice of the pending complaint against the practitioner. The practitioner may respond in writing to the Division to the complaint's allegations within twenty days of the receipt of the complaint by the practitioner or licensee.

(4) The Division shall then assign a Division investigator to investigate the complaint. At the commission, board or agency's next regularly scheduled meeting it may assign a member to assist the Division with the investigation of the complaint in an advisory capacity with the technical aspects of the complaint.

Said investigator shall recuse himself or herself from the board, commission or agency's deliberations on the complaint at any hearing held regarding the complaint. The assisting board member shall not communicate any issue of law or fact regarding the investigation to any fellow board members. The Division's investigator shall direct the investigation of the complaint and shall be responsible for issuing a final written report at the conclusion of the investigation.

(5) The complainant shall also be notified in writing within thirty days of receipt of the complaint that the Division of Professional Regulation has received the complaint and it has been referred to be investigated by a Division investigator.

(6) Following the Investigator's written report, the Division may forward the complaint and report to the Attorney General's Office for a review by a Deputy Attorney General who, if warranted, may file a formal complaint against the practitioner and/or licensee. Otherwise, the initial written complaint shall be used in any future hearings in the proceedings.

(7) The Division Director or his designee is empowered to issue subpoenas for witnesses, documents, physical evidence or any other source of evidence needed during the investigation of a complaint filed under this Chapter.

(8) This Chapter does not preclude a commission, board, or agency under the jurisdiction of §8810 of this Chapter from, if its enabling legislation so provides, revoking or immediately suspending a practitioner's license if the Board finds the health, welfare and safety of the public is in immediate or imminent danger.

(9) If any section or subsection of this Chapter shall be declared invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of the Chapter which can be given effect without the invalid provision or, to this end, are severable from any invalid section.

(10) This Chapter shall supersede any provisions of any commission, board, or agency's procedures named in §8810 except the Board of Medical Practice of this Chapter for handling complaints against practitioners prior to the effective date of this Chapter.

(11) This Chapter shall be effective when signed by the Governor of the State of Delaware."

Section 9. Amend Section 10161, Chapter 101, Title 29, Delaware Code by adding new subsections, 35, 36, 37, 38, 39, 40, 41 and 42 to read as follows:

"(35) Board of Cosmetology;

(36) Commission on Adult Entertainment Establishments;

(37) Board of Physical Therapy;

(38) Real Estate Commission;

(39) Board of Funeral Services;

(40) Board of Examiners of Nursing Home Administrators;

(41) Delaware Gaming Control Board;

(42) Delaware Thoroughbred Racing Commission."

Approved July 20, 1989.

CHAPTER 145

FORMERLY

HOUSE BILL NO. 355
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 33, TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF VETERINARY MEDICINE.

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

Section 1. Amend Section 3309, Chapter 33, Title 24 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§3309. Reciprocity

(a) Upon payment of the appropriate fee and on submission of a written application on forms provided by the Board, the Board, subject to subsection (c), shall grant a license to each applicant who shall present proof of current licensure as in another state, the District of Columbia or territory of the United States which requires standards for licensure considered by the Board to be equivalent to the requirements for licensure of this chapter.

(b) In the event a veterinarian, who was previously licensed in Delaware and who has let his/her license lapse, is applying for licensure under this subsection, the Board shall grant a license to such applicant, subject to subsection (c) and continuing education requirements, upon payment of the appropriate fee and on submission of a written application on forms provided by the Board.

(c) Upon 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 the complaint has been resolved."

Section 2. Amend Section 3311 (b) by striking the first sentence of said Subsection and substituting in lieu thereof the following:

Each license shall be renewed biennially upon submission of a renewal application provided by the Board along with the evidence of continuing education courses as may be required by the rules and regulations set forth by the Board and payment of the renewal fee as determined by the Division of Professional Regulation."

Section 3. Amend Section 3311 (d) and (e) by striking said Subsections in their entirety and substituting in lieu thereof the following:

(d) Upon payment of the appropriate fee and on submission of a written application on forms provided by the Board, the Board shall issue a temporary license to a person who has applied for licensure under this chapter and who either is being considered for licensure under the reciprocity provision of this chapter, or, is eligible to take the examination provided for in this chapter. Such temporary license will be available to an applicant only with respect to his/her first application for licensure, and the applicant shall use the temporary license only while under the direct supervision of a licensed veterinarian. In all cases such temporary license shall expire automatically if the applicant fails the examination or fails to sit for the same at his/her earliest opportunity. In all cases where a temporary license is issued to an applicant for licensure by reciprocity, such temporary license shall expire automatically upon written notice to the applicant by the Board that it proposes to deny such application. Upon expiration, the temporary license shall be surrendered to the Board. A temporary license may be renewed once."

Section 4. Amend §3311, Chapter 33, Title 24 of the Delaware Code by striking line 20, page 2, and substituting in lieu thereof the following:

"license may be renewed once.

(e) The Board may issue, without examination, a temporary permit to practice veterinary medicine in this State, to any non-resident veterinarian validly licensed in another state, territory, district of the United States or foreign country if such veterinarian pays a fee equivalent to one-half the biennial fee for

license renewal paid by licensed Delaware veterinarians provided, however, that such temporary permit shall be issued for a period of not more than one year."

Approved July 20, 1989.

CHAPTER 146

FORMERLY

SENATE BILL NO. 274

AN ACT TO AMEND "AN ACT TO REINCORPORATE THE TOWN OF SMYRNA" CHAPTER 339, VOLUME 62, LAWS OF DELAWARE, RELATING TO FILLING VACANCIES ON THE TOWN COUNCIL AND AUTHORIZING THE IMPOSITION, BY ORDINANCE, OF A REAL ESTATE TRANSFER TAX UP TO ONE PERCENT (1%) OF THE VALUE OF THE PROPERTY TRANSFERRED.

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(f)(1) of Chapter 339, Volume 62, Laws of Delaware, as amended, by striking said subparagraph (1) in its entirety and substituting in lieu thereof a new subparagraph (1) to read as follows:

"(1) Filling Vacancies on Council

In case of a vacancy among the Council members, the remaining Council members and Mayor may elect another qualified person to fill that vacant seat until the next ensuing regular municipal election. At such election, the qualified voters of the Town shall elect a qualified candidate to fill the seat for the remainder of the original term."

Section 2. Amend Section 2(b) of Chapter 339, Volume 62, Laws of Delaware, as amended, by adding thereto a new paragraph (36) to read as follows:

"(36) The Town Council may, by ordinance, establish and collect a realty transfer tax not to exceed the rate of one percent (1%) of the value of the property conveyed in conformance with the definitions and exceptions governing the Delaware State Realty Transfer Tax as contained within Chapter 54, Title 30, Del. C. of 1974, and all amendments heretofore or hereafter adopted."

Approved July 19, 1989.

CHAPTER 147

FORMERLY

HOUSE BILL NO. 250
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 TO REQUIRE REDUCTIONS IN PREMIUM RATES FOR MOTORCYCLE OPERATORS COMPLETING AN ACCIDENT PREVENTION COURSE.

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

Section 1. Amend Title 18, §2503 of the Delaware Code by adding thereto a new subsection to be designated as (a)(7), to read as follows:

"(7) The Commissioner shall require a reduction in rates for a 3-year period for any person who voluntarily attends and successfully completes a motorcycle rider course which is approved by the Insurance Commissioner. The reduction shall be for any individually owned vehicle classified as a motorcycle and licensed for use on the streets and highways of this State. Voluntary attendance shall not include any attendance ordered as permitted by a Court or required by the Division of Motor Vehicles pursuant to any violations of Title 21."

Section 2. This Act shall become effective 1 year after it becomes law.

Approved July 19, 1989.

CHAPTER 148

FORMERLY

HOUSE BILL NO. 98
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41 OF TITLE 21 OF THE DELAWARE CODE RELATING TO REVOCATION OF LICENSE FOR CERTAIN DRUG OFFENSES.

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

Section 1. Amend Chapter 41 of Title 21 of the Delaware Code by adding thereto a new section to be designated §4177H to read as follows:

"4177H. Revocation of License for Persons Convicted of Certain Drug Offenses.

(a) Any person aged 19 years or younger who pleads guilty to or is convicted of possession of a controlled substance under §4753 or §4754 of Title 16 of this Code, or who is adjudicated a delinquent for any of such offenses, shall, in addition to any and all other penalties provided by law, have his driver's license and/or driving privileges revoked by the Secretary for a period of 1 year.

(b) Any person aged 19 years or younger who pleads guilty to or is convicted of a violation of §4751, 4752A, 4753A, 4755, 4756 or 4761 of Title 16 of this Code, or who is adjudicated a delinquent for any of such offenses, shall, in addition to any and all other penalties provided by law, have his driver's license and/or driving privileges revoked by the Secretary for a period of two years.

(c) For purposes of this Act the Secretary may authorize the judges of the various courts of the State to act as his agent for the purpose of revocation of licenses. In cases where this section is applied, the court shall immediately take possession of any driver's license issued by any state and forthwith forward it to the Secretary, together with notification that revocation pursuant to this section has been implemented."

Approved July 21, 1989.

CHAPTER 149

FORMERLY

HOUSE BILL NO. 236

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO APPEAL BONDS FROM FAMILY COURT.

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 subsection (d) in its entirety.

Section 2. Amend §961, Chapter 9, Title 10 of the Delaware Code as follows:

(a) By striking subsection (c) in its entirety, and redesignating existing subsections (d) and (e) as subsections (c) and (d) respectively.

Approved July 21, 1989.

CHAPTER 150

FORMERLY

HOUSE BILL NO. 237

AN ACT TO AMEND CHAPTER 6, TITLE 13 OF THE DELAWARE CODE RELATING TO CHILD SUPPORT.

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

Section 1. Amend Chapter 6, Title 13 of the Delaware Code by adding thereto a new §640 to read as follows:

"§640. Additional Powers of the Court.

Whenever the Court of this State acts as the responding state, it shall have and may exercise in connection with any proceeding under this Chapter all powers conferred upon it with respect to any original order or modification of an order of this Court in a proceeding originally brought in this State under Chapter 5 of this Title with respect to the enforcement or modification of an order of another State."

Section 2. 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 21, 1989.

CHAPTER 151

FORMERLY

HOUSE BILL NO. 238

AN ACT TO AMEND CHAPTER 15, TITLE 13 OF THE DELAWARE CODE RELATING TO CERTAIN PROCEDURAL RIGHTS.

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

Section 1. Amend §1522(a)(1), Chapter 15, Title 13 of the Delaware Code by striking the word "return" and substituting in lieu thereof the word "retain".

Approved July 21, 1989.

CHAPTER 152

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

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

AN ACT TO AMEND TITLE 16 AND TITLE 29 OF THE DELAWARE CODE RELATING TO EMERGENCY MEDICAL SERVICES; AND PROVIDING FOR A DELAWARE PARAMEDIC SERVICES ACT.

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

Section 1. Amend subsection (c), §7917, Chapter 79, Title 29 of the Delaware Code by striking and replacing the existing paragraph (7) of said subsection and also adding a new paragraph, which new paragraph shall be designated as (18), as follows:

"(7) the Paramedic Administrator of the Division of Public Health.

(18) the Paramedic Medical Director of the Division of Public Health."

Section 2. Amend Chapter 79, Part VIII, Title 29 of the Delaware Code by striking present §7952 of said Chapter; and by re-designating present §7917 of Title 29 as new §7952.

Section 3. Amend Part X, Title 16 of the Delaware Code by re-designating present Chapter 97 as new Chapter 92, Part VIII of said Title 16; and by re-designating each section therein accordingly.

Section 4. Amend Part X, Title 16 of the Delaware Code by striking the title of said Part X, and substituting in lieu thereof the following:

"PART X. PARAMEDIC AND OTHER EMERGENCY MEDICAL SERVICE SYSTEMS"

Section 5. Amend Subchapter IV, Chapter 79, Title 29 of the Delaware Code by re-designating said Subchapter IV as new Chapter 97, Part X, Title 16 of the Delaware Code; and by re-designating each section therein accordingly.

Section 6. Amend Part X, Title 16 of the Delaware Code by adding thereto a new Chapter, designated as Chapter 98, which new Chapter shall read as follows:

"CHAPTER 98. PARAMEDIC SERVICES

§9801. Purpose

(1) It is the purpose of this Act to establish a statewide paramedic program under the direction of the Office of Paramedic Administration, Division of Public Health, Department of Health and Social Services.

(2) The Paramedic Program includes a coordinated Advanced Life Support System, under qualified medical supervision, which has the responsibility for providing a rapid response capability in the delivery of Emergency Medical Services to individuals who become unexpectedly ill or incapacitated or who are otherwise placed in a position where highly skilled medical assistance must be rendered to sustain or maintain such individual prior to institutional health care.

(3) The Paramedic Services Program shall be utilized for medical emergencies, either at the scene or while the patient is in transit to a health facility.

(4) It is the further purpose of this Act to provide a program which shall have a direct impact on the morbidity and mortality rates of this State and which, over a period of time will also reduce health care costs to each emergency patient.

(5) It is the further purpose of this Act to establish a framework for the creation of an effective and efficient means for the provision of advanced life support services to the citizens of the State of Delaware regardless of their economic status, who require such services without prior inquiry as to the patient's ability to pay.

(6) This Act is intended to promote the public health, safety and welfare of the citizens of this State by providing for the creation of a statewide advanced life support services system, in conjunction with the efforts of all providers of emergency medical services in this State, with uniform standards for all such providers of advanced life support services.

(7) It is the further purpose of this Act to insure that emergency patients requiring advanced life support services are transported from the scene of a medical emergency to the nearest emergency medical institution or the institution of their choice, within reason, that possesses the equipment and staff resources to immediately attend to the particular needs of the patient. This statement is tempered by the understanding that, in certain circumstances, it may be necessary to bypass the closest medical facility if specialized medical care is required. It shall also be understood that the use of paramedics to assist in the transfer of patients to facilities and programs which offer such follow-up care and rehabilitation as is necessary to effect the maximum recovery of the patient, shall be permitted when deemed medically necessary.

§9802. 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) "Administrator" shall mean the program chief of the paramedic services responsible for advanced life support and the administration of the Delaware Paramedic Services Act;

(b) "Advanced Life Support" (ALS) shall have the same definition as is set forth in Chapter 97 of this Title;

(c) "Basic Life Support" (BLS) shall have the same definition as is set forth in Chapter 97 of this Title;

(d) "Board" shall mean the Board of Medical Practice;

(e) "County" or "Counties" shall refer singularly or collectively to New Castle, Kent and Sussex Counties of the State of Delaware.

(f) "County paramedic service" shall mean the paramedic service operated pursuant to this Act by a county with its own employees or under contract with another governmental entity.

(g) "Department" shall mean the Delaware Department of Health and Social Services.

(h) "Emergency medical unit" shall mean an ambulance, rescue vehicle or any other specialized vehicle staffed by paramedics and other certified or licensed medical care providers, and utilized solely for providing mobile pre-hospital care and other emergency medical treatment;

(i) "Medical command facility" shall mean the distinct unit within a hospital which meets the operational, staffing and equipment requirements established by the Board of Health for providing medical control to the providers of advanced life support services. Any hospital that operates an emergency medical facility and desires to be designated as a medical command facility shall maintain and staff such facility on its premises and at its own expense with the exception of base station communication devices which shall be an authorized shared expense pursuant to the provisions of this chapter.

(j) "Medical control" shall mean an order or directive given to a paramedic by an authorized medical control physician. These orders or directives shall normally be provided from a specifically authorized and designated medical command facility with such medical supervision supplying professional support to the paramedic through radio or telephonic communication for on-scene and in-transit advanced life support services.

(k) "Medical control physician" shall mean any physician board-certified or board-prepared in emergency medicine, or a physician-certified in Advanced Trauma Life Support (ATLS) and Advanced Cardiac Life Support (ACLS) who is credentialed by the hospital within which a medical command facility is located, and who is authorized by the medical command facility to give medical control commands via radio or other telecommunication devices to a paramedic. When a medical control physician establishes contact with a paramedic and provides medical control instructions that exceed or otherwise modify the standing orders of the statewide standard treatment protocol, the

paramedic shall, solely for the purpose of compliance with the Medical Practices Act, be considered to be operating under the license of said medical control physician.

(l) "Office" shall mean the Office of Paramedic Administration, an agency within the Division of Public Health, Department of Health and Social Services;

(m) "Paramedic" shall be synonymous with "emergency medical technician - paramedic (EMT-P)," as the same is defined in Chapter 97 of this Title;

(n) "Pre-hospital care" shall mean any emergency medical service, including advanced life support, rendered by an emergency medical unit before and during transportation to a hospital or other facility, and upon arrival at the facility until such care is assumed by the facility's staff;

(o) "Service and/or training reciprocity agreements" shall mean written agreements negotiated between two counties or between a county and an adjoining state or a governmental entity of an adjoining state and approved pursuant to the provisions of this chapter which provide for the scheduled delivery of paramedic services by paramedics to citizens of this state or a neighboring state by personnel certified to render such services by this state or a neighboring state, or such similar agreements as are required by and between the counties of this state, in order to effectively and efficiently deliver paramedic services. Such agreements may also include provisions that provide for the temporary rotation of paramedics and/or equipment between the counties of this state in order to provide such personnel with proper experience and training opportunities, address seasonal demands, or adequately respond to a disaster or severe emergency incident. All such agreements shall include any financial terms, or other considerations included as part of the agreement.

(p) "State Paramedic Medical Director" shall mean a physician who is board-prepared or board-certified by the American Board of Emergency Medicine and who shall be the chief physician for the statewide paramedic system and under whose license all paramedics shall operate for the purpose of delivering the standing orders of the statewide standard treatment protocol.

(q) "Statewide standard treatment protocol" shall mean written and uniform treatment and care plans for emergency and critical patients statewide that constitute the standing orders of paramedics. The treatment protocol for advanced life support must be approved and signed by the State Paramedic Medical Director and the Director of Public Health, Department of Health and Social Services. The treatment protocol shall be prepared by the Board of Medical Practice. In preparing and, from time to time, amending the Statewide standard treatment protocol, the Board shall consult with the State Paramedic Medical Director and the Emergency Medical Services Committee of the Delaware Chapter of the American College of Emergency Physicians or its successor organization.

§9803. Statewide paramedic system

(a) Except for those activities and responsibilities for basic life support and other emergency services which are under the jurisdiction of State Fire Prevention Commission, the Office of Paramedic Administration shall have jurisdiction over the development, implementation and maintenance of a Statewide paramedic system. As part of its responsibilities, the Office shall:

(1) hire an administrator and staff to carry out the intent of this legislation, which shall include identifying the minimum number of paramedics that are required to be hired by a county and assisting as requested in the recruitment of such persons and their referral and admission to approved training programs, so as to achieve advanced life support coverage throughout the State;

(2) assure reasonable conditions and qualifications for certification of any person serving as a paramedic that meets or exceeds the advance life support standard of the United States Department of Transportation;

(3) assure that county boundaries do not become barriers to the effective and efficient deployment of paramedic units by coordinating the development of and approving service and/or training reciprocity agreements between counties;

(4) approve or deny the request of a hospital to become designated as a medical command facility. Such approval, denial or subsequent revocation or limitation of such designation shall be based on the ability of the

hospital to comply with the operational and staffing requirements prescribed for medical command facilities by the Board of Health. In making decisions pursuant to this paragraph, the Office shall seek the advice of the Board of Medical Practice;

(5) assure that training and continuing education opportunities required for paramedic certification are reasonably accessible from a geographic standpoint.

(b) A "Memorandum of Agreement" shall be established between the Office, Division of Public Health, Delaware State Police, State Fire Prevention Commission, Board of Medical Practice and any other agency serving as a component to the emergency medical services system in compliance with their respective agency's statutory provisions. To foster continuity and program coordination, the Office shall enforce each such Memorandum of Agreement.

§9804. Paramedic Advisory Council

The Paramedic Advisory Council shall advise the administrator in matters relating to the paramedic program. The Advisory Council may also advise the Office, the Delaware Emergency Medical Services Advisory Council (DEMSAC), the Division of Public Health, or any other agency which has authority or duties relating to emergency medical services. The Council shall have no authority over such agencies. As part of its responsibilities, the Advisory Council shall:

(1) monitor, review and evaluate on an on-going basis the operations, administration, and efficiency of the statewide Paramedic System, or any component thereof;

(2) prepare and submit such assessments, reports and other documents, including minority reports, relating to the paramedic system or to any matters relating to paramedics within the emergency medical services system; and

(3) provide a constant dialog with component groups and the public in matters relating to paramedics, and to paramedic services within the emergency medical services system.

(b) The Paramedic Advisory Council shall consist of twenty (20) members who shall be appointed by the Governor to serve terms of three years. The members shall represent the following interest:

(1) One representative from the Delaware State Police Trooper Medic Program.

(2) Three representatives from the Delaware Volunteer Firemen's Association, one from each county.

(3) One representative from each county government.

(4) One representative from the Medical Society of Delaware.

(5) One practicing paramedic from each county.

(6) Three representatives from the Association of Delaware Hospitals, Inc., one from a hospital in each county.

(7) Three representatives from the Delaware Chapter of the American College of Emergency Physicians, one member from each county.

(8) Three public members, one from each county, who are not otherwise involved in medicine or in the emegency medical, fire, or amublance services.

(c) Each member of the Advisory Council shall serve without compensation; but shall be reimbursed for necessary expenses incurred in the performance of his duties, including travel expenses. The Chairman of the Council shall be designated by the Governor and shall serve during the pleasure of the Governor. A majority of the members of the Council shall constitute a quorum for the conduct of business. The Council may create special committees or task forces within or outside its membership; and may appoint persons who are not members of the Council to serve as advisors or consultants to any committee created by the Council.

§9805. Paramedic Administrator

The Paramedic Administrator shall be employed within the Division of Public Health responsible directly to the Director of the Division of Public Health. The Paramedic Administrator shall be a state employee within the Merit System and shall be responsible for the following:

(a) shall hire sufficient personnel to provide staff and clerical support for the office;

(b) verify certification from the Board for each paramedic employed by a county or its subcontractor;

(c) he shall be required to administer and coordinate all activities of the program including periodic inspections;

(d) he shall be required to develop appropriate uniforms as required;

(e) he shall be required to develop and negotiate contracts with county paramedic services;

(f) he shall be required to develop annual budgets;

(g) he shall procure the necessary equipment to carry out the requirements of this legislation and follow the current state bidding and procurement policies for equipment; i.e. vehicles, communication equipment, medical equipment and uniforms as required;

(h) certify the curriculum of each university, college or other facility which provides paramedical instruction in accordance with the ALS standards of the Board of Medical Practices; and

(i) he shall provide reports of activities as required by the Director of the Division of Public Health.

(j) shall, with the approval of the Secretary of the Department of Health and Social Services, determine the number and approximate locations of paramedic units required to efficiently and effectively operate the statewide paramedic services program, and the number of paramedics needed to staff each unit. In order to effectively plan the implementation of the statewide paramedic services program, it shall be understood that seven (7) units are initially authorized for New Castle County, that three (3) units are initially authorized for Kent County, and that five (5) units are initially authorized for Sussex County. It shall also be understood that each operating paramedic unit should be continuously staffed by two (2) paramedics.

§9806. Paramedic Medical Directors

There shall be four part-time Paramedic Medical Directors: one State Paramedic Medical Director and three County Paramedic Medical Directors. Each County Medical Director shall reside in the county in which he serves as Director. The State Paramedic Medical Director shall supervise the three county directors and shall serve as an advisor for BLS training to the State Fire Prevention Commission. Each County Medical Director shall be available at all times to advise supervising physicians and paramedics; and shall review all reports made out by those paramedics which are employed in the county in which he is a Director.

As part of their responsibilities, the Paramedic Medical Directors shall:

(1) establish and ensure compliance with standing orders and treatment protocols;

(2) review and evaluate the medical interventions of the paramedics;

(3) co-ordinate and advise the administrator of any deficiencies within the system with suggested remedies;

(4) monitor the paramedics for skill degradation and recommend appropriate remedies to the administrator; and

(5) offer technical assistance to both advanced life support and basic life support personnel within the county they serve as medical director.

(6) have authority to suspend paramedics immediately from patient treatment for a period not to exceed thirty (30) days, if they determine that it is necessary in order to prevent a clear and immediate danger to the public health.

Each Paramedic Medical Director shall be employed by the State, by contract or otherwise, and shall be a board certified or qualified emergency physician actually involved in the practice of emergency medicine.

The Paramedic Medical Directors shall be appointed by the Director of Public Health who shall consult with the Board of Medical Practice as part of the selection process.

§9807. Paramedics

(a) A paramedic may provide such paramedic services as are set forth in his certificate if such services are provided under the supervision of a physician, or in any context where voice contact by radio or telephone is monitored by a physician; and such paramedic may provide advanced life support where authorized to do so by a physician.

(b) If direct voice communication between a physician and a paramedic fails or is technically impossible, the paramedic may perform any emergency medical service for which the paramedic is certified, in compliance with treatment protocols, set forth by the Board when the life of the patient is in immediate danger and requires such care for its preservation.

§9808. Role of County Governments

(a) Each county shall participate in the operation and funding of the statewide paramedic services program, and shall provide the Office of Paramedic Administration with all necessary information requested by the Secretary of the Department of Health and Social Services in the timeframes and in the format prescribed.

(b) Any paramedic employed by a county or its subcontractor must be certified by the Administrator and the State Paramedic Medical Director in accordance with the standards of the Board. Direct initial training, testing and re-certification costs shall be paid at state expense. The salary of paramedics while undergoing training shall be a shared cost pursuant to the provisions of this chapter.

(c) The counties shall be bound by the rules, regulations, requirements and procedures established pursuant to this Act.

(d) The authority to select, discipline and terminate a paramedic or any administrative staff authorized as a shared expense shall reside with the county or its subcontractor, except that suspension or revocation of an EMT-P certification for reasons covered by § 9811 of this chapter shall be conducted in accordance with this Act.

(e) A county may choose to operate its own paramedic service using regular county employees entirely, or it may contract portions of its service to other governmental entities.

(f) If a county elects in the design of its paramedic service to exceed the training standards, minimum unit deployment, or otherwise exceed the requirements established in accordance with this Act, the county shall be 100% liable for any additional cost. At a minimum, a county shall deploy the number of paramedics and paramedic units determined to be necessary to meet the operational requirements of this Act. As it regards the initial deployment of the units authorized by subsection (j) of § 9805 of the this Act, each county shall deploy the requisite number of units by not later than June 30, 1992.

§9809. Certification

(a) No individual shall represent himself or herself, as a paramedic certified by this State unless the persons so represented is in fact certified by the Board.

(b) No person nor governmental agency shall represent itself as a paramedic service, emergency medical service, or similar type of service certified by this State unless such person or governmental agency is in fact certified by the Department.

(c) No person shall provide, offer, nor advertise to provide advanced life support services outside a hospital, unless so authorized by law.

(d) Notwithstanding any other provision of this Chapter, any paramedic who has been certified by the Board of Medical Practice prior to the effective date of this Chapter shall automatically be certified under this Chapter, and shall be deemed to have complied with all the requirements of this Chapter.

§9810. Reciprocity

Where a person applies for a certification as a paramedic and has already been licensed or certified as such in another State, the Administrator shall accept a true copy of such license or certificate, or evidence of any examination scores issued by a testing service or professional paramedic association, which shows that the applicant has met requirements in the previous state which are equal to those required in this State; such applicant shall be required to meet such written and practical examinations as determined by the medical directors; and the Board shall certify such person to be a paramedic in the State.

§9811. Violations; disciplinary procedure; non-disciplinary hearings

(a) The Administrator may at any time upon his own motion; and shall, upon verified written complaint of any person, cause an investigation to be conducted to determine whether or not there are grounds to recommend suspension, revocation, or any other penalty upon a person certified under the provisions of this Chapter. The Administrator shall recommend to the Board to suspend or revoke any certificate if after a hearing it is found that the holder thereof has:

(1) obtained such certificate by means of fraud or deceit;

(2) demonstrated gross negligence, or has shown himself otherwise to be grossly incompetent; or

(3) violated or aided or abetted in the violation of any provision of this Chapter.

(b) If a paramedic's physical or mental capacity to safely perform his duties and responsibilities is at issue in a non-disciplinary hearing, the County may order such paramedic to submit to a reasonable physical or mental examination. Failure to comply with this order shall render such paramedic liable to suspension or revocation of his certificate.

§9812. Suspension, revocation and other penalties

(a) For purpose of the public health, safety and welfare; and notwithstanding any other statute or provision of law the Administrator may recommend to a county or the Board that any of the following penalties, singly or in combination, be imposed:

(1) that a letter of reprimand be issued;

(2) that a paramedic be placed on probationary status with limited responsibilities and be required to;

(i) regularly report to the county upon the matters which are the basis of the probation;

(ii) limit all paramedical activities to those areas specifically recommended by the Administrator; and/or

(iii) take either remedial or continuing education until the required degree of skill has been attained in those areas which are the basis of the probation.

(3) that a paramedic's certification be suspended; or

(4) that a paramedic's certification be revoked.

(b) No penalties shall be imposed by a county without a hearing. Each county shall establish and promulgate its own administrative procedures relevant to disciplinary matters which shall include provisions for a public hearing unless the paramedic requests that the hearing not be public, and which shall provide for a copy of all charges, together with a notice of the time and place fixed for the hearing, to be personally delivered or served

upon the person charged at least twenty days prior to the date of the hearing. Copies of all charges and notices shall also be provided to the State Medical Director.

(c) All hearings shall be informal, and without the use of the rules of evidence. Upon conclusion of a hearing, the county shall take such action as is permitted by law, and shall make and enter an order stating its decision, which order shall specify the reasons for such decision. The county shall cause a copy of such order to be served in person or by certified mail, return receipt requested, on the person charged.

(d) Any person against whom a county or the Board has taken any disciplinary action may appeal such action to the Superior Court within 30 days of the date that a copy of the order rendered by the county or the Board is personally served upon or mailed to the person charged. The appeal shall be on the record without a trial de novo.

§9813. Liability; limitations

(a) Physician instructions.

No emergency physician or designee of such physician who in good faith gives instructions to a paramedic shall be liable for any civil damages which may occur as the result of issuing such instructions; unless the conduct of the physician or the designee of such physician in issuing such instructions rises to the level of willful and wanton, reckless or grossly negligent conduct.

(b) Paramedics.

No paramedic who in good faith attempts to render or facilitate emergency medical care authorized by this Chapter shall be liable for any civil damages which occur as a result of any act or omission of the paramedic in the rendering of such care; unless such paramedic is guilty of willful and wanton, reckless or grossly negligent conduct.

(c) Educational programs.

No university, college, medical facility or other entity participating as part of an educational program; nor any faculty member of any such entity; nor any student of such entity who is enrolled in a course of instruction approved by the Administrator, shall be liable for any civil damages as the result of any primary or continuing educational practice conducted under proper supervision, unless such university, college or other entity or faculty member or student is guilty of willful and wanton, reckless or grossly negligent conduct.

(d) Health facilities.

No health facility which assists a physician in giving instructions to a paramedic in accordance with this Chapter shall be liable for any civil damages as the result of such instructions, unless such health facility is guilty of willful and wanton, reckless or grossly negligent conduct."

Section 7. Section 6 of this Act shall become effective upon the specific appropriation of funds for such purposes.

Section 8. This Act shall be known, and may be cited, as the Delaware Paramedic Services Act.

Section 9. 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 which can be given effect without the invalid provision or application, and to that end the provisions of this Act are hereby declared severable.

Approved January 23, 1990.

CHAPTER 153

FORMERLY

HOUSE BILL NO. 485

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE TO ESTABLISH THE STATEWIDE PARAMEDIC FUNDING PROGRAM, TO MAKE A SUPPLEMENTAL APPROPRIATION, AND AUTHORIZE POSITIONS TO BEGIN IMPLEMENTING THE DELAWARE PARAMEDIC SERVICES ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (THREE-FOURTHS OF ALL THE MEMBERS ELECTED TO EACH HOUSE THEREOF CONCURRING THEREIN):

Section 1. Amend Chapter 98, Part X, Title 16 of the Delaware Code by adding thereto a new section, designated as § 9814, which new section shall read as follows:

"§ 9814. Statewide Paramedic Funding Program

(a) The statewide paramedic funding program is hereby established for the purpose of participating with the counties in the financing of the statewide paramedic program.

(b) The operational costs of each county's component of the statewide paramedic service shall be shared by the state and county with the state providing sixty percent (60%) of the cost and the county providing forty percent (40%).

(c) A county will not be eligible for its sixty percent state share until such time as the rules, regulations, procedures, protocols and approvals required by this Act have been completed or July 1, 1990, whichever is later. The date of approval by the Department of a county program shall be the starting date in terms of eligibility for State share funding. No county programs will be funded retroactively and the Department shall not unreasonably withhold or delay any approval. The Secretary shall not encumber any of the State funds applied for by a county until such county has appropriated its proportional share of funding.

(d) Since the init'al organizational and hiring responsibilities that are to be undertaken by the State will require a period of six to nine months to complete, no appropriation for State share operating costs is required for the fiscal year ending June 30, 1990. Commencing with the fiscal year ending June 30, 1991, the General Assembly shall appropriate annually an amount sufficient to reimburse sixty percent of approved costs. This appropriation shall be made in
the annual Grants-In-Aid Act and shall be appropriated to the Office of Paramedic Administration, Division of Public Health, Department of Health and Social Services, which shall serve as the State's fiscal agent for distributing the funds in accordance with this Act to counties that operate approved programs. The appropriation in the Grants-In-Aid Act of the state share of the paramedic funding program shall not be subject to the limitation in subsection (f) of § 6533, Chapter 65, Title 29 of the Delaware Code.

(e) Funds distributed to a county for the purpose of supporting a county component of the statewide paramedic system may be used for general operating costs or as debt service and financing for bond issuance for that purpose.

(f) The Office shall promulgate regulations for the distribution of the funds appropriated pursuant to this Act to the counties that provide for reimbursement on a quarterly basis.

(g) Funds appropriated pursuant to this section may not be used to fund basic life support services. To the extent that a county or its subcontractor operates integrated advanced and basic life support services, the Office shall devise a methodology to separate costs and shall provide reimbursement accordingly.

(h) The Office shall report on the applications, expenditures, and uses of the statewide paramedic funding program annually as part of the budgetary process of the Department."

Section 2. Additional sums are hereby appropriated to the Office of the Budget (10-02-00), Office of Information Systems Telecommunications Management (10-02-12) and the Department of Health and Social Services (35-00-00), Division of Public Health (35-05-00), Office of Paramedic Administration (35-05-03) as follows:

Accounting Code	Organization/Description	Amount

10-02-02	Office of the Budget	
	Office of Information Systems	
10-02-12	Telecommunications Management	
	8LS radios module upgrades	$217,000
	Switching panels for 911 Centers	30,000
	Subtotal Telecommunications Management	$247,000
35-00-00	Department of Health and Social Services	
35-05-00	Division of Public Health	
35-05-03	Office of Paramedic Administration	
	Personnel Costs	$168,500
	Travel	2,500
	Contractual Services	326,000
	Supplies/Materials	15,000
	Capital/Equipment	62,800
	Subtotal Office of Paramedic Administration	$574,800
	Total Section 2.	$821,800

Section 3. A total of five (5.0) full time equivalent positions are authorized to the Department of Health and Social Services (35-00-00), Division of Public Health (35-05-00), Office of Paramedic Administration (35-05-03).

Section 4. The sums appropriated in Section 2 of this Act to the Office of the Budget (10-02-00), Office of Information Systems Telecommunications Management (10-02-12) shall be used for the one-time purchase and installation of module upgrades for emergency radios and necessary switching panels for the emergency 911 centers. The radio upgrades shall be made available exclusively to volunteer-operated basic life support ambulances. The module upgrades are necessary to give such radios the capacity to transmit electrocardiogram strips and other vital sign information that cannot be effectively transmitted to a hospital by means of regular voice contact. The switching panels are to be installed in county 911 emergency centers. This appropriation is not intended to be used to provide for the replacement of existing equipment that is in working order.

Section 5. The sums appropriated in Section 2 of this Act to the Department of Health and Social Services (35-00-00), Division of Public Health (35-05-00) shall be used to establish the Office of Paramedic Administration (35-05-03) pursuant to the provisions of the Delaware Paramedic Services Act ("The Act"), Title 16, Del. C., Chapter 98. The Office shall be headed by an Administrator selected by the Director of Public Health who shall be especially trained and qualified in the field of emergency medical services. In addition, the Office shall employ one part-time Statewide Medical Director and three part-time County Medical Directors, who shall be appointed in accordance with the Act. The Office may also employ up to two additional staff persons.

Section 6. Notwithstanding Section 3 of this Act, the amount appropriated to the Department of Health and Social Services (35-00-00), Division of Public Health (35-05-00), Office of Paramedic Administration (35-05-03) in Section 2 of this Act for contractual services shall be used to provide for the cost of training emergency medical technician-paramedics and other costs associated with developing the statewide paramedic system.

Section 7. This Act shall be considered a supplementary appropriation for the fiscal year ending June 30, 1990, and the monies appropriated shall be paid from the General Fund of the State Treasury from monies not otherwise appropriated. Any funds remaining unexpended and unencumbered on June 30, 1990 shall revert to the General Fund.

Approved January 23, 1990.

CHAPTER 154

FORMERLY

HOUSE BILL NO. 123

AN ACT TO AMEND SECTION 703, ARTICLE VII, OF THE CHARTER OF THE CITY OF NEWARK, DELAWARE, BY ALLOWING THE CITY MANAGER TO ADOPT PERSONNEL RULES NOT INCONSISTENT WITH THE CITY CODE.

WHEREAS, Section 703 of the Charter of the City of Newark provides that the Personnel Rules must be passed by ordinance; and

WHEREAS, this provision severely limits the ability of the City Manager to effectively fulfill his role as the chief administrative officer of the City under the Council-Manager form of government and does not allow necessary flexibility in adopting and modifying personnel rules; and

WHEREAS, it is necessary to keep personnel rules up to date and consistent with ever changing Federal and State laws and regulations; and

WHEREAS, it was not the legislative intent, when the Charter was adopted, to limit the City Manager needed flexibility in adopting and updating personnel rules.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY of the State of Delaware (two-thirds of the Members elected to each House thereof concurring therein):

Section 1. Amend Section 703, Article VII, of the Charter of the City of Newark, Delaware, by deleting therefrom the second paragraph in its entirety and substituting therefor a new paragraph to read as follows:

"The City Manager shall prepare personnel rules which may be adopted by the Council by ordinance or may be promulgated by the City Manager in writing so long as the City Manager's rules are not inconsistent with any city ordinance. The personnel rules will provide for the following:"

Section 2. This amendment to the Charter shall be filed with the Secretary of State and with the Director of the Legislative Council (formerly Legislative Reference Bureau) pursuant to the provisions of Section 836, Title 22, Delaware Code.

Approved January 25, 1990.

CHAPTER 155

FORMERLY

HOUSE BILL NO. 352

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE IN ORDER TO CHANGE THE PREMIUM TAX RATE STRUCTURE FOR CAPTIVE INSURANCE COMPANIES AND TO PROVIDE FOR CONSOLIDATED REPORTING FOR TWO OR MORE CAPTIVE INSURANCE COMPANIES UNDER COMMON OWNERSHIP AND CONTROL.

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

Section 1. Amend Section 6914 of Title 18, Delaware Code, by redesignating Subsection (b) as Subsection (c) and by striking Subsection (a) in its entirety and substituting in lieu thereof new Subsections (a) and (b) as follows:

(a) Each captive insurance company shall pay to the Commissioner no later than March 1 of each year, a tax at the rate of:

seven-tenths of one percent on the first twenty million dollars,

five-tenths of one percent on the next twenty million dollars,

three-tenths of one percent of the next twenty million dollars,

and one-tenth of one percent on each dollar thereafter,

on the gross amount of all premiums collected or contracted for on policies or contracts of insurance covering property and risks in this State and on property and risks situated elsewhere upon which no premium tax is otherwise paid with respect to the year ending December 31 next preceding, after deducting from the gross amount of premiums subject to the tax the amount received as reinsurance premiums and the amount of dividends, return premiums and similar returns to policyholders, whether paid in cash, credited or applied in reduction of premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) Two or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurance company. For the purposes of this subsection common ownership and control shall mean

(1) in the case of stock corporations, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(2) in the case of mutual corporations, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

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 become effective for tax years commencing on or after January 1, 1989.

Approved January 25, 1990.

CHAPTER 156

FORMERLY

HOUSE BILL NO. 361

AN ACT TO AMEND CHAPTER 17, TITLE 24, DELAWARE CODE, RELATING TO THE PRONOUNCEMENT OF DEATH FACILITATED BY EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC (EMT-P).

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

Section 1. Amend §1760, Subchapter VI, Chapter 17, Title 24, Delaware Code, by redesignating subparagraphs (b) and (c) to read (c) and (d) and substituting a new subparagraph (b) to read as follows:

"(b) the determination of death pursuant to the provisions herein may be made, by a physician admitted to practice under this Chapter, by either (1) personal examination, or (2) by the use of information provided by an EMT-P (paramedic) using telemetric or transtelephonic means in accordance with protocols approved by the Board of Medical Practice, following recommendations of its Advanced Life Support Committee."

Approved January 25, 1990.

CHAPTER 157

FORMERLY

HOUSE BILL NO. 372
AS AMENDED BY HOUSE AMENDMENT NOS. 2 AND 3 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21, DELAWARE CODE, RELATING TO COMMERCIAL MOTOR VEHICLE OPERATORS, LICENSES, EMPLOYERS, FEES, 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 Title 21, Delaware Code, by adding a new Chapter to read as follows:

"CHAPTER 26. UNIFORM COMMERCIAL DRIVER LICENSE ACT

§2601. Short Title. This Act may be cited as the Uniform Commercial Driver License Act.

§2602. Statement of Intent and Purpose. The purpose of this Act is to implement the federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (TITLE XII of Pub. Law 99-570) and reduce or prevent commercial motor vehicle accidents, fatalities and injuries by:

(a) Permitting commercial drivers to hold only one license;

(b) Disqualifying commercial drivers who have committed certain serious traffic violations, or other specified offenses;

(c) Strengthening commercial driver licensing and testing standards.

This Act is a remedial law and shall be liberally construed to promote the public health, safety and welfare. To the extent that this Act conflicts with general driver licensing provisions, this Act prevails. Where this Act is silent, the general driver licensing provisions apply.

§2603. Definitions. Notwithstanding any other provision of this Title, the following definitions apply to this Act:

(a) 'Alcohol' means:

Any substance containing any form of alcohol, including but not limited to, ethanol, methanol, propanol and isopropanol.

(b) 'Alcohol concentration' means:

(1) the number of grams of alcohol per 100 milliliters of blood; or

(2) the number of grams of alcohol per 210 liters of breath.

(c) 'Commercial Driver License'.

(CDL) means a license issued in accordance with the requirements of this Act to an individual which authorizes the individual to drive a certain class of commercial motor vehicle.

(d) 'Commercial Driver License Information System'.

(CDLIS means the information system established pursuant to the CMVSA to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(e) 'Commercial Driver Instruction Permit' means a permit issued pursuant to Section 2608(d) of this Act.

(f) 'Commercial Motor Vehicle' means a motor vehicle designed or used to transport passengers or property:

(1) if the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating as determined by federal regulation; or

(2) if the vehicle is designed to transport 16 or more passengers, including the driver; or

(3) if the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. part 172, sub-part F.

(g) 'Controlled Substance' means any substance so classified under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6), and includes all substances listed on Schedules I through V, of 21 CFR Part 1308, as they may be revised from time to time.

(h) 'Conviction' means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.

(i) 'Disqualification' means a withdrawal of the privilege to drive a commercial motor vehicle.

(j) 'Drive' means to drive, operate or be in physical control of a motor vehicle.

(k) 'Driver' means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver license.

(l) 'Driver License' means a license issued by a State to an individual which authorizes the individual to drive a motor vehicle.

(m) 'Employer' means any person, including the United States, a State, or a political subdivision of a State, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(n) 'Felony' means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(o) 'Foreign jurisdiction' means any jurisdiction other than a state of the United States.

(p) 'Gross Vehicle Weight Rating' (GVWR) means the value specified by the manufacturer(s) as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, or the gross vehicle weight, or the gross combination weight, whichever is greater. The GVWR of a combination (articulated) vehicle (commonly referred to as the "Gross Combination Weight Rating" or GCWR) is the GVWR of the power unit plus the GVWR of the towed unit or units.

(q) 'Hazardous materials' has the meaning as that found in Section 103 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.).

(r) 'Measurable amount of alcohol' means the alcohol concentration of the person's blood or breath is equal to or greater than 0.02 but less than 0.04.

(s) 'Motor vehicle' means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolly wires but not operated upon rails, except vehicles moved solely by human power, motorized wheel chairs, farm implements of husbandry, mopeds, tripeds and OHV's.

(t) 'Non-Resident CDL' means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

(u) 'Out of service order' means a temporary prohibition against driving a commercial motor vehicle.

(v) 'Serious Traffic Violation' means a conviction when operating a commercial motor vehicle of:

(1) excessive speeding, as defined by the United States Secretary of Transportation by regulation;

(2) reckless driving, as defined under State or local law, and including other charges, as defined by the United States Secretary of Transportation by regulation;

(3) a violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;

(4) any other violation of a State or local law which the United States Secretary of Transportation determines by regulation to be serious.

(w) 'State' means a state of the United States and the District of Columbia.

(x) 'United States' means the fifty states and the District of Columbia.

§2604. Limitation on Number of Driver Licenses. No person who drives a commercial motor vehicle may have more than one driver license.

§2605. Notification Required by Driver.

(a) Notification of Convictions.

(1) To State. Any driver holding a commercial driver license issued by this State, who is convicted of violating any State law or local ordinance relating to motor vehicle traffic control, in this or any other State, other than parking violations, shall notify the Division of Motor Vehicles in the manner specified by the Division of Motor Vehicles within thirty days of the date of conviction.

(2) To Employers. Any driver holding a commercial driver license issued by this State, who is convicted of violating any State law or local ordinance relating to motor vehicle traffic control in this or any other State, other than parking violations, must notify his or her employer in writing of the conviction within thirty days of the date of conviction.

(b) Notification of Suspensions, Revocations and Cancellations. Each driver whose driver license is suspended, revoked, or cancelled by any State, or who loses the privilege to drive a commercial motor vehicle in any State, for any period, including being disqualified from driving a commercial motor vehicle, or who has been issued an out of service order, must notify his or her employer of that fact before the end of the business day following the day the driver received notice of that fact.

(c) Notification of Previous Employment. Each person who applies to be a commercial motor vehicle driver must provide the employer, at the time of the application, with the following information for the ten years preceding the date of application.

(1) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

(2) The dates between which the applicant drove for each employer; and

(3) The reason for leaving that employer.

(4) The applicant must certify that all information furnished is true and complete.

(5) An employer may require an applicant to provide additional information to substantiate the statements made in conjunction with this section.

(6) Before an application is submitted, the employer should inform the applicant that the information he/she provides in accordance with this section may be used, and the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.

§2606. Employer Responsibilities.

(a) Each employer must require the applicant to provide the information specified in Section 2605(c).

(b) No employer may knowingly allow, permit, or authorize a driver to drive a commercial motor vehicle during any period:

(1) in which the driver has had his or her commercial driver license suspended, revoked, or cancelled by any State, is currently disqualified from driving a commercial vehicle, or has been issued an out of service order in any State, or;

(2) in which the driver has more than one driver license.

§2607. Commercial Driver License Required.

(a) Except when driving under a commercial driver instruction permit and accompanied by the holder of a commercial driver license valid for the vehicle being driven or while being tested by the Department for a commercial driver's license, no person may drive a commercial motor vehicle unless the person holds a commercial driver license and applicable endorsements valid for the vehicle he/she is driving and is in possession of such license.

(b) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, denied, cancelled, while disqualified, or in violation of an out of service order.

§2608. Commercial Driver License Qualification Standards.

(a) Testing.

(1) General - No person may be issued a commercial driver license unless that person is a resident of this State and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H, and has satisfied all other requirements of the CMVSA in addition to other requirements imposed by State law or federal regulation. The tests must be prescribed and conducted by the Division of Motor Vehicles.

(2) Third Party Testing - The Division of Motor Vehicles may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this Section, provided:

(i) the test is the same which would otherwise be administered by the State; and

(ii) the third party has entered into an agreement with the State which complies with requirements of 49 C.F.R. part 383.75.

(3) After June 30, 1992, only an agency of the State, as approved by the Division of Motor Vehicles, shall be permitted to administer the skills test specified by this Chapter.

(b) Waiver of Skills Test - The Division of Motor Vehicles may waive the skills test specified in this section for a commercial driver license applicant who meets the requirements of 49 C.F.R. part 383.77.

(c) Limitations on Issuance of License.

A commercial driver license, or commercial driver instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver license is suspended, revoked, denied or cancelled in any State; nor may a commercial driver license be issued to a person who has a commercial driver license issued by any other State unless the person first surrenders all such licenses, which must be returned to the issuing state(s) for cancellation.

(d) Commercial Driver Instruction Permit.

(1) A commercial driver instruction permit may be issued to an individual who holds a valid driver license who has passed the vision and written tests required for a commercial motor vehicle driver license.

(2) The commercial driver instruction permit may not be issued for a period to exceed six months. Only one renewal or re-issuance may be granted within a two-year period. The two-year period shall begin with the issuance date of the original permit. The holder of a commercial driver instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle only when accompanied by the holder of a commercial driver license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

§2609. Non-Resident CDL. The Division of Motor Vehicles may issue a Non-Resident CDL to a resident of a foreign jurisdiction if the United States Secretary of Transportation

has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established in 49 C.F.R. part 383. The word "Non-Resident" must appear on the face of the Non-Resident CDL. An applicant must surrender any Non-Resident CDL issued by another State. Prior to issuing a Non-Resident CDL, the Division of Motor Vehicles must establish the practical capability of revoking, suspending, or cancelling the Non-Resident CDL and disqualifying that person with the same conditions applicable to the commercial driver license issued to a resident of this State.

§2610. Application for Commercial Driver License.

(a) The application for a commercial driver license or commercial driver instruction permit must include the following:

(1) the full name and current residential and mailing address of the person;

(2) a physical description of the person including sex, height, weight and eye color;

(3) date of birth;

(4) the applicant's Social Security Number;

(5) the person's signature;

(6) certifications including those required by 49 C.F.R. part 383.71 (a).

(7) any other information required by the Division of Motor Vehicles.

(8) a consent to release driving record information.

(b) When the holder of a commercial driver license changes his or her name, residential address (mailing address), an application for a corrected license must be made as provided in this Title.

(c) No person who has been a resident of this State for 30 days may drive a commercial motor vehicle under the authority of a commercial driver license issued by another jurisdiction.

(d) Any person who knowingly falsifies information or certifications required under Subsection (a) of this section is subject to suspension, revocation, or cancellation of his or her commercial driver license for a period of at least 60 consecutive days and is guilty of perjury and shall be fined or imprisoned.

§2611. Commercial Driver License.

(a) Content of License.

The Commercial driver license must be marked "Commercial Driver License" or "CDL" and must be, the maximum extent practicable, tamper proof. It must include, but not be limited to, the following information:

(1) the name and residential address of the person;

(2) the person's color photograph;

(3) a physical description of the person including sex, height, weight, and eye color;

(4) date of birth;

(5) the person's Social Security Number and any number or identifier deemed appropriate by the Division of Motor Vehicles.

(6) the person's signature;

(7) the class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;

(8) the name of this State;

(9) the issue date of the current license; and

(10) the expiration date of the current license.

(b) Classifications, Endorsements and Restrictions.

Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions; the holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued, and all lesser classes of vehicles except motorcycles and taxicabs which require special endorsements, unless the proper endorsement appears on the license;

(1) Classifications.

CDL Class A - Any combination of vehicles with a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more, provided the GVWR of the vehicle(s) being towed is in excess of 10,000 pounds.

CDL Class B - Any single vehicle with a GVWR of 26001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

CDL Class C - Any single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds comprising:

(i) Vehicles designed to transport 16 or more passengers, including the driver; and

(ii) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 C.F.R. part 172, subpart F.

(2) Endorsements and Restrictions.

"H" - Authorizes the driver to drive a vehicle transporting hazardous materials.

"L" - Restricts the driver to vehicles not equipped with airbrakes.

"T" - Authorizes driving double and triple trailers.

"P" - Authorizes driving vehicles carrying passengers.

"N" - Authorizes driving tank vehicles.

"X" - Represents a combination of hazardous materials and tank vehicle endorsements.

(c) Applicant Record Check.

Before issuing a commercial driver license, the Division of Motor Vehicles must obtain driver status information through the Commercial Driver License Information System, the National Driver Register, and from each State in which the person has been licensed.

(d) Notification of License Issuance.

Within ten days after issuing a commercial driver license, the Division of Motor Vehicles must notify the Commercial Driver License Information System of that fact, providing all information required to ensure identification of the person.

(e) Expiration of License.

Upon receipt of the application and fee and after such examination as provided in this Chapter, the Division shall issue, if the applicant has complied with the provisions of this Title, a commercial motor vehicle driver's license which shall expire and be renewable on the fifth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the license shall expire and be renewable on February 28 every fifth year.

(f) License Renewal Procedures.

Every person applying for renewal of a commercial driver license, must complete the application form required by section 2610(a), providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed. At the time of application for renewal, the applicant shall appear and be photographed.

(g) Fees.

(1) The fee for a commercial motor vehicle driver license shall be $30.00.

(2) The fee for a renewal of a commercial motor vehicle driver license shall be $30.00. A late fee of $1.00 shall be assessed in addition to the renewal fee for every person whose commercial motor vehicle driver license has expired.

(3) The fee for changing from one class to another class shall be $10.00, if the change requires a written examination or skills test. There shall be no fee assessed if the driver wishes to change to a class of a lower weight vehicle and such change is made at time of renewal of license.

(4) If the applicant wishes to add an endorsement after a commercial driver license has been issued, the fee for adding such endorsement shall be $5.00.

(5) Of each of the initial fee and the renewal fee for a commercial motor vehicle driver license collected pursuant to this section the sum of $17.50 is appropriated to the Department of Public Safety and shall be placed in a special account to be used only for expenses incurred by the Commercial Driver License Program.

§2612. Disqualification and Cancellation.

(a) Disqualification Offenses.

A person shall be disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) Driving, operating or having in physical control a commercial motor vehicle under the influence of alcohol or a controlled substance, or any drug which impairs driving ability.

(2) Driving, operating or having in physical control a commercial motor vehicle while the alcohol concentration of the person's blood or breath is 0.04 or more.

(3) Knowingly and willfully leaving the scene of an accident involving a commercial motor vehicle driven by the person.

(4) Using a commercial motor vehicle in the commission of any felony as defined in this Act.

(5) Refusal to submit to a breath or blood test to determine the driver's alcohol concentration while driving, operating or having in physical control a commercial motor vehicle.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person shall be disqualified for a period of three years.

(b) A person is disqualified for life if convicted of two or more violations of any of the offenses specified in paragraph (a), or any combination of those offenses, arising from two or more separate incidents.

(c) The Division of Motor Vehicles may issue regulations establishing guidelines, including conditions, under which a disqualification for life under paragraph (b) may be reduced to a period of not less than ten years.

(d) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(e) A person is disqualified from driving a commercial motor vehicle for a period of sixty days if convicted of two serious traffic violations, or 120 days if convicted

of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three year period. Serious traffic violations, for purposes of this Section shall be those violations as defined by the United States Secretary of Transportation by regulation.

(f) After suspending, revoking, or cancelling a commercial driver license or permit, the Division of Motor Vehicles must update its records to reflect that action within ten days. After suspending, revoking or cancelling a nonresident commercial driver's privileges, the Division of Motor Vehicles must notify the licensing authority of the State which issued the commercial driver license or commercial driver instruction permit within ten days.

(g) A person who has been disqualified from operating a commercial motor vehicle pursuant to this chapter may be issued a license to operate a non-commercial motor vehicle during such disqualification period provided such person is not otherwise suspended, revoked or cancelled pursuant to this Title.

§2613. Prohibited Alcohol Offenses For Commercial Motor Vehicle Drivers.

(a) Notwithstanding any other provision of this Title, a person may not drive, operate, or be in physical control of a commercial motor vehicle within this State while having any measurable amount of alcohol in his or her system.

(b) A person who drives, operates, or is in physical control of a commercial motor vehicle within this State while having any measurable amount of alcohol in his or her system or who refuses to submit to an alcohol test as provided by Section 2614 of this Chapter, must be placed out-of-service for 24 hours.

(c) Any person who drives, operates or is in physical control of a commercial motor vehicle within this State with an alcohol concentration of 0.04 or more must, in addition to any other sanctions which may be imposed under this Title, be disqualified from driving a commercial motor vehicle under Section 2612 of this Chapter.

§2614. Implied Consent Requirements For Commercial Motor Vehicle Drivers.

(a) A person who drives a commercial motor vehicle within this State is deemed to have given consent, subject to provisions of this Title to take a test or tests of that person's blood or breath for the purpose of determining that person's alcohol concentration, or the presence of other drugs.

(b) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in his or her system.

(c) A person requested to submit to a test as provided in subsection (a) above must be warned by the law enforcement officer requesting the test, that a refusal to submit to the test will result in that person being immediately placed out of service for a period of 24 hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year under Section 2612 of this Chapter.

(d) If the person refuses testing, or submits to a test which discloses an alcohol concentration of 0.04 or more, the law enforcement officer must submit a sworn report to the Division of Motor Vehicles certifying that the test was requested pursuant to subsection (a) and that the person refused to submit to testing, or submitted to a test which disclosed an alcohol concentration of 0.04 or more.

(e) Upon receipt of the sworn report of a law enforcement officer submitted under subsection (d), the Division of Motor Vehicles must disqualify the driver from driving a commercial motor vehicle under Section 2612 of this Chapter.

§2615. Notification of Traffic Convictions.

Within ten days after receiving a report of the conviction of any nonresident holder of a commercial driver license for any violation of State law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the Division of Motor Vehicles must notify the driver licensing authority in the licensing State of the convicted driver.

§2616. Driving Record Information To Be Furnished.

Notwithstanding any other provision of law to the contrary, the Division of Motor Vehicles must furnish full information regarding the driving record of any person:

(a) to the driver license administrator of any other State, or Province or Territory of Canada, requesting that information;

(b) to any employer or prospective employer upon request and payment of a fee of $4;

(c) To other persons, pursuant to Section 305 of this Title.

§2617. Rulemaking Authority. The Department may adopt any rules and regulations necessary to carry out the provisions of this Chapter.

§2618. Authority To Enter Agreements. The Department may enter into or make agreements, arrangements, or declarations to carry out the provisions of this Chapter.

§2619. Reciprocity.

(a) Notwithstanding any law to the contrary, a resident of another State or province or territory of Canada may drive a commercial motor vehicle in this State if the person has a valid commercial motor vehicle driver license or valid commercial motor vehicle driver license instruction permit issued by that jurisdiction in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, if the person is not suspended, revoked, or cancelled; and if the person is not disqualified from driving a commercial motor vehicle, or subject to an "Out-of-Service" order.

(b) The Division of Motor Vehicles must give all out-of-state convictions full faith and credit and treat them for sanctioning purposes under this Chapter as if they occurred in this State.

§2620. False Statements; Incorrect Or Incomplete Information.

(a) Whoever makes any false affidavit or knowingly swears or affirms falsely to any matter or thing required by the terms of this chapter to be sworn to or affirmed is guilty of perjury and shall be fined or imprisoned as are other persons committing perjury.

(b) Whoever provides information that is incorrect or incomplete when applying for a Commercial Driver's License is guilty of perjury and shall be fined or imprisoned as are other persons committing perjury.

(c) Any driver's license or driving privileges for a person guilty of this Section shall be forthwith suspended or cancelled.

§2621. Waivers For Commercial Driver License Provisions.

The provisions of this Chapter are waived for the following specific groups:

(a) Farm vehicles which are:

(1) Controlled and operated by a farmer;

(2) Used to transport either agricultural products, farm machinery, farm supplies or both to or from a farm;

(3) Not used in the operations of a common or contract motor carrier;

(4) Used within 150 miles of the person's farm; and

(5) Not used for hire.

(b) Firefighting equipment which is:

(1) Used by any fire company in this State for the preservation of life or property or the execution of emergency governmental functions.

(2) Being operated under the authorization of a fire company for parades, special events, repair, service, delivery or other such authorized movements.

(c) Military equipment owned by the Department of Defense, including the National Guard, when operated by persons on active military duty or members of the reserves and National Guard on active full-time or part-time duty.

(d) Recreational vehicles or trailers as defined in Chapter 1 of this Title, which provide temporary living quarters and are used solely for recreational purposes.

§2622. Penalties.

Whoever violates Sections 2604, 2605(b & c), 2606, 2607, 2612 and 2613 of this Chapter shall for the first offense be fined not less than $200 nor more than $2,500. For subsequent offense the person shall be fined not less than $500 nor more than $5,000 or imprisoned for a term not to exceed 90 days, or both.

§2623. Other Penalties.

(a) Whoever violates this chapter shall for the first offense be fined not less than $50 nor more than $100. For each subsequent like offense, the person shall be fined not less than $100 nor more than $200 or imprisoned not less than 10 days nor more than 30 days or both.

(b) This section shall not apply to violations for which a specific penalty is set forth elsewhere in this Chapter.

§2624. Severability and Savings Clause.

(a) The provisions of This Act are severable, and, if any phase, clause, sentence, or provision of this Act, or the application of such phrase, clause, sentence, or provision shall be held invalid, the remainder of this Act and the application of such provision or provisions to persons of circumstances other than those to which it was held invalid or inconsistent shall not be affected thereby.

(b) Should any provisions of this Chapter conflict with other statutes, the provisions or requirements of this Chapter shall apply.

§2625. Jurisdiction.

Justices of the Peace shall have jurisdiction over violations of this Chapter."

Section 2. Amend Section 2702, Chapter 27, Title 21 of the Delaware Code, by striking subsection (c) in its entirety and inserting the following new subsection (c) to read as follows:

"(c) 1. When the licensee desires to change the type or class of license which he/she has been issued and such change requires another examination to be administered, a fee of $10 shall be assessed for such change.

2. When the licensee desires to add an endorsement or endorsements to his/her license, and the endorsement requires additional testing, a fee of $5 shall be assessed.

3. These fees shall not be imposed on motorcycle applicants for whom fees are required under Section 2703 of this Title."

Section 3. Amend Section 2707, Chapter 27, Title 21 of the Delaware Code, by striking subsection (a) in its entirety and inserting a new subsection (a) to read as follows:

"(a) 1. No operator's license shall be issued to any person under the age of 16 years. A Class A. CDL Class A, Class B, or CDL Class B license shall not be issued to any person under 18 years of age nor to any person 18 years of age or older who has not had at least one year's experience as an operator of a motor vehicle.

2. No endorsement for "L", "T", "P", or "N" shall be issued to any person under 18 years of age or to any person 18 years of age or older who has not had at least one year's experience as an operator of a motor vehicle. No endorsement of "h" or "X" shall be issued to any person under 21 years of age or to any person 21 years of age or older who has not had at least one year's experience as an operator of a motor vehicle."

Section 4. Amend Section 2708, Chapter 27, Title 21 of the Delaware Code, by striking the words "under this section" as they appear in the first sentence of subsection (a) and insert in lieu thereof the words "under Chapters 26 and 27 of this Title".

Further amend Section 2708(a)(2) by striking the words "and not over 70 years of age".

Section 5. Amend Section 2709, Chapter 27, Title 21 of the Delaware Code, by striking the words "to be licensed as a school bus driver" as they appear in subsection (b) and insert in lieu thereof the words "to operate a school bus".

Section 6. Amend Section 2715, Chapter 27, Title 21 of the Delaware Code, by adding a new subsection (e) to read as follows:

"(e) Notwithstanding the fees as stated in this Section, the fees for commercial motor vehicle driver licenses as required in Chapter 26 of this Title, shall be those fees required in Section 2611(g)."

Section 7. Amend Section 2716, Chapter 27, Title 21 of the Delaware Code, by adding the following subsection (e) to read as follows:

"(e) Effective immediately with the effective date of this law, no more permanent licenses as permitted under this Section, shall be issued to applicants applying for commercial motor vehicle driver licenses pursuant to Chapter 26 of this Title.

Section 8. Amend Section 2718, Chapter 27, Title 21 of the Delaware Code, by inserting the words "social security number," between the words "age," and "residence".

Further amend Section 2718 by adding a new subsection (d) to read as follows:

"(d) The requirement for display of the social security number on each driver license shall take place at the time of renewal of such license,or at the time a new license is issued to the applicant for any reason."

Section 9. Amend Section 2720, Chapter 27, Title 21 of the Delaware Code, by striking the figures "$5" as they appear in subsection (c) and insert the figures "$10".

Section 10. Amend Section 2737, Chapter 27, Title 21 of the Delaware Code, by adding the words "or disqualified" after the words "been suspended".

Further amend Section 2737 by adding the words "or disqualification" after the words "each suspension".

Section 11. Effective Date.

This Act shall become effective April 1, 1990.

Approved January 31, 1990.

CHAPTER 158

FORMERLY

SENATE BILL NO. 225

AN ACT TO AMEND CHAPTER 9, TITLE 10 AND CHAPTER 5, TITLE 13, DELAWARE CODE RELATING TO FAMILY COURT PROCEEDINGS.

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

Section 1. Amend §913, Chapter 9, Title 10, Delaware Code, by striking the existing §913 in its entirety and in lieu thereof substituting a new §913 to read as follows:

"§913. Masters; Appointment; Duties; Review.

(a) The Chief Judge, after consultation with other Judges on the Court, may appoint, commission, set salaries for and discharge Masters in the Court. A Master, at the time of appointment and thereafter, shall be a suitable person who has been a resident of the State for at least 5 years immediately preceding the appointment. The salaries so set shall be a part of the annual budget of the Court and shall reflect the experience and time commitment of the person appointed to such office.

(b) The Court as to all cases in a class or type of proceeding designated in the Court Rules, or the Chief Judge as to any individual case or proceeding, may direct that a hearing be held in the first instance by a Judge or Master; except, however, a Master shall not conduct adult bail and juvenile detention hearings, nor any hearings involving charges against juveniles which are classified as felonies when committed by an adult. The Department of Justice with respect to all other delinquency and adult misdemeanor charges, shall have the discretion, unless it has entered an appearance, whether to participate in delinquency and adult misdemeanor proceedings assigned by the Court to a Master, or, within a reasonable time, to transfer any delinquency or adult misdemeanor matter for consideration by a Judge.

(c) Masters shall regulate all of the proceedings in every hearing before them. All proceedings before Masters shall be recorded. Masters shall have full authority to order the issuance of legal process to compel the attendance of necessary parties and witnesses; to administer oaths in the discharge of their official duties; to examine the parties and witnesses; to pass upon all questions of competency of witnesses and admissibility of evidence; to require the production of all books, papers, writings, vouchers and other documents applicable thereto; to grant adjournments and extensions of time; and generally to do all other acts, and direct all other inquiries and proceedings in the matters before them, which they may deem necessary and proper, including appropriate sanctions except incarceration, subject at all times to the revision and control of the Court.

(d) At the end of any hearing or within a reasonable time thereafter, a Master shall enter the order in writing which shall announce the result and provide an explanation therefor. Every written order by a Master shall inform all parties that, as provided in this section, there is an absolute right to a review de novo by a Judge and that in the absence of a request within 10 days for de novo review, the written order of a Master shall become enforceable by any legal means. Any party may obtain a review de novo of any Master's written order by a Judge by filing with the Court a written request therefor within 10 days from the date of a Master's written order; except, however, there shall be no review by a Judge in contravention of any state or federal constitutional prohibition against double jeopardy.

(e) Upon request for review de novo, the case shall be placed upon the calendar of the Court and treated for all purposes as if it had not been referred to a Master. Upon review de novo, unless otherwise stipulated by the parties the Court shall not admit evidence that there has been a proceeding before a Master, the nature of the Master's written order, nor any other matter concerning the conduct or outcome of the Master's proceeding; except, however, recorded sworn testimony and other evidence admitted at a Master's hearing may be used as the basis for an interim order of the Court, and generally in the same manner as sworn testimony given at a deposition in the case.

(f) A request for a review de novo shall be the sole remedy of any party with respect to a Master's written order, except for posthearing motions before the Master. A Master's written order shall become an enforceable judgment of the Court only after the time for requesting a review de novo has expired without any such request. A judgment derived from a Master's written order shall have the same force and effect as any other judgment of the Court, except that it shall not be subject to appeal.

(g) The Court may adopt appropriate and specific rules to effectuate the intent and purpose of these statutory provisions relating to Masters."

Section 2. Amend §934(b)(3), Title 10, Delaware Code, by striking the existing §934(b)(3) in its entirety and in lieu thereof substituting a new §934(b)(3) to read as follows:

"(3) May order the child detained in a facility designated by the Department of Services for Children, Youth and Their Families provided that the child, after having been given ample opportunity, shall fail to furnish the required bail; and provided that detention appears necessary for the child's or the public's protection."

Section 3. Amend §940, Chapter 9, Title 10, Delaware Code, by striking the existing §940 in its entirety and in lieu thereof substituting a new §940 to read as follows:

"§940. Prosecution of Adults; Process; Bail.

(a) Prosecution of a person subject to the jurisdiction of the Court who has reached his 18th 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 is required to appear to prosecute any such criminal case before a Master.

(b) A summons or other process may be employed to command the appearance of such person before the Court.

(c) Notwithstanding any other provision in this Chapter, such person may be released on his own recognizance; or under such bail as a 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 Services to Children, Youth, and Their Families or to the Department of Correction, pending disposition of the case.

(d) In connection with either a secured release or an unsecured release, a 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 presentence officer, probation officer or pretrial services officer;

(4) Place restrictions on the travel, associations, activities, consumption of alconolic 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 agency 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 office 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, a 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 a Judge modifies any bail amount, such 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, a 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 4. Amend §512, Chapter 5, Title 13, Delaware Code, by striking the existing §512 in its entirety and in lieu thereof substituting a new §512 to read as follows:

"§512. Interim Order.

At any time before trial upon a petition and upon notice to the respondent, the Court shall conduct a hearing and thereafter may enter such interim order, pending final judgment, as seems just, for the support of any dependent for whom support is sought."

Approved January 31, 1990.

CHAPTER 159

FORMERLY

HOUSE BILL NO. 252
AS AMENDED BY HOUSE AMENDMENT NO. 1

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

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

Section 1. Amend Chapter 17, Title 24, Delaware Code by adding a new section to read as follows:

"1731A. Duty to Report.

(a) Any person should be permitted to report to the Board in writing any information he or she has reason to believe indicates a medical licensee is or may be medically incompetent, guilty of unprofessional conduct, or mentally or physically unable to engage safely in the practice of medicine. The following shall report such information to the Board in writing within thirty days of becoming aware of such information:

1. all physicians licensed under the act;

2. all licensed health care providers;

3. the state medical association and its components;

4. all health care institutions in the state;

5. all state agencies;

6. all law enforcement agencies in the state.

(b) A medical licensee's voluntary resignation from the staff of a health care institution or voluntary limitation of his or her staff privileges or failure to reapply for hospital privileges at such an institution should be promptly reported to the Board by the institution and the licensee if that action occurs while the licensee is under formal or informal investigation by the institution or a committee thereof for any reason related to possible medical incompetence, unprofessional conduct, or mental or physical impairment.

(c) Malpractice insurance carriers and affected licensees shall file with the Board a report of each final judgment, settlement, or award against insured licensees. Licensees not covered by malpractice insurance carriers shall file the same information with the Board regarding themselves. All such reports shall be made to the Board within thirty days.

(d) Upon receiving reports concerning a licensee, or on its own motion, the Board shall investigate any evidence that appears to show a licensee is or may be medically incompetent, guilty of unprofessional conduct, or mentally or physically unable to engage safely in the practice of medicine.

(e) Any person, institution, agency, or organization required to report under this provision of the medical practice act who does so in good faith shall not be subject to civil damages or criminal prosecution for so reporting.

(f) The Board should promptly acknowledge all reports received under this section. Persons or entities reporting under this section shall be promptly informed of the Board's final disposition of the matters reported.

(g) Whoever violates this section shall be fined not less than $50 nor more than $250."

Approved February 2, 1990.

CHAPTER 160

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 32

AN ACT ENTITLED "THE TRAVELINK TRAFFIC MITIGATION ACT" AMENDING CHAPTER 25 OF TITLE 18, CHAPTER 23 OF TITLE 19, AND CHAPTERS 11AND 20 OF TITLE 30 OF THE DELAWARE CODE RELATING TO TAX CREDITS FOR MITIGATION OF COMMUTER TRAFFIC.

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

Section 1. Amend Chapter 20, Title 30 of the Delaware Code by creating a new Subchapter IV., to read as follows:

"Subchapter IV. Tax Credit and License Fee Reduction for Mitigation of Commuter Traffic During Peak Travel Periods.

§2030. Short Title.

This subchapter shall be know and may be cited as "The Travelink Traffic Mitigation Act."

§2031. Declaration of Purpose.

The purpose of this Act shall be to mitigate traffic congestion associated with commuting to and from the work place during peak travel periods and to accomplish traffic mitigation through the provision of a tax incentive to employers.

§2032. Definitions.

(1) 'The Department' shall mean the Department of Transportation and its several divisions, agencies, authorities, and administrations as appropriate.

(2) 'Department-Certified Travelink Program' shall mean an employer's program, approved by the Department, to reduce traffic congestion during peak travel periods through consolidation of employee commuting from their homes or within the proximity of their homes to their places of employment.

(3) 'Direct Costs' shall mean those unreimbursed costs incurred by employers associated with a Department-Certified Travelink Program, limited to the following:

(a) any employer-provided vehicle, acquired or leased, and used as part of a Travelink Program;

(b) maintenance of an employer-provided vehicle used in the Program;

(c) subsidization of employee commuting costs in the form of direct payments to third party providers of transportation, including public transit; and

(d) payments to third parties, excluding the Department, for general administration of the Travelink Program.

(4) 'Employee' shall mean an individual employed by an employer, and also shall mean an individual participating in programs relating to the Job Training Partnership Act, Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended.

(5) 'Employer-provided vehicles' shall mean any automobile, van, or bus, either owned or subsidized by an employer, used in a ride-sharing arrangement during peak travel periods, provided, however, that a minimum of three employees must commute in the vehicle during said periods so as to make such vehicles eligible for the benefits provided in this Act.

(6) 'Employer' shall mean any person, partnership, association, bank, trust company, national bank, corporation, company, mutual company, joint-stock company, society, trust, trust company, unincorporated organization, trustee, trustee in bankruptcy, receiver, or other natural or artificial legal entity authorized to do business in this

State, or any group, cooperative or association thereof, employing a minimum of one hundred fifty full-time employees or their equivalent.

(7) 'Peak travel periods' shall mean between the hours of 6:30 a.m. and 9:30 a.m. and between the hours of 3:30 p.m. and 6:30 p.m.

(8) 'Ride-Sharing Arrangement' shall mean any voluntary association of employees who, with the assistance, contribution, or promotion of their employers, participate in a Department-Certified Travelink Program.

(9) 'The Secretary' shall mean the Secretary of the Department of Transportation or his delegate.

§2033. Reduction in business taxes and/or license fees for mitigation of commuter traffic.

(a) Employers who participate in a Department-Certified Travelink Program shall be eligible for a credit against the taxes and/or fees imposed by the following statutory provisions and such credit shall be taken annually at the conclusion of the tax year, subject to such return requirements as may be imposed by the State Bank Commissioner, Insurance Commissioner, Secretary of Labor or Secretary of Finance·

(1) Chapter 11 of Title 5;

(2) §§702 and 703 of Title 18;

(3) Chapter 19 of this Title;

(4) §2702(b) of this Title;

(5) Chapter 33 of this Title;

(6) §2301(d) of this Title;

(7) §2902(c) of this Title;

(8) §2903(c) of this Title;

(9) §2904(c) of this Title;

(10) §2905(b)(1) of this Title;

(11) §2906(c) of this Title; or

(12) §2907(c) of this Title.

The amount of the credit shall be determined under subsection (b) of this Section. Credits under this Section shall be taken by the employer against taxes in the order specified in this Subsection.

(b) Subject to the limitations contained in subsections (c) and (d) of this section, the credit granted under subsection (a) of this section shall be the product of either equation described herein, whichever is less:

(1) TC = (CRT/CTG) x DC; or

(2) TC = CTR x $250.

As used in this subsection, TC is the amount of the tax credit; CTG is the number of commuter trips generated, defined herein as the annualized number of employees reporting and departing from the place of employment during the peak travel periods; CTR is the number of commuter trip reductions, defined herein as the number of employees participating in a Department-certified Travelink Program for at least 130 days of the applicable taxable year; and DC is the employer's allowable direct costs.

(c) The amount of the credit allowable under this section for any taxable year shall not exceed 100 percent of the amount of taxes and/or fees imposed upon the employer by the statutes referred to in subsection (a) of this section, for such taxable year (computed without regard to this section).

(d) The amount of the credit determined under subsection (b) of this section for any taxable year that is not allowable for such taxable year solely as a result of the

limitation contained in subsection (c) of this section shall be a credit carryover for up to 3 subsequent taxable years. In applying the limitation contained in subsection (c) of this section to any taxable year to which a credit may be carried under this subsection, any credit carryovers to such taxable year shall be considered to be applied in reduction of the taxes and/or fees imposed upon employers referred to in subsection (a) of this section for such taxable year in the order of the taxable years from which such taxable years are carried over, beginning with the credit carryover from the earliest taxable year, and only after all such credit carryovers to such taxable year have been allowed in full shall any credit that would be allowable in such taxable year without regard to this subsection be allowed.

§2034. Rules and Regulations.

The Secretary shall prescribe such rules and regulations as he may deem necessary to carry out the purposes of this subchapter, including but not limited to the following:

(a) Procedures for certification of Travelink Programs, including

(1) a provision giving certification priority to those employers whose place of employment is adjacent to, or for which the predominant commuting routes to the place of employment are, those roads and highways that are at Level of Service D, as defined by the Department, or at lower Levels of Service, during the peak travel periods;

(2) a provision giving certification priority to those employers who develop a mitigation plan which delineates goals and congestion relief techniques extending beyond any plans or programs of the employer existing prior to the effective date of this Act;

(3) a provision giving certification priority to those employers who develop an ongoing marketing program directed towards and capable of increasing and sustaining employee participation over time;

(4) development of a Department-administered monitoring plan; and

(b) Coordination of the provisions of this subchapter with the Division of Revenue, the State Bank Commissioner, the Insurance Commissioner, or other state agencies, divisions, or departments affected by this subchapter.

§2035. Confidentiality.

Written or recorded information, provided by employers as part of their application for or participation in a Department-Certified Travelink Program, shall be treated as confidential, and to the extent used for that purpose shall not be considered as a public record under the provisions of Chapter 100 of Title 29.

Section 2. Amend §1106(b), Chapter 11, Title 30 of the Delaware Code by inserting at the end thereof a new paragraph (6) to read as follows:

"(6) Benefits received by a resident individual through participation in a Travelink Program certified by the Delaware Department of Transportation to the extent such benefits are included in the federal adjusted gross income of the taxpayer."

Section 3. Amend §2503, Chapter 25, Title 18 of the Delaware Code by striking the phrase "subdivision (2)" appearing in subsection (c) and inserting in lieu thereof the phrase "subdivisions (2) and (7)".

Section 4. Amend Section 2503(c), Chapter 25, Title 18, Delaware Code by creating a new subsection to read as follows:

"(7) Rate filings concerning automobile collision insurance shall provide for a credit of 5 percent of annual premiums for such coverage for any individually owned vehicle classified as a private passenger vehicle owned by employees participating in an approved Travelink Traffic Mitigation Act program created pursuant to Subchapter IV. of Chaper 20 of Title 30."

Section 5. Amend §2301(15)(a), Chapter 23, Title 19 of the Delaware Code by inserting the following phrase after the words "at the time of the injury" and before the semicolon at the end of subsection (a):

", provided, however, that participation in an approved Travelink Traffic Mitigation Act program, created pursuant to Subchapter IV of Chapter 20 of Title 30, shall not be construed as meeting either exception contained in this subsection."

Section 6. 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 that end the provisions of this Act are declared to be severable.

Section 7. This Act shall become effective for taxable years beginning after December 31, 1989.

Section 8. Unless continued, reestablished, or extended by further act of the General Assembly, the provisions of this Act shall not be effective for taxable years beginning after December 31, 1995.

Approved February 6, 1990.

CHAPTER 161

FORMERLY

HOUSE BILL NO. 427
AS AMENDED BY HOUSE AMENDMENT NO. 2 AND SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 18 RELATING TO CORPORATE OWNED LIFE INSURANCE.

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

Section 1. Amend Section 2704(c), Title 18 of the Delaware code by redesignating existing subsection (c)(3) as subsection (c)(4), and by adding thereto a new subsection (c)(3), as follows:

"(3) Exclusive of (2) above, in the case of employees and retirees of a corporation, an interest of such corporation or of a trustee of a trust established by a corporation for such purpose, arising from the participation of such employees or retirees, or their eligibility to participate, in a welfare plan established and maintained by the corporation pursuant to the Federal Employee Retirement Income Security Act of 1974; and".

Section 2. Amend Section 2704, Title 18 of the Delaware Code by adding thereto a new subsection (e), as follows:

"(e) The existence of an insurable interest with respect to an insurance contract issued for delivery in this State and procured or effected by any corporation incorporated in this State on its employees or retirees, as set forth in subsection (c)(3) above, shall be governed by the provisions of such subsection. An insurance contract so procured or effected, if delivered to the registered agent of the corporation at the address of its registered office in this State, shall be deemed to have been delivered in this State."

Section 3. Amend Section 2708, Title 18 of the Delaware Code by deleting the period (".") at the end of said section, substituting therein the phrase a semi-colon (";"), and adding at the end thereof, the following:

"(4) A corporation may effectuate such insurance upon any employee or retiree of such corporation who is a participant, or is eligible to participate, in a welfare plan established and maintained by such corporation pursuant to the Federal Employee Retirement Income Security Act of 1974. Such welfare or similar plan established by a corporation shall comport with any wellness plan regulations which may be issued by the Commissioner. The Commissioner shall, by regulation, ensure to the extent possible that the proceeds and benefits of such insurance shall be applied for the benefit of the plan participants. A corporation which receives funds as the beneficiary of insurance in connection with such wlefare plan, or a trust established by a corporation in connection therewith, shall establish depository arrangements with a Delaware banking institution as may be appropriate with respect to such welfare plan and shall use its best efforts to direct securities transactions relating to such welfare plan, subject to best execution, through a securities agent licensed and located in this State. An insurer shall be entitled to rely upon all statements, declarations and representations made by a corporation relative to such welfare or similar plan comporting with such wellness plan regulations. This subsection shall not apply to corporations with less than 50 employees.

Section 4. Amend Section 4403(c), Title 18 of the Delaware Code by creating a new subsection (5), as follows:

"(5) Any life insurance policy or contract issued to a corporation, under which the corporation is the beneficiary of benefits payable on the lives of its employees or retirees."

Approved February 6, 1990.

CHAPTER 162

FORMERLY

HOUSE BILL NO. 241

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO REMOVAL AND STORAGE OF VEHICLES FROM HANDICAPPED PARKING AREAS.

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

Section 1. Amend subsections (c) and (d), Section 4183, Chapter 41, subchapter XI, Chapter 41, Title 21, Delaware Code by redesignating said subsections as new subsections (d) and (e) respectively and substituting in lieu thereof a new subsection to read as follows:

"(c) Upon discovery of a vehicle other than a vehicle of the handicapped, in a designated handicapped parking/tow-away zone by owners/lessees of private property, the owner/lessee may cause such vehicle to be removed to a private storage area maintained for the safe storage of vehicles. Any costs of removal and storage shall be borne by the owner of said venicle. Upon discovery of such a vehicle, in a designated handicapped parking/tow-away zone under the control of the Department of Transportation or local authorities, the State Police, county police or municipal police may, if they determine the circumstance requires such, cause such vehicle to be removed to a private storage area maintained for the safe storage of vehicles. Any costs of removal and storage shall be borne by the owner of said vehicle."

Approved February 6, 1990.

CHAPTER 163

FORMERLY

HOUSE BILL NO. 242

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO RULES OF THE ROAD AND HANDICAPPED PERSONS' PARKING AREAS.

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 4183 (d), subchapter XI, Chapter 41, Title 21, Delaware Code by striking subsection (d) in its entirety and substituting in lieu thereof a new subsection (d) to read as follows:

"(d) Whoever violates this section shall be fined not less than $50 or more than $100."

Approved February 6, 1990.

CHAPTER 164

FORMERLY

SENATE BILL NO. 59

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF INNOVATIVE HOUSING OPTION PROGRAMS WITHIN THE ELDERLY HOUSING COUNSELING PROGRAM, DIVISION OF AGING, DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

WHEREAS, Accessory Apartments are apartments created in the surplus space in single family homes; and

WHEREAS, Accessory Apartments have been proven to be an effective means of helping older homeowners stay in their homes by providing rental income, security, and services in exchange for rent reductions; and

WHEREAS, it is estimated that there are 12.2 million homeowners in the U.S. who are over 55 and live in households of two persons or less and own homes of five (5) rooms or more; and

WHEREAS, if older citizens are the renters, Accessory Apartments have also provided low cost housing and the opportunity to live near but not with their relatives; and

WHEREAS, the potential of Accessory Apartments as a business opportunity for builders and lenders is great; and

WHEREAS, according to national consultants, the most effective activity that state government can undertake is marketing and counseling.

NOW THEREFORE:

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

Section 1. Amend Title 31, Chapter 37 of the Delaware Code by adding a new section 3704(10), which shall read as follows:

"(10) Promote accessory apartments and other innovative housing options for elderly citizens, both as renters and rentees: by 1) making information available to elderly citizens and the community, 2) bringing together realtors, local government zoning agencies, non-profit organizations, lenders, home health care agencies, etc. to promote and facilitate accessory apartments, 3) counseling senior citizens, their families, and potential renters, and 4) other activities that will support the establishment of accessory apartments and other innovative housing options to benefit elderly citizens in Delaware."

Section 2. Services set forth in this Act shall be provided to the extent that sufficient funding is appropriated by the General Assembly.

Approved February 8, 1990.

CHAPTER 165

FORMERLY

SENATE BILL NO. 163
AS AMENDED BY SENATE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND CHAPTER 89, TITLE 14 OF THE DELAWARE CODE RELATING TO TEACHERS OF THE YEAR.

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

Section 1. Amend Title 14, Delaware Code by deleting §8901, §8902, and §8903 in their entirety and by creating new §8901, §8902, §8903, and §8906 to read as follows:

"§8901 Established

There is hereby established a series of Teacher of the Year awards the purpose of which is to reward outstanding teachers throughout the State.

§8902 Procedure

Each year every school district throughout this state shall conduct a study within each school building to determine those certified employees (teachers) who are deserving of the title "Teacher of the Year" from that building. The selection process will follow the current guidelines which have been developed by the State Board of Education which includes input from teachers, administrators, and Department of Public Instruction Staff. After the buildings make their individual selections, the District-wide Teacher of the Year shall be selected from each District, following the current guidelines. The final step will be the selection of the State 'Teacher of the Year'.

§8903 Range of Awards

(a) Those individuals who are chosen Teacher of the Year in their respective school buildings shall be nominated for the District Teacher of the Year award.

(b) Those individuals who are chosen Teacher of the Year for their respective school districts will be awarded $2,000.

(c) The individual who is chosen State Teacher of the Year shall be awarded $3,000 in addition to the district level award.

§8906 Pension Modifications

Each Teacher of the Year, on every level, shall have added to his or her final year of salary the dollar amount of his/her Teacher of the Year Award(s) solely for computing the final average compensation for pension purposes."

Approved February 8, 1990.

CHAPTER 166

FORMERLY

SENATE BILL NO. 227

AN ACT TO AMEND TITLE 9, CHAPTER 49 §4911(c) OF THE DELAWARE CODE RELATING TO PROCEDURES FOR CHANGES IN KENT COUNTY ZONING BY THE ZONING COMMISSION.

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

Section 1. Amend Title 9, Chapter 49, §4911(c) of the Delaware Code by striking the language, "after submission thereof to it", in the first sentence thereof and by inserting in lieu thereof the language, "after acceptance of a completed application including all supporting documentation, by the Commission,"

Approved February 8, 1990.

CHAPTER 167

FORMERLY

SENATE BILL NO. 229
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9, CHAPTER 48,§4801(10) OF THE DELAWARE CODE RELATING TO THE DEFINITION OF THE TERM "SUBDIVISION" FOR REGIONAL PLANNING PURPOSES.

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

Section 1. Amend Title 9, Chapter 48, §4801(10) by deleting in its entirety paragraph (10) and substitute in lieu thereof the following:

"(10) 'Subdivision' means division of any part, parcel, or area of land by the owner or his agent, into lots or parcels two or more in number for the purpose of conveyance, transfer, improvement, or sale with or without appurtenant roads, streets, lanes, driveways and ways dedicated or intended to be dedicated to public use, or the use of purchasers or owners of lots fronting thereon.

A subdivision includes

(a) Any division of a parcel of land having frontage on an existing improved street into two (2) or more lots, one or more of which have frontage on the existing street;

(b) Any development of a parcel of land which involves installation of streets and driveways whether or not dedicated and whether or not the parcel is divided for the purpose of immediate conveyance, transfer or sale;

(c) Any re-subdivision and, as appropriate, shall refer to the process of subdividing land or the land so subdivided."

Approved February 8, 1990.

CHAPTER 168

FORMERLY

SENATE BILL NO. 235

AN ACT TO AMEND TITLE 9, CHAPTER 48, §4811 OF THE DELAWARE CODE RELATING TO PROCEDURES FOR THE APPROVAL OR DISAPPROVAL OF A PLAT BY THE KENT COUNTY REGIONAL PLANNING COMMISSION AND THE TIME FRAME THEREFORE.

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

Section 1. Amend Title 9, Chapter 48, §4811 of the Delaware Code by striking the language "shall approve or disapprove a plat within 40 days after submission thereof" in the first sentence thereof and by inserting in lieu thereof the language, "shall approve, approve with conditions, disapprove or table a plat within 45 days after acceptance by the Commission of the plat and all necessary supporting documentation."

Approved Februrary 8, 1990.

CHAPTER 169

FORMERLY

SENATE BILL NO. 254

AN ACT TO AMEND TITLE 9, PART V, CHAPTER 80, SECTION 8001(d) RELATING TO THE DATE BY WHICH KENT COUNTY MUST ADOPT ITS BUDGET.

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

Section 1. Amend Title 9 §8001(d) by deleting the word "April" as it appears on line 2 thereof and by substituting therefore the word "June".

Approved February 8, 1990.

CHAPTER 170

FORMERLY

SENATE BILL NO. 278

AN ACT AUTHORIZING AND DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO ISSUE A COMMERCIAL GILL NET FOODFISHING PERMIT TO GLENN ROSCOE DAVIS OF LAUREL, DELAWARE, WHO IS PRESENTLY PROHIBITED FROM OBTAINING A PERMIT UNDER DELAWARE FINFISHING STATUTES.

WHEREAS, Mr. Glenn Roscoe Davis of 8th Street, Laurel, Delaware, has engaged in commercial gill net fishing for ten years, and was so engaged in the five-year period prior to the enactment of the present Delaware Finfishing Statute in 1984, which requires a person to have a commercial Gill Net Foodfishing Permit to fish a drifting gill net; and

WHEREAS, Mr. Davis did not apply for a commercial gill net permit immediately after passage of the new law in 1984 because the Department represented that only gill net fishermen who had obtained more than 50 per cent of their income from gill net fishing were qualified under the statute to obtain a permit, and such restriction was not in fact authorized by the statute; and

WHEREAS, it would thus appear that Mr. Davis was qualified to apply for and receive a commercial gill net permit under the provisions of §915, Chapter 9, Title 7 of the Delaware Code and could have done so but for the incorrect interpretation of the statute by the Department; and

WHEREAS, restricting Mr. Davis from engaging in gill net fishing creates a hardship when economic and biological factors dictate that gill net fishing is the most effective method of engaging in the profession of commercial fishing; and

WHEREAS, the General Assembly has directed the Department of Natural Resources and Environmental Control to make exception to the closure of the gill net fishery when the prohibitions of §915, Title 7, Delaware Code, have created hardships for persons who should have been permitted to apply for and obtain a gill net permit at the time of enactment; and

WHEREAS, the Department may not issue any new commercial gill net foodfishing permits until the number issued annually falls below 30; and

WHEREAS, the number of commercial gill net foodfishing permits renewed in 1988 was 135; and

WHEREAS, the Department may, if directed to do so by legislation, avoid the prohibitions of §915, Title 7, Delaware Code, and issue a permit to the individual specified in the 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 commerical gill net foodfishing permit to Mr. Glenn Roscoe Davis of P.O. Box 85, Laurel, Delaware, notwithstanding the provisions of §915(f), Chapter 9, Title 7, Delaware Code.

Approved February 8, 1990.

CHAPTER 171

FORMERLY

SENATE BILL NO. 306

AN ACT TO AMEND CHAPTER 29, TITLE 24 OF THE DELAWARE CODE RELATING TO NONRESIDENT LICENSURE OF REAL ESTATE BROKERS, SALESPERSONS AND APPRAISERS, AND TO DISCIPLINARY ACTION AGAINST LICENSEES.

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 2909, Title 24, Delaware Code, by striking the section in its entirety and substituting in lieu thereof the following:

"§2909. Nonresident licensure

(a) A nonresident of this State who is a licensed broker, salesperson or appraiser in another state may obtain similar license as a broker, salesperson or appraiser in this State by complying with this Chapter, provided that the nonresident broker, salesperson or appraiser is regularly engaged in the real estate business in the other state. Such nonresident licensed broker, salesperson or appraiser need not maintain a place of business within this State. The Commission may license such nonresident broker, salesperson or appraiser without examination if such person has been duly licensed for a broker's salesperson's or appraiser's license in another state. Upon receipt of an application for nonresident licensure, the Commission 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.

(b) Every nonresident applicant, prior to being licensed, shall file an irrevocable consent that legal action may be commenced against him in the proper court of any county of this State in which a cause of action may arise or in which the plaintiff may reside, by service of any process or pleading authorized by the laws of this State upon any member of the Commission. In case any processes or pleadings are served upon any member of the Commission, a copy thereof shall be immediately forwarded by certified or registered mail to the main office of the licensee against which process or pleadings are directed."

Section 2. Amend Section 2912(a), Title 24, Delaware Code, by striking the subsection in its entirety and substituting in lieu thereof the following:

"§2912. Revocation of certificate; reprimand of licensee causes

The Commission may, upon its own motion, and shall upon the verified complaint in writing of any person, provided such complaint, together with evidence documentary or otherwise presented in connection therewith, shall make out a prima facie case, direct all complaints to the investigative staff of the Division of Professional Regulation for the investigation of the actions of any real estate broker, real estate salesperson or real estate appraiser or any person who shall assume to act in any of such capacities within this State, and may suspend or revoke any certificate issued under the provisions of this Chapter or reprimand any licensee at any time where the certificate holder has by false or fraudulent representation obtained a certificate, or where the certificate holder, in performing or attempting to perform any of the acts mentioned herein, is guilty of:

(1) Making any substantial misrepresentation; or

(2) Making any false promise of a character likely to influence, persuade or induce; or

(3) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents or salesmen or advertising or otherwise; or

(4) Acting for more than one party in a transaction without the knowledge of all parties for whom he acts; or

(5) Failing, within a reasonable time, to account for or to remit any moneys coming into his possession which belongs to others; or

(6) Being incompetent to act as a real estate broker, salesperson or appraiser in such manner as to safeguard the interest of the public; or

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of this Chapter; or

(8) A violation of any of the rules and regulations of the Commission; or

(9) Any other conduct, whether of the same or a different character from that specified in this section, which constitutes improper, fraudulent or dishonest dealing."

Section 3. This Act shall become effective immediately.

Approved February 8, 1990.

CHAPTER 172

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 321

AN ACT OF THE 135TH DELAWARE GENERAL ASSEMBLY REQUESTING THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO PROVIDE FOR THE TIMELY CONSTRUCTION AND MAINTENANCE OF A NEW BRIDGE OVER THE CHESAPEAKE AND DELAWARE CANAL IN THE VICINITY OF ST. GEORGES, AS PART OF THE U.S. ROUTE 13 RELIEF ROUTE, IN KEEPING WITH ITS OBLIGATIONS TO THE STATE OF DELAWARE.

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

Section 1. Legislative Findings and Determinations.

(a) The General Assembly finds that:

(1) The Chesapeake and Delaware Canal cuts the State of Delaware and the Delmarva Peninsula into two parts, eliminating overland access to the major metropolitan areas of the East Coast.

(2) In recognition of the effect of the canal on the State's economy, the Act of Incorporation of the Chesapeake and Delaware Canal Company, enacted into law at 3 Delaware Laws, Chapter 78, provided in Section 16 of said Act that "Whenever said canal shall cross any public road, it shall be the duty of said company, at the proper expense of the same, to make and keep good and sufficient bridges across the said canal, so as to prevent any inconvenience, in the usage of said road or roads by reason of said canal crossing the same, and that it shall be lawful for the Legislature of this State, at all times hereafter, to enact laws for the erecting and maintaining bridges across the said canal, at the expense of the said company, and to subject the said company to forfeitures, pains and penalties for not complying with such laws."

(3) By an Act dated March 26, 1909, appearing at 25 Delaware Laws, Chapter 165, the General Assembly approved in advance the acquisition of the property, rights of property, franchises, and appurtenances of the Chesapeake and Delaware Canal Company by the United States of America. This approval did not in any way eliminate the obligation contained within Section 16 of the corporate franchise to build and maintain sufficient bridges over the Canal.

(4) The River and Harbors Act of 2 March 1919, Public Law No. 323, authorized the acquisition by condemnation by the United States of the Company's Chesapeake and Delaware Canal and "all the property, rights of property, franchises, and appurtenances used or acquired in connection therewith. . . " By such acquisition the United States assumed the Company's obligations, including the obligation to make and keep good and sufficient bridges over the canal. In connection with the acquisition, Congress expressly provided that "all land traffic, both highway and rail, to and from the Delmarvia (sic) Peninsula" crossing the canal "could not be broken". The condemnation was carried out in 1919, and the United States of America has since owned, operated, maintained, and improved the Canal and the highway bridges crossing it.

(5) In keeping with the obligations it assumed, the Federal Government built new bridges over the canal at Reedy Point, Summit, and St. Georges, including the addition of new lanes for highway traffic at Summit and St. Georges. The accepted understanding by the United States of its obligations is illustrated by a written statement of July 6, 1939, by then-Secretary of War, Harry H. Woodring: "The United States is obligated to maintain reasonably adequate highway crossings over the canal". Accordingly, when new lanes of highway crossings are needed, the United States is obligated to provide them.

(6) United States Route 13 crosses the canal at St. Georges. The existing bridge for Route 13 at St. Georges is the most important bridge over the canal in Delaware, carrying 60% or more of the north-south traffic from the Delmarva Peninsula to major eastern cities.

(7) As reflected, inter alia, in recent bond bills passed by the General Assembly, the State has determined that a relief route is necessary to carry the

increased traffic now overburdening U. S. Route 13. This relief route, as planned by the State and approved by the Federal Highway Administration, includes a new crossing over the canal in the vicinity of the existing crossing at St. Georges, Delaware. Construction of aspects of this route began in 1989, with the State eventually projected to incur over $400 million in construction costs, financed from the State's Transportation Trust Fund, over and above the construction costs of the new crossing over the canal.

(8) The Delaware Department of Transportation estimates that rising annual average daily traffic (AADT) figures within this decade will lead to failing levels of service on U.S. Route 13, in the absence of the new Relief Route, which includes a new crossing over the canal.

(9) The existing St. Georges Bridge is currently scheduled for interim repairs. It is also projected that major rehabilitation of the existing bridge will be required. The interim repairs should permit the delay of the major rehabilitation of this bridge for five years. Nonetheless, the projected major rehabilitation will cause severe traffic disruptions on U. S. Route 13, in the absence of a new crossing for the Relief Route being in place by that time.

(10) A new bridge for the U. S. Route 13 Relief Route, using designs now under review by the Delaware Department of Transportation and the Federal Highway Administration, will take at least three years to be completed and open to traffic.

(11) Under the circumstances outlined herein, at a minimum the new bridge for the relief route should be built and in operation on or before December 31, 1995 in order to maintain levels of service and prevent the serious disruption of the State's economy.

(b) The General Assembly hereby determines that pursuant to the obligations the United States assumed by its acquisition of the property of the Chesapeake and Delaware Canal Company, the United States should provide for the construction and maintenance of a new bridge over the canal to carry the highway traffic using the U. S. Route 13 Relief Route, in order to make and keep good and sufficient crossings over the canal.

Section 2. Terms and Conditions. Pursuant to its legally binding obligation contained in 3 Delaware Laws, Chapter 78, Section 16, the Government of the United States of America is hereby requested to provide for the construction and maintenance of a new bridge over the Chesapeake and Delaware Canal for the U. S. Route 13 Relief Route, under the following terms and conditions:

(a) The new bridge should be built using a design and in the location approved by the Delaware Department of Transportation and the Federal Highway Administration, on a schedule which will permit the new bridge to be in operation on or before December 31, 1995.

(b) Federal appropriations for the Federal Fiscal Year 1991, which begins October 1, 1990, should contain provisions indicating the Federal Government's acceptance of its obligation to provide for the construction and maintenance of the new bridge under the terms and conditions outlined herein, on or before December 31, 1995. The absence of any such appropriation, or other suitable Federal legislation enacted before December 31, 1990, as determined by the Governor, shall be taken by the State of Delaware as a refusal by the Federal Government to meet its obligations to make and keep good and sufficient crossings over the Chesapeake and Delaware Canal, as required under 3 Delaware Laws, Chapter 78, Section 16.

Section 3. Effective Date. This Act shall become effective upon approval by the General Assembly and execution by the Governor; however, Section 2 of the Act shall not remain in effect if the Government of the United States and the State of Delaware enter into an agreement which will provide the necessary crossing over the canal under terms and conditions acceptable to both governments, which terms and conditions may differ from those provided in Section 2.

Approved February 8, 1990.

CHAPTER 173

FORMERLY

SENATE BILL NO. 322

AN ACT TO AMEND VOLUME 67, CHAPTER 46 OF THE LAWS OF DELAWARE RELATING TO THE FISCAL YEAR 1990 CAPITAL BUDGET AND TRANSFERRING FUNDS FROM THE ADVANCED REAL PROPERTY ACQUISITION FUND TO THE ADVANCED PLANNING FUND.

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

Section 1. Amend Section 43(e) of Volume 67, Chapter 46 of the Laws of Delaware by adding the phrase "and portions of the drainage basins of Dragon Run, Red Lion Creek, Delaware City, and Lums Pond," after the phrase "for the area south of the Chesapeake and Delaware Canal in New Castle County".

Section 2. Amend Section 45(a) of Volume 67, Chapter 46 of the Laws of Delaware by deleting the phrase "publicly-owned ocean beaches." and inserting in lieu thereof the phrase "publicly accessible municipal ocean beaches."

Section 3. Amend Section 46 of Volume 67, Chapter 46 of the Laws of Delaware by deleting the sentence "The proceeds of the sale or trade-in of the Department's 1981 Bell Long Ranger, Model L-1 helicopter, shall be used to reduce the cost of the new helicopter, for which funds have been appropriated herein." and inserting in lieu thereof the sentence "From the proceeds of the sale of the Department's 1981 Bell Long Ranger, Model L-1 helicopter ("Helicopter"), Thirty Thousand Dollars ($30,000) of such proceeds shall be used to reduce the cost of the new helicopter, for which funds have been appropriated herein. The remaining funds resulting from the sale of the Helicopter shall be deposited in the School Bond Reversion Account (12-05-003-8102)."

Section 4. Transfer $17,000 (Seventeen Thousand Dollars) from the Advanced Real Property Acquisition Fund (10-02-06-85-00) to the Advanced Planning Fund (10-02-06-84-00).

Section 5.(a) Amend Volume 67, chapter 46 of the Laws of Delaware by adding the project name "Duck Creek Study" directly below the project name "Cedar Mill" under the heading "Agency/Project" contained in the "Fiscal Year 1990 Capital Improvements Project Schedule" for the "Department of Natural Resources and Environmental Control".

(b) Amend Volume 67, Chapter 46 of the Laws of Delaware by adding the figure 10,000 directly below the figure "20,000" and under the heading "General Funds" and by adding the figure "10,000" directly below the figure "20,000" and under the heading "Total" contained in the "Fiscal Year 1990 Capital Improvements Project Schedule" for the "Department of Natural Resources & Environmental Control".

(c) Amend Volume 67, Chapter 46 of the Laws of Delaware by deleting the figure "30,000" directly below the figure "330,516" and under the heading "General Funds" contained in the "Fiscal Year 1990 Capital Improvements Project Schedule" for the "Department of Natural Resources & Environmental Control" and inserting in lieu thereof the figure "20,000".

(d) Amend Volume 67, Chapter 46 of the Laws of Delaware by deleting the figure "30,000" directly below the figure "346,216" under the heading "Total" contained in the "Fiscal Year 1990 Capital Improvements Project Schedule" for the "Department of Natural Resources & Environmental Control" and inserting in lieu thereof the figure "20,000".

Approved February 8, 1990.

CHAPTER 174

FORMERLY

SENATE BILL NO. 328

AN ACT AUTHORIZING AND DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO ISSUE A COMMERCIAL GILL NET FOODFISHING PERMIT TO HARRY LOGAN OF NEW CASTLE, DELAWARE, WHO IS PRESENTLY PROHIBITED FROM OBTAINING A PERMIT UNDER THE DELAWARE FINFISHING STATUTES.

WHEREAS, Mr. Harry Logan, 909 West Avenue, Holloway Terrace, New Castle, Delaware has been engaged in commercial gill net fishing with his brother, William Logan, for over thirty years; and

WHEREAS, only William Logan had obtained a commercial gill net foodfishing permit in 1984 when they were last available; and

WHEREAS, Mr. William Logan is no longer physically able to fish with nets and he is prohibited from transferring his commercial gill net foodfishing permit to his brother; and

WHEREAS, Mr. Harry Logan has the support of 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 to Harry Logan; and

WHEREAS, the DNREC has no objection to issuing Mr. Harry Logan a commercial gill net foodfishing permit authorized by appropriate legislation.

NOW, THEREFORE:

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

Section 1. The DNREC is hereby authorized and directed to issue a commercial gill net permit to Mr. Harry Logan, 909 West Avenue, New Castle, Delaware notwithstanding the provisions of §915(f), Chapter 9, Title 7, Delaware Code.

Approved February 8, 1990.

CHAPTER 175

FORMERLY

SENATE BILL NO. 330

AN ACT TO AMEND CHAPTER 62, VOLUME 67, LAWS OF DELAWARE, RELATING TO FUNDING FOR WEST CENTER CITY ADULT CENTER, INC.

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

Section 1. Amend Section 1, Chapter 62, Volume 67, Laws of Delaware, by striking under (35-14-10) Division of Aging Senior Center, the words "West Center City Senior Activity Center" and substituting in lieu thereof the following "West Center City Senior Activity Center/West Center City Adult Center, Inc.".

Section 2. Amend Section 17, Chapter 62, Volume 67, Laws of Delaware by deleting said section in its entirety and substituting in lieu thereof the following:

"Section 17. Section 1 of this Act makes an appropriation to the West Center City Senior Activity Center/West Center City Adult Center, Inc.. This appropriation will be disbursed as follows:

1st Quarter West Center Senior Activity Center	$18,003
2nd Quarter West Center City Senior Activity Center	$18,003."

For the remainder of F.Y. 1990, the balance of the appropriation shall be paid on a pro-rated basis to the West Center City Adult Center, Inc. when operations at 501-05 Washington Street, Wilmington, De. commence.

Approved February 8, 1990.

CHAPTER 176

FORMERLY

SENATE BILL NO. 147

AN ACT TO AMEND CHAPTER 67A, TITLE 18 DELAWARE CODE RELATING TO FUNERAL EXPENSES OF VOLUNTEERS.

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

Section 1. Amend §6750, Title 18, Delaware Code by striking the section in its entirety and substituting in lieu thereof the following:

"The reasonable funeral expenses of a deceased member of a volunteer fire company, volunteer fire company ladies auxiliary, or volunteer ambulance and rescue company shall be paid in an amount not to exceed $2,000. If the deceased member of such company was a state employee entitled to a funeral benefit, this chapter shall not apply. A member of a volunteer fire company, volunteer fire company ladies auxiliary or volunteer ambulance and rescue company for the purposes of this chapter is one who has served as an active member of such organization in Delaware for at least 10 years."

Approved February 12, 1990.

CHAPTER 177

FORMERLY

SENATE BILL NO. 212
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING TO THE REQUIREMENT OF INSURANCE FOR ALL MOTOR 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 §2118, Chapter 21, Title 21, of the Delaware Code by striking sub-sections (k)(l)(m)(n) and (p) in their entirety and substituting in lieu thereof the following:

"(k) A motor vehicle registration shall not be issued or renewed for any vehicle not covered by a vehicle insurance policy meeting the requirements of this Title. An insurer shall immediately send to the Division of Motor Vehicles notices of those terminations and lapses for Assigned Insurance Plan policy holders which are final and occur within the first two (2) years after such policy was issued. These notices will be forwarded to the Division of Motor Vehicles within 30 days following the final termination or lapse on a form approved by the Division of Motor Vehicles."

(l) A motor vehicle owner shall, upon request of the Division of Motor Vehicles, offer proof of insurance in full force and effect as a condition of registration or continued registration of a motor vehicle. The Division of Motor Vehicles, upon proof from its records or other sufficient evidence that the required insurance has not been provided or maintained or has terminated or otherwise lapsed at any time, shall immediately suspend the registration of the uninsured vehicle. The registration shall remain suspended until:

(1) The required insurance is obtained or replaced and the vehicle owner submits evidence of insurance on a form prescribed by the Division of Motor Vehicles and certified by the insurer or its agent; and

(2) An uninsured motorist penalty fee is paid to the Division of Motor Vehicles.

(m) (1) Within 5 days of the notice of suspension from the Division of Motor Vehicles, the owner will surrender to the Division of Motor Vehicles, the vehicle's certificate of registration and the registration plate. If the owner fails to comply within the aforementioned 5 days, the Division of Motor Vehicles shall suspend the owner's driver's license.

(2) The Division of Motor Vehicles will promulgate rules and/or regulations to cover those circumstances in which there is an allegation of lost or stolen tags.

(3) Each insurer shall report to the Division of Motor Vehicles, within 30 days on a form prescribed by the Division of Motor Vehicles, the name of any person or persons involved in an accident or filing a claim who is alleged to have been operating a Delaware registered motor vehicle without the insurance required under this Chapter. At a minimum, the insurer shall provide the name, address and description of the vehicle alleged to be uninsured. Each insurer shall take reasonable care when reporting potential violations of this section, but in no case shall an insurer, provider or any of its employees or agents incur any liabilities for erroneous reports of a violation.

(4) In addition to any other penalty provided for in the Delaware Motor Vehicle Law, if the required insurance for a vehicle terminates or otherwise lapses during its registration year, the Division of Motor Vehicles shall assess the owner of the vehicle with a penalty of $100.00 for each vehicle without the required insurance for a period of up to thirty (30) days. When a penalty fee is assessed, beginning on the thirty-first (31) day of the penalty period, the penalty fee shall increase by a rate of $5.00 for each subsequent day until the insurance is replaced, tags are surrendered to the Division of Motor Vehicles, or the registration expires, whichever occurs first. The Division of Motor Vehicles shall also charge a registration reinstatement fee of $50.00. When the Division of Motor Vehicles assesses a vehicle owner with a penalty under this sub-section, the Division shall not reinstate a registration suspended under this section until the penalty is paid, and the owner has also paid a registration reinstatement fee of $50.00.

(n) "Insurance Identification Card" shall mean a card issued by or on behalf of an insurance company or bonding company duly authorized to transact business in this State which states in such form as the Insurance Commissioner may prescribe or approve that such company has issued a vehicle insurance policy meeting the requirements of this Title. The Insurance Commissioner shall require all insurance companies transacting business within this State to provide with each vehicle insurance policy insurance identification card describing the vehicle covered. The insurance identification card shall be valid for a period not to exceed 6 months. If an owner shall have filed a financial security deposit, or shall have qualified as a self-insurer, the term "Insurance Identification Card" shall mean a card issued by the Office of the Insurance Commissioner which evidences that such deposit has been filed or that such owner has so qualified.

(p) (1) The Division of Motor Vehicles shall annually select for verification on a random sample basis not less than 10% of vehicle registrations subject to the insurance required by this section. This verification will be made through the insurers as reflected in the Division's records.

(2) Any vehicle owner identified by the Division as a possible uninsured, shall submit proof of insurance within thirty (30) days of the Division's request for such proof, to the Division of Motor Vehicles on a form prescribed by the Division and certified by an insurer or agent.

(3) The failure of a vehicle owner to submit the required proof under this section within a thirty (30) day period shall be prima facie evidence that the vehicle is uninsured and the owner shall be subject to the penalties as prescribed in sub-sections (l) and (m) of this Section.

Section 2. Amend §2118, Chapter 21 of Title 21 of the Delaware Code by adding new sub-sections to read as follows:

"(s) (1) The Division of Motor Vehicles shall periodically select for verification of the required insurance all vehicles owned, individually or jointly, by a person who has been previously convicted of violating the provisions of this sub-title.

(2) The Division of Motor Vehicles may determine the accuracy of information relating to the proof of required insurance satisfying the provisions of this section.

(t) (1) The Division of Motor Vehicles may require evidence that any motor vehicle registered in a person's name, individually or jointly, is covered by the insurance required by this Chapter, at a conference, hearing, or interview:

(i) As a result of point accumulation on the owner's motor vehicle driving record pursuant to the rules and regulations of the Division of Motor Vehicles; or;

(ii) to show cause why the person's license should not be suspended or revoked pursuant to the laws of this State or the rules and regulations of the Division of Motor Vehicles.

(2) The Division of Motor Vehicles may require evidence that any vehicle registered in a person's name, individually or jointly, is covered by the insurance required by this Chapter, at the time of reinstatement of driving privileges.

(3) The evidence of insurance shall be on a form prescribed by the Division of Motor Vehicles and certified by an insurer or its agent.

(4) Failure to submit the required proof under this Section shall be prima facie evidence that any vehicle registered in that person's name, either individually or jointly, is uninsured and the owner shall be subject to the penalties as prescribed in sub-sections (l) and (m) of this Section.

(u) (1) If a person has been issued an equipment inspection notice pursuant to Title 21, Section 2144, the person shall send within thirty (30) days to the Division of Motor Vehicles the evidence of insurance or security required by this Chapter on a form prescribed by the Division and certified by an insurer or agent.

(2) A failure to submit the evidence required by sub-section (l) shall result in the suspension of the registration of the vehicle cited and the assessment of the uninsured motorist penalty fee under this section.

(v) The Director of the Division of Motor Vehicles may adopt such rules and regulations, not inconsistent with this title, as are necessary to enforce this section.

Section 3. This Act shall be effective on July 1, 1990.

Approved February 12, 1990.

CHAPTER 178

FORMERLY

SENATE BILL NO. 44
AS AMENDED BY HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 96, TITLE 9, DELAWARE CODE, RELATING TO RECORDATION OF INSTRUMENTS.

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

Section 1. Amend §9605, Chapter 96, Title 9, Delaware Code, by adding thereto a new subsection (j) to read as follows:

"(j) The Recorders of New Castle, Kent and Sussex Counties shall not accept for recordation any deed or other instrument affecting real property unless the deed or other instrument contains thereon in a conspicuous place the parcel identification number of the parcel or parcels affected. In cases where the parcel was created by subdivision, the number of the parcel which was subdivided in addition to the number of the newly-created parcel or parcels shall be listed. In cases where the parcel was created by the combining of separated parcels, the numbers of the parcels that were combined in addition to the number of the newly-created parcel or parcels shall also be listed."

Approved March 19, 1990.

CHAPTER 179

FORMERLY

SENATE BILL NO. 50
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 96, TITLE 9, DELAWARE CODE, RELATING TO THE RECORDATION OF DEEDS AND OTHER INSTRUMENTS BY THE KENT COUNTY RECORDER OF DEEDS.

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

Section 1. Amend §9605, Chapter 96, Title 9, Delaware Code, by adding thereto a new subsection (k) to read as follows:

"(k) The Recorder of Deeds for Kent County shall not accept for recording any deed or other instrument purporting to convey title to real estate until he has received payment of all State and municipal realty transfer tax due on the transfer, with the exception of the City of Dover realty transfer tax; provided, however, that any municipality which has imposed a realty transfer tax may continue to collect such tax upon written notification to the Recorder of such election."

Approved March 19, 1990.

CHAPTER 180

FORMERLY

SENATE BILL NO. 223
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 39, TITLE 18 OF THE DELAWARE CODE RELATING TO UNINSURED AND UNDERINSURED MOTORIST BENEFITS.

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

Section 1. Amend subsection (c), §3902, Chapter 30, Title 18 of the Delaware Code by striking the second sentence in that paragraph and substituting in lieu thereof the following:

"When 2 or more vehicles owned or leased by persons residing in the same household are insured by the same insurer or affiliated insurers, the limits of liability shall apply separately to each vehicle as stated in the declaration sheet, but shall not exceed the highest limit of liability applicable to any one vehicle."

Approved March 19, 1990.

CHAPTER 181

FORMERLY

SENATE BILL NO. 302

AN ACT TO PROVIDE FOR A SUPPLEMENTAL APPROPRIATION TO THE OFFICE OF THE ATTORNEY GENERAL FOR THE PURPOSE OF PROVIDING ADDITIONAL STAFF AND OPERATING EXPENSES.

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

Section 1. The amount of ninety-seven thousand dollars ($97,000) is hereby appropriated to the Office of the Attorney General (15-01-01) for the purpose of providing staff and operating expenses for expansion of the Drug Prosecution Unit.

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

Section 3. The funds herein appropriated which remain unencumbered as of June 30, 1990, shall revert to the General Fund of the State of Delaware.

Section 4. This Act shall become effective upon its enactment into law.

Approved March 22, 1990.

CHAPTER 182

FORMERLY

SENATE BILL NO. 25

AS AMENDED BY SENATE AMENDMENT NOS. 1, 2 AND 3
AND HOUSE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH AND SAFETY AND THE UNIFORM CONTROLLED SUBSTANCES ACT.

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

Section 1. Amend §4761, Chapter 47, Title 16 of the Delaware Code by re-designating all of said section, through and including paragraph (4), as new subsection (a); by re-designating the last paragraph of said section, beginning with the word "Whenever," as new subsection (b); and by adding thereto the following new subsections:

"(c) Any person eighteen years of age or older who uses, solicits, directs, hires or employs a person under eighteen years of age to violate any provision of Subchapter IV or Subchapter V of this Chapter is guilty of a felony; and upon conviction therefor shall be imprisoned for a term of not more than ten years, and be fined not more than two hundred and fifty thousand dollars ($250,000). It shall be no defense to a prosecution under this section that the accused mistakenly believed that the minor that the accused used, solicited, directed, hired or employed was eighteen years of age or older, even if such mistaken belief was reasonable.

(d) Nothing in this section shall be construed to preclude or limit any prosecution or conviction for a violation of this Chapter or any other provision of law; and a conviction under this section shall not merge with a conviction for the violation of any other provision of this Chapter or other provision of law."

Section 2. Amend Chapter 47, Title 16 of the Delaware Code by adding a new section 4767 as follows:

"§4767. Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses.

(a) Except as authorized by this Chapter:

(1) Any person eighteen years of age or older who distributes, delivers, or possesses a controlled substance or counterfeit controlled substance listed in §4714 or §4716 which is a narcotic drug on the property of any kindergarten, elementary, secondary, vocational-technical school or within 1,000 feet therof is guilty of a felony and upon conviction shall be imprisoned not more than 30 years and fined not more than $250,000.

(2) Any person eighteen years of age or older who distributes, delivers or possesses any other controlled substance or counterfeit controlled substance which is a nonnarcotic drug classified in §4714, §4716, §4718, §4720 or §4722 on the property of any kindergarten, elementary, secondary, vocational-technical school or within 1,000 feet thereof is guilty of a felony and upon conviction shall be imprisoned for a term of not more than 15 years and fined not more than $250,000.

(b) Nothing in this section shall be construed to preclude or limit a prosecution or conviction for a violation of this chapter or any other provision of law, and a conviction under this section shall not merge with a conviction for violation of any other provision of this Chapter or other provision of law.

(c) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or within 1,000 feet of any school property.

(d) It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under the age of 18 was present in such private residence at any time during the commission of the offense and that the prohibited conduct did not involve distribution, delivery or possession of any controlled substance for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

Section 3. 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 March 26, 1990.

CHAPTER 183

FORMERLY

SENATE BILL NO. 346
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 3, TITLE 22 OF THE DELAWARE CODE RELATING TO MUNICIPAL ZONING REGULATIONS AND THE VOTING REQUIREMENT IN CASES INVOLVING A PROTEST OF FEDERALLY ASSISTED MULTI-FAMILY HOUSING FOR THE ELDERLY AND HANDICAPPED.

WHEREAS, the General Assembly finds that the need for housing for the elderly has been increasing as the elderly population increases; and

WHEREAS, in certain cases, federal assistance for housing projects for the elderly also encompasses housing for the handicapped; and

WHEREAS, the construction of federally assisted multi-family housing for the elderly and handicapped will ease the tax burden on the citizens of Delaware because it will provide additional funding for needed housing through existing federal programs; and

WHEREAS, the construction of federally assisted housing for the elderly and handicapped will promote the health and general welfare of Delawareans by increasing the available stock of housing at the lowest possible cost to the citizens of the State; and

WHEREAS, the General Assembly has already expressly recognized that the quality of housing affects every aspect of an older individual's life, from the physical to the psychological. See 31 Delaware Code, Chapter 37; and

WHEREAS, the federal assistance provided to housing projects for the elderly and handicapped makes it possible for those citizens to live in adequate housing at lower cost; and

WHEREAS, the General Assembly recognizes the need for housing for the elderly and handicapped within the City of Wilmington and other large municipalities, where there is greater access to public transportation and other conveniences and necessities of life important to the elderly and the handicapped; and

WHEREAS, it is the intent of the General Assembly, through this Act, to promote, for a limited time and under certain conditions, the construction of federally assisted multi-family housing for the elderly and handicapped; and

WHEREAS, the General Assembly finds that this legislation serves a valid and legitimate state interest, namely, increasing the available housing for the elderly and handicapped with the aid of financial assistance from the Federal Government; and

WHEREAS, the General Assembly finds that this legislation strikes a balance of the legitimate interests of the State and the interests of any affected municipality.

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 §305, Chapter 3, Title 22 of the Delaware Code, by striking the period "." after the words "legislative body of the municipality" and adding at the end thereof the following:

"; provided, however, that in any municipality of this State with a population in excess of 50,000 persons, the foregoing provisions regarding a protest shall not be applicable to any such change which is proposed in connection with the construction of federally assisted multi-family housing for the elderly and handicapped, in all instances of which such change shall become effective by the favorable vote of a simple majority of all the members of the legislative body of the municipality."

Section 2. This Act shall take effect immediately upon its enactment into law and shall be applicable to any pending zoning change in connection with a proposal for federally assisted multi-family housing for the elderly and handicapped in any municipality to which this Act applies.

Approved March 23, 1990.

CHAPTER 184

FORMERLY

HOUSE BILL NO. 452

AN ACT TO AMEND CHAPTER 9, TITLE 7, DELAWARE CODE RELATING TO AUTHORIZING THE DELAWARE NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO ISSUE UP TO SEVEN (7) COMMERCIAL GILL NET PERMITS TO NEW JERSEY RESIDENTS TO FISH FOR SHAD.

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

Section 1. Amend §914, Paragraph (2), Title 7 of the Delaware Code by striking the period (.) at the end of the sentence and add the following words "except a resident of the State of New Jersey, who qualifies as a commercial fisherman to obtain a foodfishing equipment permit for gillnet to fish in only that portion of the Delaware River, east of the center line of the shipping channel, and north of 39 degrees 30' north latitude the fee shall be $150."

Section 2. Amend §915, Title 7 of the Delaware Code, by adding a new paragraph (b) (7) to read as follows: "(7) A gillnet - New Jersey resident - $5 per 50 fathoms (300 ft) or any part thereof."

Section 3. Amend §915, Title 7 of the Delaware Code, by adding a new paragraph (i) to read as follows: "Notwithstanding Paragraph (f) of this section, the Department is authorized between January 1, 1990 and April 1, 1990 to issue up to 7 foodfishing equipment permits for gillnets to residents of the State of New Jersey to fish no more than 600 ft of gillnet in only that portion of the Delaware River east of the center line of the shipping channel and north of 39 degrees 30' north latitude and who provides credible evidence to the Department that he or she has previously engaged in commercial gillnet fishing involving the sale of his/her catch during any 4 of the 5 calendar years preceding 1984."

Section 4. Amend §923, Title 7 of the Delaware Code, by adding a new paragraph (g) to read as follows:

"(h) Residents of the State of New Jersey who possess valid commercial foodfishing equipment permits for gillnets shall be authorized to fish up to, but not to exceed, 600 feet of drifting gillnet in the Delaware River on the east side of the shipping channel north of 39 degrees 39' north latitude only during a period of the year beginning at 12:01 a.m. on March 15 and ending at 12:00 p.m. on May 10."

Approved March 29, 1990.

CHAPTER 185

FORMERLY

HOUSE BILL NO. 147
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 39, TITLE 31 OF THE DELAWARE CODE RELATING TO ADULT PROTECTIVE SERVICES.

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

Section 1. Amend 3908, Chapter 39, Title 31 of the Delaware Code by adding a new subsection (i) thereto as follows:

"(i) Whenever the Court of Chancery finds, based upon a verified petition, affidavit or other evidentiary materials, that probable cause exists to believe that: (1) a person is infirm or incapacitated, as defined in subdivisions (1) and (6) of 3902 of this title; (2) that an emergency exists, as defined in subdivision (10) of 3902 of this title; (3) that the emergency threatens serious harm to such person which harm may occur before a hearing on the petition for an emergency order may be held; (4) that the person is located in the building or premises described and; (5) that entry or access to said building or premises is being denied, the Court may issue an Order for Entry. The Order for Entry shall be signed by the Court, and shall contain the address of the building or premises where the person is located and the name of the person reported to be in need of protective services. The Order for Entry shall command that entry to the building or premises where the person is located be permitted for the purpose of seeing or interviewing, assessing and counseling the person named in the Order. The Order for Entry shall permit entry on a day certain, which shall be set forth in the Order. Nothing contained in this subsection shall in any way be construed to limit or restrict entry where the consent of the owner, lessor or lawful occupant is obtained. Whenever a member of the Court of Chancery is unavailable, any Judge of the Superior Court may exercise the powers conferred by this subsection."

Section 2. Amend Chapter 39, Title 31 of the Delaware Code by adding a new section to read as follows:

"3912. Confidentiality of records.

(a) All records and information in the possession of Adult Protective Services or anyone providing service to an Adult Protective Services client and his or her relatives shall be deemed confidential, and shall be disclosed only pursuant to an appropriate court order, or pursuant to the consent of the recipient of the services, where the recipient is legally competent to so consent. Notwithstanding the foregoing, disclosure shall not be unlawful when necessary for purposes directly connected with the administration of adult protective services, or when the identity of the recipient or recipients of such services is not revealed by the disclosure, such as in the case of disclosure of statistics or other such summary information.

(b) Violation of this section is a unclassified misdemeanor. The Superior Court shall have jurisdiction over violations of this section.

(c) Any staff person of Adult Protective Services or anyone providing service to an Adult Protective Services client who violates these provisions and improperly discloses confidential information shall immediately be removed or dismissed."

Approved March 29, 1990.

CHAPTER 186

FORMERLY

HOUSE BILL NO. 148
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 1101, TITLE 31, DELAWARE CODE RELATING TO THE CONFIDENTIALITY OF PUBLIC ASSISTANCE RECORDS.

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 1101, Chapter 11, Title 31 of the Delaware Code by striking said Subsection in its entirety and inserting in lieu thereof the following:

"(b) It shall be unlawful for any person to solicit, receive or make use of, disclose, or authorize, knowingly permit, or participate in the use of any information relating to any person who has applied for or who receives aid to families with dependent children, general assistance, food stamps, aid to the blind, or medical assistance where such information is derived directly or indirectly from the communications or records of the agency administering such aid or assistance or is acquired in the course of the performance of official duties; provided, however, that such conduct shall not be unlawful:

(1) when engaged in for purposes directly connected with the administration of such aid and assistance;

(2) when engaged in for purposes directly connected with the administration of public social services;

(3) where the person who has applied for or who receives such aid or assistance, or a person authorized to act for such person, consents to such conduct; or

(4) where a court of competent jurisdiction order such conduct after a finding that the need for such conduct outweighs any injury that such conduct may cause the applicant or recipient."

Section 2. Amend Section 1101, Chapter 11, Title 31 of the Delaware Code by adding the following new subsection:

"(d) The provisions of this section shall be operative only to the extent permitted by federal law."

Approved March 29, 1990.

CHAPTER 187

FORMERLY

HOUSE BILL NO. 225

AN ACT TO AMEND CHAPTER 23, TITLE 21, OF THE DELAWARE CODE RELATING TO THE FEE FOR THE REPLACEMENT OF A VEHICLE SERIAL NUMBER.

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 2310, Chapter 23, Title 21, of the Delaware Code by striking the figure "$1" as it appears therein and insert in lieu thereof the figure "$2".

Approved March 29, 1990.

CHAPTER 188

FORMERLY

HOUSE BILL NO. 284

AN ACT TO AMEND TITLE 7, CHAPTER 41 OF THE DELAWARE CODE RELATING TO TAX DITCHES.

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

Section 1. Amend Section 4136, Chapter 41, Title 7 of the Delaware Code by deleting Section 4136(c) in its entirety and substituting therein the following:

"(c) If the report of a majority of the board of ditch commissioners is in favor of the formation of the proposed tax ditch, and if the statement attached to said report indicates that the total benefits that will result from the tax ditch will exceed the total cost of the proposed tax ditch works of improvement, and if the certificate stating the results of the referendum shows that a majority of all votes cast were in favor of the formation of the tax ditch, then the Superior Court shall set a date for the final hearing on the petition and shall direct the Prothonotary to give notice of the hearing by publication in a newspaper of general circulation in each county in which any of the lands to be drained or protected from flooding are located and by posting a written or printed notice on the door of the courthouse of each such county, such publication and posting to be made not less than 15 days before the time of the final hearing. From the time the report of the board of ditch commissioners is filed in the office of the Prothonotary of the appropriate county it shall be open to inspection by any interested person."

Approved March 29, 1990.

CHAPTER 189

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 134

AN ACT TO AMEND CHAPTER 27 OF TITLE 6 OF THE DELAWARE CODE RELATING TO THE NECESSITY OF WRITING FOR CONTRACTS.

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

Section 1. Amend subsection (a) of Section 2714 of Title 6, Del. C. by the insertion after the words "sold and delivered," and before the words "and other matters" the following:

"money loaned"

Section 2. Amend subsection (a) of Section 2714 of Title 6, Del. C. by the substitution of the word "record" for the word "book."

Section 3. Renumber the current subparagraph (b) of Section 2714 of Title 6 Delaware Code, to (c) and insert the following new paragraph (b).

(b) A contract, promise, undertaking, or commitment to loan money or to grant or extend credit, or any modification thereof, in an amount greater than $100,000, not primarily for personal, family, or household purposes, made by a person engaged in the business of lending or arranging for the lending of money or the extending of credit shall be invalid unless it or some note or memorandum thereof, is in writing and subscribed by the party to be charged or by the party's agent. For purposes of this section, a contract, promise, undertaking, or commitment to loan money secured solely by residential property consisting of one to four dwelling units shall be deemed to be for personal, family or household purposes.

Approved March 29, 1990.

CHAPTER 190

FORMERLY

HOUSE BILL NO. 545
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 8, OF THE 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 §103(c)(1), Chapter 1, Title 8, Delaware Code by deleting the phrase ", together with a duplicate copy which may be either a signed or conformed copy," as it appears therein.

Section 2. Amend §103(c)(4), Chapter 1, Title 8, Delaware Code by deleting said paragraph in its entirety and substituting in lieu thereof the following:

"(4) The Secretary of State shall prepare a copy of the original signed instrument, which copy shall bear the same endorsement which is required to appear upon the original, and shall certify such copy as a true copy of the original signed instrument."

Section 3. Amend §103(c)(5), Chapter 1, Title 8, Delaware Code by deleting the word "duplicate" as it appears therein.

Section 4. Amend §252(d), Chapter 1, Title 8, Delaware Code by striking the symbol and figure "$25.00" as it appears in the fourth sentence of said and substituting in lieu thereof the symbol and figure "$50.00".

Section 5. Amend §256(d), Chapter 1, Title 8, Delaware Code by deleting the symbol and figure "$25.00" as it appears in the fourth sentence of said subsection and substituting in lieu thereof the symbol and figure "$50.00".

Section 6. Amend §263(d), Chapter 1, Title 8, Delaware Code by deleting the symbol and figure "$25.00" as it appears in the fourth sentence of said subsection and substituting in lieu thereof the symbol and figure "$50.00".

Section 7. Amend §321(b), Chapter 1, Title 8, Delaware Code by deleting the symbol and figure "$25.00" as it appears in the fourth sentence of said subsection and substituting in lieu thereof the symbol and figure "$50.00".

Section 8. Amend §376(b), Chapter 1, Title 8, Delaware Code by deleting the symbol and figure "$25.00" as it appears in the fourth sentence of said subsection and substituting in lieu thereof the symbol and figure "$50.00".

Section 9. Amend §381(d), Chapter 1, Title 8, Delaware Code by deleting the symbol and figure "$25.00" as it appears in the third sentence of said subsection and substituting in lieu thereof the symbol and figure "$50.00".

Section 10. Amend §382(c), Chapter 1, Title 8, Delaware Code by deleting the symbol and figure "$25.00" as it appears in the third sentence of said subsection and substituting in lieu thereof the symbol and figure "$50.00".

Section 11. Amend §391(a)(11), Chapter 1, Title 8, Delaware Code by inserting after the word and punctuation mark "subsections," as it appears in said paragraph the phrase and punctuation mark "or a certificate that recites all of a corporation's filings with the Secretary of State," and by adding a new sentence at the end of §391(a)(11) which shall read as follows:

> "For issuing any certificate of the Secretary of State that recites all of a corporation's filings with the Secretary of State, a fee of $100.00 shall be paid for each certificate."

Section 12. Amend §391(a)(16), Chapter 1, Title 8, Delaware Code by deleting the symbol and figure "$50.00" as it appears therein and substituting in lieu thereof the symbol and figure "$250.00".

Section 13. Amend §502(c), Chapter 5, Title 8, Delaware Code by deleting the words "upon a basis by him deemed to be most practicable" in the first sentence of said

subsection and inserting in lieu thereof the words "in the manner prescribed by §503(a) of this title" and by adding the phrase "unless the corporation shall thereafter elect to compute the franchise tax in the manner prescribed by §503 (a)(2) of this title by filing the annual franchise tax report and complying with the provisions of §503(b) of this title" immediately before the period "." at the end of the first sentence of said subsection.

Section 14. Amend §503(b), Chapter 5, Title 8, Delaware Code by deleting the word "finance" as it appears between the words "annual" and "tax" in said subsection and substituting in lieu thereof the word "franchise"; by deleting the phrase "as required by §502 of this title" as it appears in said subsection; and by deleting the words "the current" as they appear in said subsection and substituting in lieu thereof the word "such".

Section 15. Amend §505(a), Chapter 5, Title 8, Delaware Code by deleting the first sentence of said subsection and substituting in lieu thereof the following:

> "If any corporation claims that the annual franchise tax or any penalties or interest were erroneously or illegally fixed or paid with respect to a calendar year, the corporation may, not later than the 1st day of March of the second calendar year following the close of such calendar year, petition the Secretary of State for a reduction or refund of such tax, penalties or interest."

Section 16. Amend §505, Chapter 5, Title 8, Delaware Code by deleting subsection (f) in its entirety.

Approved April 4, 1990.

CHAPTER 191

FORMERLY

HOUSE BILL NO. 548

AN ACT TO AMEND CHAPTERS 1, 7 and 10 OF TITLE 5, DELAWARE CODE RELATING TO BANKS.

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 5, Section 124, Delaware Code by adding thereto the following new language:

"The Commissioner may enter into cooperative agreements to include, but not be limited to, the sharing of examination reports with appropriate State and Federal authorities, and the Commissioner may enter into joint actions with other regulatory authorities to assure the safety and soundness of any Delaware bank and to assure compliance with applicable Delaware banking laws, consistent with the purposes of this chapter."

Section 2. Amend Chapter 7, Title 5, Delaware Code by adding thereto a new Section 793 entitled "Conversion of Consumer Credit Bank".

"(a) Any bank formed under Chapter 10 of this Title may become a bank substantially all of the voting stock of which is held by an out-of-state bank holding company, which shall be deemed as having been formed under and which shall be governed by the provisions of Chapter 7 and Subchapter 1 of Chapter 8 of this Title if, within 45 days of the receipt by the Commissioner of an application in such form as the Commissioner shall from time to time prescribe, jointly submitted and sworn to by the Directors of both the bank and its out-of-state bank holding company, the Commissioner shall find that the conditions of Section 803 of this Title are met with respect to such bank, and that no grounds for objection exist on the basis of the criteria set forth in Section 804(b) of this Title.

(b) The Commissioner shall, at least once during each of the first two weeks following the filing of an application under this Section, cause to be filed in a newspaper having state-wide circulation, at the expense of the applicants, a notice of the filing of such application, which notice shall invite public inspection and comment thereon prior to the expiration of the 45 day period.

(c) If, based upon the application and any other information filed with the Commissioner in support of or objection to such application, the Commissioner shall have cause to believe that the applicants would not satisfy one or more criteria for the issuance of a certificate of public convenience and advantage in accordance with Section 804(b) of this Title, the Commissioner shall, not later than 45 days after receipt of the application, advise applicants of such objection, together with the grounds therefor. At the request of applicants, the Commissioner shall forthwith proceed to give notice, conduct a hearing, and make findings in connection with the criteria set forth in Section 804(b) of this Title, in the same manner as would occur under Section 804 where an applicant makes application to first acquire the stock of a de nova bank.

(d) Upon a determination in accordance with either subsection (a) or subsection (c) of this Section that the applicants have met the conditions of Section 803 and the criteria of Section 804 of this Title, the Commissioner shall issue a certificate certifying such compliance and ordering and approving the conversion of the bank, which certificate shall be duly filed with the Secretary of State. A certified copy of such filing shall constitute the certificate authorizing commencement of business pursuant to Section 733 of this Title. From and after such filing, the bank shall be governed by the provisions of Chapters 7 and 8 of this Title and any other law of this State regulating banks generally and shall not be subject to any provision of Chapter 10 of this Title or any regulation promulgated thereunder.

(e) The resulting bank shall pay to the office of the State Bank Commissioner a fee of $5,000 for use of the State upon approval of the conversion. In addition, the resulting bank shall pay an investigation fee of $1,000 which shall not be refundable and which shall be submitted with the application."

Section 3. Amend Section 1038, Chapter 10, Title 5, Delaware Code by adding thereto a new subsection (d), which subsection shall read as follows:

"(d) Notwithstanding any of the provisions of this section, a Consumer Credit Bank created under this Chapter may adopt such amendments to its certificate of incorporation

or charter as are necessary to permit such bank to comply with the provisions governing the conversion of a consumer credit bank charter pursuant to Section 793 of this Title."

Approved April 5, 1990.

CHAPTER 192

FORMERLY

SENATE BILL NO. 30
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 74, TITLE 16 OF THE DELAWARE CODE RELATING TO RADIATION CONTROL.

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

Section 1. Amend §7401, Chapter 74, Title 16 of the Delaware Code by adding thereto a new subsection, designated as subsection (3), which new subsection shall read as follows:

"(3) Encourage the constructive uses of radiation, and to prohibit and prevent exposure to ionizing radiation in amounts which are or may be detrimental to health."

Section 2. Amend §7402, Chapter 74, Title 16 of the Delaware Code by striking subsection (3) in its entirety, and substituting in lieu thereof the following:

"(3) Establish regulatory responsibilities with respect to radioactive material;"

Section 3. Amend §7402, Chapter 74, Title 16 of the Delaware Code by striking the period (.) at the end of subsection (4); by substituting a semi-colon (;) in lieu thereof; and by adding a new subsection thereto to read as follows:

"(5) Survey radon concentrations indoors to determine elevated radon levels and advise the General Assembly of those potential health effects as are set forth in publications and guidelines of the Federal Government."

Section 4. Amend §7403, Chapter 74, Title 16 of the Delaware Code by adding thereto the following new subsections:

"(10) 'NARM' means any naturally occurring or accelerator-produced radioactive material, except source material.

(11) 'Radioactive Material' means any material (solid, liquid, or gas which emits radiation spontaneously (e.g. byproduct, source material, special nuclear material and NARM)."

Section 5. Amend §7404, Chapter 74, Title 16 of the Delaware Code by striking subsection (a) in its entirety, and substituting in lieu thereof the following:

"(a) There is created an Authority on Radiation Protection which shall consist of the Secretary of the Department of Health and Social Services, or his duly authorized designee; the Secretary of the Department of Natural Resources and Environmental Control, or his duly authorized designee; the Chief of the Bureau of Environmental Health of the Department of Health and Social Services; and twelve (12) other persons who shall be appointees of the Governor. Two appointees shall be from the Radiation Advisory Board of the Medical Society of Delaware; one appointee shall be from the Dental Society of Delaware; one appointee shall be a qualified member from the staff or faculty of the University of Delaware or Delaware State College; one appointee shall be a non-medical member from industry; and the remaining seven (7) shall be appointed members of the public who need not fall into any of the other categories for membership on the Authority, but who have knowledge of and an interest in radiation protection. Each non-public member shall have had training in one or more of the following fields; radiology, nuclear medicine, radiation physics, health physics, or related sciences with specialization in ionizing radiation; provided however, that not more than two persons shall be specialists in any one of the above-named fields. Each county shall be represented by at least two members. Each of the fifteen members shall have one vote."

Section 6. Amend §7406, Chapter 74, Title 16 of the Delaware Code by striking subsection (a) in its entirety, and substituting in lieu thereof the following:

"(a) The Authority shall promulgate Rules and Regulations for the general or specific licensing of radioactive material and devices or equipment utilizing such materials; and for the registration or exemption of such material, devices or equipment. Such Rules or Regulations shall provide for the amendment, suspension or revocation of such licenses or registration."

Section 7. Amend §7417, Chapter 74, Title 16 of the Delaware Code by striking subsection (a) and subsection (b), each in its entirety; and substituting in lieu thereof the following:

"(a) No facility for the permanent deposit, storage, reprocessing or disposal of spent nuclear fuel elements, or for the permanent deposit, storage, reprocessing or disposal of high or low-level radioactive waste material, shall be constructed or established in this State unless the Authority on Radiation Protection first finds that such facility promotes the general good of the State and approves, after a public hearing, a petition for the approval of such facility.

(b) No high-level radioactive waste material, nor any low-level radioactive waste material shall be held in temporary storage for longer than five years."

Section 8. Amend §7418, Chapter 74, Title 16 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§7418. Radioactive material originating in another state.

The Authority on Radiation Protection shall not permit the deposit in Delaware, for any period of time, of any radioactive waste material set forth in subsection (a) of §7417 originating in any other state."

Approved April 5, 1990.

CHAPTER 193

FORMERLY
SENATE BILL NO. 261

AN ACT TO AMEND CHAPTER 79, TITLE 29, DELAWARE CODE RELATING TO THE COUNCIL ON RADIATION.

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

Section 1. Amend Chapter 79, Title 29, Delaware Code by striking Section 7906 in its entirety.

Approved April 5, 1990.

CHAPTER 194

FORMERLY

SENATE BILL NO. 343
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 19 AND 23, TITLE 7, DELAWARE CODE, RELATING TO LICENSING COMMERCIAL CRABBERS, TAKING MATURE FEMALE CRABS, DEFINES CRAB POTS AND RESTRICTING NON-COMMERCIAL CRABBERS TO ONE BUSHEL A DAY.

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 19, Part II, Title 7, Delaware Code by adding a new section to read as follows:

"§1918. Limited Entry and Transfer of Commercial Crabbing Licenses.

Notwithstanding the provisions of §2303, Chapter 23, Part II of Title 7, the Department shall not issue any commercial crab pot license to any new licensee after March 13, 1990 and shall not issue crab pot licenses to any new licensee until the number of commercial crab pot licenses drops to 82 or below as of October 31 of any year. At that time, a lottery will be held by the Department to allow the number of commercial crab pot licenses to increase to 100.

Notwithstanding the provisions of §2307, Chapter 23, Part II of Title 7, the Department shall not issue any crab dredgers licenses to any new licensee after March 13, 1990 and shall not issue crab dredgers licenses to any new licensee until the number of crab dredgers licenses drops to 18 or below as of March 31 of any year. At that time, a lottery will be held by the Department to allow the number of crab dredgers licenses to increase to 21.

A commercial crab pot licensee or crab dredgers licensee may transfer his or her license at anytime, including posthumously, to a member of his or her immediate family. A member of the immediate family shall mean a father, mother, daughter, son, brother, sister or spouse. A commercial crab pot licensee also may transfer his or her license to his or her designee provided the designee has been listed as same on the license for at least two consecutive years. The transfer of the appropriate license shall be in writing".

Section 2. Amend §1901, Chapter 19, Part II, Title 7, Delaware Code by adding a new subsection to read as follows:

"(b) 'Crab Pot' - a cube shaped wire device that contains opening(s) toward the inside for the entrance and capture of crabs without the assistance of any manual exerted tension to any closing mechanism."

Section 3. Further Amend §1901, Chapter 19, Part II, Title 7, Del. C. by alphabetically redesignating subsections "b" through "t" as "c" through "u".

Section 4. Amend §1904, Chapter 19, Title 7, Delaware Code by striking the period (.) at the end of subsection (c) and inserting in lieu thereof the following:

",except a commercial crab pot licensee may take bluecrabs one hour before sunrise."

Section 5. Amend §2301, Chapter 23, Part II, Title 7, Delaware Code by adding two new sentences between the words "from tip to tip." and "Any commercial measure" to read as follows:

"The minimum size of hard shell bluecrabs shall not apply to mature female bluecrabs that are identified by having a rounded or "U"-shaped apron. The apron is the abdomen which is the rear portion of the bluecrab that is folded underneath the body."

Section 6. Amend §2310, Chapter 23, Title 7, Part II, Delaware Code by adding a new subsection to read as follows:

"(e) It shall be unlawful for any person to take in any one (1) day more than one (1) bushel of bluecrabs unless otherwise authorized to do so by license or permit."

Approved April 10, 1990.

CHAPTER 195

FORMERLY

HOUSE BILL NO. 383

AN ACT TO AMEND CHAPTER 77, TITLE 3 OF THE DELAWARE CODE RELATING TO STRAY LIVESTOCK.

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

Section 1. Amend Title 3, Chapter 77, by striking said chapter in its entirety and substituting in lieu thereof the following:

"§7701. Permitting Livestock to Run at Large; Penalty.

Any person permitting livestock to run at large on the public highways or unenclosed lands within this State shall be tried before a Justice of the Peace or the Court of Common Pleas for the county in which the offense occurred and, if found guilty, shall receive a fine, which may not be suspended, of not less than $25 nor more than $200 for each offense.

§7702. Taking Up and Impounding Stray Livestock.

Any person or resident owning land in this State may take up any livestock found running at large upon the public highways or on lands owned by that person and impound the same. Such person may demand and receive a reasonable sum for the care and feeding of the animal or animals while in his care. The care and shelter provided shall be humane and shall be adequate for the size and class of livestock impounded. The State Veterinarian, a County Extension Agent of the county in which the livestock is impounded and a livestock owner of the same county will be responsible for determining if the animal or animals are being housed and fed properly as well as determining a fair and reasonable cost per day.

The person taking up and impounding the livestock shall forthwith give written notice of the taking up and impounding to the owner thereof, if known, or by leaving the notice with an adult person at his or their usual place of abode; or, if unknown, shall place a notice of three days duration in two (2) local newspapers adequately describing the livestock and giving an accurate name, address and telephone number of the person holding the animal or animals.

Any person taking up and impounding stock under this chapter, who refuses or neglects to give notice, as provided in this section, shall be liable to the owner of such stock in civil damages, to be recovered in a civil action before a Justice of the Peace or the Court of Common Pleas of the county in which the stock was taken up.

§7703. Damage by Stray Livestock.

Upon the application of any person, or his agent, sustaining any damage by reason of the livestock running at large contrary to this chapter, any Justice of the Peace or the Court of Common Pleas of the county in which damage was incurred by livestock, which may or may not have been taken up and impounded, shall designate the State Veterinarian, a County Extension Agent and a livestock owner of the county in which the damage was incurred, who shall estimate said damages and make a report to the Justice or Court, in writing, under their hands or the hands of the majority of them, the amount of damage estimated. The Justice or Court shall immediately give notice thereof to the parties interested. The damages so ascertained, together with the legal charges for impounding and keeping the livestock, shall be paid by the person claiming the stock before the same shall be delivered.

§7704. Sale of Strays.

(a) In case the livestock is not claimed and all legal charges satisfied in accordance with this chapter, within ten days, the person having the livestock in charge shall advertise the livestock to be sold at public sale, by placing a notice giving the particulars of the sale in two (2) local newspapers for a duration of three days and by giving a copy of the notice to the owner of the livestock, if known, or by leaving the same with an adult person at his usual place of abode.

(b) At the time fixed in the advertisement, the person having the livestock in charge shall proceed to sell the livestock, but may postpone the sale for good and sufficient cause. The proceeds of the sale, after deducting all legal charges, shall be deposited with the Clerk of the Peace of the county in which the proceedings took place. The clerk shall hold the proceeds for six months, unless sooner claimed by some person proving himself to be the real owner of the livestock. If not so claimed, the proceeds shall be turned over to the S.P.C.A. of the county in which the proceedings took place.

§7705. Exceptions.

This chapter shall not apply to cattle or other stock in charge of a drover using due diligence in the control thereof, or to cattle or their stock which accidentally escapes from the enclosures. Proof of these circumstances shall always be admitted so that no injustice to the owners be inflicted in consequence thereof.

§7706. Accidental Escape of Livestock; Liability of Owners.

No owner, or other person in charge of cattle or other livestock, shall be responsible in any action by reason of cattle or other livestock accidentally escaping from their enclosure and straying on any public highway of this State unless the owner or other person in charge thereof has intentionally allowed the livestock to escape or unless he is guilty of negligence in the care of the cattle or other livestock.

§7707. Enforcement; Division of Fines

The Delaware State Police, local police officers of the community in which the offense took place and agents of the Delaware S.P.C.A. shall enforce this chapter prohibiting livestock running at large. All fines imposed for violations of the stray livestock laws shall be paid to the State Treasurer for deposit into the State General Fund."

Approved April 10, 1990.

CHAPTER 196

FORMERLY

HOUSE BILL NO. 526

AN ACT TO AMEND "AN ACT TO RE-INCORPORATE THE TOWN OF SMYRNA" BEING CHAPTER 339, VOLUME 62, LAWS OF DELAWARE, AS AMENDED, TO ALLOW OFFICIAL CANDIDATES TO ASSUME OFFICE WITHOUT HOLDING AN ELECTION WHERE NONE OF THE OFFICIAL CANDIDATES HAVE A FORMAL OPPONENT ON THE DAY OF THE ELECTION, AND TO CLARIFY THE PROVISIONS CONCERNING FILLING OF VACANCIES ON THE TOWN COUNCIL BY THE VOTERS 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 3(b)(3) of Chapter 339, Volume 62, Laws of Delaware, by adding to the title thereof, the words "; Uncontested Elections" so the title will read:

"Voting Machines/Ballots; Uncontested Elections".

Section 2. Further amend Section 3(b)(3) of Chapter 339, Volume 62, Laws of Delaware by deleting the last sentence of the second paragraph thereof (which presently reads, "In the event no contest exists in any election, voting machines shall not be required, and paper ballots may be used for the formal conduct of any such election" and in place thereof, inserting the following:

"In the event there is only one (1) candidate for each office, if none of the official candidates has a formal opponent on the day of the election, the official candidates may assume office without the holding of a formal election."

Section 3. Amend Section 3(f)(1) of Chapter 339, Volume 62, Laws of Delaware, as amended by Chapter 146, Volume 67, Laws of Delaware, by adding the following at the end thereof:

"Each such vacancy shall be separate and distinct from any other such vacancy and from the full-term seats to be filled at such election; and shall be so designated on the ballot. The written nomination of candidates for election to fill vacancies under this section shall specify the vacant seat for which the nomination is made and no candidate may be nominated for more than one seat. The candidate receiving the highest number of votes for each such vacant seat shall be declared the winner."

Approved April 10, 1990.

CHAPTER 197

FORMERLY

HOUSE BILL NO. 106
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 3

AN ACT AWARDING SPECIAL PENSION BENEFITS TO LEAH ANNA MASON, 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 PURSUANT TO CHAPTER 55, TITLE 29, DELAWARE CODE.

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

WHEREAS, Leah Anna Mason was employed as a public school teacher in the State for 18 years and a substitute for 2 years; and

WHEREAS, under the statutes and the rules and regulations of the Board of Pension Trustees, Leah Anna Mason will not receive a State pension for her many years of service for 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 Leah Anna Mason a pension, effective April 1, 1990, in the amount of $198.70 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 $23,888.08 from the Budget Office Contingency Appropriation in House Bill No. 450 of the 135th General Assembly for Budget Office Contingency - Legal Fees (10-02-04-01-85), 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 April 11, 1990.

CHAPTER 198

FORMERLY

SENATE BILL NO. 311

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, 1987" as the same appears in the first sentence of said subsection and substituting in lieu thereof the date "January 1, 1990".

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) $4.30 from January 1, 1990, through December 31, 1990, retroactively,

(b) $4.52 from January 1, 1991 through December 31, 1991,

(c) $4.74 thereafter."

Section 3. Amend §131(b), Subchapter IV, Chapter 1, Title 23, Delaware Code, by striking the date "January 1, 1987" as the same appears in the said paragraph (b) and inserting in lieu thereof the date "January 1, 1990".

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) $4.30 from January 1, 1990, through December 31, 1990, retroactively,

(b) $4.52 from January 1, 1991 through December 31, 1991,

(c) $4.74 thereafter."

Section 5. Amend §131(b)(3) of Subchapter IV, Chapter 1, Title 23, Delaware Code, by striking the numbers "300" and "1100" respectively and substituting in lieu thereof the numbers "200" and "1200" respectively.

Section 6. Amend §131, Subchapter IV, Chapter 1, Title 23, Delaware Code, by adding thereto a new paragraph (c) to read as follows:

"(c) In addition to the rates set forth in this section, pilots licensed by this State may, through the Pilots' Association for the Bay and River Delaware, file a tariff which, when approved by the Board of Pilot Commissioners, will provide a schedule of charges for pilotage services supplementary to the rates stated in this Section, including but not limited to provisions for transporting charges, a credit policy, including carrying charges and attorney's fees."

Approved April 11, 1990.

CHAPTER 199

FORMERLY

HOUSE BILL NO. 51
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, TITLE 29 OF THE DELAWARE CODE RELATING TO CREDITABLE SERVICE WITH THE PROTHONOTARY OFFICES.

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

Section 1. Amend §5501(b) Chapter 55, by adding a new subsection "(15)" to read as follows:

"(15) Service prior to October 1, 1987 with the County Prothonotary Offices provided that the individual was employed by that office immediately prior to October 1, 1987 and further provided that the past service cost associated with such service is paid into the fund, by the respective counties, on a schedule approved by the Board of Pension Trustees."

Section 2. Any individual employed in the State Prothonotary Offices continuously from October 1, 1987 through August 15, 1990 shall as of August 15, 1990 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, 1990 or to terminate such membership and elect to be covered by the State Employees' Pension Plan (Chapter 55, Title 29, Delaware Code) retroactive to October 1, 1987.

Approved April 18, 1990.

CHAPTER 200

FORMERLY

HOUSE BILL NO. 407
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO ORAL EXAMINATIONS FOR LICENSURE.

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

Section 1. Amend Subsection 1123(a), Title 24, Delaware Code, by deleting the words "or oral."

Section 2. Amend Section 2110, Title 24, Delaware Code, by striking the words "and oral portions of the" as they appear in the third paragraph of the section.

Section 3. Amend Subsection 3008(15), Title 24, Delaware Code, by striking the word "oral."

Section 4. Amend Subsection 3507(a)(3), Title 24, Delaware Code, by deleting it in its entirety and substituting in lieu thereof, the following: "Is competent in the practice of psychology as shown by written examination; and".

Section 5. Amend §409, Title 24, Delaware Code by deleting the words "both by written and oral" as they appear in paragraph (a)(1) thereof and by inserting in lieu thereof the words "by written".

Section 6. Amend §610, Title 24, Delaware Code by deleting the words "and oral" as they appear in the first sentence thereof.

Section 7. Amend §1430, Title 24, Delaware Code by deleting the words "examinations, if required, whether oral or written, or both," as they appear in subsection (a) thereof and by inserting in lieu thereof the words "written examinations, if required,".

Section 8. Amend §3514, Title 24, Delaware Code by deleting the words "or oral examination, or both," as they appear in subsection (a) thereof, and by inserting in lieu thereof the word "examination".

Approved April 18, 1990.

CHAPTER 201

FORMERLY

HOUSE BILL NO. 446
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER II, CHAPTER 47. TITLE 16 OF THE DELAWARE CODE RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

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

Section 1. Amend Section 4718(c)(3), subchapter II, Chapter 47, Title 16 of the Delaware Code by deleting said paragraph in its entirety and renumbering the remaining paragraphs accordingly.

Section 2. Amend Section 4716(e), subchapter II, Chapter 47, Title 16 of the Delaware Code by adding thereto a new paragraph (7) to read as follows:

"(7) Glutethimide;".

Approved April 18, 1990.

CHAPTER 202

FORMERLY

HOUSE BILL NO. 493
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 11, DELAWARE CODE RELATING TO POSSESSION OF CHILD PORNOGRAPHY.

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 section to read as follows:

"§1111. Possession of child pornography; class A misdemeanor.

A person is guilty of possession of child pornography by knowingly possessing any visual matter depicting a child engaging in a prohibited sexual act or in the simulation of such an act.

Possession of child pornography is a Class A misdemeanor."

Approved April 18, 1990.

CHAPTER 203

FORMERLY

HOUSE BILL NO. 568
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 189, VOLUME 43 OF THE LAWS OF DELAWARE, AS AMENDED, RELATING TO THE TOWN OF WYOMING.

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 Paragraph 13, Section 15, Chapter 189, Volume 43 of the Laws of Delaware, as amended, by striking the figure "$75,000" as it appears therein and by substituting in lieu thereof the figure "$125,000".

Approved April 18, 1990.

CHAPTER 204

FORMERLY

SENATE BILL NO. 379

AN ACT TO AMEND CHAPTER 65, TITLE 9, DELAWARE CODE, RELATING TO SUSSEX COUNTY SANITARY AND WATER DISTRICTS.

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

Section 1. Amend Chapter 65, Title 9 of the Delaware Code by renumbering Sections 6512 through 6520 as Sections 6513 through 6521 respectively.

Section 2. Further amend Chapter 65, Title 9, Delaware Code, by creating a new Section 6512 to read as follows:

"Section 6512. LOCATION OF SEWAGE TREATMENT PLANTS AND OTHER SEWAGE DISPOSAL FACILITIES.

(a) Notwithstanding any other provision of this Chapter, sewage treatment plants and other sewage or water facilities constructed prior to the effective date of this section may be located outside, in part or in whole, the sewer or water district which they are intended to serve.

(b) Subject to subsection (c), new sewage treatment plants or other new sewage disposal or water facilities constructed pursuant to the provisions of this chapter shall be located within the sanitary sewer or water district which they are intended to serve. Provided, however, that new sewage treatment plants or other new sewage disposal or water facilities constructed pursuant to this chapter may be located outside such sanitary sewer or water district if such district is or has been established on or before January 1, 1991 and the new sewage treatment plants or other sewage disposal or water facilities are not located within three-fourths of one mile of the Indian River or the inland bays exclusive of tributaries to said river and bays.

(c) It shall be permissible to transfer sewage or water from one sewer or water district to another sewer or water district for purposes of treatment and disposal of the sewage, or for purposes of providing water except that sewage or water shall not be transferred pursuant to this subsection to new sewage treatment plants or other new sewage disposal or water facilities located within three-fourths of one mile of the Indian River or inland bays exclusive of tributaries to said river and bays.

(d) The word "new" within this section means "constructed after the effective date of this section"."

Approved April 18, 1990.

CHAPTER 205

FORMERLY

SENATE BILL NO. 151
AS AMENDED BY
SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 4 AND SENATE AMENDMENT NO. 5

AN ACT TO AMEND TITLE 14, DELAWARE CODE, RELATING TO POWERS AND DUTIES OF THE STATE BOARD OF EDUCATION AND MANDATING A UNIFORM KINDERGARTEN THROUGH HIGH SCHOOL DRUG/ALCOHOL EDUCATION PROGRAM IN EACH SCHOOL DISTRICT IN DELAWARE.

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

Section 1. Amend §122, Subchapter II, Chapter 1, Title 14, Delaware Code, by adding thereto a new Section (20) to read as follows:

"(20) Establishing mandatory drug and alcohol educational programs in each grade, kindergarten through grade 12, in each public school in this State."

Section 2. Amend Chapter 41, Title 14, Delaware Code, by adding thereto a new §4116 to read as follows:

"§4116. Drug/alcohol educational programs.

(a) The State Board of Education shall establish and implement statewide alcohol/substance abuse educational programs to be provided in each grade, kindergarten through grade 12, in each public school in this state. The programs required by this Section shall consist of no fewer than 10 hours per school year in grades kindergarden through 4 and 15 hours per school year in grades 5 through 12. Each program shall be taught by appropriately trained certified teachers and the instruction shall be comprehensive, age-appropriate, and sequential in nature.

(b) Any in-service training required by this Act shall be provided within the contracted school year as provided in Section 1305(e), Chapter 13, Title 14, Delaware Code."

Section 3. The alcohol/substance abuse educational programs required by this Act shall be established on or before September 1, 1990.

Approved April 19, 1990.

CHAPTER 206

FORMERLY

HOUSE BILL NO. 607

AN ACT WAIVING THE STATUTORY PROVISIONS OF SECTION 107(a) OF CHAPTER 1, TITLE 13, DELAWARE CODE AS IT RELATES TO THE MARRIAGE OF KATHRYN SCHMULLING AND JOHN E. JONES, NON-RESIDENTS OF THE STATE OF DELAWARE.

WHEREAS, John E. Jones of St. Charles, Illinois wishes to marry Kathryn Schmulling of Ann Arbor, Michigan, both of whom are non-residents of the State of Delaware; and

WHEREAS, the bride to be, Kathryn Schmulling, a former resident of Delaware, but presently residing in Ann Arbor, Michigan, where she is employed by ICI Americas; and

WHEREAS, the groom to be is employed full-time in St. Charles, Illinois and is matriculated in college on a full-time basis; and

WHEREAS, the couple plan to be married on May 12, 1990 in Delaware because most of their friends are located here; and

WHEREAS, because of the working circumstances of both parties, it is extraordinarily difficult for them to comply with the provisions of §107(a), Chapter 1, Title 13, Delaware Code requiring non-residents to obtain a marriage license at least 96 hours prior to the marriage ceremony.

NOW, THEREFORE:

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

Section 1. John E. Jones of St. Charles, Illinois and Kathryn Schmulling of Ann Arbor, Michigan are hereby exempted from the provisions of §107(a), Chapter 1, Title 13, Delaware Code and are specifically authorized to marry on May 12, 1990 or within 30 days thereafter; the Clerk of the Peace for New Castle County shall issue to John E. Jones and Kathryn Schmulling an official marriage license pursuant to this Act, the provisions of §107(a) of Chapter 1, Title 13, Delaware Code or any other law of this State to the contrary notwithstanding.

Approved May 2, 1990.

CHAPTER 207

FORMERLY

SENATE BILL NO. 13

AN ACT TO AMEND CHAPTER 82, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE COMMISSION ON HAZARDOUS MATERIALS.

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

Section 1. Amend §8227, Chapter 82, Title 29 of the Delaware Code by adding, immediately after the words "Public Health," as the same appear in the second sentence of subsection (a), the following:

"members of the State Emergency Response Commission,".

Approved May 10, 1990.

CHAPTER 208

FORMERLY

SENATE BILL NO. 323

AN ACT TO AMEND CHAPTER 90, TITLE 11, DELAWARE CODE, RELATING TO COMPENSATION FOR INNOCENT VICTIMS OF CRIME.

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

Section 1. Amend §9003, Chapter 90, Title 11, Delaware Code by striking the figure "$1,000" as it appears in the sixth sentence of said section and substituting in lieu thereof the figure "$5,000".

Section 2. Amend §9004(2), Chapter 90, Title 11, Delaware Code by striking the figure "6" as it appears therein and substituting in lieu thereof the figure "8".

Approved May 10, 1990.

CHAPTER 209

FORMERLY

SENATE BILL NO. 76

AN ACT TO AMEND SECTIONS 8312 AND 8342 OF TITLE 9 OF THE DELAWARE CODE, AS THEY RELATE TO NEW CASTLE COUNTY, CONCERNING THE ADVERTISING OF NOTICE THAT ANNUAL AND SUPPLEMENTAL ASSESSMENTS ARE COMPLETED AND AVAILABLE FOR PUBLIC INSPECTION.

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

Section 1. Amend Title 9, Delaware Code, Section 8312 (a) by deleting the existing third sentence thereof and adding in lieu thereof the following:

"Such notice shall appear at least once a week for 2 weeks in at least 2 newspapers in the case of Kent and Sussex Counties and, in the case of New Castle County, in at least 2 newspapers, 1 of which is the newspaper with the highest general circulation published in New Castle County."

Section 2. Amend Title 9, Delaware Code, Section 8342 (b) by deleting the existing third sentence thereof and adding in lieu thereof the following:

"Such notice shall appear at least once a week for 2 weeks in at least 2 newspapers in the case of Kent and Sussex Counties and, in the case of New Castle County, in at least 2 newspapers, 1 of which is the newspaper with the highest general circulation published in New Castle County."

Section 3. This Act shall become effective immediately upon its signature by the Governor and shall apply to any acts required to be taken by New Castle County in connection with any assessment roll, annual or supplemental, certified after January 1, 1989.

Approved May 10, 1990.

CHAPTER 210

FORMERLY

HOUSE BILL NO. 269
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE TO PROVIDE FUNDING FOR A STATE FUNDING DRUG REHABILITATION, TREATMENT AND EDUCATION FUND.

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

Section 1. Amend Title 16, by adding a new Chapter 48 A. thereto to read as follows:

"CHAPTER 48 A. DRUG REHABILITATION, TREATMENT AND EDUCATION FUND

§401. Fund Created

The General Assembly in order to help provide funding for drug rehabilitation, treatment and education, hereby creates a special 'Drug Rehabilitation, Treatment and Education Fund.'

§402. Source of Funds

(a) In addition to, and at the same time as, any fine is assessed to any criminal defendant, of any violations of §§4751-4758, 4761, or 4771-4774 of this Title there shall be levied an additional penalty, in addition to the penalty assessment as provided in §9012 of Title 11, of 15% of every fine, penalty and forfeiture imposed and collected by the courts for such criminal offenses. When a fine, penalty or forfeiture is suspended in whole or in part, the penalty assessment shall not be suspended.

(b) Upon collection of the penalty assessment, the same shall be paid over to the agency, Prothonotary or clerk of the court as the case may be, who shall collect it and transmit it to the State Treasurer to be deposited in a separate account designated 'Drug Rehabilitation, Treatment and Education Fund.'

§403. Use of Fund

(a) The State Treasurer shall have the power to invest the assets of the Drug Rehabilitation, Treatment and Education Fund in a prudent manner. Any profits and interest from such investment shall remain in the fund and become part of the principal thereof.

(b) The funds raised by this Chapter shall be used only for drug rehabilitation, treatment and education and shall be administered jointly by the Secretary of Health and Social Services and the Secretary of Services to Children, Youth and Their Families.

§404. Annual reports

The State Treasurer shall transmit to the Governor, State Auditor and the General Assembly an annual report describing the status of this fund."

Approved May 14, 1990.

CHAPTER 211

FORMERLY

HOUSE BILL NO. 360
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 81, TITLE 10 OF THE DELAWARE CODE RELATING TO LIMITATION OF CIVIL LIABILITY FOR CERTAIN VOLUNTEERS AND CERTAIN MEDICAL CLINICS.

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

Section 1. Amend Chapter 81, Title 10, Delaware Code by adding thereto a new Section §8134 to read as follows:

"§8134. Limitation from civil liability for certain volunteers.

(a) For purposes of this Section, the following terms shall have the meanings ascribed herein:

(1) 'Volunteer' is any licensed physician or nurse engaged in an activity for a medical clinic without compensation.

(2) 'Activity' is any decision, act or event relating to medical treatment of a person undertaken by the medical clinic in furtherance of the person's medical treatment.

(3) 'Medical Clinic' is any facility other than a hospital or doctor's office which offers medical services, which is run by a non-profit entity under section 501(c)(3) of the Internal Revenue Code, and which is staffed entirely or in part by licensed physicians or nurses who serve without compensation.

(4) 'Compensation' is any remuneration, whether by way of salary, fee or otherwise, for services rendered, exclusive of any gift perquisite in form of access to services of the medical clinic at no or a reduced cost or reimbursement for costs actually incurred or the providing of lunch or other meals.

(5) 'Employee' is any person who receives compensation from the medical clinic for services rendered in connection with an activity of the medical clinic.

(b) No volunteer or the medical clinic with which he is affiliated shall be subject to suit directly, derivatively or by way of contribution or idemnification for any civil damages under the laws of Delaware resulting from any negligent act or omission performed during or in connection with an activity of the volunteer while serving the medical clinic, unless said volunteer has insurance coverage for such acts or omissions in which case the amount recovered shall not exceed the limits of such applicable insurance coverage.

(c) Notwithstanding those provisions of Subsection (b) of this Section, a plaintiff may sue and recover civil damages from a volunteer based upon a negligent act or omission involving the operation of a motor vehicle during an activity; provided, that the amount recovered from such volunteer shall not exceed the limits of applicable insurance coverage maintained by or on behalf of such volunteer with respect to the negligent operation of a motor vehicle in such circumstances.

(d) The immunity granted in Subsection (b) of this Section shall not extend to any act or omission constituting willful and wanton or grossly negligent conduct."

Approved May 15, 1990.

CHAPTER 212

FORMERLY

HOUSE BILL NO. 396
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 5, TITLE 24 OF THE DELAWARE CODE RELATING TO THE REGULATION OF PODIATRISTS.

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

Section 1. Amend paragraph (3), subsection (a), Section 505, Title 24 of the Delaware Code by striking the figure "80" as the same appears in sub-paragraph a., and substituting the words "seventy-five percent (75%)" in lieu thereof.

Section 2. Amend paragraph (3), subsection (a), Section 505, Title 24 of the Delaware Code by striking sub-paragraph c. in its entirety and substituting in lieu thereof the following:

"c. Satisfactorily complete the Level 3 Examination known as PMLexis - Podiatric Medical Licensing Examination for States. The Board shall accept the minimum passing score on such examination recommended by the testing service providing the examination."

Section 3. Amend §506, Chapter 5, Title 24 of the Delaware Code by re-designating present subsection (b) as new subsection (c); by re-designating present subsection (c) as new subsection (d); and by adding a new subsection which shall read as follows:

"(b) When an applicant first applies for licensure, such applicant shall certify that he or she has not committed any act or acts which would constitute grounds for discipline under §513 of this chapter."

Section 4. Amend §510, Chapter 5, Title 24 of the Delaware Code by striking the last sentence of sub-section (b), and substituting in lieu thereof the following:

"Each applicant for license renewal shall:

(1) certify that such applicant has not committed any act or acts which would constitute grounds for discipline under §513 of this chapter;

(2) comply with all rules and regulations of the Board."

Section 5. Amend Chapter 5, Title 24 Delaware Code by striking Section 520 thereof in its entirety and substitute in lieu thereof a new §520 to read as follows:

"§520. Temporary License.

(a) The Board may issue a temporary license to practice podiatry, without examination, to an individual who is a qualified applicant for licensure, under a residency or preceptorship in Delaware, and who will take the next scheduled Podiatric Medical Licensing Examination for States (PMLEXIS).

(b) If the applicant receives official notification that he/she has passed the PMLEXIS, the temporary license will not expire until the Board next meets and grants licensure to the applicant.

(c) If the applicant receives official notification that he/she has not passed the PMLEXIS, the temporary license will expire immediately.

(d) A temporary license may only be renewed once."

Section 6. Amend §507(a) of Chapter 5, Title 24 Delaware Code by striking said subparagraph (a) in its entirety and substituting in lieu thereof a new subparagraph (a) to read as follows:

"(a) The Board shall, at least twice a year, during the months of June and December, administer or authorize the administration of examinations described in §505 of this Title. All examinations shall be graded by the testing service providing the examinations."

Approved May 15, 1990.

CHAPTER 213

FORMERLY

SENATE BILL NO. 276

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 CONFER UPON THE COMMISSIONERS OF THE TOWN OF HENLOPEN ACRES CERTAIN POWERS RELATING TO THE TAXATION OF REAL ESTATE TRANSFERS WITHIN THE TOWN OF HENLOPEN ACRES, AND TO INCREASE THE AMOUNT FOR WHICH CONTRACTS CAN BE AWARDED WITHOUT 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. Chapter 504, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by adding a new Section following Section 37 to be designated as Section 37A to read as follows:

"Section 37A. Taxation of Real Estate Transfers.

(a) The Commissioners of The Town of Henlopen Acres, in addition to all other powers

conferred upon them 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 Commissioners 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 Henlopen Acres, regardless of where the actual settlements on such transfers occur; provided, however, 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 Commissioners of The Town of Henlopen Acres. 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 stamps are affixed thereto.

(c) The Commissioners of The Town of Henlopen Acres may adopt an ordinance or ordinances to provide for the effective administration, regulation and collection 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; provided, however, that no tax shall be imposed upon an organization which is exempted from ad valorem taxes. The provisions of §5401 and §5403, Chapter 54, Title 30, Del. C., shall be applicable to any realty transfer tax imposed pursuant to this Act.

(e) The Commissioners may provide by Ordinance for the collection of such tax by the Recorder of Deeds, in and for Sussex County, or such other agent as may be appointed by the Commissioners and shall prescribe in such Ordinance the charge that will be paid for such collection of such realty transfer tax authorized by this Section."

Section 2. This Act shall not become effective until it shall be approved by a majority of the qualified voters who vote at a Special Election to be held pursuant to a Resolution adopted by the Commissioners of the Town of Henlopen Acres. The Commissioners 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 Henlopen Acres within thirty (30) days immediately preceding the date of such Special Election. Every person who is a bona fide resident of The Town of Henlopen Acres 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 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 and such votes may be cast either in person or by proxy. The Special Election shall be held by a Board of election to be appointed by the President of the Commissioners of The Town of Henlopen Acres 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 President of the Commissioners of The Town of Henlopen Acres. 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 Commissioners. The hours of the Special Election shall be from nine o'clock in the morning, prevailing time, until twelve o'clock noon on the same day, prevailing time, and such persons who are in the polling place at twelve o'clock noon, prevailing time, shall be entitled to vote even though such votes may be cast after twelve o'clock noon, 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.

Section 3. Paragraph 1, Subsection (a), Section 34, Chapter 504, Volume 57, Laws of Delaware, as amended, being Chapter 259, Volume 66, Laws of Delaware, be and the same is hereby further amended by striking out the words and figures "Twenty Thousand Dollars (&20,000.00)" and substituting in lieu thereof the words and figures "Thirty Thousand Dollars ($30,000)".

Approved May 15, 1990.

CHAPTER 214

FORMERLY

SENATE BILL NO. 263

AN ACT TO AUTHORIZE AND APPROVE THE TRANSFER OF CERTAIN REAL PROPERTY IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, KNOWN AS WARWICK SCHOOL NO. 203, TO VETERANS OF FOREIGN WARS POST 10638.

WHEREAS, Warwick School No. 203, also known as "Johnson's School" ceased functioning as a public school in 1964 and has not been used for any purpose by the State of Delaware since that time; and

WHEREAS, the property was purchased and the school structure was built about 1920 by Pierre S. duPont's "Delaware School Auxiliary Association" and deeded to the State Board of Education at no cost to the taxpayers of the State of Delaware; and

WHEREAS, the General Assembly on June 30, 1982, approved the leasing of Warwick School No. 203 to Veterans of Foreign Wars Post 10638 of Millsboro, Delaware, for a period of 25 years, since which time V.F.W. Post 10638 has maintained and substantially improved the property at considerable expense to themselves; and

WHEREAS, a substantial portion of the value of the property at the present time is due to the funds invested by V.F.W. Post 10638 in improvements during the period of their lease; and

WHEREAS, V.F.W. Post 10638 now desires to substantially enlarge the structure and improve it further at its own expense, but does not consider it feasible or in the long-range best interests of the post to invest a large sum of money in a building which the post does not hold title to.

NOW, THEREFORE:

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

Section 1. Notwithstanding any provisions to the contrary, including those contained in Chapter 94, Title 29, Delaware Code, the transfer and conveyance of the following described real property to Veteran's of Foreign Wars Post 10638 of Millsboro, Delaware, for the consideration of one dollar ($1.00) is hereby specifically approved:

All that certain tract, piece or parcel of land with improvements erected thereon, lying on the north side of Delaware Route 24, known as Warwick School No. 203 and being the same lands and premises which were conveyed as Tract No. Three of seven tracts by deed of John P. Nields and his wife, Mary C. Nields to the Delaware State Board of Education, said deed dated 7 April 1922 and now of record in the Office of the Sussex County Recorder of Deeds in Deed Book No. 232, Page 564; and being a part of the same lands which were conveyed by deed of Hugh Rodney Sharp and his wife, Isabella duPont Sharp, as Tract No. 18 of 22 tracts to John P. Nields, said deed dated 30 November 1920 and now of record in the said Recorder's office in Deed Book 226, Page 214; and being the same lands which were conveyed by deed of Sylvester W. Johnson and his wife, Mary Johnson, to Hugh Rodney Sharp, said deed dated 3 March 1920, and now of record in the said Recorder's office in Deed Book 220, Page 489.

Section 2. The Department of Public Instruction is hereby authorized and empowered to execute and deliver to Veterans of Foreign Wars Post 10638 a good and sufficient deed transferring and conveying the said real property.

Section 3. In the event that Veterans of Foreign Wars Post 10638 should no longer have any need or use for the above-described property, it shall automatically revert to the State of Delaware, and the deed conveying the said land shall contain a reverter provision to that effect.

Section 4. The deed shall contain a provision whereby the Grantee, V.F.W. Post 10638, agrees to convey any portion of said land, exclusive of any improvement thereon, to the Department of Transportation, should such land be required in the future for public transportation-related projects, at no cost to the State of Delaware.

Approved May 15, 1990.

CHAPTER 215

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 505
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 28, DELAWARE CODE ESTABLISHING THE DELAWARE BICYCLE COUNCIL.

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

Section 1. Amend Title 28, Delaware Code by adding a new chapter to read as follows:

Chapter 17. Delaware Bicycle Council.

§1701. Composition, appointment, term, meetings, compensation.

(a) The Delaware Bicycle Council shall consist of 9 members, hereafter referred to as "Council" to be appointed by the Governor and chosen one from each of the following agencies: Department of Transportation, Council on Transportation, Department of Public Instruction, Department of Public Safety (State Police and Office of Highway Safety), Department of Natural Resources and Environmental Control (Division of Parks and Recreation), plus four citizens knowledgeable about bicycling matters -- two from New Castle, one from Kent and one from Sussex Counties. No more than 5 members shall be of the same political party.

(b) The term of office shall be for 3 years.

(c) The Governor shall designate 1 member to be Chairman.

(d) The Council shall meet at least five times each year to report on its work concerning the needs and problems of bicycling in this State.

(e) There shall be no salary but each member shall be entitled to be paid his or her reasonable expenses for attending any meeting of the Council.

(f) Vacancies on the Council shall be filled by the Governor by appointment for the unexpired term.

§1702. Powers and duties.

(a) The Council shall possess all necessary powers and duties to consider, review, and work on matters pertaining to bicycling, bicycle safety and bicycle safety education and to make recommendations to the various state agencies. The Council shall coordinate with the University of Delaware Cooperative Extension Service regarding bicycle safety education.

§1703. Staff and fiscal support.

The Department of Transportation shall provide staff and fiscal support to the Council as part of that Department's ongoing responsibility. Said staffing shall include a bicycle coordinator.

Approved May 16, 1990.

CHAPTER 216

FORMERLY

HOUSE BILL NO. 290
AS AMENDED BY SENATE AMENDMENT NOS. 1, 3, AND 6

AN ACT TO AMEND TITLE 23, DELAWARE CODE, RELATING TO THE OPERATING, AND/OR CONTROL OF A VESSEL OR BOAT UPON THE WATERS OF THE STATE OF DELAWARE WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS.

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

Section 1. Amend Section 2116(b), Chapter 21, Title 23, Delaware Code, by striking said Subsection in its entirety and substituting in lieu thereof the following:

"(b) No person may use any vessel to which this Subchapter applies, including those exempt in §2115 of this Title, or any water skis, aquaplane, surfboard or similar device in a negligent manner so as to endanger the life, limb or property of any person."

Section 2. Amend Title 23, Delaware Code, by adding a new Chapter to read as follows:

"Chapter 23. OPERATION OF A VESSEL OR BOAT WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR AND/OR DRUGS.

§2301. Definitions.

(a) 'Vessel' shall mean every device in, upon or by which any person may be transported upon the water excepting devices moved by human power.

(b) 'Underway' shall be defined as any vessel which is not at anchor or made fast ashore.

§2302. Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs.

(a) No person shall motor, sail, row, operate, command or have actual physical control of any vessel or boat underway on Delaware waters while under the influence of intoxicating liquor or drugs or any combination of drugs and/or intoxicating liquors.

(b) Any person charged under Subsection (a) of this Section whose blood alcohol concentration is one tenth of 1% or more by weight as shown by a chemical analysis of a blood, breath or urine sample taken within 4 hours of the alleged offense shall be guilty of violating Subsection (a) of this Section. This provision shall not preclude a conviction based on other admissible evidence.

(c) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of violating this Section.

§2303. Consent to submit to chemical test.

(a) Any person who motors, sails, rows, commands, operates or has actual physical control of a vessel or boat underway on the waters of this State shall be deemed to have given his consent, subject to this Section and §2202 of this Title, to a chemical test or tests of his blood, breath and/or urine for the purpose of determining the presence of alcohol or a drug or drugs. The testing may be required of a person when an officer has probable cause to believe the person is in violation of §2302 of this Title, or a local ordinance substantially conforming thereto.

(b) At the time that a chemical test specimen is required, the person may be informed that if testing is refused, the person shall be prohibited from operating a vessel upon Delaware's waters for a period of one (1) year.

(c) If there are reasonable grounds to believe that there is impairment by a drug or drugs which are not readily subject to detection by a breath test, a blood and/or urine test may be required even after a breath test has been administered.

(d) Alternative tests; physical incapacity.

If for any reason a person is physically unable to supply enough breath or complete the chemical test, he shall submit to other chemical tests as designated by the officer, subject to the requirements of Subsection (a) of this Section. Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal shall be deemed to not have withdrawn the consent provided in §2303 of this Title and any test may be performed as provided in Subsection (a) of this Section.

(e) Refusal to submit as admissible evidence.

Upon any trial of any action or proceeding arising out of the acts alleged to have been committed by any person while in violation of §2202 of this Title, the court may admit evidence of the refusal of such person to submit to a chemical test of his breath, blood or urine.

(f) Admissibility in evidence of results of chemical test.

(1) Upon the trial of any action or proceeding arising out of acts alleged to have been committed by any person while under the influence of alcohol, and/or drugs or any combination thereof, with respect to any chemical test taken by or at the request of the State, the court shall admit the results of a chemical test of the person's breath, blood or urine according to the normal rules of evidence.

(g) The informing or failure to inform the accused concerning the implied consent provision shall not affect the admissibility of such results in any prosecution for a violation of §2302 (a) of this Title.

(h) The doctor-patient privilege shall not apply to the disclosure to law-enforcement personnel nor the admissibility into evidence in any criminal proceeding of the results of a chemical test of a person's blood, breath or urine for the purpose of determining the alcohol or drug content of his blood irrespective of whether such test was done at the request of a treating physician, other medical personnel, or a peace officer.

§2304. Refusal to submit to chemical test.

(a) If any person requested refuses to submit to a chemical test pursuant to §2303 of this Chapter, after being informed of the penalty for said refusal, that person shall be prohibited from operating a vessel upon Delaware waters for a period of one (1) year. This prohibition shall begin the day of said refusal.

(b) The Secretary of the Department shall notify in writing said persons of this prohibition and its duration and shall maintain a list of these individuals.

(c) Operation upon Delaware waters during the period of prohibition provided in subsection (a) of this section shall be punished by a fine of not less than $500 nor more than $2000 and/or 30 days in jail or both.

§2305. Penalties; jurisdiction.

Whoever is convicted of a violation of Section 2302 of this Chapter shall:

(1) For the first offense, be fined not less than $200 nor more than $1000 or imprisoned not less than 60 days nor more than 6 months or both.

(2) For each subsequent like offense occurring within 5 years from the former offense, be fined not less than $500 nor more than $2000 and imprisoned not less than 60 days nor more than 18 months. For the purposes of this Subsection, prior offenses shall include those occurring in any other state, the District of Columbia or under generally conforming local ordinances. A conviction for a violation of a criminal statute dealing with injury or death caused to another person by the person's driving or operation of the vessel, under the influence was included as an element of such charge, shall constitute such a first or similar offense if occurring within 10 years from the subsequent offense.

(3) Jurisdiction for violation of this chapter shall be in the Justice of the Peace Courts.

§2306. Enforcement of Chapter.

Any person authorized to make arrests under the laws of the State may enforce this Chapter.

§2307. Persons Qualified to Administer Tests.

Any person qualified under §2746 of Title 21 shall be qualified for the purposes of this chapter to withdraw blood from a person submitting to a chemical test or obtaining a specimen of breath or urine under this chapter.

§2309. Disposition of Vessel and Property.

(a) Where the only person on a vessel is an individual suspected of violating this Chapter, the following procedure shall apply:

1. The vessel shall be towed to a safe port and be secured.

2. An inventory of the vessel's contents shall be made. The occupant of the vessel shall sign the inventory and receive a copy thereof.

3. All contents of the vessel shall be secured on the boat whenever possible. If it is not possible to secure the contents on the vessel, the contents must be secured safely elsewhere.

4. The vessel shall remain secured until the vessel's occupant or their designee is capable of assuming responsiblity for the vessel.

(b) Where more than one person is on a vessel which has been stopped for a suspected violation of this Chapter, the following procedure shall apply:

1. The vessel shall be towed to a safe port and be secured unless there is a competent person on the vessel who is designated by the operator to take responsibility for the vessel.

2. If there is no competent person on the vessel to operate it, the procedures set forth in subsection (a) of this section shall apply.

(c) A vessel shall be considered at "a safe port and be secured" if:

1. The vessel is placed at a marina under a bailment contract with the marina operator, at the owners expense. The marina operator must be paid a storage fee by the owner or operator upon release of the vessel. When a vessel is placed at a marina, the marina operator shall sign and receive a copy of the inventory of the vessel; or

2. The vessel is transported to a State-operated facility.

(d) Where a vessel which has been stopped for a suspected violation of this Chapter has been damaged or has caused damage as a result of its operation in violation of the Chapter, the vessel may, at the direction of the investigating agency, be removed and impounded for evidentiary purposes. The vessel shall be inventoried pursuant to subsection (a)(2) of this Section, but the vessel shall not be released until evidentiary processing is completed."

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 May 18, 1990.

CHAPTER 217

FORMERLY

HOUSE BILL NO. 525

AN ACT TO AMEND TITLE 10, SECTION 6910 OF THE DELAWARE CODE RESTRICTING THE MANDATORY RELEASE OF CHARGED PRISONERS.

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

Section 1. Amend Section 6910 of Title 10 of the Delaware Code by deleting said section in its entirety.

Section 2. This act shall become effective upon signature by the governor.

Approved May 21, 1990.

CHAPTER 218

FORMERLY

HOUSE BILL NO. 487

AN ACT TO AMEND CHAPTER 39, TITLE 18, DELAWARE CODE RELATING TO CANCELLATION OF AUTOMOBILE INSURANCE POLICIES.

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

Section 1. Amend Section 3915, Title 18, Delaware Code by striking the words "§3902 of this chapter" as they appear in subsection 3915(a)(1) and substituting in lieu thereof the words "§2118 of Title 21, Delaware Code."

Approved May 21, 1990.

CHAPTER 219

FORMERLY

SENATE BILL NO. 134
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 14, DELAWARE CODE, BY REQUIRING EVERY SCHOOL DISTRICT IN DELAWARE TO DESIGNATE AN ADMINISTRATOR IN EACH SCHOOL TO REPORT DRUG/ALCOHOL PROBLEMS TO PARENTS AND LAW ENFORCEMENT AGENCIES.

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

Section 1. Amend Chapter 41, Part I, Title 14 of the Delaware Code by adding thereto a new section, designated as "§4116", which new section shall read as follows:

"§4116. Substance Abuse.

(a) Each school district shall designate an administrator in every school as the person responsible for reporting, to parents and/or law enforcement agencies, any violation and/or problems relating to the abuse of controlled substances. Such administrator shall not be liable under the laws of this State for any act or omission committed by him in the performance of his duties and responsibilities under this section.

(b) No administrator having reporting responsibilities under this section shall be required to report any substance abuse violation and/or problem to a parent if such person, being the principal of the school, reasonably believes that a parent or parents are a cause of or are involved in the violation and/or problem; nor shall any other administrator, having reporting responsibilities under this section, be required to report any substance abuse violation and/or problem to a parent, if such administrator and the principal of the school both believe that a parent or parents are a cause of or are involved in the violation or problem."

Approved May 24, 1990.

CHAPTER 220

FORMERLY

SENATE BILL NO. 357
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND SUBCHAPTER I, CHAPTER 19, TITLE 11, DELAWARE CODE RELATING TO PROVIDING STATEWIDE AUTHORITY TO CERTAIN POLICE OFFICERS UNDER CERTAIN CIRCUMSTANCES.

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 §1911, Chapter 19, Title 11, Delaware Code by inserting a new subsection designated as subsection (c) and by redesignating the existing subsections accordingly to read as follows:

"(c) An on duty police officer may arrest upon view and without a warrant at any location within the State any person when probable cause exists to believe that the person is committing or attempting to commit any crime which creates a substantial risk of death or serious physical injury to another person or which constitutes a violation of Title 21, Section 4177 of this Code."

Section 2. This Act shall become effective 90 days after being signed by the Governor and will terminate July 1, 1992. The Delaware Police Chiefs' Council, Inc., shall provide the General Assembly with a comprehensive report on the impact of the provisions of this Act within 10 days from the beginning of the legislative session which begins January, 1992.

Approved May 24, 1990.

CHAPTER 221

FORMERLY

HOUSE BILL NO. 175
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO's 1 AND 2

AN ACT TO AMEND CHAPTER 21, TITLE 23 OF THE DELAWARE CODE RELATING TO MOTORBOATS; AND PROVIDING FOR LOCATIONS WHERE FEES MAY BE PAID BY LICENSEES.

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

Section 1. Amend §2113, Chapter 21, Title 23, of the Delaware Code by striking subsection (d) thereof in its entirety, and substituting in lieu thereof the following:

"(d) In order to permit any person to register a motorboat on any day of the week, the Department shall designate certain locations for such registration. Persons may register the boat and pay the required fee at State offices or at approved private locations. The Secretary shall develop regulations in determining the locations where fees shall be paid by the licensee and develop performance standards for approved private locations. New private locations assigned pursuant to this section shall be assigned to entities or individuals engaged in both retail sales and repairs of boats."

Approved May 24, 1990.

CHAPTER 222

FORMERLY

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

AN ACT TO AMEND CHAPTER 23, TITLE 19 OF THE DELAWARE CODE RELATING TO WORKMEN'S COMPENSATION.

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

Section 1. Amend §2381, Title 19, Delaware Code by adding the following new subsection:

"(d) With respect to each classification of risk in the construction industry the Delaware Compensation Rating Bureau shall file a method of computing premiums that does not impose a higher insurance cost solely because of an employer's higher rates of wages or salaries paid. With respect to said classifications, the Insurance Commissioner shall accept a filing of a method for computing premiums which includes a reasonable procedure of compensation for differences in rates of pay. This method will use a credit scale ranging from 0% to 25% with the starting point set at the Delaware construction industry average hourly wage scale expected to exist in each consecutive 12 month period to which this program will apply.

The Insurance Commissioner and the Delaware Compensation Rating Bureau shall implement a revenue neutral plan for new and renewal policies by July 1, 1990 for prompt and orderly transition to a method which is in compliance with such requirements."

Approved May 30, 1990.

CHAPTER 223

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 193
AS AMENDED BY
HOUSE AMENDMENTS NO. 1, 2, HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2
AND HOUSE AMENDMENTS NO. 3 AND 4

AN ACT TO AMEND CHAPTERS 1, 7, 8, 9 AND 11 OF TITLE 5, AND CHAPTERS 1, 5, 11, 23, 42, 44, 47, 49 AND 50 OF TITLE 18 OF THE DELAWARE CODE BY EXPANDING THE POWERS OF BANKS AND TRUST COMPANIES TO ENGAGE IN THE BUSINESS OF INSURANCE; AND TO PROVIDE FOR THE PROPER REGULATION THEREOF.

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

Section 1. This Act may be referred to as the "Bank and Trust Company Insurance Powers Act of 1989".

Section 2. Amend subsection (a) of Section 761 of Title 5, Delaware Code by renumbering subparagraph (14) thereof as subparagraph (16), and by adding thereto new subparagraphs (14) and (15) to read as follows:

"(14) Act as an insurer and transact the business of insurance in accordance with the provisions of Title 18; except that no corporation established under and in compliance with this Chapter shall have power to act as a title insurer and transact the business of title insurance;

(15) Act as guarantor or surety for the debt or obligation of another, including specifically but without limitation the rediscounting with recourse of commercial paper and the issuance of letters of credit as defined in §5103(1)(a) of Title 6 and standby letters of credit. As used herein, the term 'standby letter of credit' includes every letter of credit (or similar arrangement however named or designated) which represents an obligation to the beneficiary on the part of the issuer to repay money borrowed by or advanced to or for the account of the customer, or to make payment on account of any evidence of indebtedness undertaken by the customer, or to make payment on account of any default by the customer in performance of an obligation. The terms 'beneficiary', 'issuer' and 'customer' as used herein have the same meaning as in §5103(1) of Title 6;"

Section 3. Amend Section 745 of Title 5 of the Delaware Code by adding immediately after the existing language the following:

"The minimum capital stock and paid-in surplus required to be maintained by such corporation in its banking or trust company business pursuant to this section may not be utilized to satisfy the capital or reserve requirements to which the corporation may be subject with respect to any activity authorized by subsection (a)(14) of Section 761 of this title."

Section 4. Amend Section 767 of Title 5 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new Section 767 as follows:

"Section 767. Limitations on powers and activities of banks and trust companies.

(a) Any bank or trust company which engages in any activity authorized by subsection (a)(14) of Section 761 of this title otherwise than through a subsidiary thereof shall engage in each such activity through a department or division which shall maintain financial records separate and distinct from other records of such bank or trust company; provided, that such division may be established and may engage in each such activity only in accordance with the provisions of Title 18.

(b) A bank or trust company which engages in any activity authorized by §761(a)(14) hereof, whether through a department, division or subsidiary, may make loans to and transact other business with such department, division or subsidiary, provided such loan or other transaction is made on terms and under circumstances substantially the same as for comparable transactions with or involving other customers, or, in the absence of comparable transactions upon terms and under

circumstances that in good faith would be offered to or would apply to other customers.

(c) No department, division or subsidiary of a bank or trust company which engages in any activity authorized by §761(a)(14) of this title shall utilize in any manner or for any purpose the information contained in any insurance contract between a non-affiliated insurer and the insured which such company has obtained from the insured in connection with any request for an extension of credit.

(d) No bank or trust company which engages in any activity authorized by §761(a)(14) of this title shall, in evaluating any request or application for the extension of credit, discriminate against an applicant on the basis that such applicant is a competitor of such bank or trust company in any such activity."

Section 5. Amend Section 121(a)(1) of Title 5 of the Delaware Code by adding immediately before the semicolon (;) the following:

", provided that with respect to any activity authorized by §761(a)(14) of this title, the Commissioner shall only have supervision to the extent such activity is not subject to the supervision of the Insurance Commissioner of this State or of another jurisdiction or, if it is subject to such supervision, when he determines that such activity is likely to have a materially adverse effect on the safety and soundness of the bank"

Section 6. Amend Section 124 of Title 5 of the Delaware Code by striking the period (".") immediately following the word "Bank", and substituting the following punctuation and language:

", and with respect to a state bank or trust company which has established a division pursuant to §767 of this title, he shall also furnish a summary, on a confidential basis, of his report of any examination of the state bank or trust company to the Insurance Commissioner."

Section 7. Amend Section 771 of Title 5 of the Delaware Code by adding thereto a new subsection (e) to read as follows:

"(e) Any corporation established under this chapter or by Act of the Delaware General Assembly having paid-in capital and surplus exceeding $1,000,000 may open affiliated offices or places of business inside or outside this State, in the United States of America, or its possessions or in foreign countries solely to conduct activities authorized by §761(a)(14) of this title upon the issuance of a certificate of authority by the Commissioner for which he shall collect and receive a fee of $500, and upon such conditions and under such regulations as may be prescribed."

Section 8. Amend Chapter 9, Subchapter I of Title 5 of the Delaware Code by adding thereto a new Section 908A to read as follows:

"§908A. Bank Distinct from Bank Insurance Department or Division.

The assets of any bank or trust company shall be liable for and applicable to the payment and satisfaction of the liabilities, obligations and expenses of such bank or trust company only, and not to those liabilities, obligations and expenses of any insurance department or division of such bank or trust company established pursuant to Section 767(a) of this title. The liabilities, obligations and expenses of any such bank or trust company shall be applied against and paid and satisfied out of the assets of such bank or trust company only, and not out of the assets of any insurance department or division of such bank or trust company established pursuant to Section 767(a) of this title."

Section 9. Amend Section 909 of Title 5 of the Delaware Code by adding a new subsection (e) thereto as follows:

"(e) A department or division or subsidiary of a bank or trust company which engages in any activity authorized by §761(a)(14) of this title shall be deemed a corporation subject to the limitations of this Section."

Section 10. Amend Section 910 of Title 5 of the Delaware Code by striking the period (".") at the end of the existing language, immediately following the word "Section", and substituting the following:

"; provided further, that no bank or trust company which engages in activities authorized by §761(a) (14) of this title through subsidiaries or divisions shall initially allocate more than 25 percent of its total capital, surplus and undivided profits in the aggregate to all such subsidiaries or divisions, or shall thereafter allocate to all such subsidiaries or divisions (i) in any one year, without the approval of the Commissioner, any amount in excess of 3 percent of its total capital, surplus and undivided profits or (ii) in any event, any amount in excess of 25 percent of its then current total capital, surplus and individual profits in the aggregate; provided, further, that no bank or trust company which engages in activities authorized by §761(a) (14) of this title through subsidiaries or divisions shall allocate any of its total capital, surplus or undivided profits to any such subsidiaries or divisions unless such allocations are 'unimpaired' within the meaning of title 18 and free of all liens and encumbrances."

Section 11. Amend Chapter 9, Subchapter I of Title 5 of the Delaware Code by adding a new Section 929 as follows:

"§929. Tying Arrangements Prohibited.

(a) No bank or trust company shall, either directly or indirectly through any subsidiary, division or third person, in any manner extend credit, sell any product or furnish any service to any person, or fix or vary the consideration for any of the foregoing, on the condition or requirement that: (1) the person shall obtain some additional credit, product or service from such bank or trust company or its affiliate other than a loan, discount, deposit or trust service; or (2) the person provide some additional credit, product or service to such bank or trust company or its affiliate other than those related to and usually provided in connection with a loan, discount, deposit or trust services; or (3) the person shall not obtain some other credit, product or service from a competitor of such bank or trust company or its affiliate, other than a condition or requirement that such bank or trust company shall reasonably impose in a credit transaction to assure the soundness of the credit.

(b) No bank or trust company which is first authorized to engage in any activity by §761(a) (14) of this title shall, while an application for a loan, credit or other services previously submitted to such bank or trust company by any person is pending, accept from such person, either directly or through any division or subsidiary, an application for a policy of insurance directly related to the applied for loan, credit or other services, or thereafter accept such an insurance application until such person has received from such bank or trust company a commitment with respect to the applied for loan, credit or other services.

(c) The Commissioner shall by regulation promulgated after consultation with the Insurance Commissioner provide for the adequate disclosure of the prohibitions set forth in subsections (a) and (b) of this Section.

(d) For purposes of this section, the term 'affiliates' shall mean a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. 'Control' means beneficial ownership, directly or indirectly through one or more intermediaries, of 25% or more of the voting securities or partnership interests in any person other than an individual.

(e) The prohibitions contained in this Section shall be in addition to, and not in derogation of, those provided for under the laws of the United States of America, including 12 U.S.C. §§1971, et seq., the laws of this State, including §2305 of Title 18, and all other applicable statutes, rules and regulations."

Section 12. Amend Chapter 9, Subchapter I of Title 5 of the Delaware Code by adding a new Section 930 as follows:

"§930. Right of Cancellation of Certain Insurance.

(a) Except as otherwise provided in this section, in the case of any extension of credit by the bank or trust company engaged directly or indirectly in activities first authorized under §761(a)(14) of this title to an individual borrower in connection with which insurance is obtained from such bank or trust company, or any subsidiary thereof engaged in activities first authorized under §761(a)(14) of this title, the individual borrower shall have the right to cancel the purchase of such insurance until midnight of the thirtieth calendar day following the consummation of the transaction or the delivery of the information and forms required under this section, whichever is later. Within the first ten days, the individual borrower

shall be entitled to an unconditional refund of his premium upon serving notice of cancellation as provided herein. The individual borrower shall effect such cancellation by notifying the bank or trust company or its subsidiary, in accordance with the regulations of the Commissioner, of his intention to do so. In accordance with the regulations of the Commissioner the bank or trust company or its subsidiary shall (1) clearly and conspicuously disclose to any individual borrower in a transaction subject to this section the rights of the individual borrower under this section, and (2) provide appropriate forms for the exercise by the individual borrower of this right to cancel any insurance subject to this section. Such forms shall contain a clear and specific statement setting forth:

(i) the cost of the insurance;

(ii) that the individual borrower may choose the person through which the insurance is to be obtained;

(iii) the individual borrower's right to use the cancellation period to obtain price quotations for insurance from other sources;

(iv) the actions necessary for the individual borrower to cancel the insurance; and

(v) the individual borrower's right to receive a credit of the unearned portion of the insurance premium after cancellation.

(b) Within 20 days after the unconditional recision period if no liability for a loss under the insurance has been incurred, the bank or trust company or its subsidiary shall (1) credit the unearned portion of the premium, computed in accordance with applicable law, or regulation promulgated by the Insurance Commissioner to enforce the provisions of this Section, as of the date of cancellation and, where the premium has been financed, credit the unearned portion of the finance charge, if any, attributable to the insurance, computed as of the date of cancellation in accordance with the terms of the contract documents; or (2) at the option of the individual borrower, refund the unearned portion of the premium to him.

(c) When the insurance written in connection with an extension of credit is against loss of, or damage to, or against liability arising out of ownership or use of, property used as security for the extension of credit, the bank or trust company or its subsidiary may require evidence that the individual borrower has obtained other adequate insurance before exercising the right of cancellation set forth in this subsection. For reasonable cause, a bank or trust company on its subsidiary may refuse to accept an insurer offered by the individual borrower; provided, however, that a bank or trust company shall accept a policy of insurance issued by an authorized insurer offered by the individual borrower, so long as such insurer is not then impaired, insolvent, the subject of any rehabilitation or liquidation proceeding, or deemed by the Insurance Commissioner to be otherwise disqualified.

(d) Any individual borrower who has the right to cancel insurance under this section in connection with an obligation which has been assigned may cancel the insurance only by delivering to the assignee of the obligation the notice of cancellation required by this section. Delivery shall be considered made when mailed, or if sent by other means, when received by the assignee.

(e) Any individual borrower who exercises the right to cancel the purchase of insurance pursuant to this section shall not be subject to the imposition of any fee, cancellation charge, or other penalty payment.

(f) For purposes of this section, 'individual borrower' means a borrower who is a natural person borrowing for personal, household or family purposes, or business or commercial purposes where the natural person employs 500 employees or less, or a borrower who is a corporation, partnership, limited partnership or other business entity which is borrowing for business or commercial purposes and which employs 500 employees or less."

(g) The rights provided under this Section shall be in addition to, and not in derogation of, those provided by contract under the laws of the United States of America, the laws of this State, and all other applicable statutes, rules and regulations."

Section 13. Amend Chapter 9, Subchapter I of Title 5 of the Delaware Code by adding a new Section 930A as follows:

"§930A. Mandatory Disclosure in Bank Insurance Policies.

(a) Any bank or trust company issuing policies of insurance either directly or through a division or subsidiary, shall disclose or cause to be disclosed to all applicants for such policies and to all policyholders that such policies, if and when issued, are not direct liabilities of such bank or trust company, and that only the assets of the insurance division or subsidiary issuing such policy are applicable to the payment and satisfaction of such policies or claims made thereunder.

(b) The Commissioner shall by regulation provide for the adequate disclosure of the information set forth in subsection (a) of this Section."

Section 14. Amend subsection (a)(1) of Section 1101 of Title 5, Delaware Code, by striking the word "and" as the same appears following subparagraph e thereof; by striking the period (".") following subparagraph f thereof, by adding in lieu thereof the punctuation and word "; and"; and by adding thereto a new subparagraph g to read as follows:

"g. The gross income derived from acting as an insurer and from transacting the business of insurance pursuant to §761(a)(14) to this title."

Section 15. Amend subsection (e) of Section 1101 of Title 5, Delaware Code, by substituting immediately after the first reference to the words "any corporation" in said subsection the words "other than a subsidiary engaged in activities authorized under §761(a)(14) of this title".

Section 16. Amend Section 1108 of Title 5, Delaware Code, by adding immediately after the last sentence of said section an additional sentence to read as follows:

"A subsidiary corporation or a division of a bank or trust company engaged in activities authorized under §761(a)(14) of this title shall be taxed in the same manner as an entity engaged in such activities pursuant to Title 18 of this Code."

Section 17. Amend Section 102(3) of Title 18 of the Delaware Code by adding immediately before the period (.) at the end of the existing language the following:

"; provided that with respect to a corporation established under Chapter 7 of Title 5, 'insurer' means an insurance department or division of such corporation (but not the corporation itself) which maintains separate books and records in the same manner and to the same extent as if it were a separately incorporated subsidiary of such corporation, with separate capital accounts, assets and liabilities."

Section 18. Amend Section 501 of Title 18 of the Delaware Code by adding immediately after the existing language the following:

"Unless otherwise provided, the insurance department or division of a corporation established under Chapter 7 of Title 5 (but not the corporation itself) shall be deemed to be a stock insurer for purposes of this title, even though it has no capital divided into shares and owned by stockholder."

Section 19. Amend Section 511(a) of Title 18 of the Delaware Code by adding after the words "(if a stock insurer)" the phrase "or a capital account (if an insurance department or division of a corporation established under Chapter 7 or regulated under Chapter 9 of Title 5)".

Section 20. Amend Chapter 5 of Title 18 of the Delaware Code by adding thereto a new Section 534 which shall read as follows:

"§534. Location of Headquarters.

(a) The headquarters of day-to-day corporate activity and management of any insurer engaged in the business of insurance as a subsidiary or division of a bank or trust company, which bank or trust company is authorized to act as an insurer and transact the business of insurance pursuant to authority granted by §761(a) (14) of Title 5, shall be located within this State, and the principal books and records of each such insurer shall be located within this State.

(b) The Commissioner shall, by regulation promulgated after consultation with the Bank Commissioner, define the term 'headquarters of day-to-day corporate activity and management', and provide for the maintenance and inspection of such headquarters and books and records to assure compliance with the provisions of §§929, 930 and 931 of title 5, and §2304(23) of this title."

Section 21. Amend Section 1102 of Title 18 of the Delaware Code by adding thereto a new subparagraph (6) to read as follows:

"(6) With respect to an insurance division of a bank or trust company established pursuant to §767(a) of Title 5, any assets of the bank or trust company other than those entered on the separate and distinct financial records of such division."

Section 22. Amend Chapter 11, Subchapter I of Title 18 of the Delaware Code by adding thereto a new Section 1102A to read as follows:

"§1102A. Bank Insurance Department or Division Distinct from Bank.

The assets of any insurance department or division of a bank or trust company established pursuant to §767(a) of Title 5 shall be liable for and applicable to the payment and satisfaction of the liabilities, obligations and expenses of such insurance department or division only. The liabilities, obligations and expenses of any such insurance department or division shall be applied against and paid and satisfied solely out of the assets of such insurance department or division."

Section 23. Amend Section 1103(1) of Title 18 of the Delaware Code by adding immediately before the semicolon (;) the phrase", or capital account required by §511(a) of this title".

Section 24. Amend Section 1103 of Title 18 of the Delaware Code by adding thereto a new subparagraph (7) to read as follows:

"(7) With respect to an insurance division of a bank or trust company established pursuant to §767(a) of Title 5, only those liabilities enumerated in this Section which are entered on the separate and distinct financial records of such department or division."

Section 25. Amend Section 2304(10) of Title 18 of the Delaware Code by adding immediately before the period (".") the phrase "; provided that this provision shall not apply to charges or fees of an insurance department or division of a corporation established under Chapter 7 or regulated under Chapter 9 of Title 5."

Section 26. Amend Section 2304 of Title 18 of the Delaware Code by adding a new subsection (23) thereto as follows:

"(23) Tying arrangements; cancellation; disclosure.

(a) No person who has received the name of any actual or potential borrower from any bank or trust company which engages, directly or indirectly, in any activity authorized by §761(a) (14) of Title 5 shall, with respect to such borrower:

(i) engage in any of the activities prohibited to such bank or trust company by §929 of Title 5;

(ii) refuse to allow such borrower to exercise any rights of cancellation or refund set forth in §930 of Title 5, all of which rights shall be applicable to such borrower;

(iii) fail to take any action required of a bank or trust company under §930 of Title 5, all of which shall be required of such person; or

(iv) in connection with any application for a policy of insurance submitted to such person by such borrower, or in connection with any policy of insurance thereafter issued to such borrower by such person, fail to disclose or cause to be disclosed to such borrower that such policy, if and when issued, is not a direct liability of such bank or trust company, and that only the assets of the insurer issuing such policy are applicable to the payment and satisfaction of claims made thereunder.

(b) The prohibitions set forth in subparagraphs a. (ii) and (iii) of this subsection (23) shall be applicable only with respect to 'an invidividual borrower,' as defined in §930(f) of Title 5.

(c) The Commissioner shall by regulation promulgated after consultation with the Bank Commissioner provide for the adequate disclosure of the prohibitions set forth in this subsection (23)."

Section 26. Amend subparagraphs (4) and (5) of Section 4205 of Title 18 of the Delaware Code by striking them in their entirety and substituting in lieu thereof new subparagraph (4) and (5) as follows:

"(4) 'Insolvent insurer' means a member insurer (including an insurance department or division of a bank or trust company established pursuant to §767(a) of Title 5) which is (a) transacting insurance in this State either at the time the policy was issued or when the insured event occurred and (b) determined to be insolvent by a court of competent jurisdiction.

(5) 'Member insurer' means any person (including any insurance department or division of a bank or trust company established pursuant to §767(a) of Title 5) who (a) writes any kind of insurance to which this chapter applies under §4203 of this title, including the exchange of reciprocal or interinsurance contracts, and (b) is licensed to transact insurance in this State."

"Section 27. Amend Section 2305 of Title 18 of the Delaware Code by adding thereto a new subparagraph (c) to read as follows:

'(c) The Commissioner shall by regulation provide for the adequate disclosure of the prohibitions set forth in subsection (a) and (b) of this Section and any other similar provisions of law.'"

Section 27. Amend Section 4208(a) of title 18 of the Delaware Code by adding a new subparagraph (10) thereto to read as follows:

"(10) Exercise all powers and do all things authorized by this chapter with respect to a division of a bank or trust company established pursuant to §767(a) of Title 5 and determined to be insolvent pursuant to §4205 (4) of this title with the same effect as if such department or division was a stock insurer."

Section 28. Amend subparagraph (8) of Section 4405 of Title 18 of the Delaware code by striking it in its entirety and substituting in lieu thereof a new subparagraph (8) as follows:

"(8) 'Member insurer' means any person (including an insurance department or division of a bank or trust company established pursuant to §767(a) of Title 5) licensed to transact in this State any kind of insurance to which this chapter applies under §4403 of this title."

Section 29. Amend Section 4408 of Title 18 of the Delaware Code by adding a new subparagraph (12) to read as follows:

"(12) The Association may exercise all powers and do all things authorized by this chapter with respect to a division of a bank or trust company established pursuant to §767(a) of Title 5 and determined to be an impaired or insolvent insurer pursuant to §4405 of this title with the same effect as if such division was a stock insurer."

Section 30. Amend Section 4704 of Title 18 of the Delaware Code by adding new subsection (7) as follows:

"(7) Sales of securities of a corporation established under Chapter 7 or regulated under Chapter 9 of Title 5 which maintains an insurance department or division."

Section 31. Amend Section 4904 of Title 18 of the Delaware Code by making existing subsection (4) subsection (5) and adding a new subsection (4) as follows:

"(4) A corporation established under Chapter 7 or regulated under Chapter 9 of Title 5 may also engage in the other activities authorized by such Chapter; and"

Section 32. Amend Section 4918(a) of Title 18 of the Delaware Code by adding a new subsection (3) as follows:

"(3) Insurance departments or divisions of corporations established under Chapter 7 of Title 5."

Section 33. Amend Section 4922 of Title 18 of the Delaware Code by adding a new subsection (d) as follows:

"(d) The insurance department or division of a corporation established under Chapter 7 of Title 5 shall only make distributions (other than for payment of expenses) to such corporation out of that part of its available and accumulated surplus funds which is derived from realized net operating profits on its business and realized capital gains."

Section 34. Amend Section 4927(a) of Title 18 of the Delaware Code by adding before the words "becomes impaired".the phrase "or capital account (of an insurance department or division of a corporation established under Chapter 7 of Title 5)".

Section 35. Amend Section 5003 of Title 18 of the Delaware Code by striking subsection (j) in its entirety and substituting in lieu thereof the following:

"(j) The provisions of this section shall not apply to the insurance department or division of any corporation established under Chapter 7 of Title 5 which is deemed to be an insurer under §102(3) of this title or to any other insurer, information or transaction if, and to the extent that, the Commissioner, by rule, regulation or order, shall exempt the same from the provisions of this section; provided, however, that, notwithstanding the foregoing, the provisions of §5006 of this title shall be applicable to dividends and other distributions by an insurance division of any corporation established under Chapter 7 of Title 5 which is deemed to be an insurer under §102(3) of this title as if such division was subject to registration under this section."

Section 36. Amend Chapter 23 of Title 18, Delaware Code, by adding thereto a new Section 2305A, which Section shall read as follows:

"§2305A. Banks acting as insurance agents or brokers.

(a) Banks and subsidiaries thereof first authorized to conduct the business of insurance pursuant to §761(a) (14) of Title 5 shall not act as insurance agents or brokers unless duly licensed to act as such pursuant to the provisions of Chapter 17 of this title; provided, that such banks or subsidiaries thereof may sell insurance pursuant to subsections (b) and (c) hereof without separate license if such sales are conducted exclusively by an individual, partnership or corporation duly licensed as an agent or broker under Chapter 17 of this Title with whom such bank or subsidiary thereof shall have contracted. All of the business of acting as an insurance agent or broker undertaken by or on behalf of a bank or subsidiary thereof shall be subject to the provisions of Chapter 17 regulating insurance agents or brokers generally; provided, that the prohibition against sharing commissions set forth in §1739 of said Chapter shall not apply to an agent employed, or contracting with, a bank with respect to the commissions earned by such agent on insurance sold through or on behalf of said bank.

(b) Subject to subparagraph(c) of this section, banks or subsidiaries thereof first authorized to conduct the business of insurance pursuant to §761(a)(14)of Title 5 which are either licensed as insurance agents or brokers, or which shall have contracted with an independent individual, partnership or corporation solicensed, may sell insurance both on branch premises and at other, non-branch locations.

(c) Until July 1, 1994, all sales of insurance to the Delaware public by a bank or subsidiary thereof, or an individual, partnership or corporation licensed as an agent or broker with whom a bank or subsidiary has contracted for the sale of insurance, shall, at each branch office or other location, be conducted under the supervision of one or more insurance agents or brokers, located on the premises, who have beenlicensed and have actual experience as insurance agents or brokers for a period of not less than five years.

(d) Nothing in this section shallbe construed as derogating from the authority of any bank or subsidiary thereof whose power to conduct the business of insurance first derives from its charter, or otherwise by operation of law other than §761(a)(14) of Title 5."

Section 39. 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 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 38. Amend Chapter 59 of Title 18, Delaware Code, by adding thereto a new Section 5904A, which Section shall read as follows:

"§5904A. Proceedings against bank insurance division.

(a) The Commissioner may in his discretion forthwith take possession of the business and property, including the books and records, of any division of a bank or trust company acting as an insurer whenever it shall appear that such division:

(1) Is conducting its business in an unauthorized or unsafe manner;

(2) Is in an unsound or unsafe condition to transact its business; or

(3) Cannot with safety and expediency continue business as a result of any cause whatsoever.

(b) The Commissioner may require an examination of a bank or trust company, which bank or trust company has established and operates a division pursuant to §767 of title 5, by the Bank Commissioner as authorized under §122 of title 5, and a report of such examination shall be furnished to the Commissioner pursuant to §124 of title 5.

(c) After taking possession of the division of a bank or trust company acting as an insurer, the Commissioner shall take such steps to conserve or rehabilitate the business and property of such division as he deems practicable or desirable, or if in the judgment of the Commissioner such conservation or rehabilitation is not practicable or desirable, he may proceed to liquidate such business and property. All proceedings of the Commissioner for the conservation, rehabilitation, or liquidation of a division of a bank or trust company acting as an insurer shall be in accordance with the provisions of this title applicable to the conservation, rehabilitation or liquidation of insurers by the Commissioner.'"

Section 38. This Act shall take effect immediately upon its adoption.

Section 40. Amend Section 2304(6)a., Title 18 of the Delaware Code by inserting the phrase "or bank acting as an insurer pursuant to Title 5, Section 761(a)(14)" after the phrase "No insurer" and before the phrase "shall directly".

Approved May 30, 1990.

CHAPTER 224

FORMERLY

SENATE BILL NO. 415
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 3

AN ACT TO AMEND CHAPTER 7 OF TITLE 5 OF THE DELAWARE CODE PERTAINING TO THE POWERS OF BANKS AND TRUST COMPANIES TO ENGAGE IN THE BUSINESS OF INSURANCE.

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 767 of Title 5 of the Delaware Code by adding a new subsection thereto to read as follows:

"(e) Notwithstanding the grant of powers contained in §761(a)(14) of this title, §761(a)(14) of this title does not permit, and shall not be construed to permit, any bank or trust company, all or substantially all of the voting shares of which have been acquired by an out-of-state bank holding company or any subsidiary thereof, from being operated in a manner and at a location inconsistent with the requirements of §803(4) of this title; provided, however, that any bank or trust company which engages in any activity first authorized by §761(a)(14) of this title shall, through any division or subsidiary, be permitted to sell or offer for sale to members of the general public in this State any insurance product, or a product which is otherwise functionally equivalent to such a product, which had, prior to the effective date of the Bank and Trust Company Insurance Powers Act of 1989, been previously sold to the general public in this State by or through such bank or trust company or its bank holding company, or by the subsidiaries or affiliates of such bank or trust company or its bank holding company."

Section 2. Amend Section 767 of Title 5 of the Delaware Code by adding a new subsection thereto to read as follows:

"(f) The offer to sell or the sale of any insurance product authorized to be sold under this Section shall be made only by those individuals who are validly licensed as insurance agents or brokers in the State or other jurisdiction in which the sale of insurance is offered or consummated. The offer to sell insurance products shall include, but not be limited to, solicitation by mail, telephone, electronic or print media, and by personal contact. Violation of this subsection shall subject the violator and the employer of the violator to the penalties prescribed in Title 18, Delaware Code, for solicitation or sale of insurance and the receipt or payment of commissions to unauthorized persons, if the violation occurred in this State. The Banking Commissioner and the Insurance Commissioner shall be charged to advise regulators in other states or jurisdictions when it is discovered that such violations have occurred in such other State or jurisdiction."

Section 3. This Act shall take effect upon the enactment of the Bank and Trust Company Insurance Powers Act of 1989.

Approved May 30, 1990.

CHAPTER 225

FORMERLY

SENATE BILL NO. 319

AN ACT TO AMEND CHAPTER 237, VOLUME 60, LAWS OF DELAWARE, BEING SENATE BILL NO. 436 OF THE 128TH GENERAL ASSEMBLY, "AN ACT MAKING AN APPROPRIATION TO IMPROVE RECREATIONAL BOATING AND TO REMOVE SHOALS FROM JEFFERSON CREEK AND THE BETHANY BEACH IMPROVEMENT CANAL", AND PROVIDING THAT FUNDS APPROPRIATED MAY BE USED FOR ANY DREDGING PROJECT IN THE DELAWARE INLAND BAYS REGION.

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

Section 1. Amend Chapter 237, Volume 60, Laws of Delaware by adding the following:

"Section 2. After January 1, 1990, the funds appropriated in Section 1 of this Act may be used for any dredging project in the Delaware Inland Bays region."

Approved June 4, 1990.

CHAPTER 226

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 111
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENTS NO. 2 AND 5

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

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

Section 1. Amend Section 1710, Chapter 17 Delaware Code, Title 24 by deleting subsections (b), (c), and (d), and substituting in lieu thereof new subsections (b), (c), (d) to read as follows:

"(b) The Board shall consist of 16 voting members, 6 of whom shall be persons licensed to practice medicine in this State (except osteopathic physicians) who have their primary place of practice of medicine in New Castle County, 2 of whom shall be persons licensed to practice medicine in this State (except osteopathic physicians) who have their primary place of practice of medicine in Kent County, two (2) of whom shall be persons licensed to practice medicine in Sussex County, 1 from among all osteopathic physicians licensed to practice medicine in this State, and 5 public members. Said public members shall not be or ever have been licensed in any health related field; shall not be a member of the immediate family of someone licensed in any health related field; shall not be employed by a company engaged in a directly health related business; and shall not have a material financial interest in the providing of goods and services to persons engaged in the practice of medicine.

(c) The Medical Society of Delaware and the Delaware State Osteopathic Medical Society may submit lists of their resident members and any recommendations to the Governor by January 1 of each year under the seal and signed by the Secretary of the Society in order to aid the Governor in the appointment of new members of the Board.

(d) Every person who is a member of the Board of Medical Practice on the date of this chapter's enactment into law shall continue to serve until the expiration of his term. Any vacancy occurring in the membership of the former Board shall be filled in accordance with the provisions of this chapter."

Section 2. Amend Section 1710, Chapter 17, Delaware Code, Title 24 by deleting subsection (e) and adding a new subsection (e) to read as follows:

"Upon enactment of this Chapter into law, the Governor shall appoint to the Board 1 public member whose principle place of residence is in New Castle County and whose term shall expire 1 year after his initial appointment; 1 public member whose principle place of residence is in Kent County and whose term shall expire 2 years after his initial appointment; and, 1 public member whose principle place of residence is Sussex County and whose term shall expire 3 years after his initial appointment. At each annual appointment made after the initial classification and appointment of these three public members, the appointment shall be for a full term of 3 years to succeed the member whose term has expired."

Section 3. Amend Section 1710, Chapter 17, Title 24 of the Delaware Code by deleting subsection (g) and adding a new subsection (g) to read as follows:

"(g) The Governor shall fill vacancies on the Board and may remove any member of the Board after hearing for cause for neglect of the duties required by this chapter, or on recommendation of the Board for unprofessional or dishonorable conduct."

Section 4. Amend Section 1710, Chapter 17, Title 24 of the Delaware code by deleting subsections (h), (i), (j) and (k) and by adding new subsections (h), (i) and (j) to read as follows:

"(h) No member of the Board shall serve more than 3 full consecutive terms, which shall not be diminished by serving an unexpired term as provided in subsection (g) of this section. Upon serving 3 full consecutive terms, a former member shall be eligible for reappointment to the Board no earlier than 1 year after the expiration of the last term served on the Board by that former member. A term is defined as a period of 3 years.

(i) No member of the Board, while serving on the Board, shall be an officer of any State or local professional Medical Society, or Osteopathic Medical Society.

(j) No member of the Board of Medical Practice, while serving on the Board, shall be a member of the Board of Directors of a professional review organization."

Section 5. Amend Section 1711, Chapter 17, Title 24 of the Delaware Code by deleting Subsection (c) in its entirety and by adding new Subsections (c) and (d) to read as follows:

"(c) Meetings of the Board shall be held at least 8 times a year. The meetings shall be at such public place and time as the Board shall determine subject to guidelines established or approved by the Division of Professional Regulation.

(d) Unless otherwise provided in this chapter, meetings of the Board shall be open to the public and may only be closed in accordance with the provisions contained in Section 10004 of Title 29."

Section 6. Amend Section 1712, Chapter 17, Title 24 of the Delaware Code by substituting "Nine" for the word "Seven" in the first sentence of subsection (a); by substituting the number "7" for "5" in the second sentence of subsection (a); and by substituting the number "7" for "8" in subsection (b).

Section 7. Amend Section 1720, Chapter 17, Title 24 of the Delaware Code by adding the words "or its equivalent," after the words "Doctor of Osteopathy" and before the word "from" in subsections (a)(3)a., (a)(3)b., and (a)(3)c. In addition, delete subsection (d) and add a new subsection (d) as follows:

"The Board, by the affirmative vote of 12 of its members, may waive any of the above provisions if it finds all of the following:

1. The applicant's education, training, qualifications, and conduct have been sufficient to overcome the deficiency or deficiencies in meeting the requirements of this section; and

2. The applicant is capable of practicing medicine and surgery in a competent and professional manner; and

3. The granting of the waiver will not endanger the public health, safety or welfare."

Section 8. Amend Section 1730, Chapter 17, Title 24 of the Delaware Code by deleting paragraphs (a)(1), (3), (4), (5), (8), (10), (13), (15), and by substituting in lieu thereof new paragraphs (a)(1), (3), (4), (5), (8), (10), (13), (15) to read as follows:

"(1) To investigate through the Executive Director of the Board, hereafter referred to in this chapter as the Executive Director, the character of all applicants for a certificate to practice medicine to determine whether or not he or she has previously engaged in unprofessional conduct as defined in §1731 of this title, and whether he or she is physically and mentally capable of engaging in the practice of medicine with safety to the public;

(3) To investigate through the Executive Director complaints and charges of unprofessional conduct respecting any holder of a certificate to practice medicine;

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

(5) To investigate through the Executive Director complaints of unauthorized practice of medicine;

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

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

(13) To promulgate rules and regulations not inconsistent with this chapter or other laws of this State for the carrying out of the powers and duties required by this subchapter. All such rules and regulations shall be published and made available to the public upon request.

(15) To designate records of the Board confidential and exempt from public disclosure only in accordance with Section 10002 of Title 29;"

Section 9. Amend Section 1730 (a) (17) of Title 24 of the Delaware Code by striking the word "physician's" wherever it appears and by substituting in lieu thereof the word "physicians'."

Section 10. Amend Section 1731, Chapter 17, Title 24 of the Delaware Code by striking in their entirety subsections (b)(10), (11), and (16) and by substituting in lieu thereof new subsections (b)(10), (11), and (16) to read as follows:

"(10) The failure to provide adequate supervision to a person working under his direction;

(11) Misconduct, incompetence, or gross negligence in the practice of medicine;

(16) Unjustified failure upon request to divulge information relevant to authorization or competence to practice medicine to the Board, any committee thereof, the Executive Director or to anyone designated by him to request such information."

Section 11. Amend Section 1731, Chapter 17, Title 24 of the Delaware Code by deleting subsection (e) and substituting a new subsection (e) to read as follows:

"(e) No person who files a complaint with the Board or any of its members, the Executive Director, or the Division of Professional Regulation, or who provides information to the Board, the Executive Director, or the Division of Professional Regulation regarding any complaint, or who testifies as a witness at any hearing before the Board or any of its hearing panels or committees concerning unprofessional conduct, as that term is defined in subsection (b) of this section, by a person licensed to practice medicine and surgery in this State, or concerning the inability of such licensee to practice medicine for the reasons set forth in subsection (c) of this section, shall be held liable in any cause of action arising out of the filing of such complaint, the providing of such information or the giving of such testimony, provided that such person does so in good faith and without malice."

Section 12. Amend Section 1732, Chapter 17, Title 24 of the Delaware Code by deleting the existing section and by substituting in lieu thereof a new section 1732 to read as follows:

"§1732. Executive Director; investigations.

(a) It shall be the duty of the Executive Director: To investigate either by complaint or, whenever appropriate, upon his own or the Board's own motion, cases of unprofessional conduct or inability to practice medicine as defined by subsections (b) and (c) of §1731 of this title, unauthorized practice of medicine and medical malpractice; to formulate charges by means of bringing a formal complaint against any person to whom a certificate to practice medicine in this State has been issued if the circumstances warrant; to present all such formal complaints to the Board in accordance with the procedures set forth in this subchapter.

(b) The Executive Director shall appoint at least one unbiased member of the Board to assist him in investigations concerning charges of unprofessional conduct and medical malpractice. The Executive Director shall also appoint investigators from the Division of Professional Regulation to participate in said investigations. All

such investigations shall stay within the bounds of the charge being investigated, unless the Executive Director determines that the investigation itself provides good cause for additional investigation. The Executive Director shall report to the Board his activities and provide his recommendation as to whether a formal complaint should be issued. The Board may then request that the Executive Director prepare a formal complaint against the person accused.

(c) The Executive Director shall appoint at least one unbiased member of the Board to assist him in investigations concerning charges of inability to practice medicine. The Executive Director shall also appoint investigators from the Division of Professional Regulation to participate in said investigations. All such investigations shall stay within the bounds of the charge being investigated, unless the Executive Director determines that the investigation itself provides good cause for additional investigation. The Executive Director, or his designee, shall conduct an examination to determine whether the person to whom a certificate has been issued to practice medicine is fit to practice medicine with reasonable skill and safety to patients, either on a restricted or unrestricted basis. If the Executive Director in his discretion deems a mental or physical examination necessary, he shall order the person to submit to such examination to be conducted by a physician designated by the Executive Director. Any person to whom a certificate has been issued to practice medicine shall, by seeking certification, be deemed to have given his consent to submit to mental or physical examination when so directed by the Executive Director, and, further, to have waived all objections to the admissibility of the examination report to the Board on the grounds of privileged communication; the person who submits to a diagnostic mental or physical examination as ordered by the Executive Director shall have a right to designate another physician to be present at the examination and make an independent report to the Board. The Executive Director shall report to the Board his activities and provide his recommendation as to whether a formal complaint should be issued. The Board may then direct the Executive Director to prepare a complaint against the person accused.

Section 13. Amend Section 1733, Chapter 17, Title 24 of the Delaware Code by deleting Section 1733 in its entirety and by inserting a new section to read as follows:

"§1733. Complaints; notice of hearing.

(a) Any member of the public, the Board, or the Executive Director may prefer any charge or complaint concerning any aspect of the practice of medicine against an individual to whom a certificate to practice medicine in this State has been issued. Any complaining party shall be entitled to legal representation at such party's expense at any and all stages of proceedings hereunder.

(b) The Executive Director shall investigate all such charges or complaints which appear to be valid and well-founded according to the procedures set forth in §1732 of this chapter.

(c) All complaints against persons to whom a certificate to practice medicine has been issued in this state shall be in writing, signed, and shall set forth with particularity the essential facts constituting the alleged unprofessional conduct, medical malpractice or inability to practice medicine. The Executive Director in his discretion may maintain the confidentiality of the complainant from the Board. In the absence of an Executive Director or Acting Executive Director, the Secretary of Administrative Services shall exercise such discretion. The Executive Director may investigate specific oral charges or complaints at his discretion, provided the complaining party is identified.

(c) When, after investigation by the Executive Director, the Board determines to accept and lodge a formal written complaint against an individual to whom a certificate to practice medicine has been issued, the respondent shall be served personally or by certified mail with a copy of the complaint not less than 30 days nor more than 60 days prior to a hearing on the complaint.

(d) Each complaint shall describe in detail the allegations upon which it is based; shall inform the respondent of the date, time and place that the hearing will be held; shall state the law(s) or regulation(s) allegedly violated and the statutory or regulatory authority giving the Board authority to act; shall indicate that the respondent has a right to be represented by counsel at the hearing and to present evidence on his own behalf; and shall inform the respondent that the Board must base its decision solely upon evidence received at the hearing. The respondent shall have the right to file a written response with the Board within 20 days of service of the complaint

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

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

Section 14. Amend Section 1734, Chapter 17, Title 24 by deleting said section and by substituting in lieu thereof a new section to read as follows:

"§1734. Hearings.

(a) Procedure. After the Board accepts a complaint which has been investigated by the Executive Director in accordance with §1732 of this chapter, it shall appoint a hearing panel, composed of 3 unbiased members of the Board, who shall hear all evidence concerning charges of unprofessional conduct or inability to practice medicine alleged in the complaint. The hearing panel shall convene in executive session to hear the evidence no more than 90 days after the Board accepts a formal complaint unless it, in its discretion, grants a continuance of the hearing date. All evidence at the hearing shall be taken under sworn oath or affirmation, but technical rules of evidence shall not apply. After all evidence has been heard by the hearing panel, it shall make a written statement of its findings of fact and conclusions of law. Only such evidence as was presented at the hearing may be considered by the hearing panel in reaching its findings of fact and conclusions of law. The findings of fact made by the hearing panel shall be binding on the parties appearing before it and shall also be adopted by and binding upon the Board. If the hearing panel finds that the allegations made in the complaint are not supported by the evidence, it shall so indicate to the Board together with its recommendation that no further action be taken and that the physician be exonerated of all charges. Should a majority of the members of the Board who consider the matter, excluding any members who participate in the investigation of the complaint or on the hearing panel, or who are otherwise biased, vote to accept the hearing panel's conclusions of law and recommendation, then no further proceeding shall be held before the Board. However, should a majority of the members of the Board who consider the matter, excluding any members who participated in the investigation of the complaint, or on the hearing panel, or who are otherwise biased, vote to reject the hearing panel's conclusions of law and recommendation, then a formal hearing shall be held before the Board to enable the Board to make its own conclusions of law and to determine what discipline, if any, should be imposed. In such a case, the hearing panel's findings of fact shall be binding upon the Board.

If the hearing panel finds that any or all of the factual allegations made in the complaint are supported by the evidence it has considered, the Board, excluding members who participated in the investigation, or on the hearing panel, or who are otherwise biased, will consider the statement of the findings of fact and conclusions of law made by the hearing panel at a formal hearing.

Such formal hearing is to be held within sixty days after the issuance of the written statement of the Hearing Panel; provided, however, that if the Hearing Panel finds that the physician currently presents a clear and iminent danger to the public health by his continued practice of medicine, then the full Board may meet for such formal hearing as soon as possible upon three days written notice of such hearing being provided to the physician or his attorney. A majority but no less than 7 board members who consider the matter shall be necessary in order for any disciplinary action to be taken. Upon reaching its conclusions of law and determining the appropriate disciplinary action, if any, the Board shall issue a written decision and order in accordance with §10128 of Title 29, which shall be signed by the Board's President.

(b) Open hearings. All hearings on complaints conducted by a hearing panel shall be open to the public only at the request of the respondent. All formal hearings on complaints before the Board shall be open to the public in accordance with provisions of Section 10004 of Title 29.

(c) Transcript of proceedings. A stenographic transcript of all formal hearings of the Board and of any hearing of its hearing panels shall be made, and the respondent shall be entitled upon request to obtain a copy of such transcript at his own expense. In the event the hearing panel should determine that the allegations of the complainant are supported by the evidence and the Board shall proceed to formal hearing on the charges complainant also shall be entitled upon request to obtain a copy of such transcript at his own expense.

(d) Rights of respondent. The respondent shall have the right to be represented by counsel, both before any hearing panel and before the Board. He shall have the right to cross-examine all witnesses who are presented against him at the hearing panel and the right to present his own witnesses and to introduce other evidence to the hearing panel. The respondent shall also have the right to compel issuance of a subpoena for the attendance of witnesses to appear and testify or for the production of books, records or other documents before the hearing panel.

(e) Conduct of hearing before the hearing panel. The Executive Director, or his designee, or a staff attorney from the Office of the Attorney General shall present evidence in support of the allegations contained in the formal complaint. He may call witnesses and he may cross-examine any witnesses called on behalf of the respondent. No member of the Board who participated in the investigation of the matter under consideration shall sit on the hearing panel or take part in the deliberations or decisions of the hearing panel. In order for the panel to find that a fact or allegation is supported by evidence, the panel members must unanimously agree that such fact or allegation is supported by the evidence. The hearing panel shall make its findings of fact and conclusions of law based solely upon the evidence presented to it at the hearing.

(f) Conduct of formal hearing before the Board. The findings of fact made by the hearing panel shall be binding upon and adopted by the Board at any formal hearing it shall conduct. The Board shall take no additional evidence regarding the charges in the complaint. The Board shall deliberate and reach its own conclusions of law based upon the finding of fact made by the hearing panel. It shall consider the hearing panel's conclusions of law as well, however, it shall not be bound by them. After reaching its conclusions of law, the Board shall determine what disciplinary action, if any, is appropriate based solely upon the record before it. It shall be necessary for a majority of the Board members considering the case before it to vote in favor of the conclusions of law rendered by the Board. It shall also be necessary for a majority but no less than 7 Board members considering the case to vote in favor of any disciplinary action taken by the Board. The Executive Director, any Board members who participated in the investigation of the matter under consideration, the members of the hearing panel, and any members who are otherwise biased, shall be ineligible to participate in deliberations of the Board concerning any disciplinary matter investigated by the Executive Director.

(g) Written decision and order. Upon reaching its final decision and determining the appropriate disciplinary action, if any, the Board shall issue a written opinion and order in accordance with Section 10128 of Title 29. Such opinion and order shall be served in person upon the physician charged."

Section 15. Amend Section 1735, Chapter 17, Title 24 of the Delaware Code by deleting subsections (b),(c) in their entirety and by redesignating current subsection (d) as new subsection (b).

Section 16. Amend Section 1736, Chapter 17, Title 24 of the Delaware Code by deleting Section 1736 in its entirety and by substituting a new Section 1736 to read as follows:

"§1736. Appeal Procedures.

(a) Any person against whom a decision of the Board has been rendered may appeal such decision to the Superior Court in the county in which such person was practicing medicine or surgery at the time of the offense.

(b) The appeal shall be filed within 30 days of the day the written decision and order of the Board is issued.

(c) The appeal shall be on the record of the Board hearing without a trial de novo.

(d) Any Board action revoking, suspending or otherwise curtailing an individual's authorization to practice shall not be stayed upon appeal unless so ordered by the Superior Court.

(e) Any person whose authority to practice under this chapter has been revoked or suspended may, after the expiration of 90 days from the decision of the Superior Court, or the Supreme Court if the decision of the Superior Court is appealed, or after 90 days from the decision and order of the Board if no appeal is taken, apply to the Board to have the same regranted to him for good cause shown."

Section 17. Amend Section 1737, Chapter 17, Title 24 of the Delaware Code by deleting said section in its entirety and by substituting in lieu thereof a new section to read as follows:

"§1737. Confidentiality of Records.

Release of all records of the Board shall be governed by the provisions of the Freedom of Information Act, Title 29, ch. 100."

Section 18. Amend Section 1768, Chapter 17, Title 24 of the Delaware Code by inserting in subsection (b) at the beginning of the first sentence thereof the following:

"unless otherwise provided by this Chapter."

Section 19. Nothing contained in this Act shall effect any pending investigation or disciplinary action which was commenced prior to its enactment into law.

Approved June 7, 1990.

CHAPTER 227

FORMERLY

HOUSE BILL NO. 546

AN ACT TO AMEND CHAPTER 43, TITLE 21, OF THE DELAWARE CODE, RELATING TO VEHICLE WINDSHIELDS, FRONT SIDE WINDOWS AND SIDE WINGS.

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

Section 1. Amend §4313, Chapter 43, Title 21, of the Delaware Code by adding a new Subsection (c) which shall read as follows:

"(c) No person shall operate any motor vehicle on any public highway, road, or street which does not conspicuously display a certificate by the manufacturer of any "after manufacture" window tinting material which may have been installed that such window tinting material meets the requirements of Federal Motor Vehicle Safety Standard 205 in effect at the time of the vehicle's manufacture. It shall be a valid defense to any charge under this subsection if the person so charged produces in court a validated Mandatory Inspection Notice showing that the Division of Motor Vehicles has examined the motor vehicle since the date of offense and certifies compliance with FMVSS 205."

Approved June 11, 1990.

CHAPTER 228

FORMERLY

HOUSE BILL NO. 363

AN ACT TO AMEND TITLE 9, DELAWARE CODE, PART II, CHAPTER 15, TO AUTHORIZE NEW CASTLE COUNTY TO CONVEY COUNTY-OWNED LAND TO THE STATE FOR PUBLIC PURPOSES.

WHEREAS, the State must frequently obtain title to County-owned land for public purposes; and

WHEREAS, the County at present has no means to convey said title to the State other than by the surplus property procedure set out in 9 Del. C. §1521(e), (f) and (g); and

WHEREAS, the public would be best served by a cooperative effort between the County and the State, facilitating the speedy progress of public projects.

NOW THEREFORE:

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

Section 1. Amend Title 9, Delaware Code, Part II, Chapter 15, Section 1521, by adding a new subsection (h) as follows:

"(h) In addition to those powers enumerated above, the government of New Castle County may transfer land held by the County, including but not limited to surplus lands, to the State of Delaware after written notification from the Governor or his designee that such lands are required by the State for public purposes. The conveyance shall be made pursuant to ordinance."

Approved June 11, 1990.

CHAPTER 229

FORMERLY

HOUSE BILL NO. 628
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATING TO CERTAIN FEES AND CHARGES PAYABLE TO THE SECRETARY OF STATE.

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 371, Title 8 of the Delaware Code by deleting the phrase "$50", as it appears therein and substituting therein the phrase "$80."

Section 2. Amend Section 391(a)(1), Title 8 of the Delaware Code by deleting it in its entirety and substituting therein the following:

"(1) Upon the receipt for filing of an original certificate of incorporation, the tax shall be computed on the basis of two cents for each share of authorized capital stock having par value up to and including 20,000 shares, one cent for each share in excess of 20,000 shares up to and including 200,000 shares, and two-fifths of a cent for each share in excess of 200,000 shares; one cent for each share of authorized capital stock without par value up to and including 20,000 shares, one-half of a cent for each share in excess of 20,000 shares up to and including 2,000,000 shares, and two-fifths of a cent for each share in excess of 2,000,000 shares. In no case shall the amount paid be less than $15. For the purpose of computing the tax on par value stock each $100 unit of the authorized capital stock shall be counted as one taxable share."

Section 3. Amend Section 391(a)(2), Title 8 of the Delaware Code by deleting the phrase "$15" as it appears therein and substituting therein the phrase "$30."

Section 4. Amend Section 391(a)(3), Title 8 of the Delaware Code by deleting the phrase "$15" as it appears therein and substituting therein the phrase "$30."

Section 5. Amend Section 391(a)(4), Title 8 of the Delaware Code by deleting the phrase "$20" as it appears therein and substituting therein the phrase "$75."

Section 6. Amend Section 391(a)(5), Title 8 of the Delaware Code by deleting the phrase "$10" as it appears therein and substituting therein the phrase "$40."

Section 7. Amend Section 391(a)(7), Title 8 of the Delaware Code by deleting the phrase "$25" as it appears therein and substituting therein the phrase "$50" and by adding the following sentence at the end of Section 391(a)(7):

"The fee in the case of a certificate of incorporation filed in accordance with Section 102 shall be $25.

Section 8. Amend Section 391(a)(10), Title 8 of the Delaware Code by deleting the phrase "$10" as it appears therein and substituting therein the phrase "$20" and by adding the following sentence at the end of Section 391(a)(10):

"The fee for issuing the first certified copy upon the filing of a certifcate of incorporation in accordance with Section 102 shall be $10.

Section 9. Amend Section 391(a)(11), Title 8 of the Delaware Code by deleting the phrase "$10" as it appears therein and substituting therein the phrase "$20."

Section 10. Amend Section 391(a)(17), Title 8 of the Delaware Code by deleting the phrase "$10" as it appears therein and substituting therein the phrase "$20."

Section 11. Amend Section 391(a), Title 8 of the Delaware Code by adding a new subsection to be designated "(23)", as follows:

"(23) For accepting a corporate name reservation via telephone, there shall be collected by and paid to the Secretary of State a fee of $10."

Section 12. Amend Section 502, Title 8 of the Delaware Code by adding a new subsection to be designated "g" as follows:

"(g) The Secretary of State shall not issue certificates of good standing that pertain to any corporation that has an unpaid franchise tax balance due to the state."

Section 13. Amend Section 372(d), Title 8 of the Delaware Code by deleting the phrase "$25" as it appears therein and substituting therein the phrase "$50"; and by deleting the phrase "$10" as it appears therein and substituting therein the phrase "$20.

Section 14. This Act shall become effective on June 18, 1990 or upon signature of the Governor, whichever shall later occur.

Approved June 12, 1990.

CHAPTER 230

FORMERLY

SENATE BILL NO. 154

AN ACT TO AMEND CHAPTER 84, TITLE 11 OF THE DELAWARE CODE RELATING TO POLICE OFFICER TRAINING.

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

Section 1. Amend §8405(a), Chapter 84, Title 11 of the Delaware Code by striking the reference to "subsection (c)" in the first sentence thereof and substituting in lieu thereof "subsection (d)".

Section 2. Amend §8405, Chapter 84, Title 11 of the Delaware Code by redesignating the existing subsection (c) as subsection (d) and by adding a new subsection (c) to read as follows:

'"(c) All police officers and all persons seeking permanent appointment as a police officer shall undergo training to assist them in identifying symptoms of mental illness and in responding appropriately to situations involving persons suffering from mental illness."

Approved June 13, 1990.

CHAPTER 231

FORMERLY

SENATE BILL NO. 169

AN ACT TO AMEND CHAPTER 17, TITLE 15, OF THE DELAWARE CODE RELATING TO THE TRANSFER OF REGISTRATION.

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

Section 1. Amend §1704, Chapter 17, Title 15, Delaware Code, by adding at the end of the first paragraph a new sentence to read as follows:

"If, however, the voter returns the written notice as an application for the transfer of his registration in accordance with Section 1741 within 60 days after such notice is sent by the department, the department shall not proceed to determine the eligibility of such voter to remain registered as hereinafter provided."

Section 2. Amend §1741(a), Chapter 17, Title 15, Delaware Code by adding a new subsection to read as follows:

"(c) Such registered voter may apply by placing his new address on, signing and returning the written notice received pursuant to Section 1704 to the department."

Approved June 13, 1990.

CHAPTER 232

FORMERLY

SENATE BILL NO. 358

AN ACT TO AMEND CHAPTER 35, TITLE 11 OF THE DELAWARE CODE RELATING TO WITNESSES AND EVIDENCE.

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

Section 1. Amend Sub-Chapter 1, Chapter 35, Title 11 of the Delaware Code by adding thereto a new section, designated as Section 3512 which section shall be titled Sequestration of Victims and shall read as follows:

"§3512. Any victim or his immediate family shall have the right to be present during all stages of a criminal proceeding even if called upon to testify therein, unless good cause can be shown by the defendant to exclude him."

Section 2. This act shall become effective upon signature of the Governor.

Approved June 13, 1990.

CHAPTER 233

FORMERLY

HOUSE BILL NO. 497
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND DELAWARE CODE, TITLE 14, CHAPTER 6, REGARDING TUITION CHARGES FOR NONRESIDENT PUPILS IN A SCHOOL DISTRICT.

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

Section . Amend Title 14, Subsection 602(a) of the Delaware Code by striking the period at the end of the second sentence, by placing a semicolon in lieu thereof, and by adding the following to said subsection:

"provided, however, that the tuition charge may be waived if such waiver is granted by the Board of Education of both the sending and receiving districts."

Approved June 13, 1990.

CHAPTER 234

FORMERLY

SENATE BILL NO. 359

AN ACT TO AMEND CHAPTER 40, TITLE 7, DELAWARE CODE, RELATING TO EROSION AND SEDIMENTATION CONTROL AND STORMWATER MANAGEMENT.

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 7, Delaware Code by striking Chapter 40 in its entirety and by substituting in lieu thereof a new Chapter 40 to read as follows:

"§4001. Legislative Findings and Statement of Policy

(a) Legislative Findings. The General Assembly finds that erosion and sedimentation continue to present serious problems throughout the State, and that the removal of a stable ground cover in conjunction with the decrease in the infiltration capability of soils resulting from the creation of additional impervious areas such as roads and parking lots has accelerated the process of soil erosion and sediment deposition resulting in pollution of the waters of the State. This damages domestic, agricultural, industrial, recreational, fish and wildlife and other resource uses. The General Assembly further finds that accelerated stormwater runoff increases flood flows and velocities, contributes to erosion, sedimentation, and degradation of water quality, overtaxes the carrying capacity of streams and storm sewers, greatly increases the costs of public facilities in carrying and controlling stormwater, undermines flood plain management and flood control efforts in downstream communities, reduces groundwater recharge, and threatens public health, welfare, and safety.

(b) State of Policy. In consideration of these legislative findings, it is declared to be the policy of this Chapter to strengthen and extend the present erosion and sediment control activities and programs of this State for both rural and urban lands and to provide for control and management of stormwater runoff consistent with sound water and land use practices. These activities will reduce to the extent possible any adverse effects of stormwater runoff on the water and lands of the State. This policy, to be carried out by establishing and implementing the Department of Natural Resources and Environmental Control, hereinafter referred to as the 'Department', in cooperation with conservation districts, counties, municipalities and other local governments and subdivisions of this State, and other public and private entities, a statewide comprehensive and coordinated erosion and sediment control and stormwater management program to conserve and protect land, water, air and other resources of the State. This program shall be consistent with, and coordinated with other environmental programs implemented by the Department such as wetlands protection and groundwater protection.

§4002. 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:

(1) 'Certified Construction Reviewer' means an individual who has passed a departmental sponsored or approved training course and who provides on-site construction review for sediment control and stormwater management in accordance with regulations promulgated under this Chapter.

(2) 'Designated Watershed or Subwatershed' means a watershed or subwatershed proposed by a conservation district, county, municipality, or State agency and approved by the Department. The Department may establish additional requirements due to existing water quantity or water quality problems. These requirements shall be implemented on an overall watershed or subwatershed master plan developed for water quality and/or water quantity protection.

(3) 'Land Disturbing Activity' means any land change or construction activity for residential, commercial, silvicultural, industrial, and institutional land use which may result in soil erosion from water or wind or movement of sediments or pollutants into State waters or onto lands in the State, or which may result in accelerated stormwater runoff, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

(4) 'Person' means any State or federal agency, individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission

board, public or private institution, utility, cooperative, municipality or other political subdivision of this State, any interstate body, or any other legal entity.

(5) 'Responsible Personnel' means any foreman or superintendent who is in charge of on-site clearing and land disturbing activities for sediment and stormwater control associated with a construction project.

(6) 'Sediment and Stormwater Management Plan' or 'plan' means a plan for the control of soil erosion, sedimentation, stormwater quantity, and water quality impacts which may result from any land disturbing activity.

(7) 'State Waters' means any and all waters, public or private, on the surface of the earth which are contained within, flow through or border upon the State of Delaware or any portion thereof.

(8) 'Stormwater' means the runoff of water from the surface of the land resulting from any form of precipitation and including snow or ice melt.

(9) 'Stormwater Management' means:

(a) for water quantity control, a system of vegetative, structural, and other measures that controls the volume and rate of stormwater runoff which may be caused by land disturbing activities or activities upon the land; and

(b) for water quality control, a system of vegetative structural, and other measures that controls adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.

(10) 'Stormwater Utility' means the establishment of an administrative organization that has been created for the purposes of funding sediment control, stormwater management or flood control planning, design, construction, maintenance, and overall resource needs by authorized and imposed charges.

§4003. Duties of Persons Engaged in Land Disturbing Activities

(a) After July 1, 1991, unless exempted, no person shall engage in land disturbing activities without submitting a sediment and stormwater management plan to the appropriate plan approval authority and obtaining a permit to proceed.

(b) Projects which do not alter stormwater runoff characteristics may be required to provide water quality enhancement even if the predevelopment runoff characteristics are unchanged. Criteria will be detailed in the regulations regarding level of water quality control and variance procedures.

(c) Each land developer shall certify, on the sediment and stormwater management plan submitted for approval, that all land clearing, construction, development, and drainage will be done according to the approved plan.

(d) All approved land disturbing activities shall have associated therein at least one individual who functions as responsible personnel.

§4004. Applicability

(a) The provisions of this Chapter shall not apply to agricultural land management practices unless the conservation district or the Department determines that the land requires a new or updated soil and water conservation plan, and the owner or operator of the land has refused either to apply to a conservation district for the development of such a plan, or to implement a plan developed by a conservation district.

(b) Unless a waiver is granted the construction of agricultural structures such as broiler houses, machine sheds, repair shops, and other major buildings shall require approval of a sediment and stormwater management plan, by the appropriate plan approval agency, prior to the initiation of construction.

(c) Utility projects disturbing less than 5,000 square feet of land not subject to the provisions of this Chapter.

§4005. Program Funding and Financial Assistance

(a) The Department, conservation districts, counties, or municipalities are authorized to receive from federal, State, or other public or private sources financial, technical or other assistance for use in accomplishing the purposes of this Chapter.

The Department may allocate, as necessary or desirable, any funds received to conservation districts, counties, or municipalities for the purpose of effectuating this Chapter.

(b) The conservation districts, counties, and municipalities shall have authority to adopt a fee system to help fund program implementation. That fee system shall be implemented by the designated plan approval agency to fund overall program management, plan review, construction review, enforcement needs, and maintenance responsibilities. In those situations where the Department becomes the designated plan approval agency, the Department may assess a plan review and inspection fee. That fee shall not exceed $80.00 per disturbed acre per project. There shall be no duplication of fees by the various implementing agencies for an individual land disturbing activity and the fee schedule shall be based upon the costs to the Department, conservation districts, counties, or municipalities to implement and administer the program.

(c) Authority is also granted to the Department, conservation districts, counties or municipalities to establish a stormwater utility as an alternative to total funding under the fee system. The stormwater utility shall be developed for the designated watersheds and may fund such activities as long range watershed master planning, watershed retrofitting, and facility maintenance. This fee system shall be reasonable and equitable so that each contributor of runoff to the system, including State agencies, shall pay to the extent to which runoff is contributed. Criteria for the implementation of the stormwater utility shall be established in regulations promulgated under this Chapter. The implementation of a stormwater utility will necessitate the development of a local utility ordinance prior to its implementation.

§4006. State Management Program

(a) The Department shall, in cooperation with appropriate State and federal agencies, conservation districts, other governmental subdivisions of the State, and the regulated community develop a State Stormwater Management Program. This program shall take into consideration both quantity and quality of water, and shall be integrated with, and made a part of the amended State Erosion and Sediment Control Program to create a Sediment and Stormwater Program.

(b) In carrying out this Act, the Department shall have the authority to:

(1) Provide technical and other assistance to districts, counties, municipalities, and State agencies in implementing this Chapter;

(2) Develop and publish, as regulation components, minimum standards, guidelines and criteria for delegation of sediment and stormwater program components, and model sediment and stormwater ordinances for use by districts, counties, and municipalities;

(3) Review the implementation of all components of the statewide sediment and stormwater program that have been delegated to either the conservation districts, counties, municipalities, or other State agencies in reviews to be accomplished at least once every three (3) years;

(4) Require that appropriate sediment and stormwater management provisions be included in all new erosion and sediment control plans developed pursuant to this Chapter;

(5) Cooperate with appropriate agencies of the United States or other states or any interstate agency with respect to sediment control and stormwater management;

(6) Conduct studies and research regarding the causes, effects and hazards of stormwater and methods to control stormwater runoff;

(7) Conduct and supervise educational programs with respect to sediment control and stormwater management;

(8) Require the submission to the Department of records and periodic reports by conservation districts, tax ditch organization, county and municipal agencies as may be necessary to carry out this Act;

(9) Review and approve designated watersheds for the purpose of this Act;

(10) Establish a maximum life of three years for the validation of approved plans. The regulations shall specify variances which expand this time limitation in specific situation; and

(11) Establish a means of communication, such as a newsletter, so that information regarding program development and implementation can be distributed to interested individuals.

(c) The Department shall develop such regulations in conjunction with and with substantial concurrence of a regulatory advisory committee, appointed by the Secretary, which shall include representatives of the regulated community and others affected by this Act. The recommendations of this committee shall be presented at all public workshops and hearings related to the adoption of the regulations implementing this Act. Prior to final promulgation of regulations under this Act, the Secretary shall explain, in writing, any differences between the advisory committee recommendations and the final regulations. The regulations may include, but are not limited to, the following items:

(1) Criteria for the delegation of program elements;

(2) Types of activities that require a sediment and stormwater management permit;

(3) Waivers, exemptions, and variances;

(4) Sediment and stormwater plan approval fees and performance bonds;

(5) Criteria for distribution of funds collected by sediment and stormwater plan approval fees;

(6) Criteria for implementation of a stormwater runoff utility;

(7) Specific design criteria and minimum standards and specifications;

(8) Permit application and approval requirements;

(9) Criteria for approval of designated watersheds;

(10) Criteria regarding attendance and completion of departmental sponsored or approved training courses in sediment and stormwater control that will be required of certified construction reviewers and responsible personnel;

(11) Construction review; and

(12) Maintenance requirements for sediment control during construction and stormwater management structures after construction is completed.

(d) The Department may adopt, amend, modify, or repeal rules or regulations after public hearing to effectuate the policy and purposes of this Chapter. The conduct of all hearings conducted pursuant to this Chapter and the promulgation process shall be in accordance with the relevant provisions of Chapter 60 of this Title.

§4007. Local Sediment and Stormwater Programs

(a) Pursuant to regulations promulgated by the Department, each conservation district, county, municipality, or State agency may adopt, and submit to the Department for approval, one or more components of a sediment and stormwater program for the area within its jurisdiction.

(b) Requests for delegation of program elements shall be submitted within six months of the promulgation of State regulations, and by January 1 of subsequent years if delegation is desired at a future date. The Secretary shall grant or deny such a request on or before April 1 of the year for which delegation is sought.

(c) Delegation, once applied for, shall become effective on July 1 and shall not exceed three (3) years, at which time delegation renewal is required.

(d) A district, county, municipality, or State agency may develop the program in cooperation with any other governmental subdivisions.

(e) Initial consideration regarding delegation of program elements shall be given to the conservation districts, since the conservation districts, having unique capabilities and areawide responsibilities, are in an ideal position to coordinate and implement local sediment and stormwater programs.

§4008. Interim Program

(a) Prior to July 1, 1991 requirements for sediment control shall be as provided in existing erosion and sediment control regulations promulgated September 26, 1980. Also, until July 1, 1991 any State or locally developed regulation or criterion for stormwater management shall remain in effect at the discretion of the implementing authority.

(b) Projects approved prior to July 1, 1991, but which are under construction after July 1, 1991, shall be subject to the penalty provisions contained in Section 4015 of this Chapter.

§4009. Failure of Conservation Districts, Counties, Municipalities, or State Agencies to Implement Delegated Program Elements

(a) If, at any time, the Department finds that a conservation district, county, municipality, or State agency has failed to implement program elements that the Department has delegated, the Department shall provide written notice of violation to the conservation district, county, municipality or State agency.

(b) Within 60 days of receipt of the notice of violation, the conservation district, county, municipality or State agency shall report to the Department the action which it has taken to comply with the requirements set forth in the violation notice.

(c) If after 120 days of receipt of the notice of violation, the conservation district, county, municipality, or State agency has failed to comply satisfactorily with requirements set forth in the notice of violation, the Department may suspend or revoke the delegated authority.

(d) If at any time, a program element delegation is being considered for suspension or revocation, an opportunity for a hearing before the Secretary or his designee shall be provided prior to such suspension or revocation.

§4010. State and Federal Projects

After July 1, 1991 a State or federal agency may not undertake any land clearing, soil movement, or construction activity unless the agency has submitted a sediment and stormwater management plan to the Department and received its approval. The only variation to this requirement shall be when delegation of the plan approval process has been granted by the Department to a specific State or federal agency.

§4011. Designated Watersheds or Subwatersheds

(a) Watersheds or subwatersheds approved as designated watersheds or subwatersheds by the Department shall have the regulatory requirements clearly specified through a watershed approach to nonpoint pollution control or flood control. The watershed approach shall result in a specific plan, developed or approved by the Department, for the designated watershed or subwatershed that contains the following information:

(1) Stormwater quantity or quality problem identification;

(2) The overall needs of the watershed, not just the additional impacts of new development activities;

(3) Alternative approaches to address the existing and future problems;

(4) A defined approach which includes the overall costs and benefits;

(5) A schedule for implementation;

(6) Funding sources and amounts; and

(7) A public hearing process prior to departmental approval.

(b) Upon approval of the designated watershed or subwatershed plan, all projects undertaken in that watershed or subwatershed shall have stormwater requirements placed upon them that are consistent with the designated watershed or subwatershed plan.

§4012. Construction Review and Enforcement

(a) With respect to approved sediment and stormwater plans, the agency responsible for construction review during and after construction completion shall ensure that

periodic reviews are undertaken, implementation is accomplished in accordance with the approved plans, and the required measures are functioning in an effective manner. Notice of such right of construction review shall be included in the sediment and stormwater management plan certification. The agency responsible for construction review may, in addition to local enforcement options, refer a site violation to the Department for additional action.

(b) Referral of a site violation to the Department may initiate a departmental construction review of the site to verify site conditions. That construction review may result in the following actions:

(1) Notification through appropriate means to the person engaged in a land disturbing activity and the contractor to comply with the approved plan within a specified time frame.

(2) Notification of plan inadequacy, with a time frame for the person engaged in a land disturbing activity to submit a revised sediment and stormwater plan to the appropriate plan approval agency and to receive its approval with respect thereto.

(c) Failure of the person engaged in the land disturbing activity or the contractor to comply with departmental requirements may result in the following actions in addition to other penalties as provided in this Chapter.

(1) The Department shall have the power to issue a cease and desist order to any person violating any provision of this Chapter by ordering such person to cease and desist from any site work activity other than those actions necessary to achieve compliance with any administrative order.

(2) The Department may request that the appropriate plan approval agency refrain from issuing any further building or grading permits to the person having outstanding violations until those violations have been remedied.

§4013. Approval of Certified Construction Reviewers

(a) Based on criteria established by the Department through regulation and any additional criteria established by the agency implementing the plan review and construction elements of the sediment and stormwater program, the person engaged in a land disturbing activity may be required to provide for construction review by a certified construction reviewer.

(b) Individuals functioning as certified construction reviewers must attend and pass a departmental sponsored or approved construction review training course. The Department will establish, through regulation, the length of time for which the certification will last and procedure for renewal. The construction reviewers shall also function under the direction of a registered professional engineer licensed to practice engineering in the State of Delaware.

(c) The responsibility of the certified construction reviewer will be to ensure the adequacy of construction pursuant to the approved sediment and stormwater management plan.

(d) The certified construction reviewer shall be responsible for the following items:

(1) Provision of a construction review of active construction sites on at least a weekly basis, as determined on a case-by-case basis by the plan review and construction review agencies, or as required by regulations promulgated pursuant to this Chapter;

(2) Within five calendar days, informing the person engaged in the land disturbing activity, and the contractor, by a written construction review report of any violations of the approved plan or inadequacies of the plan. The plan approval agency shall be informed, if the approved plan is inadequate, within five working days. In addition, the appropriate construction review agency shall receive copies of all construction review reports; and

(3) Referral of the project to the Department for appropriate enforcement action if the person engaged in the land disturbing activity fails to address the items contained in the written construction review report. Verbal notice shall be made to the Department within two working days and written notice shall be provided to the Department within five working days.

(e) If the Secretary or his designee determines that a certified construction reviewer is not providing adequate site control or is not referring problem situations to the Department, the Secretary or his designee may suspend or revoke the certification of the construction reviewer.

(f) In any situation where a certified construction reviewer's approval is being suspended or revoked, an opportunity for hearing before the Secretary or his designee shall be provided. During any suspension or revocation, the certified construction reviewer shall not be allowed to provide construction reviews pursuant to this Chapter.

(g) The failure to assign a departmental approved certified construction reviewer to a land disturbing activity, when required by the approved plan, will place that project in violation of this Chapter and result in appropriate administrative and/or enforcement action.

§4014. Training of Responsible Personnel

After July 1, 1991, any applicant seeking sediment and stormwater plan approval shall certify to the appropriate approval agency that all responsible personnel involved in the construction project will have a certificate of attendance at a departmentally sponsored or approved training course for the control of sediment and stormwater before initiation of any land disturbing activity. The certificate of attendance shall be valid until the Department notifies the individual or announces in local newspapers that recertification is required due to a change in course content.

§4015. Penalties

(a) Any person who violates any rule, regulation, order, condition imposed in an approved plan or other provision of this Chapter shall be fined not less than $200 or more than $2,000 for each offense. Each day that the violation continues shall constitute a separate offense. The Justice of the Peace Courts shall have jurisdiction of offenses brought under this subsection.

(b) Any person who intentionally, knowingly, and after written notice to comply, violates or refuses to comply with any notice issued pursuant to Section 4013(2) 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 brought under this subsection.

§4016. Injunctions

The Court of Chancery shall have jurisdiction to enjoin violations of this Chapter. The appropriate program element authority, the Department, or any aggrieved person who suffers damage or is likely to suffer damage because of a violation or threatened violation of this Chapter may apply to the Chancery Court for injunctive relief. Among any other appropriate forms of relief, the Chancery Court may direct the violator to restore the affected land or water impacted area to its original condition."

Approved June 15, 1990.

CHAPTER 235

FORMERLY

SENATE BILL NO. 236

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE REAPPORTIONMENT OF KENT COUNTY LEVY COURT DISTRICTS.

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

Section 1. Amend Subchapter I, Chapter 41, Title 9 by adding the following new sections:

4105. Redistricting Required

(a) It shall be the mandatory duty of the Kent County Levy Court to redistrict the Kent County Levy Court Districts described at §4102(b) of this title after each regular United States decennial census commencing with the 1990 United States decennial census. Nothing herein shall operate to change the number of Levy Court Districts established at §4102(a) of this title.

4106. Redistricting Procedures

(a) Whenever a changing of the boundaries of the Levy Court Districts is required by 4105 of this Title, the Levy Court, shall within 60 days, after the official reporting of the federal decennial census by the President to Congress, appoint 7 electors of the County who shall comprise a Redistricting Commission. The members of the Redistricting Commission shall be appointed by the Levy Court, one from each of the Levy Court districts of the County and shall not be employed by the County in any other capacity. No more than 4 of the members shall be affiliated with the same political party.

(b) Within 90 days of being appointed, the Redistricting Commission shall file with the President of the Levy Court, or his designee, a report containing a recommended plan for adjusting the Levy Court District boundaries of districts 1 through 6 to comply with the following specifications: (1) each district shall contain contiguous territory; (2) each district shall contain as nearly as possible the same number of inhabitants and no district shall deviate in population more than 15% from the average population for the six districts, the average to be obtained by dividing the number 6 into the total population of the County according to the most recent decennial census. The 7th District shall constitute all of Kent County.

(c) The report of the Redistricting Commission shall include a map and a written description of the Levy Court Districts recommended and shall be in the form of a proposed ordinance. Once filed with the President of the Levy Court, or his designee, the report shall be treated as an ordinance introduced by a member of the Levy Court.

(d) The procedure for the Levy Court's consideration of the report shall be the same as for other ordinances, and the Levy Court is empowered to modify the recommended plan subject, however, to the standards set forth in subsection (b) of this section.

(e) The Levy Court shall adopt a redistricting ordinance within 60 days after the report of the Redistricting Commission has been filed with the President of the Levy Court or his designee. If a redistricting ordinance has not been adopted by the Levy Court within 60 days of filing the report by the Redistricting Commission, the redistricting plan as submitted by the Redistricting Commission shall become effective as if it had been adopted by the Court.

4107. Early Termination of Terms of Office

The term of any Levy Court Commissioner (except the commissioner representing the 7th Levy Court District which is comprised of the County as a whole) which would not otherwise terminate on the first Tuesday in January following the election of Commissioners immediately following a redistricting shall terminate on such date, if, as a result of redistricting of the Levy Court, he is placed in the same District as another member of the Levy Court whose term does not expire at the same

time, otherwise he shall continue to represent the new district in which he resides until the expiration of his term of office.

Approved June 15, 1990.

CHAPTER 236

FORMERLY

HOUSE BILL NO. 301
AS AMENDED BY
HOUSE AMENDMENT NOS. 2 AND 3 AND SENATE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 7, TITLE 13 OF THE DELAWARE CODE RELATING TO CUSTODY.

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

Section 1. Amend §721, Chapter 7, Title 13 of the Delaware Code by adding thereto a new subsection (e) to read as follows:

"(e) A custody proceeding between parents shall be determined in accordance with §722 or §729, whichever shall apply. A custody proceeding between a parent and any other person shall not be decided in favor of the other person unless the Court concludes, after a hearing, (1) that the child is dependent or neglected within the meaning of §901 of Title 10, and (2) that the application of the standards set forth in §722 or §729, whichever shall apply, lead the Court to conclude that the child should not be placed in the custody of one of his or her parents."

Section 2. Amend subsection (a), §722, Chapter 7, Title 13 of the Delaware Code by deleting all of subsection (a) and substituting in lieu thereof the following:

"(a) The Court shall determine the legal custody and residential arrangements for a child in accordance with the best interests of the child. In determining the best interests of the child, the Court shall consider all relevant factors including:

(1) The wishes of the child's parent or parents as to his or her custody and residential arrangements;

(2) The wishes of the child as to his or her custodian(s) and residential arrangements;

(3) The interaction and interrelationship of the child with his or her parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;

(4) The child's adjustment to his or her home, school and community; and

(5) The mental and physical health of all individuals involved; and

(6) Past and present compliance by both parents with their rights and responsibilities to their child under §701 of this chapter."

Section 3. Amend §722, Chapter 7, Title 13 of the Delaware Code by striking subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) The Court shall not presume that a parent, because of his or her sex, is better qualified than the other parent to act as a joint or sole legal custodian for a child or as the child's primary residential parent, nor shall it consider conduct of a proposed sole or joint custodian or primary residential parent that does not affect his or her relationship with the child."

Section 4. Amend §723, Chapter 7, Title 13 of the Delaware Code by striking subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) A party to a custody or visitation proceeding may move for a temporary custody or visitation order. An application for temporary custody or visitation shall be accompanied by an affidavit setting forth the factual basis for the motion or application with particularity. The court may issue a temporary custody or visitation order without requiring notice to the other party and without a hearing only if it finds on the basis of the affidavit or other evidence that irreparable harm may result to the minor child if such an order is not issued without notice to the other interested parties or any opportunity by them to be heard. In the event such an order is entered, a copy of the order shall be served upon all other interested parties as soon as practicable and they shall have an opportunity to be heard in opposition to the application as soon as practicable."

Section 5. Amend Chapter 7, Title 13 of the Delaware Code by striking existing §727 in its entirety and substituting in lieu thereof the following:

"§727. Custody.

(a) Whether the parents have joint legal custody or one parent has sole legal custody of a child, each parent has the right to receive, on request, from the other parent, whenever practicable in advance, all material information concerning the child's progress in school, medical treatment, significant developments in the child's life, and school activities and conferences, special religious events and other activities in which parents may wish to participate and each parent and child has a right to reasonable access to the other by telephone or mail. The Court shall not restrict the rights of a child or a parent under this subsection unless it finds, after a hearing, that the exercise of such rights would endanger a child's physical health or significantly impair his or her emotional development.

(b) Any custody order entered by the Court may include the following provisions:

(1) Granting temporary joint or sole custody for a period of time not to exceed six months in duration to give the parents the opportunity of demonstrating to the satisfaction of the Court their ability and willingness to cooperate with the custodial arrangement ordered. Following a timely review of this temporary order by the Court either at the end of this temporary period or sooner upon the application of any party to the proceeding, the Court shall have the authority to continue or modify the temporary order on a permanent basis.

(2) Counseling of the parents, and their child if appropriate, by a public or private agency approved by the Court to help the parents develop the necessary skills to deal effectively with the major as well as daily decisions involving their child under the custodial arrangement ordered, to continue until such time as the Court is advised in writing by the agency that such counseling is no longer required. Counseling expenses may be assessed by the Court as a cost of the proceeding.

(e) Any custody order entered by the Court shall include a contact schedule by the child with both parents which shall control absent parental modification by written agreement."

Section 6. Amend Chapter 7, Title 13 of the Delaware Code by striking existing §728 in its entirety and substituting in lieu thereof the following:

"§728. Residence; visitation; sanctions.

(a) The Court shall determine, whether the parents have joint legal custody of the child or one of them has sole legal custody of the child, with which parent the child shall primarily reside and a schedule of visitation with the other parent, consistent with the child's best interests and maturity, which is designed to permit and encourage the child to have frequent and meaningful contact with both parents unless the Court finds, after a hearing, that contact of the child with one parent would endanger the child's physical health or significantly impair his or her emotional development. The Court shall specifically state in any order denying or restricting a parent's access to a child the facts and conclusions in support of such a denial or restriction.

(b) The Court shall encourage all parents and other persons to foster the exercise of a parent's joint or sole custodial authority and the maintenance of frequent and meaningful contact, in person, by mail and by telephone, between parents and children unless an order has been entered pursuant to subsection (a) denying or restricting such contact. If the Court finds, after a hearing, that a parent or any other person has violated, interfered with, impaired or impeded the rights of a parent or a child with respect to the exercise of joint or sole custodial authority, residence, visitation or other contact with the child, the Court shall order such person to pay the costs and reasonable counsel fees of the parent applying for relief under this section. The Court shall also impose one or more of the following remedies or sanctions.

(A) Extra visitation with the child to enable the child to make up any wrongfully denied visitation with a parent;

(B) A temporary transfer of custody or primary residence or both of the child to a parent applying for relief under this section for up to 30 days without regard to the factors set forth in §729;

(C) A surcharge to be assessed against the parent with rights of visitation with the child or children for his or her unilateral failure, without just cause and/or without sufficient notice, to comply with the visitation schedule. Failure to comply consists of more than minimal violations, such as, but not limited to, slight alterations in the times for visitation. The amount of the surcharge shall be up to ten percent of the visiting parent's monthly child support obligation for each violation and shall be payable to the parent with whom the child or children reside(s).

(D) A fine in the discretion of the Court; or

(E) A term of imprisonment if a person is found to be in contempt of prior orders of the Court.

In addition, the Court may impose such other sanctions or remedies as the Court deems just and proper to ensure the maintenance in the future of frequent and meaningful contact between parent and child and participation by both parents in the child's upbringing if the parents have joint legal custody.

(c) A parent or custodian of a child who believes it to be in the best interests of a child for the custodial authority, visitation or communication between a parent and a child as established by a prior Court order or written agreement of the parties to be modified may apply to the Court for such modification, and the Court may grant such an application if it finds after application of the standards set forth in subsection (a) above that the best interests of the child would be served by ordering such a modification. The filing of an application under this subsection (c) by any person shall not be a defense in an action brought against any person under subsection (b) unless the Court has entered an appropriate order allowing such conduct prior to the occurrence of the conduct complained of in the action brought under subsection (b)."

Section 7. Amend Chapter 7, Title 13 of the Delaware Code by striking the existing §729 in its entirety and substituting in lieu thereof the following:

"§729. Modification of Prior Orders.

(a) An order concerning visitation may be modified at any time if the best interests of the child would be served thereby in accordance with the standards set forth in §728(a),

(b) An order entered by the Court by consent of all parties, an interim order or a written agreement between the parties concerning the legal custody of a child or his or her residence may be modified at any time by the Court in accordance with the standards set forth in §722.

(c) An order entered by the Court after a full hearing on the merits concerning the legal custody of a child or his or her primary residence may be modified only as follows:

(A) If the application for modification is filed within 2 years after the Court's most recent order concerning these matters, the Court shall not modify its prior order unless it finds, after a hearing, that continuing enforcement of the prior order may endanger the child's physical health or significantly impair his or her emotional development.

(B) If the application for modification is filed more than 2 years after the Court's most recent order concerning these matters, the Court may modify its prior order after considering:

(i) Whether any harm is likely to be caused to the child by a modification of its prior order, and, if so, whether that harm is likely to be outweighed by the advantages, if any, to the child of such a modification;

(ii) The compliance of each parent with prior orders of the Court concerning custody and visitation and compliance with his or her duties and responsibilities under §727 including whether either parent has been subjected to sanctions by the Court under §728(b) since the prior order was entered; and

(iii) The factors set forth in §722."

Section 8. Amend §731, Chapter 7, Title 13 of the Delaware Code by deleting the words "the financial resources of the parties" after the word "considering" and inserting after the word "considering" the following:

"the legal and factual basis for the action, the results obtained, the financial resources of the parties, and such other factors as the Court deems just and equitable,".

Section 9. Amend Chapter 7, Title 13 of the Delaware Code by adding a new §732 to read as follows:

"§732. Procedural Rights.

Each party to a proceeding under this Chapter (including the child, if counsel or a guardian ad litem for the child has been appointed by the Court) shall possess all the procedural rights which those parties would have heretofore possessed in any proceeding brought pursuant to this Chapter in the Superior Court of this State, including, but not limited to, the following:

(a) Right to institute and retain complete control of the suit;

(b) Right to select counsel; and

(c) Right to appeal to the Supreme Court of this State on the record from interlocutory or final orders, such appeals to be in the form and manner provided by the rules of the Supreme Court."

Section 11. This Act shall become effective 30 days after the day on which it is enacted into law. Actions commenced 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 actions as if this Act were not in effect.

Section 12. Nothing in this Act shall be construed to affect any right, duty or liability arising under any statutes in effect immediately prior to the effective date of this Act, but the same shall be continued and concluded under such prior statutes. Nothing in this Act shall revive or reinstate any rights or liability previously barred by statute.

Section 13. If the 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 June 15, 1990.

CHAPTER 237

FORMERLY

HOUSE BILL NO. 612

AN ACT TO AMEND CHAPTER 92, TITLE 11 OF THE DELAWARE CODE RELATING TO LAW-ENFORCEMENT OFFICERS' BILL OF RIGHTS.

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

Section 1. Amend §9200(b), Chapter 92, Title 11 of the Delaware Code by adding the phrase "of the police force established by The Delaware River and Bay Authority," after the first comma "," appearing on line 4 of said subsection.

Approved June 20, 1990.

CHAPTER 238

FORMERLY

HOUSE BILL NO. 582

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO RECEIVING STOLEN PROPERTY.

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

Section 1. Amend § 852, Chapter 5, Title 11 of the Delaware Code by adding a comma(,) and the phrase "or that a person possesses property whose affixed identification or serial number is altered, removed, defaced, or falsified" after the word "value" as it appears on line 3 of said section.

Approved June 20, 1990.

CHAPTER 239

FORMERLY

HOUSE BILL NO. 216

AN ACT TO AMEND CHAPTER 27, TITLE 21, OF THE DELAWARE CODE RELATING TO THE ESTABLISHING OF A FEE FOR THE ISSUANCE OF A CONDITIONAL OR OCCUPATIONAL DRIVER LICENSE.

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 27, Title 21, of the Delaware Code by adding the following new Section 2739:

"§2739. Fee For Occupational and Conditional License.

Any person whose license and/or driving privileges has been suspended or revoked pursuant to this title and who applies for an occupational license or conditional license shall pay a fee of $10 for such occupational or conditional license."

Approved June 20, 1990.

CHAPTER 240

FORMERLY

SENATE BILL NO. 267

AN ACT TO AMEND CHAPTER 9, TITLE 12 OF THE DELAWARE CODE RELATING TO THE ELECTIVE SHARE STATUTE.

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

Section 1. Amend §901(a) of Chapter 9, Title 12, Delaware Code, by inserting the words "an amount equal to" in the first sentence thereof preceding the words "one third of the elective estate". In addition by adding two additional sentences at the end of said Section to read as follow:

"The elective share may be satisfied in cash or in kind, or partly in each. Assets distributed in satisfaction of the elective share shall be valued at date of distribution."

Section 2. Amend §902 of Chapter 9, Title 12, Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§902. Elective Estate Defined.

(a) The elective estate means the amount of the decedent's gross estate for federal estate tax purposes, regardless of whether or not a federal estate tax return is filed for the decedent, modified as follows:

(i) less those deductions allowable under §§2053 and 2054 of the Internal Revenue Code of 1986, as amended, or the comparable provisions of any later law ('the Code'), and

(ii) without regard to the provisions of §2040(b) of the Code relating to qualified joint interests from which is subtracted the sum of all transfers made by the decedent during his lifetime which are included for purposes of determining his federal adjusted gross estate and which were made with the written consent or joinder of the surviving spouse.

(b) In every case where an elective share petition has been filed, the personal representative of an estate shall prepare a Form 706 (United States Estate Tax Return) for the estate regardless of whether such form is required to be filed. A copy of such form shall be provided to the surviving spouse by the latest of the following dates:

(i) the due date for the Form 706 as extended,

(ii) if no Form 706 is due, the due date for Form 600 (Delaware Inheritance Tax Return) as extended for reasons other than pending litigation; or

(iii) three (3) months after the elective share petition has been timely filed."

Section 3. Amend §903 of Chapter 9, Title 12, Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§903. Transfers to Surviving Spouse by Decedent.

The value of the property transferred to the surviving spouse by the decedent for purposes of subsection (a) of §901 of this Title is an amount which equals the value of the property derived from the decedent by virtue of his death. For purposes of this Section:

(a) Property derived from the decedent by virtue of his death shall be: Property which is part of the decedent's estate which passes to the surviving spouse by testate or intestate succession and which has not been disclaimed or renounced, provided that an income interest which has been disclaimed or renounced will not be deemed to have been disclaimed or renounced for purposes of computing the value of the property transferred to the disclaimant under this Chapter; any property transferred to the surviving spouse by the decedent during his lifetime and includeable in the decedent's gross estate under §2036 of the Code; any property jointly owned with the decedent to the extent the surviving spouse did not contribute to the value of the property; any beneficial interest of the surviving

spouse in a trust created by the decedent during his lifetime or under his Will; any property appointed to the spouse by the decedent's exercise of a general or special power of appointment; any proceeds of insurance (including accidental death benefits) on the life of the decedent attributable to premiums paid by him; any lump sum immediately payable and the commuted value of the proceeds of annuity contracts under which the decedent was the primary annuitant attributable to premiums paid by him; the commuted value of amounts payable after the decedent's death under any public or private pension, disability compensation, death benefit or retirement plan, exclusive of the federal Social Security system, by reason of service performed or disabilities incurred by the decedent; and the value of the share of the surviving spouse resulting from rights in community property in this or any other state formerly owned by the decedent. For purposes of this subsection (a), the decedent shall be deemed to have paid all life insurance and annuity premiums with respect to all insurance proceeds on the decedent's life payable to his surviving spouse and all lump sum, annuity, or other payments received by his surviving spouse by reason of surviving the decedent under any annuity contract except to the extent that the surviving spouse can show that he paid such premiums from his own funds which were not given to him by the decedent.

(b) Property owned by the spouse at the decedent's death is valued as of the date it is valued for purposes of computing the elective estate. Income earned by included property prior to the decedent's death is not treated as property derived from the decedent."

Section 4. Amend §904 of Chapter 9, Title 12, Delaware Code by deleting the period, ".", at the end of the first sentence of said Section and adding the following:

"; provided the personal representative of his estate shall succeed to his rights under a right of election exercised by him."

Section 5. Amend §905 of Chapter 9, Title 12, Delaware Code by striking the last three words at the end of the first sentence of said Section.

Section 6. Amend subsection (d) of §906 of Chapter 9, Title 12, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"§906. Proceeding for Elective Share; Time Limit.

(d) After notice and hearing, the Court of Chancery shall determine the amount of the elective share and shall enter a judgment and order apportioning the liability for the amount of the elective share among the recipients of the contributing estate and directing payment of such liability as provided in §908(a). If it appears that a fund or property included in the elective estate has not come into the possession of the personal representative, or has been distributed by the personal representative, the court nevertheless shall fix the liability of any person who has any interest in the property or who has possession thereof, whether as trustee or otherwise."

Further amend said §906 by adding the following new subsections (f) and (g):

"(f) The Court of Chancery on petition of a surviving spouse may restrain any person from making a payment or transfer of property which constitutes part of the contributing estate, either before or after a petition for an elective share is filed.

(g) No transferee of, or holder of a lien against, real property comprising part of the contributing estate shall be liable to a surviving spouse if the transferee or lienholder has given bona fide consideration to the recipient of such real property from the decedent unless a certified copy of the judgment, order, or decree of the Court of Chancery providing to the contrary with respect to such real property has been recorded in the office for the recording of deeds in the county where the real property is located prior to the recordation of the deed, mortgage, or other instrument transferring, or creating the lien against, such real property. The recording of any such judgment, order, or decree shall be indexed in the grantor's index under the names of the decedent and the recipient of such real property from the decedent."

Section 7. Amend §907 of Chapter 9, Title 12, Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§907. Effect of Election on Benefits Derived from Decedent.

(a) The surviving spouse's election of his elective share does not affect the share of the surviving spouse under any provisions made for the surviving spouse under the decedent's will, any trust established by the decedent, or the intestate succession

laws unless the surviving spouse also expressly renounces in the petition for an elective share the benefit of all or any of the provisions. If any provision is so renounced, the property or other benefit which would otherwise have passed to the surviving spouse thereunder is treated, subject to contribution under subsection (a) of §908 of this Title, as if the surviving spouse had predeceased the decedent for all purposes except the value of an income interest renounced by the surviving spouse shall nonetheless be deemed to be property transferred to the surviving spouse by the decedent for purposes of §903(a) and §901(a).

(b) A surviving spouse is entitled to the surviving spouse's allowance whether or not he elects to take an elective share."

Section 8. Amend §908 of Chapter 9, Title 12, Delaware Code by striking it in its entirety substituting in lieu thereof the following:

"§908. Liability for Elective Share.

(a) The liability for the amount of the elective share shall be apportioned among the recipients of 'the decedent's contributing estate' (as defined in subsection (b)). Such apportionment shall be made in the proportion, as near as may be, that the value of the property of each such recipient bears to the total value of the property received by all such recipients interested in the contributing estate, provided that in any case where a person is given an interest in income or an estate for years, or for life, or other temporary interest in any property, the liability for the elective share on both such temporary interest and on the remainder thereafter shall not be apportioned between or among the recipients of such interest but shall be charged in rem against and paid out of the corpus of such property without apportionment between remainders and temporary estates. Until it is paid or satisfied the surviving spouse's elective share shall be a proportionate charge against the properties constituting the decedent's contributing estate based upon the values of all such property for purposes of determining the elective estate. No person or property shall be liable for contribution in any greater amount than he or such property would have been if relief had been secured against all persons and property subject to contribution.

(b) For purposes of this Section, the decedent's contributing estate consists of only that portion of the elective estate of which the decedent was the sole owner at his death and which was not transferred or deemed transferred to his surviving spouse by the decedent as described in §903(a). The decedent's contributing estate does not include any jointly owned property with the right of survivorship of which he was a joint owner, any insurance proceeds which are payable to a beneficiary other than to his estate, or any property held in trust.

(c) A recipient of property comprising part of the contributing estate may pay his proportionate elective share liability with respect to such property or may choose to give up such property thereby relieving his personal liability. If a recipient elects to give up such property he shall be entitled to any value realized upon the sale or other disposition of such property in excess of his proportionate elective share liability."

Section 9. This Act shall become effective for estates of decedents dying on or after January 1, 1990.

Approved June 20, 1990.

CHAPTER 241

FORMERLY

HOUSE BILL NO. 255

AN ACT PROPOSING AN AMENDMENT TO ARTICLE II OF THE CONSTITUTION OF THE STATE OF DELAWARE RELATING TO GAMBLING.

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 17, Article II, of the Constitution of the State of Delaware by striking subsection (c) of said section, and substituting in lieu thereof the following:

"(c) Wagering or betting by the use of pari-mutuel machines or totalizators on horse races conducted at racetracks within or without the State, provided that such wagering or betting may be conducted only either:

(1) within the enclosure of any racetrack licensed under the laws of the State to conduct a race meeting, or

(2) within the enclosure of any racetrack licensed under the laws of the State to receive and accept wagers or bets on electronically televised simulcasts of horse races."

Approved June 13, 1990.

CHAPTER 242

FORMERLY

SENATE BILL NO. 9
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, SUBCHAPTER VI, §4361, TITLE 11 OF THE DELAWARE CODE RELATING TO THE BOARD OF PARDONS; AND PROVIDING FOR NOTICE TO CERTAIN PERSONS PRIOR TO PARDONS HEARINGS.

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

Section 1. Amend §4361, Chapter 43, Subchapter VI, Title 11 of the Delaware Code by striking the Title of said section, and substituting in lieu thereof the following:

"§4361. Board of Pardons; Attendance of Victims and Witnesses"

Section 2. Amend §4361, Chapter 43, Subchapter VI, Title 11 of the Delaware Code by re-designating present subsection (d) as new subsection (e); and by re-designating present subsection (e) as new subsection (f).

Section 3. Amend §4361, Chapter 43, Subchapter VI, Title 11 of the Delaware Code by adding thereto a new subsection, designated as subsection (d), which new subsection shall read as follows:

"(d) Upon the application of any convicted felon for a pardon, the Board shall notify the Superior Court and the Attorney General of such application. The Attorney General in cooperation with the Superior Court shall send notice of such application to each person who was a victim or witness of the offense for which the felon was convicted, that the felon has applied for a pardon. Such notice shall contain the time, date and place where the matter shall be heard by the Board. Where a victim or witness is known to be deceased, a good faith effort shall be made to send notice to a member of the immediate family of such person. Where the victim or witness is known to be under eighteen years of age or is incompetent, a good faith effort shall be made to send the notice to the parent, guardian or custodian of such person. Notification for the purpose of this section shall be by certified mail (return receipt requested) to the last known address of such victim or witness. Each such victim or witness shall be permitted to testify at the pardons hearing. A victim or witness may, in lieu of appearing before the Board, submit a written statement to the Board at any time prior to the hearing. For purposes of this subsection, the word 'witness' shall mean a person who testified for the prosecution at the trial in which the felon was convicted of the crime from which he seeks to be pardoned; provided however, that the word 'witness' shall not include any law enforcement officer; any person who testified merely as an expert witness; nor any person who was merely a custodian of the evidence, with no knowledge of the circumstances of the offense.

Approved June 25, 1990.

CHAPTER 243

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 361
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 AND TITLE 15 OF THE DELAWARE CODE RELATING TO SCHOOL DISTRICT ELECTIONS AND REGULATION THEREOF.

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

Section 3. Amend § 1906, Chapter 19, Title 14, Delaware Code by striking the first sentence in its entirety and substituting in lieu thereof the following:

"The election under §1903 of this Title shall be conducted by election officers appointed by the School Board of the district in which the election is held as set forth under §1073 of this Title.

Section 4. Amend §1908(a) and §1908(b), Chapter 19, Title 14 by striking in their entirety the last sentence of each subsection and substituting in lieu thereof the following:

"The wording on the voting machine shall include a statement of the question which is being voted for and against."

Section 5. Amend §2122 (g) and §2122(h), Chapter 21, Title 14 by striking in their entirety the last sentence of each subsection and substituting in lieu thereof the following:

"The wording on the voting machine shall include a statement of the question which accurately reflects the issue being voted for and against."

Section 6. Amend §1908(b), Chapter 19, Title 14, Delaware Code by inserting after the words "Chapter 21 of this title by the same amount" the words "or the transfer of tax funds for one purpose to another purpose".

Section 7. Amend §1054(b), Chapter 10, Title 14, Delaware Code by adding thereto the following:

" When a vacancy occurs prior to February 1, the remaining members of the school board shall appoint a person who has filed an application to fill the vacancy. No appointment shall be made until after public notice of the vacancy and the request for formal application from interested persons is made. Notice shall be by publication for once a week for two consecutive weeks in a newspaper of general circulation in the school district."

Section 8. Amend §1908, Title 14, Delaware Code by adding thereto a new subsection to read as follows:

"(c) The State Election Commissioner shall provide a sufficient number of voting machines necessary to carry out the elections hereunder and the costs of transportation of the voting machines and other necessary charges for the use of the voting machines shall be borne by the local school district."

Section 9. Amend §2122, Title 14, Delaware Code by adding thereto a new subsection to read as follows:

"(j) The State Election Commissioner shall provide a sufficient number of voting machines necessary to carry out the elections hereunder and the costs of transportation of the voting machines and other necessary charges for the use of the voting machines shall be borne by the local school district.

Section 10. Amend Chapter 51, Title 15, Delaware Code by adding thereto a new section to read as follows:

"§5105. Application to School Elections.

The provisions of this Chapter shall additionally be applicable to any local school elections held under Title 14 of this Code."

Approved June 25, 1990.

CHAPTER 244

FORMERLY

HOUSE BILL NO. 514

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SUBSTANCE ABUSE; AND PROVIDING FOR A DELAWARE DRUG-FREE SCHOOL ACT.

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

Section 1. Amend Part I, Title 14 of the Delaware Code by adding thereto a new chapter, designated as Chapter 38, which new chapter shall read as follows:

"CHAPTER 38. CONTROLLED SUBSTANCES

§3801. Declaration of Purpose

The General Assembly finds and declares that a substantial drug and alcohol trafficking and abuse problem exists in this State among school-age children, in schools and on school campuses, parks and playgrounds. It is the purpose of this Chapter, to support increased efforts by local law enforcement agencies, working in conjunction with school districts and with State and local drug and alcohol prevention agencies, to suppress trafficking; and to prevent drug and alcohol abuse among school-age children in schools and on school campuses, through the development of innovative and model programs jointly undertaken by local law enforcement agencies and school districts. Further, it is the intent of the General Assembly to establish a program of financial and technical assistance for local law enforcement and school districts; and to formulate a joint policy of pursuing both demand reduction (through education and prevention programs), and supply reduction (through law enforcement).

§3802. 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) "Division" shall mean the Division of Alcoholism, Drug Abuse and Mental Health.

(b) "Enhanced apprehension, prevention and education efforts" shall mean projects and programs which do not compete with, but which supplement and improve currently-existing substance abuse prevention and education programs.

(c) "Entity" shall mean any committee, agency or group approved by the Division; any law enforcement committee, agency or group approved by the Department Public Safety; or any committee, agency or group composed of public school teachers and/or administrators.

§3803. Division of Alcoholism, Drug Abuse and Mental Health

(a) The Division of Alcoholism, Drug Abuse and Mental Health shall allocate and award all funds appropriated for any purposes set forth in §3801 and elsewhere in this Chapter. Such funds shall be awarded only to programs or projects, undertaken jointly by a law enforcement entity and a local school district or other public school entity, to prevent and/or suppress substance abuse and the trafficking of prohibited or controlled substances in the public schools. All applications for such funds shall be applications made jointly by the school and law enforcement entities involved in the proposed project.

(b) In the allocation and awarding of funds to joint law enforcement and public school recipients, the Division shall obtain the comments and recommendations of the State Drug-free School Advisory Committee. All allocation and awarding of funds by the Division shall be in accordance with the Administrative Procedures Act, and with those guidelines promulgated by the State Drug-free School Advisory Committee which do not conflict with existing State laws.

(c) Each application shall be accompanied by a fiscal note, prepared by the joint applicants, which sets forth all anticipated first-year costs and the anticipated total costs of the project or program. The Division may return any application to the

applicant with a request that any or all expenses be more fully set out, together with the applicant's explanations or reasons for each projected cost or expense.

§3804. State-wide Drug-free School Advisory Committee

(a) All criteria for the rating of applications for funds under this Chapter shall be developed by the State Drug-free School Advisory Committee. The State Drug-free School Advisory Committee shall be composed of sixteen members appointed by the Governor: one police chief; one sheriff; one prosecutor from the State Department of Justice who specializes in drug and/or alcohol cases; one attorney primarily engaged in criminal defense; one person from each county appointed by an active parent group or community-based group concerned primarily with drug and/or alcohol problems; one representative of the Division of Alcoholism, Drug Abuse and Mental Health; one county drug and/or alcohol program administrator; and a permanent, full-time member of a drug-treatment clinic or office, public or private. In addition, membership shall include the Attorney General or his designate; four members who are professional employees of the Department of Public Instruction, one of whom shall be the Superintendent of Public Instruction; and a drug and/or alcohol prevention specialist employed by the State School Board of Education or by the Department of Public Instruction. The Committee shall review applications made to the Division for those funds which are awarded pursuant to this Chapter; and shall recommend approval for those applications which the Committee deems appropriate, and which it deems are consistent with the guidelines and procedures established pursuant to this Chapter. The Division shall not approve nor release any funds until approval under §3805 (b) is first obtained.

(b) The State Drug-free School Advisory Committee shall develop specific guidelines and procedures which shall set forth the terms and conditions upon which grants of funds are made. Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(c) Funds disbursed under this chapter shall not be used to pay informants for information on drug and/or alcohol offenders. Not more than ten percent (10%) of the total amount of funds disbursed under this chapter shall be used for administrative costs.

§3805. Local Drug-free School Advisory Committees

(a) A local Drug-free School Advisory Committee may be established and appointed by each local board of education. Such Committee may be either a newly created committee, or an existing local drug and alcohol abuse committee formerly established by the county, municipality or school district. Although the committee may have additional members, its basic membership shall be composed of the following residents of the district or area affected:

(1) One local law enforcement officer;

(2) An administrator or teacher, employed by the local school district, who has expertise in drug and alcohol programs;

(3) One administrator and one teacher from the school or school district which has direct involvement in the program;

(4) One parent who has a son or daughter enrolled in the school;

(5) Three high school students;

(6) One person who is a permanent full-time employee of the state, county or municipality, and whose duties primarily involve drug education or treatment;

(7) Any other person who is involved, by employment or as a volunteer, in any drug and/or alcohol prevention program.

(b) No project or program, financed in whole or in part with funds under this Chapter, shall begin in any school until such project or program has first received the approval of the local Drug-free School Advisory Committee.

§3806. Utilization of Funds

(a) Funds shall be awarded primarily for projects undertaken jointly by the school district or other public school entity, and a law enforcement entity. In participating in any joint application for the funds, the public school entity shall consult with the superintendent of each affected school. Any funds disbursed under this Chapter are

supplemental to and shall not supplant local funds which would, in the absence of this Chapter, be otherwise available to suppress and prevent drug and alcohol abuse among school-age children; or which otherwise would be used to curtail drug and alcohol trafficking in and around schools, parks and playgrounds.

(b) When applying for funds under this Chapter, the local law enforcement entity and the public school entity may jointly enter into those agreements between themselves which would allow and facilitate the administrative, fiscal and operational responsibilities created by their joint project or program.

(c) Funds disbursed under the provisions of this Chapter shall be utilized primarily for enhanced apprehension, prevention, and education efforts; and for obtaining material and information resources relating to drug and alcohol abuse and drug trafficking in and around schools, parks and playgrounds. Enhanced apprehension, prevention and education efforts shall include, but are not limited to:

(1) drug and alcohol trafficking intervention programs;

(2) school and classroom oriented programs, each of which shall utilize a tested drug and alcohol education curriculum that provides in-depth and accurate information on drugs and alcohol. Such programs may include the participation of local law enforcement agencies and/or qualified drug and alcohol use prevention specialists. Each such program shall be designed to increase, in both teachers and students, an awareness of the dangers of drugs and alcohol;

(3) family-oriented programs aimed at preventing drug and alcohol abuse, which programs may include the participation of any community-based organization which is experienced in the successful operation of a family-oriented program;

(4) development and distribution of appropriate written and audio-visual aids for the training of persons not otherwise trained or experienced in the handling of drug and alcohol-related problems and offenses within the public schools;

(5) development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs, where appropriate;

(6) development of a co-ordinated intervention system that identifies "at-risk" students, and students with chronic drug and alcohol abuse problems.

§3807. State Board of Education; Department of Public Safety

The Department of Public Safety and the State Board of Education shall both have the power to monitor and evaluate the projects and programs under this Chapter, and to make comments and suggestions to the Division."

Section 2. Within one hundred and twenty days from the effective date of this Act, the State Drug-free School Advisory Committee shall prepare and issue administrative guidelines and procedures to be utilized in the awarding of grants under this Chapter. In addition to all other formal requirements related to such guidelines and procedures, a complete and final draft of the guidelines and procedures shall be submitted within ninety days of the effective date of this Act to the Speaker of the House of Representatives and the Chairman of the House Substance Abuse Committee; and a complete and final draft shall be submitted to President pro tempore of the Senate and the Chairman of the Senate Committee to Combat Drug Abuse.

Section 3. On or before the first anniversary from the effective of this Act, the Division of Alcoholism, Drug Abuse and Mental Health shall prepare and submit an evaluation report to the Governor and to the General Assembly, describing in detail all projects and programs funded and initiated under the provisions of this Act during the 1st year. Such report shall also list the total amount of money spent; the amount of money spent for processing and reviewing applications; and the amount of all funds allocated to state and/or local agencies. The Division shall each year thereafter submit an annual evaluation report describing each project and program, and detailing the manner in which funds were expended.

Section 4. The provisions of this Act shall be known as, and may be cited as, The Delaware Drug-free School Act.

Approved June 25, 1990.

CHAPTER 245

FORMERLY

HOUSE BILL NO. 580

AN ACT TO AMEND CHAPTER 11, TITLE 12 OF THE DELAWARE CODE RELATING TO SALE OF ABANDONED PROPERTY.

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

Section 1. Amend §1143(a) Chapter 11, Title 12 of The Delaware Code by striking the phrase "shall be sold or disposed of within 15 months after such delivery" as it appears therein and substitute in lieu thereof the phrase "may be sold or disposed of".

Approved June 25, 1990.

CHAPTER 246

FORMERLY

HOUSE BILL NO. 515

AN ACT TO AMEND THE DELAWARE CODE RELATING TO VEHICULAR HOMICIDE AND PERSONS AGED 16 YEARS OR OLDER.

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

Section 1. Amend §630 and 630A of Title 11, Delaware Code, by adding to each of such sections a new subsection (c) as follows:

"(c) Every person charged under this section after having reached his or her 16th birthday, shall be treated for purposes of trial or other disposition of the charge, including but not limited to sentencing, as an adult, notwithstanding any contrary provisions of statutes governing the Family Court, or any other State law, except that the mandatory minimum sentencing provisions of subsections 630(b) and 630A(b) shall not apply to juveniles. Any such case involving a juvenile shall be subject to the transfer provisions of 10 Del. C. 939. Any period of incarceration imposed upon a juvenile by operation of this section shall be served in a juvenile correctional facility until the person attains his or her 18th birthday, at which time he or she shall be transferred to the appropriate adult correctional institution or jail to serve any remaining portion of his or her sentence.

Approved June 27, 1990.

CHAPTER 247

FORMERLY

SENATE BILL NO. 115
AS AMENDED BY SENATE AMENDMENT NOS. 1, 2, AND 3 AND H.A. NO. 1

AN ACT TO AMEND CHAPTER 5, PART I, TITLE 11 OF THE DELAWARE CODE RELATING TO ASSAULT ON A SPORTS OFFICIAL.

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

Section 1. Amend Chapter 5, Part I, Title 11 of the Delaware Code by adding thereto a new section, designated as §614, which new section shall read as follows:

"§614. Assault on a sports official

Any person who intentionally causes physical injury to a sports official, who is acting in the lawful performance of his duty, shall be guilty of a Class A misdemeanor. Upon conviction for a second or subsequent offense under this section, such person shall be guilty of a Class G felony.

For purposes of this section, the words "sports official" shall mean any person who serves as a referee, umpire, linesman, or in any similar capacity in supervising or administering a sports event; and who is registered as a member of a local, state, regional, or national organization which provides training or educational opportunities for sports officials."

Approved June 27, 1990.

CHAPTER 248

FORMERLY

SENATE BILL NO. 347

AN ACT TO AMEND CHAPTER 1, SUBCHAPTER I, TITLE 9, DELAWARE CODE, RELATING TO SPECIFIC ORGANIZATIONS NOT LIABLE FOR TAXATION AND ASSESSMENT AGAINST REAL PROPERTY.

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

Section 1. Amend §8104(a) of Subchapter I, Chapter 81, Title 9, Delaware Code, by adding thereto the following organization:

"Disabled American Veterans, Inc.".

Approved June 27, 1990.

CHAPTER 249

FORMERLY

HOUSE BILL NO. 557
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 SECTION 4402 RELATING TO ABANDONED VEHICLES AND PRIVATE RIGHTS-OF-WAY.

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

Section 1. Amend §4402, Title 21, Delaware Code by adding a new subsection "(h)" as follows:

"In the event that a vehicle is abandoned or parked within a private right-of-way, alleyway, or easement in such a manner as to impede the flow of traffic, at the complaint of any property owner or occupant or other person with a right-of-passage across the private right-of-way, alleyway or easement, such vehicle may be caused to be removed by the State Police, County Police or Municipal Police, as the case may be, in the manner provided in this chapter, except that the posting required in subsection b of this section may be omitted and that the provisions of this Chapter shall be applied to said parked vehicle as if it were an abandoned vehicle."

Approved June 27, 1990.

CHAPTER 250

FORMERLY

SENATE BILL NO. 475

AN ACT TO AMEND TITLE 29, DELAWARE CODE, CREATING A NEW CHAPTER 64 RELATING TO BUDGET APPROPRIATION BILL POLICIES AND PROCEDURES.

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

Section 1. Amend Title 29, Delaware Code, by adding thereto a new Chapter 64 to read as follows:

"Chapter 64. Budget Appropriation Bill Policies and Procedures.

§6401. Intent.

The intent of this chapter establishes the policies and procedures for implementation of the Budget Appropriation Bill.

§6402. Scope.

All State Departments and Agencies receiving appropriations as set forth in the Budget Appropriation Bill.

§6403. Definitions.

As used in this Chapter the terms 'Department' and 'Agency' mean those entities receiving an appropriation in the Budget Appropriation Bill.

§6404. General Provisions.

(a) Nothing contained in any contract entered into, pursuant to Title 19, Chapter 13, or Title 14, Chapters 13 and 40, Delaware Code, 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.

(b)(1) The provisions for salaries in the Budget Appropriation Bill are projected to cover the salaries and wages which shall become due and payable during the fiscal year. All agencies shall stay within their appropriations for salaries as well as positions authorized.

(2) The Budget Appropriation Bill 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.

(c) All agencies/school districts receiving energy funding in the Budget Appropriation Bill must make monthly consumption and/or purchase reports to the Energy Office.

(d) At the close of the fiscal year, all unencumbered appropriated special funds shall revert to the budget unit internal program unit/holding account, except Title IV-D (ASF) funds, unless otherwise specified.

(e)(1) Where the number of employee positions has been set forth in the salary line appropriation for an agency in Section 1 of the Budget Appropriation Bill, such number shall be interpreted to mean equivalent full-time positions. The 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 Personnel Director to the Budget Director and the Controller General. The total of such salaries and wages for each agency shall not exceed the agency appropriation therefore and the number of employee positions shall not be changed except as provided in Subsection (e)(2) of this Section. 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.

(2) 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 the Budget Appropriation Bill within each agency for the fiscal year. No agency shall change the total number of positions within each funding source without prior approval of the Delaware State Clearinghouse Committee; and no agency shall transfer a position between divisions/appropriation units except with the approval of the Delaware State Clearinghouse Committee. All Job Training Partnership Act funds expended for full-time positions shall be employed within the State of Delaware.

(f) Funds provided in Section 1 of the Budget Appropriation Bill 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 Grant and Nonfederal Grant Coordination, to enter into such program; and, provided that such reimbursements be accounted for in conformance with the Budget and Accounting Manual and that such reimbursements be used to fulfill the intent and purposes of Section 1 of the Budget Appropriation Bill.

(g)(1) The Budget Appropriation Bill contemplates receipt of federal funds and State special funds for certain programs or functions administered by agencies. Funds herein appropriated in Section 1 of the Budget Appropriation Bill 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.

(2) Upon being informed that such program or function is terminated or funds therefore are reduced, the head of the agency shall immediately notify, in writing, the people identified in this Subsection and promptly:

(a) Reduce proportionately the expenditure of funds from the matching General funds of the State appropriated to match such Federal or State special funds; and

(b) 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.

(3) 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.

(4) 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.

(h)(1) The Legislature finds that through a cooperative agreement between the Division of Child Support Enforcement, Department of Health and Social Services, Family Court of Delaware, and the Office of the Attorney General, the Federal Government has been reimbursing Family Court and the Office of the Attorney General for General Funds disbursed for certain expenses incurred in the delivery of child support services. This Section directs that:

(2) The Family Court of Delaware, the Office of the Attorney General 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 Family Court and the Office of the Attorney General.

(3) Upon receipt of such reimbursement from the Federal Government, the Family Court of Delaware, the Office of the Attorney General and the Department of Health and Social Services shall remit such reimbursement into a special fund account in the Office of the State Treasurer as established by the Budget Director.

(a) This fund shall be utilized for determining the next fiscal year's appropriated special funds appropriation for Family Court, the Office of the Attorney General and any other agency receiving Title IV-D Funds. 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.

(b) The balance of the special fund account not appropriated for the next fiscal year shall revert to the General Fund prior to December 31.

§6409. Judicial.

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.

§6410. Executive Department.

(a) In the event that the amount authorized in the appropriated special fund budget in Section 1 of the Budget Appropriation Bill for the Office of State Personnel, Pensions for Contractual Services (investment expenses) is insufficient, the appropriated special fund 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.

(b) any agency with classified positions filled or unfilled and temporary and/or casual and 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 the annual Appropriation Act.

(c) The sums appropriated in a fiscal year 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 of the fiscal year appropriated, 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.

§6420. Department of State.

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, Division of Historical and Cultural Affairs, Department of State. 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.

§6425. Department of Finance.

The Department of Finance, Division of Revenue, is authorized to maintain an appropriated special fund dedicated to the collection of delinquent taxes. The positions authorized to be funded through this account and all associated expenditures made from this account shall be for the purpose of collection of delinquent taxes. 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 $350,000. Unencumbered balances on June 30 of each fiscal year, in excess of $50,000, shall be deposited into the General Fund.

The Director of the Division of Revenue shall submit to the Controller General a report detailing expenditures from this account and revenues generated as a result of expenditures from the account. Said report shall be submitted by January 1 of each year for the preceding fiscal year.

§6435. Department of Health and Social Services.

If, at any time during the fiscal year, there should be a temporary delay in receiving federal matching funds for the AFDC 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."

Approved June 27, 1990.

CHAPTER 251

FORMERLY

HOUSE BILL NO. 384
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE DELAWARE RIVER AND BAY AUTHORITY RELATING TO THE COMMISSIONERS OF THE DELAWARE RIVER AND BAY AUTHORITY.

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

Section 1. Amend Subchapter II, Chapter 17, Title 17 of the Delaware Code, as follows:

A. Add the words "at least" between the words "term of" and "1 Commissioner" in Section 1712.

B. Strike the words "3 of the 5 Commissioners" and substitute the words "4 of the 6 Commissioners" in Section 1717.

C. Strike the words "5 Commissioners" and substitute the words "6 Commissioners" in Section 1719.

D. Strike the words "one Commissioner shall be appointed from Kent County" and substitute the words "two Commissioners shall be appointed from Kent County, no more than one of whom shall be from the same political party" in Section 1722.

Section 2. Amend subchapter II, Chapter 17, §1714 of Title 17, Delaware Code by adding to the end of said section, the following:

"In making such appointments, the Governor shall endeavor to appoint as commissioners a representative number of women and minorities."

Approved June 28, 1990.

CHAPTER 252

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 338
AS AMENDED BY
HOUSE AMENDMENT NOS. 3, 4, 5, 6 AND 7
AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND SECTION 1701, TITLE 17 OF THE DELAWARE CODE THE "DELAWARE-NEW JERSEY COMPACT" CREATING THE DELAWARE RIVER AND BAY AUTHORITY.

WHEREAS, the Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701) and P.L. 1961, c. 66 (C. 32:11E-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress by Joint Resolution being Pub. L. 87-678, 87th Congress, H.J. Res. 783, September 20, 1962, created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both States which border the Delaware River and Bay by the financing, development, construction, operation and maintenance of crossings, transportation or terminal facilities, and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

WHEREAS, the economic growth and development of areas of both States will be further advanced by authorizing the Authority to undertake economic development projects, other than major projects, as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the State in which the project is to be located, except that the Authority is prohibited from undertaking any major project, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States; and

WHEREAS, the natural environment of those areas in the two States which border the Delaware River and Bay would be better preserved by requiring that the projects, other than crossings, of the Authority shall be in complete compliance with all applicable environmental protection laws and regulations before the Authority may undertake the planning, development, construction or operations of any project other than a crossing;

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

Section 1. Section 1701, Title 17 of the Delaware Code is hereby amended to read in its entirety as follows:

§1701. Delaware-New Jersey Compact.

The State of Delaware agrees with the State of New Jersey, upon the enactment by the State of New Jersey of legislation having the same effect as this section, to the following Compact:

DELAWARE-NEW JERSEY COMPACT

WHEREAS, the States of Delaware and New Jersey are separated by the Delaware River and Bay which creates a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

WHEREAS, the pressures of existing trends from increasing traffic, growing population and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal and other facilities of the area; and

WHEREAS, the financing, construction, operation and maintenance of such crossings transportation, terminal and other facilities of commerce and the overall planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and Nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority; and

WHEREAS, the Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701) and P.L. 1961, c. 66 (C. 32:11E-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress by Joint Resolution being Pub. L. 87-678, 87th Congress, H.J. Res. 783, September 20, 1962, created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both States which border the Delaware River and Bay by the financing, development, construction, operation and maintenance of crossings, transportation or terminal facilities, and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

WHEREAS, the economic growth and development of areas of both States will be further advanced by authorizing the Authority to undertake economic development projects, other than major projects, as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the State in which the project is to be located, except that the Authority is prohibited from undertaking any major project, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States; and

WHEREAS, the natural environment of those areas in the two States which border the Delaware River and Bay would be better preserved by requiring that the projects, other than crossings, of the Authority shall be in complete compliance with all applicable environmental protection laws and regulations before the Authority may undertake the planning, development, construction or operation of any project, other than a crossing;

NOW, THEREFORE, the State of Delaware and the State of New Jersey do hereby solemnly covenant and agree, each with the other as follows:

ARTICLE I

SHORT TITLE

This Compact shall be known as the "Delaware-New Jersey Compact."

ARTICLE II

DEFINITIONS

"Crossing" means any structure or facility adapted for public use in crossing the Delaware River or Bay between the States, whether by bridge, tunnel, ferry or other device, and by any vehicle or means of transportation of persons or property, as well as all approaches thereto and connecting and service routes and all appurtenances and equipment relating thereto.

"Transportation facility" and "terminal facility" mean any structure or facility other than a crossing, as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

"Commerce facility or development" means any structure or facility adapted for public use or any development for a public purpose within each of the States party hereto in connection with recreational and commercial fishery development, recreational marina development, aquaculture (marine farming), shoreline preservation and development (including wetlands and open-lands acquisition, active recreational and park development, beach restoration and development, dredge spoil disposal and port-oriented development), foreign trade zone site development, manufacturing and industrial facilities, and other facilities of commerce which, in the judgment of the Authority, are required for the sound economic development of the area.

"Appurtenances" and "equipment" mean all works, buildings, structures, devices, appliances and supplies, as well as every kind of mechanism, arrangement, object or substance related to and necessary or convenient for the proper construction, equipment, maintenance, improvement and operation of any crossing, transportation facility or terminal facility, or commerce facility or development.

"Project" means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or commerce facility or

development, or any part thereof, as well as for the operation, maintenance and improvement thereof.

"Major Project" means any project, other than a crossing, having or likely to have significant environmental impacts on the Delaware River and Bay, its shorelines or estuaries, or any other area in the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, as determined in accordance with state law by the environmental agency of the State in which the major project is to be located.

"Tunnel" means a tunnel of one or more tubes.

"Governor" means any person authorized by the Constitution and law of each State to exercise the functions, powers and duties of that office.

"Authority" means the Authority created by this Compact or any agency successor thereto.

The singular whenever used in this Compact shall include the plural, and the plural shall include the singular.

ARTICLE III

FAITHFUL COOPERATION

They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance and improvement of all projects entrusted to the authority created by this Compact.

ARTICLE IV

ESTABLISHMENT OF AGENCY; PURPOSES

The two States agree that there shall be created and they do hereby create a body politic, to be known as "The Delaware River and Bay Authority" (for brevity hereinafter referred to as the "Authority"), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential government functions in effectuating such purposes, to wit:

(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said River, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jersey; and

(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any transportation or terminal facility within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, which facility, in the judgment of the Authority, is required for the sound economic development of the area; and

(c) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any commerce facility or development within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester and Salem, which in the judgment of the Authority is required for the sound economic development of the area; and

(d) The performance of such other functions as may be hereafter entrusted to the Authority by concurrent legislation expressly in implementation hereof.

The Authority shall not undertake any major project or part thereof without having first secured such approvals as may be required by legislation of the State in which the project is to be located.

The Authority shall not undertake any major project, or part thereof to be located in the Delaware River or Bay, including, without limitation, any deep-water port or

superport, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation thereof.

The Authority shall not undertake any major project or part thereof without first giving public notice and holding a public hearing, if requested, on any proposed major project, in accordance with the law of the State in which the major project is to be located. Each State shall provide by law for the time and manner for the giving of such public notice, the requesting of a public hearing and the holding of such public hearings.

ARTICLE V

COMMISSIONERS

The Authority shall consist of twelve Commissioners, six of whom shall be residents of and qualified to vote in and shall be appointed from the State of Delaware, and six of whom shall be residents of and qualified to vote in and shall be appointed from the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of at least one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

ARTICLE VI

BOARD ACTION

The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board, but no action of the Commissioners shall be binding or effective unless taken at a meeting at which at least four Commissioners from each State are present, and unless at least four Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes and for notification of the action thereon.

ARTICLE VII

GENERAL POWERS

For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

(a) To have perpetual succession.

(b) To adopt and use an official seal.

(c) To elect a chairman and a vice-chairman from among the Commissioners. The chairman and vice-chairman shall be elected from different States and shall each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two States.

(d) To adopt bylaws to govern the conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no bylaw or rule, regulation or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility or commerce facility or development owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to

insure, as far as possible, uniformity of such rules, regulations and orders with the laws of both States.

(e) To appoint or employ such other officers, agents, attorneys, engineers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.

(f) To enter into contracts and agreements with either State or with the United States, or with any public body, department or other agency of either State or of the United States or with any individual, firm or corporation deemed necessary or advisable for the exercise of its purposes and powers.

(g) To accept from any government or governmental department, agency or other public or private body, or from any other source, grants or contributions of money or property as well as loans, advances, guarantees or other forms of financial assistance which it may use for or in aid of any of its purposes.

(h) To acquire (by gift, purchase or condemnation), own, hire, lease, use, operate and dispose of property, whether real, personal or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility or other project owned by another and which the Authority is authorized to own and operate.

(i) To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.

(j) To borrow money and to evidence such loans by bonds, notes or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.

(k) To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

(l) To grant the use of by franchise, lease or otherwise, and to make charges for the use of any crossing, facility or other project or property owned or controlled by it.

(m) To exercise the right of eminent domain to acquire any property or interest therein.

(n) To determine the exact location, system and character of and all other matters in connection with any and all crossings, transportation or terminal facilities, commerce facilities or developments or other projects which it may be authorized to own, construct, establish, effectuate, operate or control.

(o) To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

ARTICLE VIII

ADDITIONAL POWERS

For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within such State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

ARTICLE IX

EMINENT DOMAIN

If the Authority shall find and determine that any property or interest therein is required for a public use in furtherance of the purposes of the Authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted. The Authority shall not exercise the power of eminent domain granted herein to acquire any property, other than a crossing, devoted to a public use, of either State, or of any municipality, local government, agency, public authority or commission, or of two or more of them, for any purpose other than a crossing, without having first secured the authorization of the holder of the title to the land in question and such other approvals as may be required by legislation of the State in which the project is to be located. The Authority shall not exercise the power of eminent domain in connection with any commerce facility or development.

In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction and maintenance of highways therein shall control. The Authority shall have the same power and authority with respect thereto as the State agency named in any such law, provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal or amendment of any law or rule of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

If the established grade of any street, avenue, highway or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

ARTICLE X

REVENUE AND APPLICATION

The Authority is hereby authorized to establish, levy and collect such tolls and other charges as it may deem necessary, proper or desirable in connection with any crossing, transportation or terminal facility, commerce facility or development or other project which it is or may be authorized at any time to construct, own, operate or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the Authority, together with interest thereon and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance and improvement of such facilities and projects such proportion of the general expenses of the Authority as it shall deem properly chargeable thereto.

ARTICLE XI

COVENANT WITH BONDHOLDERS

The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued or

incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation or terminal facility, commerce facility or development or other project, that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the Authority to establish, levy and collect tolls and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article IV(a) of this Compact by any person or body other than the Authority, unless, in either case, adequate provision shall be made by law for the protection of those advancing money upon such obligations.

ARTICLE XII

SECURITIES LAWFUL INVESTMENTS

The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all state and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving 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 who are now or may hereafter be authorized to invest in bonds or other obligations of either State may properly and legally invest any funds, including capital, belonging to them or within their control, and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

ARTICLE XIII

TAX STATUS

The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and Nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this Compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

ARTICLE XIV

JURISDICTION; USE OF LANDS

Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation or terminal facility, commerce facility or development, or other project which it is or may be authorized at any time to construct, own or operate, including lands lying under water.

ARTICLE XV

REVIEW AND ENFORCEMENT OF RULES

Judicial proceedings to review any bylaw, rule, regulation, order or other action of the Authority or to determine the meaning or effect thereof may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

ARTICLE XVI

NO PLEDGE OF CREDIT

The Authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey or of any other agency or of any political subdivision of said States.

ARTICLE XVII

LOCAL COOPERATION AND AGREEMENTS

(a) All municipalities, political subdivisions and every department,agency or public body of each of the States are hereby authorized and empowered to cooperate with, aid and assist the Authority in effectuating the provisions of this Compact and of any amendment hereof or supplement hereto.

(b) The Authority is authorized and empowered to cooperate with each of the States, or any political subdivision thereof, and with any municipality, local government, agency, public authority or commission of the foregoing, in connection with the acquisition, planning, rehabilitation, construction or development of any project, other than a crossing, and to enter into an agreement or agreements, subject to compliance with the laws of the state in which the project is to be located, with each of the States, or any political subdivision thereof, and with any municipality, county, local government, agency, public authority or commission or with two or more of them, for or relating to such purposes.

(c) The Authority and the city, town, municipality or other political subdivision in which any project, other than a crossing, is to be located are hereby authorized and empowered, subject to compliance with the laws of the state in which the project is to be located, to enter into an agreement or agreements to provide which local laws, resolutions, ordinances, rules and regulations, if any, of the city, town, municipality or other political subdivision affected by such project shall apply to such project. All other existing local laws, resolutions, ordinances or rules and regulations not provided for in the agreement shall be applicable to the project, other than a crossing. All local laws, resolutions, ordinances or rules and regulations enacted after the date of the agreement shall not be applicable to such projects unless made applicable by the agreement or any modification thereto.

ARTICLE XVIII

DEPOSITARIES

All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either State are authorized to give security for the safekeeping and prompt payment of moneys of the Authority deposited by it with them, in such manner and form as may be required by and may be approved by the Authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the Authority, or may consist of the deposit with the Authority or other depository approved by the Authority as collateral of such securities as the Authority may approve.

ARTICLE XIX

AGENCY POLICE

Members of the police force established by the Authority, regardless of their residence, shall have in each State, on the crossings, transportation or terminal facilities, commerce facilities or developments and other projects and the approaches thereto, owned, operated or controlled by the Authority, and at such other places and under such circumstances as the law of each State may provide, all the powers of investigation, detention and arrest conferred by law on peace officers, sheriffs or constables in such State or usually exercised by such officers in each State.

ARTICLE XX

REPORTS AND AUDITS

The Authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

It shall, at least annually, cause an independent audit of its fiscal affairs to be made, and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each State.

It shall furnish such information or data with respect to its affairs as may be requested by the Governor or Legislature of each State.

ARTICLE XXI

BOUNDARIES UNAFFECTED

The existing territorial or boundary lines of the States or the jurisdiction of the two States established by said boundary lines shall not be changed hereby.

ARTICLE XXII

ENVIRONMENTAL PROTECTION

(a) The planning, development, construction and operation of any project, other than a crossing, shall comply with all environmental protection laws, regulations, directives and orders, including, without limitation, any coastal zone laws, wetlands laws, or subaqueous land laws or natural resources laws, now or hereinafter enacted, or promulgated by the State in which the project, or any part thereof, is located.

(b) The planning, development, construction and operation of any project, other than a crossing, to be located in the Delaware River and Bay shall comply with all environmental protection laws, regulations, directives and orders, including, without limitation, any coastal zone laws, wetlands laws, subaqueous land laws or natural resource laws now or hereinafter enacted or promulgated by either State.

(c) The planning, development, construction and operation of any project, other than a crossing, located in the coastal zone of Delaware (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989), shall be subject to the same limitations, requirements, procedures and appeals as apply to any other person under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. Nothing in this Compact shall be deemed to pre-empt, modify or supersede any provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. The interpretation and application of this paragraph shall be governed by the laws of the State of Delaware and be determined by the courts of the State of Delaware.

(d) The planning, development, construction and operation of any project, other than a crossing, located in New Jersey, shall be subject to the provisions of New Jersey law, when applicable, including but not limited to the Wetlands Act of 1970, N.J.S.A. 13:9A-1, et seq. and the Coastal Area Facility Review Act, N.J.S.A. 13:19-1, et seq."

Section 2. This Act shall take effect upon the enactment by the State of New Jersey of legislation having a substantial similar effect as this Act, but if the State of New Jersey shall have already enacted such legislation, this Act shall take effect immediately. The Governor is hereby authorized to apply on behalf of the State of Delaware to the Congress of the United States for its consent and approval to the aforesaid Compact or Agreement and to the use of tolls collected on any crossing for the financing of any transportation or terminal facility or commerce facility or development constructed or operated by the Authority; but in the absence of such consent and approval the Delaware River and Bay Authority shall have all of the powers which the State of Delaware and the State of New Jersey may confer upon it without the consent and approval of Congress.

Approved June 28, 1990.

CHAPTER 253

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 339
AS AMENDED BY
HOUSE AMENDMENT NOS. 1 AND 2 AND SENATE AMENDMENT NOS. 5, 6, 7, 8, 9, 19 AND 20

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE DELAWARE RIVER AND BAY AUTHORITY REGARDING (1) RECEIPT OF PROJECT PROPOSALS FROM THE GOVERNOR; (2) REVIEW OF PROPOSED PROJECTS BY THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL; (3) PUBLIC NOTICE AND PUBLIC HEARINGS ON MAJOR PROJECTS; (4) PRIOR LEGISLATIVE APPROVAL OF MAJOR PROJECTS; (5) PRIOR LEGISLATIVE APPROVAL OF THE CONDEMNATION OF PUBLIC LAND; AND (6) REGULATION OF INCREASES IN VOLUME DISCOUNT BRIDGE TOLL RATES; AND TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL AND PROCEDURES TO BE FOLLOWED BY THE DEPARTMENT IN REVIEWING OR APPROVING PROJECTS.

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

Section 1. Amend subchapter II, Chapter 17, Title 17 of the Delaware Code by adding Sections 1723, 1724, 1725, 1726, 1727 and 1728 as follows:

"§1723. Proposals for Commerce Facilities or Developments.

The Delaware River and Bay Authority shall not initiate any commerce facility or development (as defined in Article II of the Delaware-New Jersey Compact set out in §1701 of this title) to be located in the State of Delaware unless a proposal for such commerce facility or development has been first submitted to the Governor by the Delaware Development Office and then approved and submitted to the Authority by the Governor. The Delaware Development Office shall, before submitting such proposal to the Governor, notify all members of the General Assembly and the local governmental officials of the area in which the proposed project is to be located.

§1724. Project Review by Department of Natural Resources and Environmental Control

(a) Whenever the Delaware River and Bay Authority proposes or agrees to undertake a project (as defined in Article II of the Delaware-New Jersey Compact set out in Section 1701 of this title), to be located in the State of Delaware or in the Delaware River or Bay, the Authority shall submit an environmental impact statement (as defined in §7002(c) of Title 7 of the Delaware Code) with respect to the project for review by the Department of Natural Resources and Environmental Control. The Department of Natural Resources and Environmental Control shall make a determination of whether said project could comply with the environmental laws and regulations of the State of Delaware and shall utilize standards and criteria as called for in Section 6036 of Title 7 to determine if said project shall be considered to be a project of State significance. Any project reviewed by the Department of Natural Resources and Environmental Control which is to be located in the Delaware River or Bay shall be deemed to be a major project. Any commerce facility or development located in the State of Delaware shall also be deemed to be a major project.

Any project determined to be a project of state significance shall be deemed to be a major project (as defined in Article II of the Delaware New Jersey Compact set out in §1701 of this title). The Secretary of the Department of Natural Resources and Environmental Control shall convey this determination to the Executive Director of the Delaware River and Bay Authority.

(b) The Department of Natural Resources and Environmental Control shall give public notice and hold a public meeting at which the proposed project will be reviewed. The public notice shall provide a description of the nature of the project and shall be publicized in a newspaper of general circulation in each of the counties at least fifteen (15) business days prior to the scheduled meeting date. A public notice and public hearing by the Department of Natural Resources and Environmental Control at the State level shall not be required where the Department of Natural Resources and Environmental Control upon initial review of the proposed project determines that the project is a major project or that the project will not require any permit or approval from any state agency.

(c) The Department of Natural Resources and Environmental Control project review process provided for in this Section 1724 shall be completed prior to the date of publication of the notice relating to the project provided for by Section 1725 of this title.

(d) The Department of Natural Resources and Environmental Control may undertake its obligations hereunder through its Development Advisory Service, or such other unit of the Department of Natural Resources and Environmental Control as its Secretary may designate.

(e) The provisions of this Section 1724 shall not apply to any project undertaken by the Delaware River and Bay Authority in connection with a crossing (as defined in Article II of the Delaware-New Jersey Compact set out in §1701 of this title).

§1724A. Appeal to Board.

(a) Any person, as that term is defined in §6002 of Title 7, whose interest is substantially affected by the determination of the Department of Natural Resources and Environmental Control that a proposed project is or is not a project of State significance may appeal to the Environmental Appeals Board (the "Board") within 20 days after the Secretary of the Department of Natural Resources and Environmental Control has conveyed the determination to the Executive Director of the Delaware River and Bay Authority.

(b) Whenever a determination of the Department of Natural Resources and Environmental Control concerning a proposed project is appealed, the Board shall hold a public hearing in accordance with §6006 of Title 7.

(c) If the determination of the Department of Natural Resources and Environmental Control is overruled by the Board, then the Board shall state its reasons for its decision.

(d) No decision of the Board shall be valid unless signed by a minimum of 5 members.

(e) No appeal shall operate to stay automatically the effect of any determination by the Department of Natural Resources and Environmental Control, but upon application, and for good cause, the Secretary of the Department of Natural Resources and Environmental Control or the Court of Chancery may stay the action pending disposition of the appeal.

§1724B. Appeal from Board's decision.

(a) Any person, as defined in §6002 of Title 7, or persons, jointly or severally, or any taxpayer, or any officer, department, board or bureau of the State, or the Delaware River and Bay Authority, may appeal to the Superior Court in and for the county in which the proposed project in question is wholly or principally located by filing a petition, duly verified, setting forth that such decision of the Board is illegal in whole or in part, specifying the grounds of the illegality. Any such appeal shall be perfected within 20 days of the decision of the Board.

(b) The Court may affirm, reverse or modify the Board's decision. The Board's findings of fact shall not be set aside unless the Court determines that the record contains no substantial evidence that would reasonably support the findings. If the Court finds that additional evidence should be taken, the Court may remand the case to the Board for completion of the record.

(c) No appeal shall operate to stay automatically the effect of any determination by the Department of Natural Resources and Environmental Control, but upon application, and for good cause, the Board or the Court of Chancery may stay the action pending disposition of the appeal.

§1725. Notice and Public Hearing.

(a) Whenever the Delaware River and Bay Authority proposes to undertake a major project (as defined in Article II of the Delaware-New Jersey Compact set out in §1701 of this title) to be located in the State of Delaware or in the Delaware River or Bay, the Authority shall provide public notice of the proposed major project as follows:

(1) The notice shall describe the nature of the project including a brief synopsis of the project, a statement of whether the project requires the

condemnation of public lands and a reference to the legal basis for the Authority's proposed activities;

(2) The notice shall state the manner in which members of the public may present their views in writing, including the address to which such writing should be addressed and the final date by which such writings may be submitted;

(3) The notice shall state the date, time and place where the public hearing, if requested in accordance with subparagraph (b) hereof, shall be held;

(4) The notice shall be provided at least thirty (30) days prior to the scheduled date of any public hearing requested in accordance with subparagraph (b) hereof; and

(5) The notice shall be publicized in a newspaper of general circulation in each of the counties.

(b) If requested by the Governor or any member of the General Assembly, or if a meritorious request for a hearing is submitted by any person, within fourteen (14) days of the date of publication of the notice, the Authority shall hold a public hearing on any major project, in order to receive information, factual evidence and public reaction subject to the following provisions:

(1) The hearing, if requested, shall be held at least fifteen (15) days prior to the date of any vote by the Commissioners relating to the major project.

(2) At the public hearing all interested persons shall be given a fair and reasonable opportunity to be heard, subject to the power of a majority of the Commissioners present to exercise such control over the conduct of the hearing, including, without limitation, the setting of equitable time limitations, as may be in the public interest.

(3) A public hearing request shall be deemed meritorious if it exhibits a familiarity with the proposed major project and a reasoned statement of the major project's probable impact.

§1726. Legislative Approval of Major Projects.

The Delaware River and Bay Authority shall not undertake any major project (as defined in Article II of the Delaware-New Jersey Compact set out in §1701 of this title), to be located in the State of Delaware or in the Delaware River or Bay, without having first secured legislative authorization and approval of each specific major project or part thereof pursuant to an Act of the General Assembly, passed with the concurrence of three-fourths of all the members elected to each House. Upon the request of any member of the General Assembly, the Delaware River and Bay Authority shall provide copies of all written reports or studies prepared or obtained by the Authority and any written comments submitted by members of the public with respect to the major project. In addition to such state legislative approval, any agreement or agreements entered into (pursuant to Article XVII of the Delaware-New Jersey Compact set out in §1701 of this Title) between the Delaware River and Bay Authority and the city, town, municipality or other political subdivision in which any project, other than a crossing, is to be located must (i) be in accordance with and subject to any and all land use laws including, but not limited to, zoning codes and subdivision and land development regulations for the respective political subdivisions, and any other local laws, resolutions, ordinances or rules and regulations which may apply; and (ii) be approved by the local government, and such approval shall be according to the laws, regulations, standards, and practices of such municipality or county government.

§1727. Legislative Approval of the Condemnation of Lands Devoted to Public Use.

The Delaware River and Bay Authority shall not exercise its power of eminent domain to condemn any property, devoted to a public use, of the State of Delaware, or any municipality, county, local government, agency, public authority or commission thereof, or any one or more of them, for any purpose other than a crossing without having first secured legislative authorization and approval of each specific condemnation of property by Act of the General Assembly.

§1728. Volume Discount Bridge Toll Rates.

The Delaware River and Bay Authority shall not increase any rate of bridge toll charged as a volume discount rate from the rate in effect on the earlier of the effective date of the legislation amending the Delaware-New Jersey Compact as adopted by

(i) the 135th Delaware General Assembly or (ii) the New Jersey Legislature, for a period of ten years following such date, if the increase would cause such volume discount rate to exceed twenty-five (25%) of the basic toll rate charged by the Authority for individual bridge crossings by passenger automobiles, provided that the Authority may raise such volume discount rate in excess of this twenty-five percent (25%) limitation to the extent that such increase is determined by the Authority to be reasonably necessary for the protection of the Authority's bondholders in accordance with Article XI of the Delaware-New Jersey Compact."

Section II. Amend subchapter II, Chapter 60, Title 7 of the Delaware Code by adding Section 6036 providing as follows:

"§6036. Projects of State Significance.

The Department shall adopt objective standards and criteria to identify "projects of state significance" which standards and criteria shall be used by the Department in evaluating projects in the State of Delaware requiring the review or approval of the Department. The process to be followed by the Department in the adoption of said objective standards and criteria shall include the following:

(a) In making the determination of whether any proposed project is a project of state significance, the Department shall consider, without limitation, the following factors:

(1) Environmental impact, including, without limitation, probable air, land and water pollution likely to be generated by the proposed use under normal operating conditions and as the result of mechanical malfunction and human error; likely destruction of wetlands and flora and fauna; impact and effect of site preparation and facility operations on land erosion, drainage of the area in question, especially as it relates to flood control, and the quality and quantity of surface and ground water resources, such as the use of water for processing, cooling, effluent removal and other purposes; and the likelihood of generation of glare, heat, noise, vibration, radiation, electromagnetic interference and obnoxious odors.

(2) Economic effect, including, without limitation, the number of jobs created and the income which will be generated by the wages and salaries of these jobs in relation to the amount of land required, and the amount of tax revenues potentially accruing to State and local government.

(3) Effect on neighboring land uses including, without limitation, effect on public access to all State surface waters, effect on recreational areas and effect on adjacent residential and agricultural areas.

(b) The Secretary shall further elaborate on the definition of "heavy industry" in accordance with Section 7005(c) of Title 7. The Secretary shall delineate "heavy industry of State significance" as part of this process, which shall be a sub-category of projects of State significance. Heavy industry uses of any kind, including heavy industry of State significance, not in operation on June 28, 1971 shall be prohibited in the coastal zone and no permits may be issued therefor.

(c) All agencies of State government shall assist the Department in developing objective standards and criteria to identify projects of State significance and shall provide such information as the Department requests. The Department shall develop regulations specifying the objective standards and criteria which are to be used to identify projects of State significance and shall make such regulations available for public review no later than nine months after the effective date of this legislation. The Department shall hold a public hearing on said regulations and shall announce such hearing by publication in a newspaper of general circulation in each county of the State. The Department shall adopt regulations specifying the objective standards and criteria for identifying projects of State significance, with exception of heavy industry of State significance, no later than thirteen months after the effective date of this legislation. The Department shall submit to the State Coastal Zone Industrial Control Board standards and criteria for identifying heavy industry of State significance for adoption no later than eleven months after the effective date of this legislation. The State Coastal Zone Industrial Control Board shall adopt said standards and criteria no later than thirteen months after the effective date of this legislation."

Section III. This Act shall become effective upon the approval by the Congress of the United States of the Act entitled "AN ACT TO AMEND SECTION 1701, TITLE 17 OF THE DELAWARE

CODE, THE DELAWARE-NEW JERSEY COMPACT CREATING THE DELAWARE RIVER AND BAY AUTHORITY", which is commonly known as House Substitute No. 1 for House Bill No. 338 of the 135th General Assembly of the State of Delaware.

Approved June 28, 1990.

CHAPTER 254

FORMERLY

HOUSE BILL NO. 521
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO THE PLANNING PROCESS FOR CORRECTIONAL FACILITY CONSTRUCTION.

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

Section 1. Amend Chapter 65, Title 11, Delaware Code, by adding a new Subchapter XI thereto to read as follows:

"Subchapter XI. Institutional Planning

§6590. Comprehensive Plan

The department shall develop a comprehensive plan for determining the need for establishing various types of correctional facilities, for selecting the location of a correctional facility, and for determining the size of the correctional facility. The comprehensive plan shall include procedures for evaluation of environmental, social, economic, transportation, land use, property value, public and social services impacts generated by the construction of a particular facility in any proposed location within the state. The comprehensive plan shall not be implemented until the General Assembly, by concurrent resolution adopted by a majority of those elected and serving in each house thereof by a roll call vote approves the comprehensive plan.

§6591. Procedure

(a). The department shall determine the need for a correctional facility based upon the comprehensive plan developed pursuant to Section 6590 of this chapter.

(b) Following a formal determination of need for such facility by the department, the department shall publish a notice in two newspapers of general circulation within this state that it proposes to establish a correctional facility in a particular town, city or county.

(c) In addition to the general notice specified in Subsection (b), hereof, the department shall further provide written notice within thirty (30) days of the publishing of said general notice to the following officials.

(1) The state senator and the state representative representing the district or districts in the county and town or city where the proposed correctional facility is to be located.

(2) The chief elected official of the county and town or city in which the proposed correctional facility is to be located.

(3) Each member of the governing body of the county and town or city in which the proposed correctional facility is to be located.

(4) The president of the local school board of the school district or districts in the county and town or city in which the proposed correctional facility is to be located.

(5) The president of each state supported college or university whose campus is located within the county, town or city where the proposed correctional facility is to be located.

In addition to the notice required by §6591(c)(3), the department, on or before the date of the issuance of said notice, shall request the chief elected official of the county in which the proposed correctional facility is to be located to create a local advisory board to assist in the identification of potential sites for the correctional facility, to act as a liason between the department and the local community, and to ensure that the comprehensive plan is being followed by the department. The advisory board shall consist of no less than seven and no more than eleven citizens of the county, town or city in which the proposed correctional facility is to be located. The citizens appointed to the advisory committee shall be fairly representative, in terms of economic status, race, education and the like, of the population of the county, city or town where the proposed correctional facility is to be located.

(e) After the requirements of subsections (a)(b)(c) and (d) of §6591 are completed, and the department has identified a potential site, the department shall hold public hearing(s) on at least two different dates in the city or town in which the potential site is located. If the potential site is in an unincorporated area, the public hearings shall be held in the county seat of the county in which the potential site is located. The department shall participate in the hearings and shall make a reasonable effort to respond in writing to concerns and questions raised on the record at the hearings. The hearing shall not be held until the local advisory board created by subsection (d) hereof has organized or no sooner than 30 days after the notice is sent pursuant to subsection (c) hereof, whichever occurs first.

(f) The hearings to be conducted under subsection (e) shall be open to the public and shall be held in a place available to the general public. Any person shall be permitted to attend a hearing except as otherwise provided herein. A person shall not be required as a condition of attendance at a hearing to register or otherwise provide his or her name or other information. A person shall be permitted to address the hearing under written procedures established by the department. A person shall not be excluded from a hearing except for a breach of peace actually committed at the meeting.

(g) The following provisions shall apply with respect to public notice of hearings required under this section:

(1) The public notice required under this section shall always contain the name of the department, its telephone number and address.

(2) A copy of the public notice shall always be posted at the department's principal office and other locations considered appropriate by the department.

(3) Public notice of the hearings required under this section shall be prominently posted in the office of the county clerk of the county in which the proposed facility is to be located at least 10 days prior to each hearing and shall state the date, time and place of the hearing. The required public notice of hearing shall also be published at least 10 days prior to the hearing in a newspaper of general circulation within the county in which the proposed facility is to be located.

(4) A public notice stating the date, time and place of the hearing shall be prominently posted at least 10 days before the hearing.

(h) Minutes of each hearing required under this section shall be kept by the department showing the date, time, place, members of the local advisory board present, members of the local advisory board absent, and a summary of the discussions at the hearing. The minutes shall be public record open to public inspection and shall be available at the address designated on the posted public notices. Copies of the minutes shall be available from the department to the public at the reasonable estimated cost for printing and copying.

(i) On the basis of the information developed by the department during the course of the site selection process and after community concerns have been responded to by the department pursuant to subsection (e), a final site determination shall be made by the department for the proposed correctional facility. The department shall make a finding that the site determination was made in compliance with this section.

§6592. Action for Noncompliance with site selection process

Any person who resides in the city, town or county in which the department has determined a need for a correctional facility may bring an action in a court of proper jurisdiction if the department has not followed the site selection process set forth in this Subchapter.

An action brought under this section shall not be maintained if it is filed more than 60 days after the department formally announces its final site selection."

Section 2. The provisions of this Act shall become effective on September 1, 1990 and shall not apply to site selection for correctional facilities projects proposed by the Governor during Fiscal Year 1990.

Approved June 27, 1990.

CHAPTER 255

FORMERLY

SENATE BILL NO. 23
AS AMENDED BY HOUSE AMENDMENT NO. 6

AN ACT TO AMEND TITLES 9, 10 AND 12 OF THE DELAWARE CODE RELATING TO THE SALARIES OF PARTICULAR KENT COUNTY OFFICIALS.

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

Section 1. Amend Section 4104 (a), Chapter 41, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(a) In Kent County each of the elected officials of the County Governing body shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 2. Amend Section 8405, Chapter 84, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(a) In Kent County, the Receiver of Taxes and County Treasurer of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 3. Amend Section 9306, Chapter 93, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(a) In Kent County the Comptroller of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 4. Amend Section 9402 (2), Chapter 94, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(2) In Kent County the Clerk of the Peace of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 5. Amend Section 9602 (2), Chapter 96, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(2) In Kent County the Recorder of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 6. Amend Section 2502 (2), Chapter 25, Title 10 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(2) In Kent County the Register in Chancery of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 7. Amend Section 2504 (2), Chapter 25, Title 12 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(2) In Kent County the Register of Wills of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 8. Amend Section 2101 (b) (1), Chapter 21, Title 10 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(b) (1) In Kent County the Sheriff shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 9. The salaries of subordinate row offices in Kent County shall not be less than the salary set for Levy Court members under the provisions of Chapter 41, Title 9, Delaware Code.

Section 10. Section 1 of this Act shall be effective January 1, 1991. Sections 2 through 9 shall be effective upon enactment.

Approved June 29, 1990.

(e) After the requirements of subsections (a)(b)(c) and (d) of §6591 are completed, and the department has identified a potential site, the department shall hold public hearing(s) on at least two different dates in the city or town in which the potential site is located. If the potential site is in an unincorporated area, the public hearings shall be held in the county seat of the county in which the potential site is located. The department shall participate in the hearings and shall make a reasonable effort to respond in writing to concerns and questions raised on the record at the hearings. The hearing shall not be held until the local advisory board created by subsection (d) hereof has organized or no sooner than 30 days after the notice is sent pursuant to subsection (c) hereof, whichever occurs first.

(f) The hearings to be conducted under subsection (e) shall be open to the public and shall be held in a place available to the general public. Any person shall be permitted to attend a hearing except as otherwise provided herein. A person shall not be required as a condition of attendance at a hearing to register or otherwise provide his or her name or other information. A person shall be permitted to address the hearing under written procedures established by the department. A person shall not be excluded from a hearing except for a breach of peace actually committed at the meeting.

(g) The following provisions shall apply with respect to public notice of hearings required under this section:

(1) The public notice required under this section shall always contain the name of the department, its telephone number and address.

(2) A copy of the public notice shall always be posted at the department's principal office and other locations considered appropriate by the department.

(3) Public notice of the hearings required under this section shall be prominently posted in the office of the county clerk of the county in which the proposed facility is to be located at least 10 days prior to each hearing and shall state the date, time and place of the hearing. The required public notice of hearing shall also be published at least 10 days prior to the hearing in a newspaper of general circulation within the county in which the proposed facility is to be located.

(4) A public notice stating the date, time and place of the hearing shall be prominently posted at least 10 days before the hearing.

(h) Minutes of each hearing required under this section shall be kept by the department showing the date, time, place, members of the local advisory board present, members of the local advisory board absent, and a summary of the discussions at the hearing. The minutes shall be public record open to public inspection and shall be available at the address designated on the posted public notices. Copies of the minutes shall be available from the department to the public at the reasonable estimated cost for printing and copying.

(i) On the basis of the information developed by the department during the course of the site selection process and after community concerns have been responded to by the department pursuant to subsection (e), a final site determination shall be made by the department for the proposed correctional facility. The department shall make a finding that the site determination was made in compliance with this section.

§6592. Action for Noncompliance with site selection process

Any person who resides in the city, town or county in which the department has determined a need for a correctional facility may bring an action in a court of proper jurisdiction if the department has not followed the site selection process set forth in this Subchapter.

An action brought under this section shall not be maintained if it is filed more than 60 days after the department formally announces its final site selection."

Section 2. The provisions of this Act shall become effective on September 1, 1990 and shall not apply to site selection for correctional facilities projects proposed by the Governor during Fiscal Year 1990.

Approved June 27, 1990.

CHAPTER 255

FORMERLY

SENATE BILL NO. 23
AS AMENDED BY HOUSE AMENDMENT NO. 6

AN ACT TO AMEND TITLES 9, 10 AND 12 OF THE DELAWARE CODE RELATING TO THE SALARIES OF PARTICULAR KENT COUNTY OFFICIALS.

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

Section 1. Amend Section 4104 (a), Chapter 41, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(a) In Kent County each of the elected officials of the County Governing body shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 2. Amend Section 8405, Chapter 84, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(a) In Kent County, the Receiver of Taxes and County Treasurer of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 3. Amend Section 9306, Chapter 93, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(a) In Kent County the Comptroller of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 4. Amend Section 9402 (2), Chapter 94, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(2) In Kent County the Clerk of the Peace of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 5. Amend Section 9602 (2), Chapter 96, Title 9 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(2) In Kent County the Recorder of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 6. Amend Section 2502 (2), Chapter 25, Title 10 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(2) In Kent County the Register in Chancery of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 7. Amend Section 2504 (2), Chapter 25, Title 12 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(2) In Kent County the Register of Wills of Kent County shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 8. Amend Section 2101 (b) (1), Chapter 21, Title 10 of the Delaware Code by deleting same and substituting in lieu thereof the following:

"(b) (1) In Kent County the Sheriff shall receive a salary in an amount to be set by ordinance of the Kent County Levy Court."

Section 9. The salaries of subordinate row offices in Kent County shall not be less than the salary set for Levy Court members under the provisions of Chapter 41, Title 9, Delaware Code.

Section 10. Section 1 of this Act shall be effective January 1, 1991. Sections 2 through 9 shall be effective upon enactment.

Approved June 29, 1990.

CHAPTER 256

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

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

AN ACT TO AMEND VOLUME 67, CHAPTER 171, LAWS OF DELAWARE, RELATING TO DISCIPLINARY ACTION AGAINST REAL ESTATE BROKERS, SALESPERSONS, AND APPRAISERS.

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

Section 1. Amend Volume 67, Chapter 171, Laws of Delaware, by redesignating §2912 (9) as §2912 (10) and inserting a new subsection §2912 (9) to read as follows:

"(9) Receiving or making an arrangement or agreement to receive, directly or indirectly, any form of valuable consideration in exchange for the placement of, or favor in, any business transaction, or any business transaction or transactions incidental thereto, negotiated or handled by said broker, salesperson, or appraiser as agent unless, prior to the time of the placement of, or favor in, said business transaction, the broker, salesperson or appraiser shall have fully disclosed in writing to the parties to such business transaction for whom the broker, salesperson or appraiser is acting as agent the existence of such agreement or arrangement. Nothing in this subsection shall be deemed as limiting the right of a broker, salesperson or appraiser to arrange for and receive valuable consideration for the rendition of any real estate related service in connection with any business transaction which is in addition to those services which the broker, salesperson or appraiser is obligated to provide pursuant to the written agency agreement with one or more of the parties to such business transaction, so long as all parties are, as required above, notified in writing of the existence of such agreement or arrangement."

Section 2. New §2912(9) of Title 24, Delaware Code shall be incorporated into the Commission's handbook not later than 30 days after the effective date of this Act.

Approved June 29, 1990.

CHAPTER 257

FORMERLY

SENATE BILL NO. 332
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 5, TITLE 29 AND CHAPTER 96, TITLE 9, DELAWARE CODE RELATING TO ESTABLISHMENT OF A LOCAL GOVERNMENT RECORDS MANAGEMENT IMPROVEMENT FUND.

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 Subchapter I, Chapter 5, Title 29, Delaware Code, by redesignating §525 as §526 and inserting a new §525 to read as follows:

"§525. Local Government Records Management Improvement Fund.

(a) There is hereby established a special fund to be known as the Delaware Local Government Records Management Improvement Fund. Such fund shall consist of revenues derived from the imposition of the additional fee authorized pursuant to §9607, Chapter 96, Title 9.

(b) Use of these funds shall be restricted solely to the development and ongoing maintenance of a full-time local government records management program component within the state archives and records program. Such program shall be responsible for providing aid, advice, and assistance to all local governments of this State concerning the proper management and preservation of the public records in their custody or care, as required by other provisions of this subchapter. Funds shall be expended to support administrative and other costs associated with the provision of consultative and technical services including, but not limited to, educational programming, micrographics services, and ongoing storage and preservation of those local government records which have been transferred into the custody of the State Archives pursuant to other provisions of this subchapter.

(c) All fees received by the State Treasurer and other moneys appropriated or received for the purposes stated in subsection (b) of this section shall be deposited in an Appropriated Special Fund which shall be administered by the Department, under the same type of budget and financial controls as the General Fund of this State.

(d) Each year the Delaware Local Records Commission shall review and make recommendations on a proposed operational and expenditure plan for the Delaware Local Government Records Management Improvement Fund prior to its adoption by the Department."

Section 2. Amend §9607, Chapter 96, Title 9, Delaware Code, by striking the section title in its entirety and inserting a new section title to read as follows:

"§9607. Collection of Recording Fees; Housing Development Fund Surcharge; Local Government Records Management Improvement Fund Fee."

Section 3. Amend §9607, Chapter 96, Title 9, Delaware Code, by striking paragraph (b) in its entirety and substituting in lieu thereof a new paragraph (b) to read as follows:

"(b) The Recorder of Deeds of each county shall collect for each document or paper recorded or filed, a surcharge of $3 for the support of the Housing Development Fund, and an additional $1 fee for the support of the Local Government Records Management Improvement Fund."

Section 4. Amend §9607, Chapter 96, Title 9, Delaware Code, by adding thereto a new paragraph (d) to read as follows:

"(d) Not later than the 20th day of each month, each recorder of deeds shall remit to the State Treasurer 75% of the amount of the Local Government Records Management Improvement Fund fees collected under subsection (b) of this section. The State Treasurer shall deposit such funds into the special fund established under Subchapter I of Chapter 5 of Title 29. The 25% of the amount of the fees which are retained by the recorders of deeds shall be used by the respective county governments to cover costs associated with collection and remitting of the fee, and as funding to support records management and preservation activities within those county governments."

Section 5. This Act shall become effective 60 days after its enactment into law.

Approved June 29, 1990.

CHAPTER 258

FORMERLY

HOUSE BILL NO. 771

AN ACT TO AMEND CHAPTER 5, TITLE 4 AND CHAPTER 29, TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES ON ALCOHOLIC BEVERAGES.

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 §581(a), Chapter 5, Title 4 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) No person may purchase and receive from any manufacturer or importer, any alcoholic liquor without paying to the Department of Finance a tax on the alcoholic liquor purchased at the following rates:

(1) For each barrel of beer, $4.85;

(2) For each gallon of wine, except sacramental wines, $.97 cents;

(3) For each gallon of spirits containing 25 percent or less of ethyl alcohol by volume, $3.64;

(4) For each gallon of spirits containing more than 25 percent ethyl alcohol by volume, $5.46;

(5) For each gallon of alcohol per gallon of ethyl alcohol contained, $4.85 except that the tax of $4.85 shall not apply to the purchase of alcohol by pharmacists, physicians, dentists, veterinarians, wholesale druggists, manufacturing plants where the alcohol is used in scientific work, for the manufacture of pharmaceutical products or for use in the manufacture or compounding of preparations unfit for beverage purposes."

Section 2. Amend §2901(1), Chapter 29, Title 30 of the Delaware Code by striking the period "." at the end of paragraph b. of said subsection and substitute in lieu thereof the following:

"; or (iii) consideration for the sale of alcoholic liquor subject to tax under §581(a), Chapter 5, of Title 4 of the Delaware Code.".

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.

Section 4. Section 2 of this Act shall apply to gross receipts received on or after September 1, 1990. In addition, this Act shall apply to all alcoholic liquor purchased and received from any manufacturer or importer on or after September 3, 1990. Section 1 of this Act shall apply to all alcoholic liquor floor stock or inventories purchased and received by licensed Delaware importers which are resting in the State on September 3, 1990, notwithstanding that said alcoholic liquor was purchased from any manufacturer or importer prior to September 3, 1990. The tax on such floor stock or inventories shall be an amount equal to the difference between the amount of tax already paid on such floor stock and the increased amount of tax specified in this Act. Reporting of the tax on such floor stock or inventories shall be accomplished in accordance with Commission rules; provided, however, that payment of the tax on the floor stock or inventories shall be made on or before April 1, 1991. The Commission shall be authorized to promulgate regulations having the force and effect of law to provide for the implementation and enforcement of the provisions of this Act.

Approved June 29, 1990.

CHAPTER 259

FORMERLY

HOUSE BILL NO. 722

AN ACT TO AMEND CHAPTER 61, TITLE 29 OF THE DELAWARE CODE RELATING TO LICENSE AND PERMIT 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 §6102, Chapter 61, Title 29 of the Delaware Code by adding a new subsection (n) which shall read as follows:

"(n) Notwithstanding any other provision of law to the contrary, every fee or other charge for a license or permit (whether the revenue generated has been deposited in the General Fund or in an Appropriated Special Fund account) which is in effect and was imposed before the effective date of this legislation by any authority, department, agency, instrumentality, commission, officer, board or other unit of state government which is authorized by law to issue such license or permit is hereby approved and ratified by the General Assembly retroactive to the date each such fee or other charge was imposed or increased."

Section 2. If any provision of this Act or the application of any such provision to any person or circumstances is held invalid, the validity of any other such provision and the application of such provision to other persons and circumstances shall not be affected thereby.

Approved July 2, 1990.

CHAPTER 260

FORMERLY

HOUSE SUBSTITUTE NO. 2

FOR

HOUSE BILL NO. 724
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AUTHORIZE AND APPROVE THE INCREASE OF CERTAIN NON-TAX REVENUES INCLUDING FEES, COSTS, FINES, ASSESSMENTS AND PENALTIES IMPOSED BY CERTAIN STATE AGENCIES AND STATE COURTS.

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. Notwithstanding any other provision of the law to the contrary, the General Assembly hereby approves and authorizes an increase of 15% in the amount of each fee, cost, fine, assessment, penalty or other non-tax revenue which has not been increased since 1985 and which is imposed by any state agency or state court as identified in Appendix I, attached hereto. Appendix I is expressly incorporated herein and made a part of this Act.

Section 2. As to any fee, cost, fine, assessment, penalty or other non-tax revenue identified in Appendix I, which is assessed as a percentage of a dollar amount, the rate resulting from this bill shall be rounded up to the next whole percent, rather than the fraction which may result from the increase occasioned by this bill.

Section 3. As to any fee, cost, fine, assessment, penalty or other non-tax revenue identified in Appendix I, which is assessed as a dollar amount, the dollar amount shall be rounded up to the next multiple of five (5) cents, rather than the fraction or other amount which may result from the increase occasioned by this bill.

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

Approved July 2, 1990.

DEPT	TITLE	TYPE FUND	REV CODE	AUTHORIZATION - SOURCE	CHARGE REQUIREMENT	DATE OF LAST CHANGE	CHARGES & COMMENTS
	LICENSES						
JUDICIAL	Deadly Weapon-Superior Crt	G	2002	11 Del. C., Ss 1441(f)	Legislation	1973	New - $20.00, Renew - $10
	FEES						
JUDICIAL	Witness Fees- Superior Crt	G	3305	29 Del. C., Ss 2508	Legislation	1968	$ 2.40 per indictment
JUDICIAL	Criminal Costs (Prothon Fee)-CCP	G	3314	Crt of Com Pleas, Crim Rule # 61	CCP w/ Supreme Crt Approval	1973	Sheriff's costs - per Sheriff's return
JUDICIAL	Criminal Costs (Prothon Fee)-CCP	G	3314	Crt of Com Pleas, Crim Rule # 61	CCP w/ Supreme Crt Approval	1973	Non-Jury Case- $ 15/charge,Jury $ 25/charge
JUDICIAL	Criminal Costs (Prothon Fee)-CCP	G	3314	Crt of Com Pleas, Crim Rule # 61	CCP w/ Supreme Crt Approval	1973	Capias $ 10/dependant, Appeal $ 10/defendant
JUDICIAL	Clerk's Certificate-Supreme Crt	G	3304	Art IV, Ss13, 10 Del C, Ss 181	Del Supreme Court Rule #20	1978	$ 2 per copy of any document
JUDICIAL	Civil Costs CCP	G	3314	Crt of Comm Pleas-Civil Rule 3, 109	CCP w/ Supreme Crt Approval	1983	$ 15 per case
JUDICIAL	Civil Costs-Crim Fees-CCP	G	3314	Crt of Comm Pleas-Civil Rule 3, 109	CCP w/ Supreme Crt Approval	1983	$ 15-25 per charge
	FINES						
JUDICIAL	Fines for Corporations-Superr Crt	G	5005	11 Del. C., Ss 4204	Legislation	1973	Civil Fine varies w/ Offence
JUDICIAL	Fines-Criminal -Superr Crt	G	5005	11 Del.C.,Ss4204,4205,4206,4207	Legislation	1973	Civil Fine varies w/Offence-Felonies,Misd/Viol
JUDICIAL	Compensating Fines-Superior Ct	G	5005	11 Del. C., Ss 9014	Legislation	1975	Goes to Arresting Jurisdiction
JUDICIAL	Restitution Superior Court	G	5005	11 Del.C., Ss 4106	Legislation	1981	From Criminal Action (set by Judge)
JUDICIAL	Forfeit-Otr Crim (Bail) Superr Crt	G	5005	11 Del. C., Ss 4112	Legislation	1982	Forfeiture of Bail
JUDICIAL	Vict Comp/Penalty AOCrt	G	5204	Chapter 90, Title 11, Ss 9012	Legislation	1982	15 % surcharge for Victims
JUDICIAL	Vict-Comp/Pen Assess-Superr Crt	G	5204	11 Del. C., Ss 9102	Legislation	1983	Surcharge - 15 % of Fine
JUDICIAL	Forfeit-UnlCntrlSubAct-Superr Crt	G	5005	16 Del. C., Ss 4784	Legislation	1984	Varies- Confiscation $, goods etc on drug raid
	LICENSES						
OTR ELECTED	Duplicate/Replace Lic	G	2124	18 Del. C., Ss 701 (24)	Legislative	1980	same as original
	FINES						
OTR ELECTED	Unfair Trade Practice Fines	G	5206	18 Del C., 2311	Legis/limits est formal hearing/order	1980	Established by formal hearing, up to $ 10,000/violation
OTR ELECTED	Penalties & Fines	G	5206	18 Del C., 106	Legis/limits est formal hearing/order	1980	Established by formal hearing or order, $ 2,000 to $ 6,0
OTR ELECTED	Penalties & Fines- Agents	G	5206	18 Del C., 1733	Legis/limits est formal hearing/order	1980	Established by formal hearing or order, $ 25 to $ 2,000
	LICENSES						
STATE	Sale of Checks-License	G	2129	Title 5, Del Code 2318	Legislation	1972	$ 200
STATE	Sale of Checks	G	2129	Title 5, Del Code 2307	Legislation	1972	$ 150 Investigation
STATE	Bank/Trust Acq Assets/Liab	G	2129	Title 5, Del Code 752	Legislation	1975	$ 2,000 + $ 1,000 Investigation
STATE	Bldg/Sav&Loan Merger/Consol	G	2121	Title 5, Del. Code, Ss 2012	Legislation	1975	$ 1,000 + $ 500 Investigation Fee
STATE	Bank/Trust Co Branch Office	G	2129	Title 5, Del Code 770	Legislation	1975	$ 500 + $ 500 Investigation
STATE	Small Loan License Lender	G	2122	Title 5, Del. Code, Ss 2104	Legislation	1975	$ 100 Annual Renewal fee
STATE	Bldg/Saving & Loan Applic	G	2121	Title 5, Del. Code, Ss 1723	Legislation	1975	$ 1,000 + $ 500 Investigation fee
STATE	Bldg/Saving & Loan Lic.	G	2121	Title 5, Del. Code, Ss 1722	Legislation	1975	Annual $ 100 Out of State $ 500
STATE	Mtr Veh Sales Finance Lic.	G	2130	Title 5, Del Code Ss 2902	Legislation	1975	$ 250 + $ 250 Investigation
STATE	Mtr Veh Sales Finance-Branch	G	2130	Title 5, Del Code Ss 2902	Legislation	1975	$ 100
STATE	Nat/State Bank/Trst-Merg/Cons/Conv	G	2129	Title 5, Del Code 792	Legislation	1975	$ 5,000 + $ 1,000 Investigation
STATE	Certificate of Incorporation	G	2129	Title 5, Del Code 735	Legislation	1975	$ 5,000 + $ 1,000 Investigation
STATE	Savings Bank/Branch Office	G	2129	Title 5, Del Code 933	Legislation	1975	$ 500 + $ 500 Investigation
STATE	Secondary Mortgage Loans	G	2129	Title 5, Del Code 3108	Legislation	1975	$ 250 + $ 250 Investigation
STATE	Small Loan License Lender	G	2122	Title 5, Del. Code, Ss 2102	Legislation	1975	$ 250 Registration Cert.
STATE	Bldg/Saving & Loan Branch	G	2121	Title 5, Del. Code, Ss 2011	Legislation	1975	$ 500 + $ 500 Investigation fee
STATE	Mortgage Banking	G	2129	Title 5, Del Code 3002	Legislation	1978	$ 500 + $ 500 Investigation

DEPT	TITLE	TYPE FUND	REV CODE	AUTHORIZATION - SOURCE	CHANGE REQUIREMENT	DATE OF LAST CHANGE	CHARGES & COMMENTS
STATE	Bank/Trust Co Foreign Branch	G	2129	Title 5, Del Code 771	Legislation	1981	$ 500
STATE	Cert/Incorp Consumer Credit	G	2129	Title 5, Del Code 1023	Legislation	1983	$ 5,000 + $ 1,000 Investigation
	FINES						
ADMIN SERV	Penalty Assessment Fines	G	5204	16 Del C., Ss 115 (q)	Legislative	1974	1 % of Outstanding Balance
	LICENSES						
H & S S	Midwife License	G	2306	Title 16, Sec 3121	Approval State Brd of Health		$ 15.00
H & S S	Bottlers Permit	G	2123	Title 16, Ss 4303	Legislation	1953	$ 50.00
	FEES						
H & S S	Sentac Fees	G	3324				varies
H & S S	College Fees	G	3210				Varies
	FINES						
H & S S	Marine Fines	G	5306				
	LICENSES						
DNREC	Fur Breeders License	G	2128	Title 7, Ss 562	Statutory	1965	$ 10, last chgnd prior to 65
DNREC	Fur Dealers License	G	2127	Title 7, Ss 552	Statutory	1965	$ 25 Res, $ 250 Non-Res, chgd-prior 65
DNREC	Boat License - Renew	G	2004	Title 23, Ss 2113 (a)	Statutory	1974	Varies w/length of boat $ 5 to $ 30
DNREC	Boat License - New	G	2004	Title 23, Ss 2113 (a)	Statutory	1974	Varies w/length of boat $ 5 to $ 30
DNREC	Boat License - Transfer	G	2004	Title 23, Ss 2113 (b)	Statutory	1974	$ 3.00
DNREC	Boat License - Dealer	G	2004	Title 23, Ss 2113 (e)	Statutory	1974	$ 10
DNREC	Boat License - Duplicate	G	2004	Title 23, Ss 2113 (b)	Statutory	1976	$ .25
DNREC	Clam Tongers License-Commercial	G	2210	Title 7, Ss 2402 & 2408	Statutory	1976	$ 50 Resident $ 500 Non-Resident
DNREC	Crab Pot License	G	2214	Title 7, Ss 2303 (a)	Statutory	1976	Fees Resident $ 25 to $100 /# of pots
DNREC	Lobster Pot	G	2214	Title 7, Ss 2504 (a)	Statutory	1976	$ 50 Resident $ 500 Non-Res
DNREC	Oyster Tongers License	G	2210	Title 7, Ss 2108	Statutory	1976	$ 50 Resident $ 500 Non-Res
DNREC	Oyster Plantation Lic	G	2211	Title 7, Ss 1907 (a)(b)(c)	Statutory	1976	Residents- $ .75 /acre Non-Res- $ 1.50/acre
DNREC	Crab-Clam Dredge License	G	2213	Title 7, Ss 2307 & 2404	Statutory	1976	$ 50 Resident $ 500 Non-Res
DNREC	Oyster Plot Corner	G	2211	Title 7, Ss 1907 (d)	Statutory	1976	$15 per corner
DNREC	Clam Tongers License-Non-Com.	G	2210	Title 7, Ss 2402 & 2408	Statutory	1976	$ 5.00
DNREC	Eel Pot	G	2214	Title 7, Ss 1902 (a)	Statutory-	1978	$ 100 Resident $ 1000 Non-Resident
	PERMITS						
DNREC	Game & Fish Permits	G	4003	Title 7, Ss 571	Administrative Decision		
	LICENSE						
PUBLIC SAFETY	Emergency Veh Oper Permit	G	2003	Administrative	Administrative-Amend Policy Reg		$ 5.00
PUBLIC SAFETY	Priv. Detective License	G	2302	24 Del. C., Ss 1301	Legislation	1953	Company - $ 300/2yrs, Individual - $ 200/2yrs
PUBLIC SAFETY	Commercial Driving School Lic	G	2003	Title 21, Ss 8305	Legislation	1969	$ 100
PUBLIC SAFETY	Permanent License Renewal	G	2003	Title 21, Ss 2716	Legislation	1970	$ 1.00
PUBLIC SAFETY	Duplicate Photo ID Card	G	2003	Title 21, Ss 3105 (b)	Legislation- PENDING HB 219	1972	$ 3.00 PENDING increase to $ 5.00
PUBLIC SAFETY	Change Name on License	G	2003	Administrative Policy - Regulation 4	Administrative-Amend policy reg	1975	$ 1.00
PUBLIC SAFETY	Exchange Class of License	G	2003	Title 21, Ss 2702 (c)	Legislation	1976	$ 3.00

DEPT	TITLE	TYPE	REV FUND CODE	AUTHORIZATION - SOURCE	CHANGE REQUIREMENT	DATE OF LAST CHANGE	CHANGES & COMMENTS
PUBLIC SAFETY	Taxicab Endorsement	G	2003	Title 21, Ss 2764	Legislation	1977	$ 3.00
PUBLIC SAFETY	Late Fee-Renewal of Driver License	G	2003	Title 21, Ss 2715 (c), 2716 (c)	Legislation	1978	$ 1.00
PUBLIC SAFETY	Duplicate License	G	2003	Title 21, Ss 2720	Legislation	1982	$ 5.00
	FEES						
PUBLIC SAFETY	Occupational/Conditional Dvr Lic	G	3109	Title 21, Ss 2716	Legislation - PENDING HB 216-HIK FEE		$ 10 per occupational/conditional license issued after suspension
PUBLIC SAFETY	Temporary Vehicle Permits	G	3109	Title 21, Ss 2103	Legislation	1961	$ 2.00
PUBLIC SAFETY	Fee for Copying Documents	G	3109	Admin- $ 1/cover costs	Admin- Annual Internal Policy	1967	$ 1.00
PUBLIC SAFETY	Vanity Tag	G	3109	Title 21, Ss 2321 (b&1)	Legislation	1968	$ 25.00
PUBLIC SAFETY	Certificate Fees	G	3402	Administrative	Administrative	1974	$ 10
PUBLIC SAFETY	Shop Fees	G	3402	Administrative	Administrative	1974	$ 800
PUBLIC SAFETY	Inspections Fees	G	3402	Administrative	Administrative	1974	$ 10
PUBLIC SAFETY	Renew-Inspect Credent Card	G	3402	Administrative	Administrative	1974	
PUBLIC SAFETY	Inspectors Initial Exam	G	3402	Administrative	Administrative	1974	National Board exam - $ 150 Out-of-State
PUBLIC SAFETY	Driver License Reinstatement	G	3109	Title 21, Ss 2237	Legislation- PENDING HB 218	1976	$ 15.00, PENDING increase to $ 25
PUBLIC SAFETY	Court Veh Safety Inspect-Bonrds	G	3109	Admin Policy, Regulation 21	Administrative-Annual Policy Req	1976	$ 3.00
PUBLIC SAFETY	Record Liens/Satisfactions	G	3104	Title 21, Ss 2136	Legislation	1977	$ 1.75
PUBLIC SAFETY	N.C.Police. Veh. Regis. Data	G	3102	Administrative	Administrative	1978	
PUBLIC SAFETY	Veh Regist. Late Renew	G	3109	Title 21, Ss 2351 (6)	Legislation	1980	$ 2.00
PUBLIC SAFETY	Driver Lic Reinstate-Drunk Dvr	G	3109	Title 21, Ss 2328	Legislation	1983	$ 125.00
PUBLIC SAFETY	Duplic Certificate of Title	G	3104	Title 21, Ss 2309	Legislation-PENDING HB 227	1984	$ 5.00, PENDING increase to $ 10
	PERMITS						
PUBLIC SAFETY	Motor Carrier Permits	G	4909	Title 30, Ch 52, Ss 5211 (a)	Legislation	1982	$ 10.00
	FINES						
PUBLIC SAFETY	Bad Check (Mtr Carrier)	G	5401	Title 30, Ch 52, Ss5227	Legislation		$ 10
PUBLIC SAFETY	SP Fuel Pen/Int Fines	G	5203	Title 30, Ch 51, Ss 5136 (a)	Legislation	1984	$ 5.00 per day up to $ 25 or 10% of tax
PUBLIC SAFETY	Motor Fuel Pen/Int Fines	G	5202	Title 30, Ch 51, Ss 5115	Legislation	1984	$ 5.00 per day up to $ 25 or 10% of tax
PUBLIC SAFETY	Highway Fines	G	5101	Title 21, Court, Title 30, Ch 52	Legislation	1984	$ 100 to $ 300
PUBLIC SAFETY	Motor Carrier Pen/Int Fine	G	5201	Title 30, Ch 52, Ss 5217	Legislation	1984	$ 5.00 per day up to $ 25 or 10% of tax
	FEES						
TRANSPORTATION	Outdoor Advertising	G	3211	Title 17, Ch 11, Ss 1104 (d)	Administrative, SB253	1979	31 to 100 sq ft $ 10.00
TRANSPORTATION	Outdoor Advertising	G	3211	Title 17, Ch 11, Ss 1104 (d)	Administrative, SB253	1979	over 300 sq ft - $ 20
TRANSPORTATION	Outdoor Advertising	G	3211	Title 17, Ch 11, Ss 1104 (d)	Administrative, SB253	1979	101 to 300 sq ft $ 15.00
TRANSPORTATION	Outdoor Advertising	G	3211	Title 17, Ch 11, Ss 1104 (d)	Administrative, SB253	1979	1-30 sq ft - $ 5.00
	TAX						
LABOR	Employer Fail/File Req. rpt	G	1131	Title 19, Ss 3125 (4,c)	Legislation	1953	$ 15 in addition to other penalties
	FINES						
LABOR	Penalty-Charge Fee Dept/Crt	G	5305	Title 19, Ss 3372	Legislation	1937	Fine imposed varies not less than $ 20 nor more than $ 200
LABOR	Penalty-Viol title 19, Ch 33	G	5305	Title 19, Ss 3383	Legislation	1937	Fine imposed varies not less than $ 20 nor more than $ 200
LABOR	Pen/False Statement-Employee	G	5305	Title 19, Ss 3381	Legislation	1937	Fine imposed varies not less than $ 20 nor more than $ 50
LABOR	Right/Degree/Pen-exc legal fee	G	5305	Title 19, Ss 3373	Legislation	1937	Fine imposed varies not less than $ 20 nor more than $ 200
LABOR	Waiver or Release of Benefits	G	5305	Title 19, Ss 3371	Legislation	1937	Fine imposed varies not less than $ 20 nor more than $ 200
LABOR	Refusal to Obey Subpoena	G	5305	Title 19, Ss 3127 (b)	Legislation	1937	Fine imposed varies not less than $ 20 nor more than $ 200
LABOR	Penalty-Viol- Wage Discrimination	G	5305	Title 19, Ss 910 (b)	Legislation	1953	Fines imposed varies $ 0 to not more than $ 1000

DEPT	TITLE	TYPE FUND	REV CODE	AUTHORIZATION - SOURCE	CHARGE REQUIREMENT	DATE OF LAST CHANGE	CHARGES & COMMENTS
LABOR	Pen-Fict/alter Doc proof/age	G	5305	Title 19, Ss 548	Legislation	1953	Fine imposed varies not less than $ 25 nor more than $ 100
LABOR	Penalty-Violations min. wage	G	5305	Title 19, Ss 910 (a)	Legislation	1953	Fines imposed varies $ 0 to not more than $ 200
LABOR	Improper Disclose Info.	G	5305	Title 19, Ss 3125 (4,6)	Legislation	1953	Fine imposed varies not less than$ 20 nor more than $ 200
LABOR	Fail comply DOL orders/decrees	G	5305	Title 19, Ss 116	Legislation	1953	Fine imposed varies not less than $ 10 nor more than $ 100
LABOR	Penalty-fail pay RR wages/2wks	G	5305	Title 19, Ss 702	Legislation	1954	Not less than $ 100
LABOR	Viol wage payment & collection	G	5305	Title 19, Ss 1112 (a)	Legislation	1965	Fines imposed varies $ 0 to not more than $ 500
LABOR	Viol wage pat/collect-Discrim	G	5305	Title 19, Ss 1112 (b)	Legislation	1965	Fines imposed varies $ 0 to not more than $ 200
LABOR	Pen-Regr Polygraph cond/employ	G	5305	Title 19, Ss 704	Legislation	1966	Fine imposed varies not more than $ 500
LABOR	Pen-Knowingly hire ill. alien	G	5305	Title 19, Ss 705	Legislation	1966	Fine imposed varies not less than $ 200 nor more than $ 500
LABOR	Pen-Viol Wage attach law (int)	G	5305	Title 19, Ss 701	Legislation	1969	Fine imposed varies no less than $ 100 nor more than $ 500
LABOR	Pen/False Statement-Employer	G	5305	Title 19, Ss 3382	Legislation	1969	Fine imposed varies not less than $ 20 nor more than $ 200
LABOR	Viol wage pat/collect-False State	G	5305	Title 19, Ss 1112 (c)	Legislation	1969	Fines imposed varies $ 0 to not more than $ 200
LABOR	Penalty-failure/pay previous wage	G	5305	Title 29, Ss 6912	Legislation	1974	Fine imposed varies not less than $ 500 nor more than $ 2,000
LABOR	Penalty-make public info obtained	G	5305	Title 19, Ss 714 & 712	Legislation	1974	Fine imposed varies $ 0 to $ 1000
LABOR	Penalty-employ strike workers	G	5305	Title 19,Ss 703	Legislation	1974	Fines imposed varies $ 0 to not more than $ 1,000
LABOR	Indust/Acc Brd-Self Insured Tax	G	5305	Title 19,Ch 23. Ss 2391	Legislation	1980	Review = $ 25, + $25 ea adjournment + $ 5 other party
LABOR	Indust Accidnt Brd-Adm assess	G	5305	Title 19,Ch 23. Ss 2392	Legislation	1980	2 % of Insurance Premiums
LABOR	Indust/Acc Brd-Self Ins/Tax-Int	G	5305	Title 19,Ch 23. Ss 2391 (f)	Legislation	1980	in underpayment of installment, interest at 1 1/2 % of underpay
	LICENSES						
AGRICULTURE	Milk Babcock License	G	2141	Title 3 Ch 3114	Del Code	1953	$ 3.00 year
AGRICULTURE	Milk Weighers/Samplers Lic	G	2141	Title 3 Ch 3114	Del Code	1953	$ 3.00 year
AGRICULTURE	Pesticides Business License	G	2145	Title 3, Ch 1207	Delaware Code- Legislation PENDING	1978	$ 25.00 year - pending increase to $ 100 / 2 years
	FEES						
AGRICULTURE	Miscellaneous Fee (GF)	G	3701	Administrative			misc sale of promotional items
AGRICULTURE	Milk Babcock Tester Fee	G	3001	Title 3 Ch 3113	Del Code	1953	$ 3.00 persons life
AGRICULTURE	Milk Weighers/Samplers Test	G	3001	Title 3 Ch 3113	Del Code	1953	$ 3.00 persons life
AGRICULTURE	Feed Registration Fee	G	3003	Title 3, Ch 1706	Del Code	1968	$ 20.00 per product per year
AGRICULTURE	Lime Registration Fee	G	3004	Title 3, Ch 1907	Del Code	1970	$ 10.00 per product + tonnage/semi-annual
AGRICULTURE	Fertilizer Registration Fee	G	3002	Title 3, ch 2104	Del Code	1971	Varies on Fertilizer -semi-annual
AGRICULTURE	Select/Test Poultry Hatch/Sanita.	G	3006	Title 3, Ss 6302	Administrative	1975	Fee varies/semi-annual
AGRICULTURE	E.I.A. Testing Fee	G	3012	Title 3, Ss 7404	Administrative	1975	$ 3.00 per test/year round
AGRICULTURE	Laboratory Exam Fees	G	3217	Title 3, Ss 7101	Administrative	1975	Varies per test/year round
AGRICULTURE	Pesticides Applicator Cert.	G	3017	Title 3, Ch 1207	Administrative	1981	$ 10.00
	PERMITS						
AGRICULTURE	Foreign Animal Permits	G	4008	Title 3, Ss 7202	Del Code prior to 1975, Legisl-PENDING	1975	$ 2.00 year, PENDING increase to $ 25/yr
	FINES						
AGRICULTURE	Fertilizer Deficiency	G	5404	Title 3, Ch 2108	Del Code	1976	Varies on formula/year round
AGRICULTURE	Delaware Harness Racing fines	G	5499		varies	n/a	Varies
	LICENSES						
PUBLIC EDUC.	Bus/Trade School Agent Permit	G	2170	Administrative	Administrative	1972	$ 10.00
PUBLIC EDUC.	Renew Bus/Trade School Agent	G	2170	Administrative	Administrative	1972	$ 5.00
PUBLIC EDUC.	Renew Bus/Trade School Lic	G	2170	Administrative	Administrative	1972	$ 50.00
PUBLIC EDUC.	Bus/Trade School Lic	G	2170	Administrative	Administrative	1972	$ 100.00

DEPT	TITLE	TYPE FUND	REV CODE	AUTHORIZATION - SOURCE	CHARGE REQUIREMENT	DATE OF LAST CHANGE	CHARGES & COMMENTS
PUBLIC EDUC.	Higher Educ. Agent Fee (GF)	G	2170	Administrative	Administrative	1988	$ 10.00
PUBLIC EDUC.	Higher Educ. License (GF)	G	2170	Administrative	Administrative	1988	$ 10.00
	FEES						
PUBLIC EDUC.	Teacher Cert-Non-Res (GF)	G	3506	Administrative	Administrative	1972	$ 5.00
PUBLIC EDUC.	Dupl. Teacher Cert (GF)	G	3506	Administrative	Administrative	1972	$ 5.00

CHAPTER 261

FORMERLY

HOUSE BILL NO. 728
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 20, 23, 25, 27, 29 and 43 OF TITLE 30 AND CHAPTER 96, TITLE 9, DELAWARE CODE, RELATING TO DELAWARE LICENSE FEES AND TAXES.

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 §2301, Chapter 23, Title 30 of the Delaware Code by striking subsection (a) of said Section in its entirety and substitute in lieu thereof the following:

"(a) Persons as defined in §2701 of this Title engaged in the occupations listed and defined in this Section shall pay annual license taxes at the rates specified below. In addition to the license fee indicated below, each such person shall pay a fee of $25 for each additional branch or business location, except that a finance or small loan agency as defined in paragraph (8) of this Section shall pay the basic annual fee for each place of business.

(1) Advertising agency, $75. 'Advertising agency' includes every person engaged in the business of displaying advertising matter by billboards, posters or circulars, signs or window display, or of undertaking the writing or composition of advertisements for other persons on a commission, rental or flat fee basis.

(2) Amusement conductor, $75. 'Amusement conductor' includes every person engaged in the business of conducting or maintaining or furnishing on a commission or other basis mechanical or electronic devices for entertainment of the general public, for which a charge is made for the use thereof; provided further than an owner of certain of such mechanical or electrical devices operated automatically by insertion of a coin or token shall pay an additional license fee for the business as defined and at the rates prescribed as follows:

'Amusement machine owner' embracing every person engaged in the business of owning and operating either on his own account or by his agent, or by lease to another from such person or his agent, certain of the mechanical or electronic devices referred to in this section for furnishing to the public, music by the playing of records or transcriptions or which constitute a game or other device designed for public amusement, a fee for a license at the rate of $75 for each machine so owned and operated, provided the coin or token necessary to operate such machine is worth 5 cents or more.

(3) Auctioneer, $75. 'Auctioneer' includes every person engaged in the business of crying sales of real or personal property on behalf of other persons for profit, except as otherwise provided by the provisions of this chapter. Any auctioneer not a citizen of this State shall be required to pay $225 for each county in which he acts as auctioneer. No auctioneer shall be authorized by virtue of the license granted to employ any other person to act as auctioneer in his behalf, except in his own store or warehouse or in his presence, nor shall the term 'auctioneer' apply or extend to a judicial or executive officer making sales in pursuance of any execution, judgment, or decree of any court nor to public sales made by executors or administrator.

(4) Broker, $75. 'Broker' includes every person operating a business of buying and selling for the account of other persons for a commission or for profit, stocks, bonds, currency, negotiable paper, securities and any other intangible personal property.

(5) Circus exhibitor, $750. 'Circus exhibitor' includes every person engaged in the business of exhibiting in a tent, arena, or other open space feats of horsemanship, acrobatic stunts, freaks, trained or wild animals, and other forms of entertainment commonly known as circus. This paragraph shall not be construed to include any circus or carnival for private profit sponsored by or in which any fire company of the State, or any fraternal, veteran's or religious organization shall share in the profits. The license fee for such circus or carnival shall be $300.

(6) Commercial Lessor, $75. 'Commercial Lessor' includes every person who, as lessor sublessor, receives rental income pursuant to any agreement transferring a title interest or possessory interest in real property under a lease of a commercial unit for any term. For this purpose, 'commercial unit' means a structure or that part of a structure which is used for purposes other than a dwelling unit or farm unit.

(7) Drayperson or mover, $75. 'Drayperson or mover' includes every person operating a business of transporting for profit tangible personal property of other persons.

(8) Finance or small loan agency, $450. 'Finance or small loan agency' includes every person engaged in the business of lending money, with or without security, to other persons, with repayments of the loans to be made by installments or otherwise, but shall not include, either in reference to future or past transactions, banks or trust companies authorized to do banking business in the State under Title 5 of the Delaware Code.

(9) Foreign Sales Corporation (FSC), $150. 'Foreign Sales Corporation' includes every corporation engaged in business as a foreign sales corporation (FSC) as defined in §1902(b) of this Title, except a small foreign sales corporation as defined in §922(b), Subchapter N of Chapter 1 of the Federal Internal Revenue Code.

(10) Foreign Sales Service Corporation (FSSC), $150. 'Foreign Sales Service Corporation' includes every corporation engaged in business as foreign sales service corporation (FSSC) as defined in §1902(b) of this Title.

(11) Hotel, $25 for each room and $30 for each suite. 'Hotel' includes every person engaged in the business of operating a place where the public may, for a consideration, obtain sleeping accommodations and meals and which, in an incorporated town, has at least 10, and in any other place at least 6 permanent bedrooms for the use of guests.

(12) Manufacturer's agent or representative, $75. 'Manufacturer's agent' or 'representative' includes every independent contractor in the business of representing 1 or more manufacturers for purposes of promoting the sale of the goods, product, or line of goods or products of such manufacturer or manufacturers within the State.

(13) Mercantile agency or collection agency, $75. 'Mercantile agency' or 'collection agency' includes every person operating a business of investigation of financial ratings and credit and/or the collection of commercial accounts for other persons, except attorneys-at-law having a license to practice such profession in this State.

(14) Motel, $25 for each room. 'Motel' includes every person engaged in the business of furnishing for a consideration, transient guests with sleeping accommodations, private bath and toilet facilities, linen service and a place to park an automobile and who is not in the business of operating a hotel or tourist home as defined in this section.

(15) Outdoor musical festival promoter, $750. 'Outdoor musical festival promoter' includes every person engaged in the business of organizing, operating, producing or staging musical entertainment in open spaces and not in a permanent structure for a gathering of 1,000 or more persons who pay a consideration or admission charge to view or hear such musical entertainment.

(16) Parking lot or garage operator, $75 for the first lot or garage facility and $35 for each additional facility. 'Parking lot' or 'garage operator' includes every person engaged in the business of operating any motor vehicle parking facility, whether open or enclosed, with space for 10 or more vehicles.

(17) Photographer, $75. 'Photographer' includes every person operating a business of taking, making and/or developing photographs or pictures by action of light for profit or reward. Transient photographers without a regular and established place of business within the State shall pay an additional license tax of $25 for each day of operation within the State.

(18) Real estate broker, $75. 'Real estate broker' includes every person certified as such by the Delaware Real Estate Commission and engaged in the real estate business. It includes those among such persons who deal exclusively or partly with rental property.

(19) Sales representative, $75. 'Sales Representative' includes every person who works in excess of 80 hours in any calendar month in the year selling goods or merchandise door to door. It includes soliciting orders and home demonstrations.

(20) Security business, $115. 'Security business' includes every security business defined in §1201 of Title 24.

(21) Showperson, $375. 'Showperson' includes every person engaged in the business of conducting or operating for profit a public theatre, house or other enclosed place for the exhibition of stage shows or musical presentations, animal shows, carnivals for private profit and all other amusements of like character.

(22) Taxicab or bus operator, $45, for the first motor vehicle; $30, for each additional motor vehicle. 'Taxicab' or 'bus operator' includes every person engaged in the business of the operation of motor vehicles in transporting persons for hire in the accommodation of the general public. A public carrier holding a Certificate of Public Convenience and Necessity issued by the Delaware Transportation Authority of the Department of Transportation authorizing it to operate a taxicab business, which actually operates such taxicab business through the leasing of its taxicab vehicles to independent contractor lessee drivers, shall be construed to be a 'person' under this paragraph 'engaged in the business of the operation of motor vehicles in transporting persons for hire in the accommodation of the general public' and shall pay the above-specified annual fees for its taxicab motor vehicles which are subject to such leasing for the year involved, and none of the independent contractor lessee drivers of such vehicles shall be construed to be a 'person engaged in the business of the operation of motor vehicles in transporting persons for hire in the accommodation of the general public' within the meaning of this paragraph. This tax shall not apply however, to the operation of school buses used solely in the transportation of children to and from kindergarten, grade school, vocational school and high school.

(23) Tourist home, $15 for each room. 'Tourist home' includes every person who operates a place where tourists or transients guests, for a consideration, may obtain sleeping accommodations and which has at least 5 permanent bedrooms for the use of tourists or transient guests and who is not in the hotel or motel business as defined in this section.

(24) Trailer park, $10 for each space as specified on a plot plan or as designated by the owner. 'Trailer park', which may also be identified as a Recreational Vehicle Park, or a Tenting Recreation Park, includes any person engaged in the business of operating any place where space is furnished for units to park and hook up to or use sanitary and/or electrical facilities.. This paragraph shall not apply to mobile home parks.

(25) Transportation agent, $75. 'Transportation agent' includes every person operating a business of selling tickets on behalf of other persons, for transportation by common carriers on a commission basis or for profit.

(26) Travel agency, $225. 'Travel agency' includes every person in the business of operating a full service travel bureau or department which assists in the planning and acquisition of tickets for contemplated trips of its customers by land, sea or air and for related accommodations."

Section 2. Amend §2301, Chapter 23, Title 30 of the Delaware Code by striking paragraph (e) of said Section in its entirety and substitute in lieu thereof a new paragraph (e) to read as follows:

"(e) 'Gross receipts' is defined as total consideration for services rendered, goods sold, or other income producing transaction within this State, including fees and commissions.

(1) For persons described in 30 Del. C. §2301(a)(4) and (18) the tax imposed under paragraph (d) of this Section shall be imposed on the broker. Salespersons operating in the broker's office shall be exempt from the taxes and fees imposed by paragraphs (b) and (d) of this Section with respect to services performed in connection with the broker's business; provided, however, that commissions and fees paid to such salespersons shall be subject to tax under subsection (d) of this section as though such fees or commissions were received by the broker.

(2) Any person functioning in an 'employee' relationship as defined in the Federal Insurance Contribution Act shall be exempt from this Chapter with respect to his activities as an employee.

(3) In the case of partnerships, professional corporations or associations, the tax imposed under subsection (d) shall be imposed on the aggregate gross receipts of such partnerships, professional corporation or association.

(4) Any person functioning as a 'partner' shall be exempt from this Chapter with respect to his activities solely as a 'partner'.

(5) Gross receipts for businesses described in 30 Del. C. §2301 (a)(1),(3),(4),(12),(13) and (18) shall consist of commissions and fees earned.

(6) Gross receipts for commercial lessors as defined in paragraph (6) of subsection (a) of this section shall consist of the rental payment received for a commercial unit; provided, however, that:

(i) nothing in this Section shall be interpreted to impair a commercial lessor's right under an existing or future lease to require the lessee therein to pay or to reimburse the lessor for the license fees herein imposed as part of the lessee's specified or general obligation to pay or reimburse lessor for gross receipts tax, real estate taxes or other governmental assessments, charges or fees;

(ii) every commercial lessor, who is also a sublessor, shall exclude from gross receipts the amount said lessor pays to another lessor as rent for the same commercial unit; and

(iii) any rental income received by a commercial lessor who has paid the transfer tax pursuant to Section 5402(d), Chapter 54, Title 30 of the Delaware Code shall not be included as gross receipts received by the commercial lessor.

(7) For licenses covered under subsection (b) of this Section, any exception from the gross receipts definition as set forth in this subsection is subject to the rules and regulations as promulgated by the Secretary of Finance."

Section 3. Amend §2301, Chapter 23, Title 30 of the Delaware Code by striking paragraph (f) of said section in its entirety and substituting in lieu thereof the following:

" (f) Paragraphs (5,),(8),(9),(11),(14),(15),(19),(21),(22),(23),(24),(25) and (26) of subsection (a) of this Section shall be exempt from the additional license fee imposed by subsection (d) of this Section.:

Section 4. Amend §2301(o), Chapter 23, Title 30 of the Delaware Code, by striking the phrase "paragraph (88) of subsection (a) of this section" as it appears in said subsection and in lieu thereof insert the following:

"Section 2301(a)(6) of this Title".

Section 5. Amend §2020, Chapter 20 of the Delaware Code by striking existing subsection (3) of said Section in its entirety and substitute in lieu thereof a new subsection (3) to read as follows:

"(3) 'Commercial activity' is an activity constituting a business licensable under §2301 of this Title, other than any of the following business: amusement conductor, amusement park operator, auctioneer, automobile race operator, bowling alley operator, circus exhibitor, entertainment agent, finance or small loan agency, floor show operator, health spa or health club, junk dealer, motion picture theater, outdoor music festival promoter, pawnbroker, pool table operator, public bath keeper, salvage yard operator and self-service laundry or dry cleaner."

Section 6. Amend §2301(b), Chapter 23, Title 30 of the Delaware Code by striking the symbol and figure "$50" as it appears in said subsection and substitute in lieu thereof the symbol and figure "$75".

Section 7. Amend §2303(a), Chapter 23, Title 30 of the Delaware Code by striking the symbol and figure "$100" as they appear in said subsection and substitute in lieu thereof the symbol and figure "$150".

Section 8. Amend §2304(c), Chapter 23, Title 30 of the Delaware Code by striking the symbol "$3" as they appear in said subsection and substitute in lieu thereof the symbol and figure "$5".

Section 9. Amend §2502(a), Chapter 25, Title 30 of the Delaware Code by striking the symbol and figure "$50" each time it appears in said subsection and substitute in lieu thereof in each instance the symbol and figure "$75".

Section 10. Amend §2702(a), Chapter 27, Title 30 of the Delaware Code by striking the symbol and figure "$50" each time it appears in said subsection and substitute in lieu thereof in each instance the symbol and figure "$75".

Section 11. Amend §§2902(b), 2903(b), 2904(b), 2905(a), 2906(a), and 2907(b), Chapter 29, Title 30 of the Delaware Code by striking the symbol and figure "$50" each time it appears in said subsections and substitute in lieu thereof in each instance the symbol and figure "$75".

Section 12. Amend §§2905 (a), 2905(f), and 2906(b), Chapter 29, Title 30 of the Delaware Code by striking the symbol and figure "$10" each time they appear in said subsections and substitute in lieu thereof the symbol and figure "$25".

Section 13. Amend §4305(a), Chapter 43, Title 30 of the Delaware Code by striking the symbol and figure "$50" and "$10" as they appear in said subsection and substitute in lieu thereof, respectively, the symbol and figure "$75" and "$25".

Section 14. If any provision, clause or phrase of this Act, or the application thereof, to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall not invalidate the remainder of this Act or affect the application of the Act or any portion thereof to other persons or circumstances.

Section 15. This Act shall be effective for licenses for license periods beginning on or after January 1, 1991, and for licenses to expire on or after December 31, 1991. However, Section 16 of this bill shall be effective upon enactment into law.

Section 16. Amend §9605(i), Chapter 96, Title 9 of the Delaware Code by striking the word "number" as it appears in paragraph (1) of said subsection and by substituting in lieu thereof the phrase "or federal employer identification number."

Approved July 2, 1990.

CHAPTER 262

FORMERLY

HOUSE BILL NO. 729

AN ACT TO AMEND CHAPTER 54, 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-fifths of all members elected to each House thereof concurring therein):

Section 1. Amend §5401, Chapter 54, Title 30 of the Delaware Code by adding thereto a new subsection (8) to read as follows:

"(8) Notwithstanding subsection (1) of this section, there shall be included in the definition of 'document' for purposes of this chapter any contract or other agreement or undertaking for the construction of all or a part of any building all or a portion of which contract, agreement, or undertaking (or any amendment to the foregoing) is entered into, or labor or materials are supplied, either prior to the date of the transfer of the land on which the building is to be constructed or within one year from the date of the transfer to the grantee. No jurisdiction in this State shall issue a building permit for any such building unless and until the person or persons (including corporations or other associations) requesting such permit shall demonstrate in whatever form may be specified by the Director of Revenue, including at his discretion, a form of affidavit, that: (a) No transfer as described in this section has occurred within the preceding year; (b) no portion of the contract for construction for which the permit is being requested was entered into and no materials or labor with respect to the building has been provided within one year of the date on which the property was transferred; or (c) there has been paid a realty transfer tax on the document as defined in this subsection. In addition, no jurisdiction in this State shall issue a certificate of occupancy relative to any building on which a tax is provided by this subsection unless and until the owner recertifies the actual cost of the building and pays any additional tax due as a result of such recertification. A 'building' for purposes of this subsection shall mean any structure having a roof supported by columns or walls which structure is intended for supporting or sheltering any use or occupancy but shall not include any alteration of or addition to an existing building where the cost of said alteration or addition is less than 50% of the value of the property transferred. A 'transfer' for purposes of this subsection shall include any transfer made by a 'document' as described in this section, other than this subsection, and shall not include any transaction excluded from the definition of 'document' under the provisions of paragraphs a. through t. of subsection (1) of this section.".

Section 2. Amend §5402, Chapter 54, Title 30 of the Delaware Code by adding to said Section a new subsection (f) to read as follows:

"(f) Notwithstanding subsection (a) of this section, the rate of tax on documents described in §5401(8) of this Chapter shall be 1% on amounts exceeding $10,000, which shall be borne by the owner of the building whose construction is made subject to tax under §5401(8)."

Section 3. This Act shall be effective for all contracts entered into after September 1, 1990, for which building permits or certificates of occupancy are sought after said date.

Approved July 2, 1990.

CHAPTER 263

FORMERLY

HOUSE BILL NO. 730

AN ACT TO AMEND CHAPTERS 11 AND 19, TITLE 30 OF THE DELAWARE CODE RELATING TO THE DEDUCTION OF NET OPERATING LOSSES OF INDIVIDUALS AND CORPORATIONS IN DETERMINING THEIR INCOME TAXES.

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

Section 1. Amend §1903(a), Chapter 19, Title 30 of the Delaware Code by striking the period "." at the end of said subsection and by substituting in lieu thereof a semicolon ";" and by adding to said subsection a new paragraph (9) to read as follows:

"(9) Any deduction, to the extent such deduction exceeds $30,000, for a net operating loss carryback as provided for in Internal Revenue Code §172 or successor provisions; provided, however, that the taxpayer may increase deductions in any year, consistent with the operation of §172, to carry forward losses which were carried back in calculating federal taxable income but which were prevented from being carried back under this paragraph."

Section 2. Amend §1903(a)(1), Chapter 19, Title 30 of the Delaware Code by striking the phrase "or for any net operating loss sustained prior to January 1, 1958" as it appears in said paragraph.

Section 3. Amend §1106(a), Chapter 11, Title 30 of the Delaware Code by striking the period "." at the end of said subsection and by substituting therefor a semicolon ";" and by adding to said subsection a new paragraph (3) to read as follows:

"(3) Any deduction, to the extent such deduction exceeds $30,000, for a net operating loss carryback as provided for in §172 of the Internal Revenue Code or successor provisions."

Section 4. Amend §1106(b), Chapter 11, Title 30 of the Delaware Code by adding thereto a new paragraph (7) to read as follows:

"(7) Any deduction, consistent with the operation of §172 of the Internal Revenue Code or successor provision, to carry forward losses which were carried back in calculating federal taxable income but which were prevented from being carried back under paragraph (3) of subsection (a) of this Section."

Section 5. This Act shall be effective for carryback of net operating losses sustained in tax years ending after June 30, 1990.

Approved July 2, 1990.

CHAPTER 262

FORMERLY

HOUSE BILL NO. 729

AN ACT TO AMEND CHAPTER 54, 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-fifths of all members elected to each House thereof concurring therein):

Section 1. Amend §5401, Chapter 54, Title 30 of the Delaware Code by adding thereto a new subsection (8) to read as follows:

"(8) Notwithstanding subsection (1) of this section, there shall be included in the definition of 'document' for purposes of this chapter any contract or other agreement or undertaking for the construction of all or a part of any building all or a portion of which contract, agreement, or undertaking (or any amendment to the foregoing) is entered into, or labor or materials are supplied, either prior to the date of the transfer of the land on which the building is to be constructed or within one year from the date of the transfer to the grantee. No jurisdiction in this State shall issue a building permit for any such building unless and until the person or persons (including corporations or other associations) requesting such permit shall demonstrate in whatever form may be specified by the Director of Revenue, including at his discretion, a form of affidavit, that: (a) No transfer as described in this section has occurred within the preceding year; (b) no portion of the contract for construction for which the permit is being requested was entered into and no materials or labor with respect to the building has been provided within one year of the date on which the property was transferred; or (c) there has been paid a realty transfer tax on the document as defined in this subsection. In addition, no jurisdiction in this State shall issue a certificate of occupancy relative to any building on which a tax is provided by this subsection unless and until the owner recertifies the actual cost of the building and pays any additional tax due as a result of such recertification. A 'building' for purposes of this subsection shall mean any structure having a roof supported by columns or walls which structure is intended for supporting or sheltering any use or occupancy but shall not include any alteration of or addition to an existing building where the cost of said alteration or addition is less than 50% of the value of the property transferred. A 'transfer' for purposes of this subsection shall include any transfer made by a 'document' as described in this section, other than this subsection, and shall not include any transaction excluded from the definition of 'document' under the provisions of paragraphs a. through t. of subsection (1) of this section.".

Section 2. Amend §5402, Chapter 54, Title 30 of the Delaware Code by adding to said Section a new subsection (f) to read as follows:

"(f) Notwithstanding subsection (a) of this section, the rate of tax on documents described in §5401(8) of this Chapter shall be 1% on amounts exceeding $10,000, which shall be borne by the owner of the building whose construction is made subject to tax under §5401(8)."

Section 3. This Act shall be effective for all contracts entered into after September 1, 1990, for which building permits or certificates of occupancy are sought after said date.

Approved July 2, 1990.

CHAPTER 263

FORMERLY

HOUSE BILL NO. 730

AN ACT TO AMEND CHAPTERS 11 AND 19, TITLE 30 OF THE DELAWARE CODE RELATING TO THE DEDUCTION OF NET OPERATING LOSSES OF INDIVIDUALS AND CORPORATIONS IN DETERMINING THEIR INCOME TAXES.

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

Section 1. Amend §1903(a), Chapter 19, Title 30 of the Delaware Code by striking the period "." at the end of said subsection and by substituting in lieu thereof a semicolon ";" and by adding to said subsection a new paragraph (9) to read as follows:

"(9) Any deduction, to the extent such deduction exceeds $30,000, for a net operating loss carryback as provided for in Internal Revenue Code §172 or successor provisions; provided, however, that the taxpayer may increase deductions in any year, consistent with the operation of §172, to carry forward losses which were carried back in calculating federal taxable income but which were prevented from being carried back under this paragraph."

Section 2. Amend §1903(a)(1), Chapter 19, Title 30 of the Delaware Code by striking the phrase "or for any net operating loss sustained prior to January 1, 1958" as it appears in said paragraph.

Section 3. Amend §1106(a), Chapter 11, Title 30 of the Delaware Code by striking the period "." at the end of said subsection and by substituting therefor a semicolon ";" and by adding to said subsection a new paragraph (3) to read as follows:

"(3) Any deduction, to the extent such deduction exceeds $30,000, for a net operating loss carryback as provided for in §172 of the Internal Revenue Code or successor provisions."

Section 4. Amend §1106(b), Chapter 11, Title 30 of the Delaware Code by adding thereto a new paragraph (7) to read as follows:

"(7) Any deduction, consistent with the operation of §172 of the Internal Revenue Code or successor provision, to carry forward losses which were carried back in calculating federal taxable income but which were prevented from being carried back under paragraph (3) of subsection (a) of this Section."

Section 5. This Act shall be effective for carryback of net operating losses sustained in tax years ending after June 30, 1990.

Approved July 2, 1990.

CHAPTER 264

FORMERLY

HOUSE BILL NO. 731

AN ACT TO AMEND CHAPTER 11, TITLE 12 OF THE DELAWARE CODE RELATING TO ABANDONED PROPERTY.

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

Section 1. Amend §1198(10), Chapter 11, Title 12 of the Delaware Code by striking the phrase "proceeds held for unredeemed gift certificates" as it appears in paragraph "(iv)" of said subsection and substitute in lieu thereof the phrase "amounts received in consideration for gift certificates which are unredeemed, or, in lieu of which the State Escheator's may in his discretion and upon the specific request of the issuer, accept: (1) gift certificates re-issued at face value on the date on which they are tendered to the Escheator; or (2) where the gift certificates provide that they are redeemable for merchandise only, an amount in money representing the maximum cost to the issuer of merchandise represented by the certificate. The burden of proof as to the cost of merchandise shall be on the issuer of the certificate".

Section 2. Amend §1198(10), Chapter 11, Title 12 of the Delaware Code by striking the last sentence of said subsection in its entirety and substitute in lieu thereof the following sentence: "The word 'property' does not include credits or deposits evidenced by cash balances on unclaimed or refused personal property, except the items mentioned in paragraphs (i) through (xii) of this subsection including specifically and without limitation consideration received for unredeemed gift certificates, the right to recover which in a proceeding brought by the owner would be barred by any statute of limitations, State or Federal."

Section 3. Amend §1198(8), Chapter 11, Title 12 of the Delaware Code by adding at the end thereof the following:

> "Notwithstanding the foregoing, the 'period of dormancy' with regard to gift certificates shall be the shorter of: (a) 5 years, or (b) the expiration period, if any, of the gift certificate less one day. In the event the period of dormancy is determined by reference to the expiration period of the gift certificate, the rights of the Escheator shall attach at the time provided in paragraph (b) above, but the issuer may continue to hold the property and may report and pay over such property as if the period of dormancy were 5 years."

Section 4. Amend Chapter 11, Title 12, of the Delaware Code by adding thereto a new §1212 to read as follows:

"§1212. No Private Escheat of Gift Certificates.

Any provision on or relating to any gift certificate the amount paid in consideration of which is defined as 'property' for purposes of this Chapter, which provides that, upon the owner's failure to act or make a claim pursuant to such gift certificate within a certain period of time, the owner of the gift certificate shall lose rights with respect to the gift certificate against the issuer, which provision, if applied as against the State Escheator, would have the effect of defeating the escheat of any amount with regard to such gift certificate, shall be unenforceable as against the State Escheator."

Section 5. Amend §1199, Chapter 11, Title 12 of the Delaware Code by adding thereto a new subsection (g) to read as follows:

> "(g) No reporting shall be required solely by virtue of holding property constituting consideration paid for unredeemed gift certificates which, in the aggregate, for the reporting period have a face value of less than $5,000."

Section 6. If any provision, clause or phrase of this act, or the application there to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall not invalidate the remainder of this act or affect the application of the act or any portion thereof to other persons or circumstances.

Section 7. The State Escheator may issue any regulations he finds appropriate to aid in the administration of this Act, and such regulations shall, when issued, have the force and effect of law.

Section 8. Sections 3 and 4 of this Act shall be effective for gift certificates issued on or after September 1, 1990. The remainder of this Act shall be effective for property held by the holder on or after July 13, 1971, including, without limitation, gift certificates issued on or after said date. For purposes of §1199 of Title 12, reporting of unredeemed gift certificates covered by Sections 1 and 2 of this Act issued prior to a date five years prior to the date of enactment of this Act shall be on or before March 1, 1991, unless such certificates have been reported for an earlier reporting period.

Approved July 2, 1990.

CHAPTER 265

FORMERLY

HOUSE BILL NO. 764

AN ACT TO AMEND CHAPTER 21, TITLE 21, OF THE DELAWARE CODE RELATING TO THE FEE FOR A TEMPORARY 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 2129, Chapter 21, Title 21, of the Delaware Code by striking the figures "$2" as they appear in subsection (b) and insert in lieu thereof the figures "$4".

Section 2. Amend Section 2130, Chapter 21, Title 21 of the Delaware Code by striking the figures "$2" as they appear in subsection (a) and insert in lieu thereof the figures "$4".

Section 3. This Act shall become effective 15 days after its enactment.

Approved July 2, 1990.

CHAPTER 266

FORMERLY

HOUSE BILL NO. 677
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 1, 10, 11, and 91, TITLE 16 OF THE DELAWARE CODE RELATING TO LICENSE AND APPLICATION FEES FOR HOSPICE SERVICES, HOME HEALTH AGENCIES, BIRTHING CENTERS, SURGICAL CENTERS AND EMERGENCY ROOMS, PRESCRIBED PEDIATRIC CARE CENTERS, HOSPITALS, NURSING HOMES AND RELATED INSTITUTIONS, AND HEALTH MAINTENANCE ORGANIZATIONS.

WHEREAS, the inspection and licensing of health care institutions promote quality care; and

WHEREAS, the inspection of health care institutions assures that standards of care and staffing are maintained; and

WHEREAS, the inspection and licensing of health care institutions assures that physical facilities of the institutions meet life safety codes; and

WHEREAS, the licensing of health care institutions provides for the rights of the patient;

NOW, THEREFORE:

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 §122(3), Chapter 1, Title 16 of the Delaware Code by striking the current paragraph "m" in its entirety and substituting in lieu thereof a new paragraph "m" to read as follows:

"m. Establish standards for quality assurance in the operation of hospice programs and control the practice of such programs. Upon receipt of an application for license and the application fee of $100, the State Board of health shall issue a license if the hospice meets requirements established under this Chapter. A license, unless sooner suspended or revoked, shall be renewed annually upon filing by the licensee and payment of an annual licensure fee of $50. A provisional license, as authorized by the State Board of Health, shall be issued when health requirements are not met and a licensure fee of $50 has been submitted. A hospice which has been issued a provisional license shall resubmit the application fee for reinspection prior to the issuance of an annual license."

Section 2. Amend Section 122(3), Chapter 1, Title 16, of the Delaware Code by designating all of present paragraph "o" as new subparagraph 1 of said paragraph, and by adding thereto the following new subparagraph:

"2. Upon receipt of an application for licensure and the application fee of $100, the Board of Health shall issue a license if the home health agency meets the requirements established under this chapter. A license, unless sooner suspended or revoked, shall be renewed annually upon filing by the licensee and payment of an annual licensure fee of $50. A provisional license as authorized by the State Board of Health shall be issued when health requirements are not met and a licensure fee of $50 has been submitted. A home health agency which has been issued a provisional license shall resubmit the application fee for reinspection prior to the issuance of an annual license;"

Section 3. Amend Section 122(3), Chapter 1, Title 16, of the Delaware Code by inserting the following between the first sentence and the second sentence of paragraph "p":

"Upon receipt of an application for license and the application fee of $150 for Free Standing Birthing Centers, $250 for Free Standing Surgical Centers and $250 for Free Standing Emergency Centers, the State Board of Health shall issue a license if the facility meets the requirements established under this chapter. A license unless sooner suspended or revoked, shall be renewed annually upon filing by the licensee and payment of an annual licensure fee of $75 for Free Standing Birthing Centers, $150 for Free Standing Surgical Centers and $150 for Free Standing Emergency Centers. A provisional license as authorized by the State Board of Health shall be issued when health requirements are not met and a licensure fee of $75 for Free Standing Birthing Centers, $150 for Free Standing Surgical Centers and $150 for Free Standing Emergency Centers has been submitted For each facility

which has been issued a provisional license, there shall be resubmission of the application fee for reinspection prior to the issuance of an annual license."

Section 4. Amend Section 122(3), Chapter 1, Title 16, of the Delaware Code by re-designating present paragraph "q" as new subparagraph 1, of said paragraph and by adding thereto the following new subparagraph:

"2. Upon receipt of an application for license and the application fee of $100, the State Board of health shall issue a license if the Prescribed Pediatric Extended Care Center meets the requirement established under this chapter. A license, unless sooner suspended or revoked, shall be renewed annually upon filing by the licensee and payment of an annual licensure fee of $50. A provisional license as authorized by the State Board of Health shall be issued when health requirements are not met and a licensure fee of $50 has been submitted. For each home health agency which has been issued a provisional license there shall be resubmission of the application fee for reinspection prior to the issuance of an annual license."

Section 5. Amend §1005, Chapter 10, Title 16 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"Section 1005. Issuance and Renewal of License.

(a) Upon receipt of an application for license and the application fee of $250 for hospitals with 100 beds or fewer and $375 for hospitals with more than 100 beds, the State Board of Health shall issue a license if the applicant and hospital facilities meet the requirements established under this Chapter.

(b) A license, unless sooner suspended or revoked, shall be renewed annually upon filing by the licensee and payment of an annual licensure fee of $150 for hospitals with 100 beds or fewer and $250 for hospitals with more than 100 beds.

(c) A provisional or restricted license as authorized by the State Board of health shall be issued when health requirements are not met, upon payment of a licensure fee of $150 for hospitals with 100 beds or fewer and $250 for hospitals with more than 100 beds. For each hospital which has been issued a provisional or restricted license there shall be resubmission of the application fee for reinspection prior to the issuance of an annual license."

Section 6. Amend §1106, Chapter 11, Title 16 of the Delaware Code by deleting subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) Fees for issuance and renewal of licenses and provisional licenses issued pursuant to the provisions of this Chapter shall be established as stated below and shall be remitted to the General Fund of the State of Delaware.

(1) Application fees for nursing homes shall be $250 for nursing homes with 100 beds or fewer, and $375 for nursing homes with more than 100 beds. Application fees for intermediate care group homes for mentally retarded persons shall be $50; application fees for neighborhood group homes shall be $25; application fees for family care homes shall be $25. The fee must accompany an application for licensure.

(2) A license, unless sooner suspended or revoked, shall be renewed annually upon filing by the licensee and a payment of an annual licensure fee of: $150 for nursing homes with 100 beds or fewer; $250 for nursing homes with more than 100 beds; $50 for intermediate care group homes for the mentally retarded; $25 for neighborhood group homes; $25 for family care homes.

(3) A provisional or restricted license as authorized by the State Board of Health shall be issued when health requirements are not met. Fees shall be the same as stated in (b)(2) above. For health care facilities that have been issued a provisional or restricted license, there shall be resubmission of the application fee for reinspection prior to the issuance of an annual license."

Section 7. Amend §9111, Chapter 91, Title 16 of the Delaware Code by striking paragraphs (1) and (2) and substituting in lieu thereof the following:

"(1) For filing an application for a certificate of authority...$375

(2) For filing an annual report...$250"

Section 8. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate or affect the remainder of this Act which shall remain in full force and effect.

Section 9. This Act shall become effective 30 days after its passage.

Approved July 2, 1990.

CHAPTER 267

FORMERLY

HOUSE BILL NO. 751
AS AMENDED BY HOUSE AMENDMENT NO. 1

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 §1209, Chapter 11, Title 12 of the Delaware Code by striking said section in its entirety.

Section 2. Amend Chapter 11, Title 12 of the Delaware Code by adding a new §1155 to read as follows:

"§1155. Examination of Records. The State Escheator may at reasonable times and upon reasonable notice examine the records of any person or business association or organization to determine whether the person has complied with any provision of this Chapter and may by summons require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the investigation, with the power to administer oaths to such person or persons; provided, however, that the State Bank Commissioner shall act on behalf of the State Escheator with regard to examinations of banking organizations. The State Escheator is authorized to reimburse the State Bank Commissioner for the cost of examinations undertaken on his behalf and may pay for such reimbursement out of custodian accounts held for the State Escheator. The State Escheator may disclose such information as he has in his possession to the State Bank Commissioner as may aid in his examination of any banking organization and may disclose any information received from the State Bank Commissioner as may be required: (a) in conjunction with enforcement proceedings; or (b) in summary form to the extent necessary for the proper disposition of the property."

Section 3. Amend §1130, Chapter 11, Title 12 of the Delaware Code by striking the period "." at the end of said section and insert in lieu thereof the following: "or any bank created under the laws of the United States or any state."

Section 4. If any provision, clause or phrase of this Act, or the application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall not invalidate the remainder of this Act or affect the application of the Act or any portion thereof to other persons or circumstances.

Section 5. This Act shall be effective for property deemed abandoned as of the date of its enactment into law and thereafter, notwithstanding the fact that Chapter 11, Title 12 of the Delaware Code may not have applied to such property or holder prior to the enactment of this Act into law, and notwithstanding the fact that a banking organization may have been holding such property prior to the enactment of this Act.

Approved July 2, 1990.

CHAPTER 268

FORMERLY

HOUSE BILL NO. 768

AN ACT TO AMEND CHAPTER 1, TITLE 5 OF THE DELAWARE CODE RELATING TO EXAMINATIONS OF BANKING ORGANIZATIONS.

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

Section 1. Amend §122, Chapter 1, Title 5 of the Delaware Code by adding to said section a new subsection (f) to read as follows:

"(f) The Commissioner or his lawful designee shall examine banking organizations for compliance with the provisions of Subchapter 2 of Chapter 11 of Title 12 and shall report his findings, on a confidential basis, to the State Escheator."

Approved July 2, 1990.

CHAPTER 269

FORMERLY

HOUSE BILL NO. 772

AN ACT TO AMEND TITLE 16, OF THE DELAWARE CODE RELATING TO THE POWERS AND DUTIES OF THE STATE BOARD OF HEALTH.

WHEREAS, the monitoring of drinking water provides for the health and well-being of the citizens of this State; and

WHEREAS, the monitoring of the quality of drinking water assures that standards of sanitation are maintained.

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 Part I, Chapter 1, Title 16, Delaware Code by adding the following:

"§135. Services to Public Water Systems.

(a) The Department will provide services to public water as follows:

(1) Analyze drinking water for chemical and microbiological content.

(2) Inspect public water systems.

(3) Review plans for new systems and major improvements to existing systems.

(4) Provide technical assistance to public water system as needed.

(5) Provide a program to approve the qualifications and competency of laboratories conducting chemical and microbiological testing of potable water.

(6) Provide a program to approve the qualifications and competence of potable water distribution and treatment plant operators in charge of operating public water systems.

(b) The State Board shall initiate the following fees for the above services. The fees imposed under this section reasonably and approximately reflect the costs necessary to defray the expenses of the Board:

COMMUNITY WATER SUPPLIES

Service Connections	Fee
I-49 connections	$50
50-199 connections	$100
200-499 connections	$250
500-999 connections	$400
1000-1999 connections	$5000
2000-4999 connections	$1000
5000-9999 connections	$1500
10,000-29,999 connections	$2000
30,000 and above	$3000
NON-COMMUNITY SUPPLIES	$25
NON-TRANSIENT NON COMMUNITY SUPPLIES	$50

Section 2. If any clause, sentence, section, provision or part of this shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate or affect the remainder of this Act which shall remain in full force and effect.

Section 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Approved July 2, 1990.

CHAPTER 270

FORMERLY

HOUSE BILL NO. 218

AN ACT TO AMEND CHAPTER 27, TITLE 21, OF THE DELWARE CODE RELATING TO THE INCREASE OF REINSTATEMENT FEES FOR DRIVERS WHOSE LICENSES HAVE BEEN SUSPENDED.

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 2737, Chapter 27, Title 21, of the Delaware Code by striking the figures "$15" as they appear in said section and insert in lieu thereof the figures "$25".

Approved July 2, 1990.

CHAPTER 271

FORMERLY

HOUSE BILL NO. 219

AN ACT TO AMEND CHAPTER 31, TITLE 21, OF THE DELAWARE CODE RELATING TO THE FEE FOR A DUPLICATE PHOTO IDENTIFICATION CARD.

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 3105, Chapter 31, Title 21, of the Delaware Code by striking the figure "$3" as it appears in Subsection (b) and insert in lieu thereof the figure "$5".

Approved July 2, 1990.

CHAPTER 272

FORMERLY

HOUSE BILL NO. 194
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PUBLIC HEALTH AND PUBLIC EATING PLACES.

WHEREAS, the inspection of public eating places provides for the health and well-being of the citizens of this State; and

WHEREAS, the inspection of public eating places assures that standards of sanitation are maintained.

NOW, THEREFORE:

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 134, Chapter 1, Title 16, of the Delaware Code by adding new subsections "(c)", "(d)", "(e)" and (f) to read as follows:

"(c) The State Board shall initiate a procedure for the inspection of public eating places prior to the issuance of the permit required under this section. There shall be no fee required for inspection; however, in the event that re-inspection must be initiated in any given year, the State Board shall establish a Restaurant Inspection Fee, payable upon or prior to inspection, in the following manner:

(1) The sum of $50 shall be required for a second inspection;

(2) The sum of $100 shall be required for a third inspection;

(3) The sum of $150 shall be required for each subsequent inspection.

(d) Notwithstanding the provisions of Section 6102, Title 29, the Division shall be allowed to retain and expend the portion of these fees up to the level authorized to fund the cost of the Board.

(e) The restaurant permit shall not be issued prior to the public eating place receiving a satisfactory rating in inspection as defined in the State of Delaware Regulations Governing Public Eating Places.

(f) The following entities shall be exempt from the restaurant inspection fee established in subsection (c) of this section:

(1) Churches;

(2) Fire Halls;

(3) Schools;

(4) Government agencies;

(5) Health care institutions; or

(6) Any non-profit organization."

Section 2. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate or affect the remainder of this Act which shall remain in full force and effect.

Section 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Approved July 2, 1990.

CHAPTER 273

FORMERLY

HOUSE BILL NO. 313
AS AMENDED BY HOUSE AMENDMENT NO. 1
AND SENATE AMENDMENT NO. 1 AND 2

AN ACT TO AMEND SUBCHAPTER IV, CHAPTER 5, TITLE 4 OF THE DELAWARE CODE RELATING TO THE REGULATION OF ALCOHOLIC LIQUORS; AND PROVIDING FOR THE PAYMENT OF CERTAIN 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 §552, Subchapter IV, Chapter 5, Title 4 of the Delaware Code by striking the words "1 year" as the same appear in the first sentence of said section, and substituting the words "2 years" in lieu thereof.

Section 2. Amend §553, Subchapter IV, Chapter 5, Title 4 of the Delaware Code by striking the words "1 year" as the same appear in the said section and substituting the words "2 years" in lieu thereof.

Section 3. Amend §553, Subchapter IV, Chapter 5, Title 4 of the Delaware Code by striking the words "twelfth" and "annual" as the same appear in said section and substituting in lieu thereof the words "twenty-fourth" and "biennial" respectively.

Section 4. Amend §554, Subchapter IV, Chapter 5, Title 4 of the Delaware Code by striking the figure "$225" wherever the same appears in said section, and substituting the figure "$500" in lieu thereof.

Section 5. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$400" wherever the same appears therein, and substituting the figure "$800" in lieu thereof.

Section 6. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$150" wherever the same appears therein, and substituting the figure "$300" in lieu thereof.

Section 7. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$100" wherever the same appears therein, and substituting the figure "$200" in lieu thereof.

Section 8. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$200" as it appears in subsections (d) and (i)(2) of said section and substituting in lieu thereof the figure "$400".

Section 9. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$125" wherever the same appears therein, and substituting the figure "$250" in lieu thereof.

Section 10. Amend Subsection (i), Section 554, Chapter 5, Title 4 of the Delaware Code by striking the word "annual" as the same appears in paragraph (2), and substituting the word "biennial" in lieu thereof.

Section 11. Amend §554, Subchapter IV, Chapter 5, Title 4 of the Delaware Code by striking the words "a license" as the same appears in subsection (j), and substituting the words "a biennial license" in lieu thereof.

Section 12. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$500" wherever the same appears therein, and substituting the figure "$1,000" in lieu thereof.

Section 13. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$1,000" wherever the same appears therein, and substituting the figure "$2,000" in lieu thereof.

Section 14. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$2,000" wherever the same appears therein, and substituting the figure "$4,000" in lieu thereof.

Section 15. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$3,000" wherever the same appears therein, and substituting the figure "$6,000" in lieu thereof.

Section 16. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$50" as the same appears in subsection (ee), and substituting the figure "$100" in lieu thereof.

Section 17. Amend §554, Chapter 5, Title 4 of the Delaware Code by adding, at the end of subsection (k), the following sentence:

"All fees under this subsection shall be paid biennially."

Section 18. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$2,500" wherever the same appears therein, and substituting the figure "$5,000" in lieu thereof.

Section 19. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$750" wherever the same appears therein, and substituting the figure "$1,500" in lieu thereof.

Section 20. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$250" wherever the same appears therein, and substituting the figure "$500" in lieu thereof.

Section 21. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$450" wherever the same appears therein, and substituting the figure "$900" in lieu thereof.

Section 22. Amend §554, Chapter 5, Title 4 of the Delaware Code by striking the figure "$75" wherever the same appears therein, and substituting the figure "$150" in lieu thereof.

Section 23. Amend §542, Chapter 5, Title 4 of the Delaware Code by striking the word "annual" as the same appears twice in said section, and substituting the word "biennial" in lieu thereof.

Section 24. Amend §514, Title 4, Delaware Code by deleting the words 'annual premises' and 'Annual Premises' where ever they occur therein and by inserting in lieu thereof the words 'biennial premises' and 'Biennial Premises' respectively; and by deleting the phrase 'valid for the entire calendar year in which it is granted' as it appears in paragraph (b)(2) thereof, and by inserting in lieu thereof the phrase 'valid for the entire two year'.

Section 25. Amend §521, Title 4, Delaware Code by deleting the word 'annual' as it appears therein and by inserting in lieu thereof the word 'biennial'.

Section 26. Amend §552, Title 4, Delaware Code by deleting the words '1 year' and 'annual' as they appear in the last sentence thereof and by inserting in lieu thereof the words '2 years' and 'biennial' respectively."

Approved July 2, 1990.

CHAPTER 274

FORMERLY

HOUSE BILL NO. 444

AN ACT TO AMEND CHAPTER 73, TITLE 6, AND CHAPTER 61, TITLE 29, OF THE DELAWARE CODE RELATING TO THE REGULATION OF BROKER-DEALERS, INVESTMENT ADVISERS AND AGENTS.

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 73, Title 6, of the Delaware Code by striking subsection 7302(a)(2) in its entirety and substituting in lieu thereof the following:

"(2) "Agent"

(i) With respect to an agent of a broker-dealer or issuer, "agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents an issuer in effecting transactions in a security exempted by section 7309(a), (1), (2), (3), (10), or (11), effecting transactions exempted by section 7309(b), or effecting transactions with existing employees, partners, or directors of the issuer if no commission or remuneration is paid or given directly or indirectly for soliciting any person in this State, or an individual who represents an issuer or a member of a bona fide agricultural cooperative whose securities are exempt from registration under section 7309(a)(12). A partner, officer, or director of a broker-dealer or issuer, or a person occupying similar status or performing similar functions, is an agent only if he otherwise comes within this definition.

(ii) With respect to an agent of an investment adviser, "agent" means any individual who acts on behalf of an investment adviser in providing investment advice, obtaining compensation, or otherwise representing the adviser in a transaction or communication with a client or prospective client. An individual who is specifically excluded from the definition of "investment adviser" in section 7302(a)(6) is not an agent."

Section 2. Amend Chapter 73, Title 6, of the Delaware Code by striking the term "$100" in the first sentence of subsection 7305(b) and substituting in lieu thereof the following: "$200 (except registration renewals for open-end investment companies, which shall be $100)".

Section 3. Amend Section 7314(a)(1), Chapter 73, Title 6, of the Delaware Code by striking the term "thirtieth day" and substituting in lieu thereof the term "ninetieth day" in the last sentence, and again in the next-to-last sentence, in said subsection.

Section 4. Amend Chapter 73, Title 6, of the Delaware Code by striking subsection 7314(b) in its entirety and substituting in lieu thereof the following:

"(b) Every applicant for initial or renewal registration as a broker-dealer or investment adviser shall pay a filing fee of $150. Every applicant for initial, transfer or renewal registration as an agent of a broker-dealer, investment adviser or issuer shall pay a filing fee of $30."

Section 5. Amend Chapter 73, Title 6, of the Delaware Code by striking subsections 7314(f) and 7314(g) in their entirety.

Section 6. Amend Chapter 73, Title 6, of the Delaware Code by striking subsection 7315(e) in its entirety.

Section 7. Amend Chapter 73, Title 6, of the Delaware Code by striking the last sentence in subsection 7316(a) which reads as follows:

"The Commissioner may not institute a suspension or revocation proceeding on the basis of fact or transaction known to him when registration became effective unless the proceeding is instituted within the next 30 days."

Section 8. Amend Chapter 73, Title 6, of the Delaware Code by adding a new subsection 7316(a)(12), to read as follows:

"(12) has violated or failed to comply with any lawful order issued by the Commissioner."

Section 9. Amend Chapter 73, Title 6, of the Delaware Code by striking subsection 7316(g) in its entirety and substituting in lieu thereof the following:

"(g) The Commissioner shall, upon notice and hearing as further defined by subsection (c) of this section, have the right to fine any broker-dealer, investment adviser or agent in an amount not to exceed $10,000 for each and every violation of this act, plus the costs of investigation and prosecution."

Section 10. Amend Chapter 73, Title 6, of the Delaware Code by striking the term "$10,000" and substituting in lieu thereof the term "$100,000" in the first sentence of subsection 7322(a).

Section 11. Amend Chapter 73, Title 6, of the Delaware Code by deleting the word "competent" from section 7324 in the following sentence: "The findings of the Commissioner as to the facts, if supported by competent, material and substantial evidence, are conclusive."

Section 12. Amend Chapter 73, Title 6, of the Delaware Code by striking subsections 7325(b) and 7325(c) in their entirety and substituting in lieu thereof the following:

"(b) The Commissioner may make, amend and rescind rules, regulations, forms and orders to carry out and define the provisions of this act. Such orders may provide for fines, assessment of costs, restitution to investors, conditional or probationary registration, censure or reprimand, special reporting requirements, or other provisions which the Commissioner determines to be in the public interest.

(c) Whenever it appears that a person has violated this act by failing to register or engaging in fraud or other prohibited conduct, the Commissioner may summarily issue a cease and desist order against that person.

(1) Any person who is the subject of such an order shall be given notice of it as soon as practicable and may request a hearing before the Commissioner, which hearing shall be scheduled within 15 days from the date the request is received.

(2) If any person who is the subject of a cease and desist order, or any agent or employee of such person, subsequent to the issuance of the order engages in the prohibited conduct, the Commissioner may certify the facts and apply for a contempt order to any Judge of the Superior Court, who shall upon such application hear the evidence as to the acts complained of. If the evidence warrants, the Judge shall punish such person in the same manner and to the same extent as for a contempt committed before the Superior Court, or shall commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of, or in the presence of, the Superior Court.

(d) The Commissioner shall publish such rules, regulations, forms and orders as such rules specify."

Section 13. Amend Chapter 73, Title 6, of the Delaware Code by adding a new section 7329, to read as follows:

"Section 7329. Investor Protection Fund.

(a) All moneys received by the State as a result of administrative or court actions brought by the Attorney General or the Securities Commissioner pursuant to this chapter shall be credited by the State Treasurer to a fund to be known as the "Investor Protection Fund."

(b) The Investor Protection Fund will be a revolving fund and shall consist of: (1) moneys transferred to the revolving fund pursuant to court order or judgment, including costs and attorney's fees, in a securities action brought by the Attorney General or the Securities Commissioner pursuant to this chapter, and (2) moneys in the nature of fines and costs (to cover the expense of investigation and prosecution) imposed and collected by the Commissioner pursuant to his administrative authority under this chapter, to be deposited in the revolving fund.

(c) If, at the end of any fiscal year, the balance in the Investor Protection Fund exceeds $100,000, the excess shall be withdrawn from the Investor Protection Fund and deposited in the General Fund.

(d) The Attorney General is authorized to expend from the Investor Protection Fund such moneys as are necessary for: (1) the payment of costs, expenses and charges incurred in the preparation, institution and maintenance of administrative

and court actions authorized under this chapter, (2) the payment of costs, expenses and charges incurred in the training and education of Securities Division personnel, and (3) the payment of costs, expenses and charges incurred in connection with the dissemination of information to the public, to include the cost of printing copies of this statute and the Commissioner's administrative rules. Moneys from the Investor Protection Fund may not be used for any purpose unrelated to the administration or enforcement of this chapter.

(e) The Attorney General and the Securities Commissioner shall provide such reports as to the expenditure of moneys from the Investor Protection Fund to the Delaware State Clearinghouse Committee, and in such detail, as the Committee requires."

Section 14. Amend Chapter 61, Title 29, of the Delaware Code by striking Section 6102(f) in its entirety and substituting in lieu thereof the following:

"(f) All moneys collected pursuant to Chapter 73 of Title 6, other than those which are to be deposited in or transferred to the Investor Protection Fund pursuant to Section 7329 of Title 6, shall be part of the General Fund. The Attorney General shall specifically include in his annual operational budget the salaries, including, but not limited to, the salary of the Deputy Attorney General appointed Securities Commissioner, and other expenses of administering Chapter 73 of Title 6 which are not met by the Investor Protection Fund."

Approved July 2, 1990.

CHAPTER 275

FORMERLY

HOUSE BILL NO. 655

AN ACT TO AMEND SUBCHAPTER II, CHAPTER 12, TITLE 3 OF THE DELAWARE CODE RELATING TO PESTICIDES.

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 1212, Subchapter II, Chapter 12, Title 3 of the Delaware Code by redesignating the present section as subsection "(a)".

Section 2. Amend Section 1212, Subchapter II, Chapter 12, Title 3 of the Delaware Code by adding a new subsection (b) thereto which shall read as follows:

"(b) The Department shall by regulation charge a fee not to exceed $25 for the registration of noncertified individuals in the employ of licensees."

Section 3. Amend Section 1212, Subchapter II, Chapter 12, Title 3 of the Delaware Code by adding a new subsection (c) thereto which shall read as follows:

"(c) The employee registration fee shall not be required to a certified commercial applicator, provided that the applicator's certificate is valid."

Approved July 2, 1990.

CHAPTER 276

FORMERLY

HOUSE BILL NO. 656

AN ACT TO AMEND CHAPTER 76, TITLE 3 OF THE DELAWARE CODE RELATING TO LIVESTOCK DEALERS.

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 7603, Chapter 76, Title 3 of the Delaware Code by striking the words "$10" where they appear therein and substituting in lieu thereof the words "$25".

Approved July 2, 1990.

CHAPTER 277

FORMERLY

HOUSE BILL NO. 657

AN ACT TO AMEND CHAPTER 72, TITLE 3 OF THE DELAWARE CODE RELATING TO FOREIGN ANIMALS AND REPTILES.

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 7202, Chapter 72, Title 3 of the Delaware Code by striking the words "$2" where they appear therein and substituting in lieu thereof the words "$25".

Approved July 2, 1990.

CHAPTER 278

FORMERLY

HOUSE BILL NO. 750

AN ACT TO TRANSFER FUNDS FROM THE FIRST STATE IMPROVEMENT FUND TO THE GENERAL FUND.

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

Twenty-five million dollars ($25,000,000) shall be immediately transferred into the General Fund of the State of Delaware from the First State Improvement Fund.

Approved July 2, 1990.

CHAPTER 279

FORMERLY

HOUSE BILL NO. 773

AN ACT TO AMEND TITLE 5, CHAPTER 11 OF THE DELAWARE CODE RELATING TO BANK FRANCHISE 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 §1104(b), Title 5 of the Delaware Code by deleting the phrase "25 percent of the estimated tax liability on June 1, September 1 and December 1" as it appears therein and substituting therein the phrase "40 percent of the estimated tax liability on June 1, 20 percent on September 1, and 20 percent on December 1".

Approved July 2, 1990.

CHAPTER 280

FORMERLY

HOUSE BILL NO. 774

AN ACT TO AMEND CHAPTER 53, TITLE 30 OF THE DELAWARE CODE RELATING TO THE TOBACCO PRODUCT TAX.

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 5305(a), Chapter 53, Title 30 of the Delaware Code by striking the figure "7" as it appears in said subsection and substituting in lieu thereof the figure "9.5".

Section 2. Amend Section 5317, Chapter 53, Title 30 of the Delaware Code by designating Section 5317 as subsection (a) of said section and adding thereto a new subsection (b) to read as follows:

"(b) Between noon local time and midnight on each July 31, and December 31, no affixing agent shall have in its possession cigarettes without the stamps affixed as herein provided or not segregated or marked as exempt from the requirement of Delaware tobacco product tax stamps and shall accurately report to the Director of Revenue the quantity of cigarettes bearing stamps and the balance remaining in any device used for affixation of stamps at that time. Failure to comply with this provision shall be prima facie cause for suspension or revocation of licenses under §5313 of this Chapter."

Section 3. Amend Section 5342, Chapter 53, Title 30 of the Delaware Code by adding to said section a new subsection (c) to read as follows:

"(c) Notwithstanding the provisions of subsection (b) of this section, any violation of §5317(b) of this Chapter shall be punishable as a violation of subsection (b) of this section, except that the Superior Court in and for the county in which any element of the offense occurred shall have exclusive original jurisdiction over offenses under this subsection."

Section 4. Sections 1 and 5 of this Act shall establish the rate of tax to pay or to have been paid for any first possession of cigarettes (within the meaning of 30 Del. C. §5306) in Delaware which may occur on or after August 1, 1990 (and before January 1, 1991), and on or after January 1, 1991, respectively. In addition, and not by way of limitation, there shall be imposed on all cigarette wholesaler dealers a tax on all cigarettes in the possession of such wholesaler dealers at midnight, July 31, 1990, (in the case of Section 1 of this Act) and December 31, 1990 (in the case of Section 5 of this Act) which shall as of that time and date have been affixed with Delaware metered impressions or other indicia of payment of the tax in effect prior to the effectiveness of the appropriate section of this Act. Such additional tax shall be at the rate specified in Section 1 or Section 5 of this Act, as appropriate, less the tax previously paid with respect to such cigarettes. For purposes of this Section, possession shall include possession within or without Delaware and possession within any facility of the wholesale dealer, including any retail facility. The Director of Revenue shall have the authority to promulgate such regulation, which shall have the force and effect of law, and to require such information from any dealer or to conduct such audits, examinations or inspections, as he may deem appropriate for the purpose of implementing these provisions.

Section 5. Amend §5305(a), Chapter 53, Title 30 of the Delaware Code by striking the figure "9.5" as it appears in said subsection and substitute in lieu thereof the figure "12".

Section 6. Amend §5305(a), Chapter 53, Title 30 of the Delaware Code by adding at the end thereof a new sentence to read as follows: "In the event the tax computed according to this subsection results in a tax per pack involving a fraction of a cent, the tax applicable to that pack shall be computed by rounding the tax to the next higher whole cent."

Approved July 2, 1990.

CHAPTER 281

FORMERLY

SENATE BILL NO. 500

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1991; 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, 1991, 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 Title 29, Part VI, 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 1991, 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 Title 29, Section 6521, Delaware Code.

The several amounts hereby appropriated are as follows:

DEPARTMENTS

(01-00-00) LEGISLATIVE

(01-01-01) General Assembly - House

Salaries - House Members	$ 1,076.9
Salaries (21.0)	616.6
Salaries - Attaches	361.1
Other Employment Costs	373.5
Travel	
Mileage - Legislators	58.0
Other - Travel	30.2
Contractual Services	305.0
Supplies and Materials	15.0
Capital Outlay	50.0
Expenses - House Members	250.1
House Committee Expenses	35.0
TOTAL -- General Assembly - House	$ 3,171.4

(01-02-01) General Assembly - Senate

Salaries - Senate Members	$ 604.3
Salaries (14.0)	360.8
Salaries - Attaches	379.0
Other Employment Costs	241.4
Travel	
Mileage - Legislative	38.5
Other - Travel	50.0
Contractual Services	200.2
Supplies and Materials	33.0
Capital Outlay	40.0
Advertising - Senate Substance Abuse Comm.	200.0
Expenses - Senate Members	128.1
Senate Committee Expenses	75.0
TOTAL -- General Assembly - Senate	$ 2,350.3

(01-05-01) Commission on Interstate Cooperation

Travel	$ 18.0
Travel - Appalachian Compact	3.0
Legislative Travel	75.0
Contractual Services	30.0
Contractual Services - Appalachian Compact	5.0
Supplies and Materials	.5

	Year Ending June 30, 1991
Council of State Governments	48.6
Delaware River Basin Commission	253.5
National Conference of State Legislatures	51.9
TOTAL — Commission on Interstate Cooperation	$ 485.5
(01-08-00) Legislative Council	
(01-08-01) Office of the Research Director	
Salaries (16.0)	$ 470.2
Other Employment Costs	128.6
Travel	6.0
Contractual Services	53.9
Supplies and Materials	50.8
Capital Outlay	62.3
Sunset Committee Expenses	35.1
SET Program	17.0
Session Laws/Journals	16.0
Sub-Total	$ 839.9
Debt Service	$ 15.0
TOTAL — Office of the Research Director	$ 854.9
(01-08-02) Office of the Controller General	
Salaries (13.0)	$ 570.7
Other Employment Costs	137.1
Travel	12.8
Contractual Services	98.9
Contractual Services - Reapportionment	25.0
Supplies and Materials	25.7
Capital Outlay	2.7
Family Law Commission Expenses	3.4
Contingency - Zero Base Budget	12.0
Contingency - Reapportionment	25.0
Contingency - Internship	10.0
Contingency - Legislative Council	20.0
Family Life Education Project	30.0
TOTAL — Office of the Controller General	$ 973.3
(01-08-03) Code Revisors	
Travel	$ .6
Contractual Services	165.8
Supplies and Materials	1.0
TOTAL — Code Revisors	$ 167.4
(01-08-06) Commission on Uniform State Laws	
Travel	$ 6.0
Contractual Services	5.5
Supplies and Materials	.1
TOTAL — Commission on Uniform State Laws	$ 11.6
TOTAL — Legislative Council	$ 2,007.2
TOTAL — LEGISLATIVE	$ 8,014.4

TOTAL POSITIONS

GF - 64.0

(02-00-00) JUDICIAL

(02-01-00) Supreme Court

				Year Ending June 30, 1991	
	Personnel Costs (22.0)			$	$ 1,338.1
	Travel			7.5	27.3
	Contractual Services			64.4	82.6
	Supplies and Materials			5.1	9.5
	Capital/Equipment			8.0	17.0
	Court on the Judiciary				1.0
	TOTAL -- Supreme Court			$ 85.0	$ 1,475.5
	(-10) Appeals Processing (21.6)	$	$ 1,376.7		
	(-20) Regulation of the Practice of Law	85.0			
	(-30) Judicial Branch Administration (.4)		98.8		
	TOTAL -- Internal Program Units	$ 85.0	$ 1,475.5		
	(02-02-00) Court of Chancery				
	Personnel Costs (24.0)				$ 1,406.5
	Travel				6.9
	Contractual Services				53.2
	Supplies and Materials				12.7
	Capital/Equipment				12.5
	TOTAL -- Court of Chancery				$ 1,491.8
	(-10) Case Processing (22.8)		$ 1,425.2		
	(-20) Administration (1.2)		66.6		
	TOTAL -- Internal Program Units		$ 1,491.8		
	(02-03-00) Superior Court				
(5.0)NSF	Personnel Costs (233.0)				$ 8,383.6
	Travel				31.4
	Contractual Services				465.9
	Supplies and Materials				73.0
	Capital/Equipment				37.0
	TOTAL -- Superior Court				$ 8,990.9
(1.0)NSF	(-10) Case Processing (106.0)		$ 5,334.4		
(4.0)NSF	(-20) Presentence Investigation (31.0)		959.9		
	(-30) Administration (7.0)		215.3		
	(-40) Arbitration (4.0)		115.6		
	(-50) NCC Prothonotary (63.0)		1,823.5		
	(-60) Kent County Prothonotary (11.0)		286.7		
	(-70) Sussex County Prothonotary (11.0)		255.5		
	TOTAL -- Internal Program Units		$ 8,990.9		
	(02-06-00) Court of Common Pleas				
	Personnel Costs (67.0)				$ 2,510.0
	Travel				2.8
	Contractual Services				84.4
	Supplies and Materials				20.1
	Capital/Equipment				9.5
	TOTAL -- Court of Common Pleas				$ 2,626.8
	(-10) Court Operations (67.0)		$ 2,626.8		
	TOTAL -- Internal Program Unit		$ 2,626.8		
	(02-08-00) Family Court				
(54.0)ASF	Personnel Costs (239.0)			$ 1,356.4	$ 8,654.8
(15.0)NSF	Travel			11.4	20.5
	Contractual Services			99.2	468.9
	Supplies and Materials			27.0	90.8
	Capital/Equipment			78.2	6.7

			Year Ending June 30, 1991	
	Sub-Total		$ 1,572.2	$ 9,241.7
	Debt Service			$ 12.3
	TOTAL -- Family Court		$ 1,572.2	$ 9,254.0
(54.0)ASF (-10) Court Activities (239.0) (15.0)NSF		$ 1,572.2	$ 9,254.0	
	TOTAL -- Internal Program Unit	$ 1,572.2	$ 9,254.0	
	(02-13-00) Justices of the Peace Courts			
	Personnel Costs (219.0)			$ 6,643.3
	Travel			92.3
	Contractual Services			453.8
	Energy			111.6
	Supplies and Materials			89.7
	Capital/Equipment			12.5
	Sub-Total			$ 7,403.2
	Debt Service			$ 70.4
	TOTAL -- Justices of the Peace Courts			$ 7,473.6
	(-10) Case Processing (169.0)		$ 5,969.7	
	(-20) Support Service Unit (14.0)		482.1	
	(-30) Capias Enforcement Unit (36.0)		1,021.8	
	TOTAL -- Internal Program Units		$ 7,473.6	
	(02-17-00) Administrative Office of the Courts - Court Services			
	Personnel Costs (31.0)			$ 1,279.2
	Travel			12.3
	Contractual Services			2,405.9
	Energy			1.8
	Supplies and Materials			23.7
	Capital/Equipment			249.9
	Retired Judges			6.0
	Court Tracking Project			39.0
	TOTAL -- Administrative Office of the Courts - Court Services			$ 4,017.8
	(-01) Office of the Director (15.0)		$ 2,962.6	
	(-04) Judicial Information Center (11.5)		669.5	
	(-05) Law Libraries (4.5)		385.7	
	TOTAL -- Internal Program Units		$ 4,017.8	
	(02-18-00) Administrative Office of the Courts - Non-Judicial Services			
(8.0)ASF	Personnel Costs (14.0)		$ 284.6	$ 456.8
	Travel		17.5	19.6
	Contractual Services		54.5	47.3
	Energy		2.4	
	Supplies and Materials		3.3	10.2
	Capital/Equipment		6.5	2.5
	Other Items		1,283.9	19.4
	TOTAL -- Non-Judicial Services		$ 1,652.7	$ 555.8
	(-01) Office o/t Public Guardian (6.0)	$	$ 238.8	
(8.0)ASF	(-02) Violent Crimes Compensation Board	1,652.7		
	(-03) Foster Care Review Board (7.0)		270.8	
	(-04) Educational Surrogate Parent Program (1.0)		46.2	

				Year Ending June 30, 1991	
	TOTAL — Internal Program Units	$ 1,652.7	$ 555.8		
	TOTAL — JUDICIAL			$ 3,309.9	$ 35,886.2
	TOTAL POSITIONS				
	GF - 849.0				
	ASF - 62.0				
	NSF - 20.0				
	(10-00-00) EXECUTIVE				
	(10-01-01) Office of the Governor				
(1.0)ASF	Salaries (22.8)			$ 28.9	$ 961.8
(2.0)NSF	Other Employment Costs			7.5	242.6
	Travel			2.0	21.9
	Contractual Services			112.2	191.1
	Supplies and Materials			1.0	28.4
	Capital Outlay			1.0	7.6
	Woodburn Expenses				38.0
	Contingency - Other Expenses				8.7
	TOTAL — Office of the Governor			$ 152.6	$ 1,500.1
	(10-02-00) Office of the Budget				
(12.0)ASF	Personnel Costs (200.6)			$ 373.3	$ 8,308.8
(3.0)NSF	Travel			3.5	76.0
	Contractual Services			1,644.8	6,976.2
	Energy				301.9
	Supplies and Materials			7.9	374.6
	Capital/Equipment			19.6	94.5
	Data Processing - Development Projects				2,100.0
	Budget Automation - Operations				113.2
	Management Improvement Program				50.0
	Contingency:				
	Budget Commission				150.0
	One-Time Appropriations				10,353.0
	Prior Years' Obligations				250.0
	Salary Contingency				500.0
	Community Development				100.0
	Self Insurance				1,400.0
	Legal Fees				300.0
	State Special Funds			20,000.0	
	Sub-Total			$ 22,049.1	$ 31,448.2
	Debt Service				$ 255.8
	TOTAL — Office of the Budget			$ 22,049.1	$ 31,704.0
(4.0)ASF	(-01)	Office o/t Budget Administration (29.0)	$ 816.4	$ 4,197.8	
	(-04)	Contingency & One-Time Items	20,000.0	12,903.0	
	(-06)	Budget Commission	150.0		
(3.0)NSF	(-07)	Postsecondary Education Commission (5.5)	1,907.5		
	(-09)	Office of Information Systems Production (68.0) 98.4	6,128.7		
(8.0)ASF	(-11)	Office of Information Systems Northern Data Center (10.1)	1,019.3	1,008.8	
	(-12)	Office of Information Systems Telecommunications Management (8.0)		65.0	
929.5					
	(-14)	Office of Information Systems Planning & Development (60.0)	50.0	3,000.5	
	(-15)	Office of Information Systems Administration (20.0)		1,478.2	
	TOTAL — Internal Program Units	$ 22,049.1	$ 31,704.0		
	(10-03-00) Delaware Development Office				

		Year Ending June 30, 1991	
	(10-03-01) Office of the Director		
	Salaries (13.0)		$ 445.6
	Other Employment Costs		122.7
	Travel		11.0
	Contractual Services		28.0
	Energy		29.3
	Supplies and Materials		5.0
	Capital Outlay		1.3
	Teacher Recruitment		80.0
	Sub-Total		$ 722.9
	Debt Service		$ 197.1
	TOTAL -- Office of the Director		$ 920.0
	(10-03-02) Delaware Tourism Office		
	Salaries (8.0)	$	$ 202.2
	Other Employment Costs		58.0
	Travel		29.6
	Contractual Services		566.2
	Supplies and Materials		10.7
	Capital Outlay		2.2
	Junior Miss		.5
	Mother of the Year		.8
	Young Mother of the Year		.8
	Business Tourism Promotion	305.0	245.0
	TOTAL -- Delaware Tourism Office	$ 305.0	$ 1,116.0
	(10-03-03) Delaware Economic Development Authority		
(4.0)ASF	Salaries (32.0)	$ 123.9	$ 1,070.9
	Other Employment Costs	35.8	275.0
	Travel	15.0	39.0
	Contractual Services	943.5	711.6
	Energy	5.0	
	Supplies and Materials	14.3	27.4
	Capital Outlay	10.0	1.5
	General Obligation Bonds	350.0	223.7
	International Trade		90.0
	Other Items	665.0	130.0
	Sub-Total	$ 2,162.5	$ 2,569.1
	Debt Service		$ 1,256.9
	TOTAL -- Delaware Economic Development Authority	$ 2,162.5	$ 3,826.0
	(10-03-04) State Housing Authority		
(54.0)ASF	Salaries	$ 1,369.4	
(3.0)NSF	Other Employment Costs	396.4	
	Travel	37.0	
	Contractual Services	779.7	
	Energy	17.1	
	Supplies and Materials	71.1	
	Capital Outlay	147.7	
	Holly Square	93.2	
	Huling Cove	148.7	
	Huling Cove Annex	316.4	
	Housing Development Fund	32,000.0	
	Public Housing	443.6	
	Home Improvement Insurance	230.0	
	Sub-Total	$ 36,050.3	
	Debt Service		$ 53.5

		Year Ending June 30, 1991	
	TOTAL — State Housing Authority	$ 36,050.3	$ 53.5
	TOTAL — Delaware Development Office	$ 38,517.8	$ 5,915.5
	(10-04-00) Office of State Personnel		
	(10-04-02) Operations		
(12.0)ASF	Salaries (30.0)	$ 302.6	$ 957.0
	Other Employment Costs	76.5	274.2
	Travel	1.3	10.5
	Travel - Commission		3.0
	Contractual Services	16.4	222.7
	Supplies and Materials	13.2	31.6
	Capital Outlay	12.0	
	Generic Aides/Handicapped Employees (20.0)		277.7
	TOTAL — Operations	$ 422.0	$ 1,776.7
	(10-04-04) Staff Development and Training		
(2.0)ASF	Salaries (3.0)	$ 57.4	$ 132.4
	Other Employment Costs	14.9	35.2
	Travel	.5	1.5
	Contractual Services	8.0	81.4
	Supplies and Materials	1.0	24.0
	Capital Outlay	2.5	
	Blue Collar	125.0	
	TOTAL — Staff Development and Training	$ 209.3	$ 274.5
	(10-04-05) Insurance Coverage Office		
(2.0)ASF	Salaries (1.0)	$ 16.0	$ 52.3
	Other Employment Costs	4.7	12.8
	Contractual Services	10,800.0	388.0
	TOTAL — Insurance Coverage Office	$ 10,820.7	$ 453.1
	(10-04-06) Pensions		
(37.7)ASF	Salaries (1.3)	$ 880.0	$ 37.3
	Other Employment Costs	274.2	12.7
	Travel	44.8	.8
	Contractual Services	5,821.5	3.1
	Supplies and Materials	23.0	.5
	Capital Outlay	31.8	.7
	Data Processing	235.0	
	State Police Pension		1,178.0
	Special Pensions		46.0
	Health Insurance - Retirees		21,673.9
	Pensions - Paraplegic Veterans		15.6
	TOTAL — Pensions	$ 7,310.3*	$ 22,968.6
	TOTAL — Office of State Personnel	$ 18,762.3	$ 25,472.9

*All Administrative Expenses are paid out of State Employees Retirement Fund.

	(10-07-00) Criminal Justice	
	(10-07-01) Criminal Justice Council	
(4.5)NSF	Salaries (11.0)	$ 382.7
	Other Employment Costs	107.9
	Travel	6.5
	Contractual Services	40.0
	Supplies and Materials	3.9
	Capital Outlay	13.9
	SENTAC	19.5
	Other Grants	65.0

			Year Ending June 30, 1991
	TOTAL -- Criminal Justice Council		$ 639.4
	(10-07-02) Delaware Justice Information System		
	Salaries (6.0)		$ 230.1
	Other Employment Costs		58.4
	Travel		5.5
	Contractual Services		494.1
	Supplies and Materials		5.5
	Capital Outlay		12.6
	TOTAL -- Delaware Justice Information System		$ 806.2
	(10-07-03) Statistical Analysis Center		
(3.0)NSF	Salaries (4.5)		$ 142.0
	Other Employment Costs		54.2
	Travel		3.5
	Contractual Services		10.1
	Supplies and Materials		3.3
	Capital Outlay		2.2
	TOTAL -- Statistical Analysis Center		$ 215.3
	TOTAL -- Criminal Justice		$ 1,660.9
	(10-08-01) Planning and Coordination		
	Salaries (5.0)		$ 183.2
	Other Employment Costs		50.3
	Travel		4.8
	Contractual Services		63.3
	Supplies and Materials		6.6
	TOTAL -- Planning and Coordination		$ 308.2
	TOTAL -- EXECUTIVE	$ 79,481.8	$ 66,561.6
	TOTAL POSITIONS		
	GF - 358.2		
	ASF - 124.7		
	NSF - 15.5		
	(12-00-00) OTHER ELECTIVE OFFICES		
	(12-01-01) Lieutenant Governor		
	Salaries (6.0)		$ 199.5
	Other Employment Costs		45.9
	Travel		11.5
	Contractual Services		23.5
	Supplies and Materials		5.8
	Capital Outlay		2.5
	Expenses - Lieutenant Governor		6.4
	TOTAL -- Lieutenant Governor		$ 295.1
	(12-02-01) Auditor of Accounts		
(16.0)ASF	Salaries (41.0)	$ 467.6	$ 1,165.0
	Other Employment Costs	129.2	331.0
	Travel	3.6	4.4
	Contractual Services	342.5	163.3
	Supplies and Materials	10.8	12.3
	Capital Outlay	2.5	2.0
	OIS Audit		50.0
	TOTAL -- Auditor of Accounts	$ 956.2	$ 1,728.0
	(12-03-00) Insurance Commissioner		

		Year Ending June 30, 1991	
	(12-03-01) Regulatory Activities		
	Salaries (20.0)	$	$ 515.3
	Other Employment Costs		144.1
	Travel		8.1
	Contractual Services	30.0	188.1
	Supplies and Materials		6.9
	Capital Outlay		4.5
	Malpractice Review		10.6
	TOTAL -- Regulatory Activities	$ 30.0	$ 877.6
	(12-03-02) Bureau of Examination, Rehabilitation and Guaranty		
(26.0)ASF	Salaries	$ 1,013.3	
	Other Employment Costs	221.1	
	Travel	112.0	
	Contractual Services	456.7	
	Supplies	42.0	
	Capital Outlay	53.2	
	Contract Examiners	6,500.0	
	Insurance Pool	32.0	
	TOTAL -- Bureau of Examination, Rehabilitation and Guaranty	$ 8,430.3	
	TOTAL -- Insurance Commissioner	$ 8,460.3	$ 877.6
	(12-05-00) State Treasurer		
	(12-05-01) Administration		
(6.0)ASF	Salaries (20.0)	$ 189.2	$ 532.4
(1.0)NSF	Other Employment Costs	52.2	148.9
	Travel	13.6	4.8
	Contractual Services	50.9	97.3
	Banking Services	950.0	
	Supplies and Materials	4.9	9.8
	Capital Outlay	15.2	2.0
	Data Processing	12.0	
	Blood Bank Membership Dues		70.0
	TOTAL -- Administration	$ 1,288.0	$ 865.2
	(12-05-03) Debt Management		
	Expense of Issuing Bonds		$ 207.7
	Debt Service - Regular		9,674.2
	Debt Service - Local Schools		2,311.3
	Debt Service - Farmers Bank Preferred Stock		1,281.0
	Debt Service - Solid Waste Authority		415.8
	Debt Service - Refunding		721.8
	Financial Advisor		35.0
	TOTAL -- Debt Management		$ 14,646.8
	TOTAL -- State Treasurer	$ 1,288.0	$ 15,512.0
	TOTAL -- OTHER ELECTIVE OFFICES	$ 10,704.5	$ 18,412.7

TOTAL POSITIONS

GF - 87.0
ASF - 48.0
NSF - 1.0

	(15-00-00) LEGAL		
	(15-01-01) Office of Attorney General		
(4.0)ASF	Salaries (168.0)	$ 113.7	$ 5,273.6

		Year Ending June 30, 1991	
(20.0)NSF	Other Employment Costs	26.8	1,391.3
	Travel		12.0
	Contractual Services		816.5
	Supplies and Materials		44.1
	Capital Outlay		38.0
	Extradition		48.0
	TOTAL -- Office of Attorney General	$ 140.5	$ 7,623.5
	(15-02-01) Public Defender		
(10.0)NSF	Salaries (89.0)		$ 2,834.2
	Other Employment Costs		719.3
	Travel		1.9
	Contractual Services		383.0
	Supplies and Materials		23.5
	Capital Outlay		21.1
	TOTAL -- Public Defender		$ 3,983.0
	(15-03-01) Board of Parole		
	Salaries (7.0)		$ 198.4
	Other Employment Costs		51.5
	Travel		10.1
	Contractual Services		16.9
	Supplies and Materials		4.0
	TOTAL -- Board of Parole		$ 280.9
	TOTAL -- LEGAL	$ 140.5	$ 11,887.4

TOTAL POSITIONS

GF - 264.0
ASF - 4.0
NSF - 30.0

(20-00-00) DEPARTMENT OF STATE

(20-01-00) Office of the Secretary

(20-01-01) Administration

	Salaries (8.0)	$	$ 251.9
	Other Employment Costs		53.6
	Travel		3.2
	Contractual Services	50.0	58.9
	Supplies and Materials	5.0	19.9
	Capital Outlay	100.0	
	Sub-Total	$ 155.0	$ 387.5
	Debt Service		$ 61.5
	TOTAL -- Administration	$ 155.0	$ 449.0

(20-01-02) Delaware Commission on Veterans Affairs

	Salaries (6.0)	$	$ 115.3
	Other Employment Costs		39.2
	Travel		5.7
	Contractual Services	6.0	51.5
	Energy		17.0
	Supplies and Materials	8.0	38.5
	Capital Outlay	6.0	
	TOTAL -- Delaware Commission on Veterans Affairs	$ 20.0	$ 267.2
	TOTAL -- Office of the Secretary	$ 175.0	$ 716.2

		Year Ending June 30, 1991	
	(20-05-01) Division of Corporations		
(45.0)ASF	Salaries (35.0)	$ 1,016.5	$ 823.4
	Other Employment Costs	281.0	251.6
	Travel	27.8	2.0
	Contractual Services	992.4	150.6
	Supplies and Materials	18.7	36.6
	Capital Outlay	300.0	
	TOTAL — Division of Corporations	$ 2,636.4	$ 1,264.2
	(20-06-00) Division of Historical and Cultural Affairs		
	(20-06-01) Office of Administration		
	Salaries (4.0)		$ 117.7
	Other Employment Costs		32.7
	Travel		1.0
	Contractual Services		27.5
	Supplies and Materials		2.1
	Capital Outlay		.5
	Heritage Commission		85.0
	Sub-Total		$ 266.5
	Debt Service		$ 169.8
	TOTAL — Office of Administration		$ 436.3
	(20-06-02) Archives and Records Management		
(2.8)NSF	Salaries (17.0)		$ 342.5
	Other Employment Costs		111.6
	Travel		1.0
	Contractual Services		17.2
	Supplies and Materials		6.3
	Capital Outlay		1.3
	TOTAL — Archives and Records Management		$ 479.9
	(20-06-03) Bureau of Archaeology and Historic Preservation		
(4.0)NSF	Salaries (4.0)		$ 105.2
	Other Employment Costs		27.0
	Travel		.6
	Contractual Services		8.8
	Supplies and Materials		4.3
	Capital Outlay		2.9
	TOTAL — Bureau of Archaeology and Historic Preservation		$ 148.8
	(20-06-04) Bureau of Museums and Historic Sites		
	Salaries (33.5)	$	$ 677.2
	Other Employment Costs		162.5
	Travel	2.0	1.5
	Contractual Services	27.8	75.2
	Energy		55.1
	Supplies and Materials	99.2	29.7
	Capital Outlay		60.9
	Sub-Total	$ 129.0	$ 1,062.1
	Debt Service		$ 227.9
	TOTAL — Bureau of Museums and Historic Sites	$ 129.0	$ 1,290.0
	(20-06-05) Microfilm Services		
	Salaries (13.0)	$ 15.2	$ 264.6
	Other Employment Costs	.4	54.8
	Travel	1.5	1.0

			Year Ending June 30, 1991	
	Contractual Services		15.3	91.5
	Supplies and Materials		10.0	76.7
	Capital Outlay			20.0
	TOTAL — Microfilm Services		$ 42.4	$ 508.6
	TOTAL — Division of Historical and Cultural Affairs		$ 171.4	$ 2,863.6
	(20-07-00) Division of the Arts			
	(20-07-01) Office of the Director			
(1.5)NSF	Salaries (6.0)			$ 150.2
	Other Employment Costs			41.4
	Travel			4.0
	Contractual Services			102.6
	Supplies and Materials			2.5
	Capital Outlay			1.0
	Delaware Art			1,070.0
	TOTAL — Division of the Arts			$ 1,371.7
	(20-15-01) Division of State Banking Commission			
(40.0)ASF	Salaries		$ 1,110.6	
	Other Employment Costs		288.8	
	Travel		40.5	
	Contractual Services		250.9	
	Supplies and Materials		21.0	
	Capital Outlay		69.8	
	Other Items		2.0	
	TOTAL — Division of State Banking Commission		$ 1,783.6*	
	*Special Funds total budget appropriated per Chapter 1, Title 5, Delaware Code.			
	TOTAL — DEPARTMENT OF STATE		$ 4,766.4	$ 6,215.7
	TOTAL POSITIONS			
	GF - 126.5			
	ASF - 85.0			
	NSF - 8.3			
	(25-00-00) DEPARTMENT OF FINANCE			
	(25-01-00) Office of the Secretary			
	Personnel Costs (17.0)			$ 780.9
	Travel			7.1
	Contractual Services			142.2
	Supplies and Materials			8.7
	Capital/Equipment			6.7
	Fiscal Notebook			3.0
	TOTAL — Office of the Secretary			$ 948.6
	(-01) Office of the Secretary (17.0)	$ 948.6		
	TOTAL — Internal Program Unit	$ 948.6		
	(25-05-00) Accounting			
	Personnel Costs (43.0)			$ 1,602.5
	Travel			7.0
	Contractual Services			333.1
	Supplies and Materials			68.5
	Capital/Equipment			13.0
	State Accounting Course			50.0

			Year Ending June 30, 1991	
TOTAL — Accounting				$ 2,074.1
(-01) Accounting (43.0)		$ 2,074.1		
TOTAL — Internal Program Unit		$ 2,074.1		
(25-06-00) Revenue				
(6.0)ASF Personnel Costs (221.0)			$ 230.2	$ 6,893.5
Travel			3.0	59.4
Contractual Services			9.0	1,058.9
Energy				1.4
Supplies and Materials			2.8	81.1
Capital/Equipment			10.0	163.2
Credit Card Processing			40.5	
FCA Contracts			80.0	
Escheat			35.0	
Sub-Total			$ 410.5	$ 8,257.5
Debt Service				$ 100.9
TOTAL — Revenue			$ 410.5	$ 8,358.4
(6.0)ASF (-01) Revenue (221.0)	$ 410.5	$ 8,358.4		
TOTAL — Internal Program Unit	$ 410.5	$ 8,358.4		
(25-07-00) State Lottery Office				
(36.0)ASF Personnel Costs			$ 1,107.4	
Travel			44.8	
Contractual Services			9,087.7	
Supplies and Materials			40.5	
Capital/Equipment			201.6	
TOTAL — State Lottery Office			$ 10,482.0*	
(25.0)ASF (-01) State Lottery Office	$ 5,182.1			
(11.0)ASF (-02) Overseas Lottery	5,299.9			
TOTAL — Internal Program Unit	$ 10,482.0			
*Special Funds appropriated under Chapter 48, Title 29, Delaware Code.				
TOTAL — DEPARTMENT OF FINANCE			$ 10,892.5	$ 11,381.1
TOTAL POSITIONS				
GF - 281.0				
ASF - 42.0				
(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES				
(30-01-00) Administration				
Personnel Costs (17.0)				$ 668.7
Contractual Services				52.7
Supplies and Materials				6.6
TOTAL — Administration				$ 728.0
(-10) Office of the Secretary (14.0)		$ 583.4		
(-40) Public Employ. Rel. Board (3.0)		144.6		
TOTAL — Internal Program Units		$ 728.0		
(30-02-00) Capitol Police				
(4.0)ASF Personnel Costs (28.0)			$ 98.1	$ 843.5
Contractual Services			.5	310.4

				Year Ending June 30, 1991	
	Supplies and Materials				30.9
	TOTAL — Capitol Police			$ 98.6	$ 1,184.8
(4.0)ASF	(-10) Capitol Police (28.0)	$ 98.6	$ 1,184.8		
	TOTAL — Internal Program Unit	$ 98.6	$ 1,184.8		
	(30-03-00) Regulation and Licensing				
(27.0)ASF	Personnel Costs (46.0)			$ 1,081.8	$ 1,424.5
	Travel			44.2	31.8
	Contractual Services			1,317.0	162.4
	Supplies and Materials			22.0	18.7
	Capital/Equipment			21.5	17.6
	Other Items - Revenue Refunds			350.0	
	TOTAL — Regulation and Licensing			$ 2,836.5	$ 1,655.0
(2.0)ASF	(-10) Alcoholic Beverage Control Commission (23.0)	$ 79.6	$ 775.1		
(2.0)ASF	(-20) Professional Regulation (23.0)	432.3	879.9		
(23.0)ASF	(-30) Public Service Commission	2,324.6			
	TOTAL — Internal Program Units	$ 2,836.5	$ 1,655.0		
	(30-04-00) Support Operations				
(21.0)ASF	Personnel Costs (22.0)			$ 617.4	$ 541.2
	Travel			10.3	
	Contractual Services			6,418.5	18.2
	Energy			11.9	11.7
	Supplies and Materials			325.6	7.4
	Capital/Equipment			481.7	19.3
	TOTAL — Support Operations			$ 7,865.4	$ 597.8
	(-10) Mail/Courier Services (11.0)	$ 701.0	$ 289.0		
	(-20) Telephone Services (11.0)	5,391.3	308.8		
(17.0)ASF	(-30) Graphics and Printing	1,419.3			
(4.0)ASF	(-40) Fleet Management	353.8			
	TOTAL — Internal Program Units	$ 7,865.4	$ 597.8		
	(30-05-00) Facilities Management				
(5.0)NSF	Personnel Costs (89.0)			$ 40.0	$ 2,598.3
(1.0)ASF	Contractual Services				2,172.9
	Energy				1,515.2
	Supplies and Materials				198.5
	Capital/Equipment			325.0	277.3
	Real Estate Acquisition Program (REAP)			202.4	1,663.5
	Sub-Total			$ 567.4	$ 8,425.7
	Debt Service				$ 6,393.3
	TOTAL — Facilities Management			$ 567.4	$ 14,819.0
(5.0)NSF	(-10) Property Management (19.0)	$ 242.4	$ 8,853.1		
(1.0)ASF	(-20) Building Operations/Maintenance (70.0)	325.0	5,965.9		
	TOTAL — Internal Program Units	$ 567.4	$ 14,819.0		
	(30-06-00) Purchasing				
(8.0)ASF	Personnel Costs (22.0)			$ 201.5	$ 734.0
(2.0)NSF	Travel			12.8	3.7
	Contractual Services			111.4	80.1
	Energy			11.0	70.5
	Supplies and Materials			164.3	29.7

			Year Ending June 30, 1991	
	Capital/Equipment		90.0	
	TOTAL — Purchasing		$ 591.0	$ 918.0
	(-10) Purchasing (16.0)	$ 100.0	$ 604.9	
(3.0)ASF	(-20) Surplus Property (1.0)	141.1	71.5	
(5.0)ASF	(-30) Food Distribution (5.0)	349.9	241.6	
(2.0)NSF				
	TOTAL — Internal Program Units	$ 591.0	$ 918.0	
	TOTAL — DEPARTMENT OF ADMINISTRATIVE SERVICES		$ 11,958.9	$ 19,902.6

TOTAL POSITIONS

GF - 224.0
ASF - 61.0
NSF - 7.0

(35-00-00) DEPARTMENT OF HEALTH AND SOCIAL SERVICES

(35-01-00) Administration

(12.3)ASF	Personnel Costs (118.2)		$ 450.0	$ 4,493.4
(53.9)NSF	Travel		11.9	15.3
	Contractual Services		166.7	411.6
	Energy			48.5
	Supplies and Materials		12.2	31.9
	Capital/Equipment		60.9	320.7
	Sub-Total		$ 701.7	$ 5,321.4
	Debt Service			$ 1,294.9
	TOTAL — Administration		$ 701.7	$ 6,616.3
	(-10) Office of the Secretary (6.0)	$ 33.3	$ 331.3	
(9.3)ASF	(-20) Business Administration (84.0)	478.4	4,032.8	
(36.1)NSF				
(3.0)ASF	(-30) Health Planning (10.0)	150.0	1,275.7	
(17.8)NSF	(-40) Planning, Research & Eval.(18.2)	40.0	976.5	
	TOTAL — Internal Program Units	$ 701.7	$ 6,616.3	

(35-04-00) Medical Examiner

	Personnel Costs (31.0)	$ 1,448.8
	Travel	7.1
	Contractual Services	83.0
	Energy	43.4
	Supplies and Materials	125.7
	Capital/Equipment	59.0
	Sub-Total	$ 1,767.0
	Debt Service	$ 34.3
	TOTAL — Medical Examiner	$ 1,801.3
	(-01) Medical Examiner (31.0)	$ 1,801.3
	TOTAL — Internal Program Unit	$ 1,801.3

(35-05-00) Public Health

(26.4)ASF	Personnel Costs (399.3)		$ 914.0	$ 13,499.7
(139.1)NSF	Travel		7.0	26.4
	Contractual Services		513.9	2,324.1
	Energy			38.7
	Supplies and Materials		125.7	920.3
	Capital/Equipment		32.3	148.4

				Year Ending June 30, 1991	
	Other Items:				
	Renal Disease				263.2
	Right-to-Know				37.1
	Treatment of Handicapped				98.0
	AIDS				178.2
	Animal Bite Control				39.6
	Office of Narcotics & Dangerous Drugs				30.0
	Sub-Total			$ 1,592.9	$ 17,603.7
	Debt Service				$ 294.6
	TOTAL -- Public Health			$ 1,592.9	$ 17,898.3
(26.4)ASF	(-02) Community Health (394.3)	$ 1,592.9	$ 17,499.3		
(139.1)NSF	(-03) Office of Paramedic Administration (5.0)		399.0		
	TOTAL -- Internal Program Units	$ 1,592.9	$ 17,898.3		
	(35-06-00) Alcoholism, Drug Abuse and Mental Health				
(1.0)ASF	Personnel Costs (878.6)			$ 42.2	$ 26,005.9
(20.8)NSF	Travel				13.2
	Contractual Services			8.1	10,399.2
	Energy				1,154.9
	Supplies and Materials			.2	1,568.3
	Capital/Equipment				144.0
	Other Items:				
	Sheltered Workshop				9.9
	Residential Detox				1,184.9
	Sub-Total			$ 50.5	$ 40,480.3
	Debt Service				$ 1,570.9
	TOTAL -- Alcoholism, Drug Abuse and Mental Health			$ 50.5	$ 42,051.2
(10.0)NSF	(-10) Administration - MH (15.0)	$	$ 1,546.8		
	(-20) Community Mental Health (135.7)		10,504.9		
(1.0)ASF	(-30) Inpatient Mental Health (717.9)	49.3	25,924.1		
(1.8)NSF					
(9.0)NSF	(-40) Alcoholism & Drug Abuse (10.0)	1.2	4,075.4		
	TOTAL -- Internal Program Units	$ 50.5	$ 42,051.2		
	(35-07-00) Social Services				
(273.9)NSF	Personnel Costs (248.4)				$ 7,383.5
	Travel				11.4
	Contractual Services				1,972.8
	Energy				36.0
	Supplies and Materials				77.1
	Capital/Equipment				38.9
	Other Items:				
	General Assistance				1,810.3
	AFDC				15,254.1
	Child Care				4,092.2
	SSI Supplement				761.3
	Homemaker				114.8
	Emergency Assistance				217.0
	First Step				597.2
	Medicaid - State				21,694.7
	Medicaid - Non-State				53,245.1
	TOTAL -- Social Services				$107,306.4
(273.9)NSF	(-01) Social Services (248.4)		$107,306.4		
	TOTAL -- Internal Program Unit		$107,306.4		
	(35-08-00) Visually Impaired				

				Year Ending June 30, 1991	
(2.8)ASF	Personnel Costs (23.5)			$ 77.6	$ 802.4
(23.7)NSF	Travel				2.5
	Contractual Services			.5	187.9
	Energy				40.4
	Supplies and Materials				37.2
	Capital/Equipment			4.0	17.6
	Business Enterprise Program			576.0	
	TOTAL -- Visually Impaired			$ 658.1	$ 1,088.0
(2.8)ASF	(-01) Visually Impaired Services (23.5)	$ 658.1	$ 1,088.0		
(23.7)NSF					
	TOTAL -- Internal Program Unit	$ 658.1	$ 1,088.0		
	(35-09-00) Facility-Based Long Term Care				
(2.0)NSF	Personnel Costs (1,078.0)				$ 25,733.4
	Travel				4.3
	Contractual Services				2,254.0
	Energy				1,158.6
	Supplies and Materials				1,893.3
	Capital/Equipment				105.5
	Sub-Total				$ 31,149.1
	Debt Service				$ 1,401.8
	TOTAL -- Facility-Based Long Term Care				$ 32,550.9
	(-10) Delaware Hospital for the Chronically Ill (696.9)		$ 20,530.0		
(2.0)NSF	(-20) Emily Bissell (236.1)		7,129.8		
	(-30) Governor Bacon (145.0)		4,891.1		
	TOTAL -- Internal Program Units		$ 32,550.9		
	(35-10-00) Child Support Enforcement				
(105.8)NSF	Personnel Costs (48.4)			$	$ 1,223.3
	Travel				2.9
	Contractual Services			52.5	230.3
	Energy				5.1
	Supplies and Materials				13.2
	Capital/Equipment				2.1
	TOTAL -- Child Support Enforcement			$ 52.5	$ 1,476.9
(105.8)NSF	(-01) Child Support Enforcement (48.4)	$ 52.5	$ 1,476.9		
	TOTAL -- Internal Program Unit	$ 52.5	$ 1,476.9		
	(35-11-00) Mental Retardation				
(3.0)NSF	Personnel Costs (889.1)				$ 22,820.4
	Travel				12.6
	Contractual Services				1,732.2
	Energy				616.9
	Supplies and Materials				984.0
	Capital/Equipment				217.4
	Other Items:				
	Music Stipends				9.6
	Purchase of Care				7,410.5
	Purchase of Community Services				3,668.3
	Sub-Total				$ 37,471.9
	Debt Service				$ 345.9
	TOTAL -- Mental Retardation				$ 37,817.8

				Year Ending June 30, 1991	
(3.0)NSF	(-10) Administration - MR (24.3)		$ 987.6		
	(-20) Institutional Services (731.0)		20,933.1		
	(-30) Community Services (133.8)		15,897.1		
	TOTAL -- Internal Program Units		$ 37,817.8		
	(35-12-00) State Service Centers				
(30.5)NSF	Personnel Costs (51.8)			$	$ 1,591.4
	Travel				2.9
	Contractual Services			803.0	842.2
	Energy			79.0	366.3
	Supplies and Materials			76.5	49.2
	Capital/Equipment				10.0
	Sub-Total			$ 958.5	$ 2,862.0
	Debt Service				$ 91.3
	TOTAL -- State Service Centers			$ 958.5	$ 2,953.3
(30.5)NSF	(-10) Family Support Services (34.3)	$	$ 1,007.1		
	(-20) Service Center Management (17.5)	958.5	1,946.2		
	TOTAL -- Internal Program Units	$ 958.5	$ 2,953.3		
	(35-14-00) Aging				
(25.8)NSF	Personnel Costs (27.3)				$ 924.6
	Travel				4.3
	Contractual Services				987.0
	Energy				8.4
	Supplies and Materials				5.8
	Capital/Equipment				2.0
	Nutrition Program				242.7
	Sub-Total				$ 2,174.8
	Debt Service				$ 3.3
	TOTAL -- Aging				$ 2,178.1
(25.8)NSF	(-01) Aging Services (27.3)		$ 2,178.1		
	TOTAL -- Internal Program Unit		$ 2,178.1		
	TOTAL -- DEPARTMENT OF HEALTH AND SOCIAL SERVICES			$ 4,014.2	$253,738.5

TOTAL POSITIONS

GF - 3,793.6
ASF - 42.5
NSF - 678.5

(37-00-00) DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

	(37-01-00) Administration	
(5.2)NSF	Personnel Costs (93.0)	$ 4,091.6
	Travel	9.1
	Contractual Services	528.6
	Supplies and Materials	62.6
	Capital/Equipment	103.0
	Sub-Total	$ 4,794.9
	Debt Service	$ 280.5
	TOTAL -- Administration	$ 5,075.4

		Year Ending June 30, 1991	
	(-10) Office of the Secretary (5.0)	$ 569.2	
	(-15) Office of the Director (5.0)	598.3	
(2.8)NSF	(-20) Fiscal Operations and Management (20.2)	622.2	
	(-30) Personnel Services (11.6)	368.8	
	(-35) Center for Profess. Developmt. (4.0)	243.3	
(2.4)NSF	(-40) Education (47.2)	2,673.6	
	TOTAL -- Internal Program Units	$ 5,075.4	
	(37-02-00) Child Protective Services		
(86.0)NSF	Personnel Costs (150.0)		$ 4,639.1
	Travel		2.3
	Contractual Services		6,227.5
	Energy		27.2
	Supplies and Materials		32.5
	Capital/Equipment		32.4
	Emergency Material Assistance		30.0
	TOTAL -- Child Protective Services		$ 10,991.0
(3.0)NSF	(-10) Office of the Director (18.0)	$ 746.9	
(11.0)NSF	(-20) Report and Initial Assessment (41.0)	2,258.1	
(30.2)NSF	(-30) Protective Treatment (62.8)	2,028.9	
(36.1)NSF	(-40) Intensive Protective Services (77.9)	5,034.3	
(5.7)NSF	(-50) Adoption Services (10.3)	922.8	
	TOTAL -- Internal Program Units	$ 10,991.0	
	(37-03-00) Child Mental Health Services		
(2.0)NSF	Personnel Costs (163.0)		$ 5,461.5
	Travel		23.3
	Contractual Services		9,271.8
	Energy		178.8
	Supplies and Materials		200.1
	Capital/Equipment		49.6
	Sub-Total		$ 15,185.1
	Debt Service		$ 16.1
	TOTAL -- Child Mental Health Services		$ 15,201.2
(2.0)NSF	(-10) Office of the Director (20.0)	$ 944.7	
	(-15) Consultation & Assessment Services (16.0)	628.6	
	(-20) Terry Outpatient Treatment (16.5)	676.8	
	(-30) Terry Day Hospital Treatment (24.5)	1,020.8	
	(-40) Terry Inpatient Treatment (48.0)	1,608.4	
	(-50) Outpatient Treatment (1.3)	1,166.8	
	(-55) Day Treatment (1.1)	1,224.5	
	(-60) Residential Treatment (31.2)	3,757.7	
	(-70) Hospital & Other Individualized Contract Treatment (2.4)	3,593.5	
	(-80) Alcohol and Drug Treatment Services (2.0)	579.4	
	TOTAL -- Internal Program Units	$ 15,201.2	
	(37-05-00) Youth Rehabilitation Services		
	Personnel Costs (198.5)		$ 6,559.5
	Travel		23.1
	Contractual Services		5,351.4
	Energy		259.2
	Supplies and Materials		351.1
	Capital/Equipment		43.9
	Sub-Total		$ 12,588.2
	Debt Service		$ 275.2

				Year Ending June 30, 1991
	TOTAL — Youth Rehabilitation Services			$ 12,863.4
	(-10) Office of the Director (15.5)		$ 721.3	
	(-30) Community Based Services (38.0)		1,408.4	
	(-40) Alternatives to Incarceration (18.0)		4,934.2	
	(-50) Secure Care (127.0)		5,799.5	
	TOTAL — Internal Program Units		$ 12,863.4	
	(37-08-00) Program Support			
(17.6)NSF	Personnel Costs (37.4)			$ 1,292.7
	Travel			8.3
	Contractual Services			477.9
	Supplies and Materials			19.2
	Capital/Equipment			14.3
	TOTAL — Program Support			$ 1,812.4
(5.6)NSF	(-20) Office of Planning, Monitoring and Information Systems (9.4)		$ 505.8	
(4.5)NSF	(-30) Office of Case Management (9.5)		352.6	
(1.0)NSF	(-40) Office of Prevention (9.0)		601.8	
(6.5)NSF	(-50) Office of Child Care Licensing (9.5)		352.2	
	TOTAL — Internal Program Units		$ 1,812.4	
	TOTAL — DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES			$ 45,943.4
	TOTAL POSITIONS			
	GF - 641.9			
	NSF - 110.8			
	(38-00-00) DEPARTMENT OF CORRECTION			
	(38-01-00) Administration			
(8.0)ASF	Personnel Costs (258.0)			$ 246.1 $ 9,624.8
(2.0)NSF	Travel			2.5 32.8
	Contractual Services			390.0 693.6
	Energy			10.0 49.8
	Supplies and Materials			318.0 4,876.8
	Capital/Equipment			7.3 67.2
	Medical Services			6,556.8
	AIDS Education and Counseling			150.0
	Contingency - Shakedowns			40.0
	Maintenance/Restoration			389.1
	Sub-Total			$ 973.9 $ 22,480.9
	Debt Service			$ 125.1
	TOTAL — Administration			$ 973.9 $ 22,606.0
	(-01) Office of the Commissioner (17.0)	$	$ 840.2	
	(-02) Personnel/Staff Training (47.0)		1,733.2	
	(-10) Office of the Bureau Chief (42.0)		1,784.8	
	(-20) Food Services (43.0)		5,550.4	
	(-30) Medical Services		6,706.8	
	(-40) Facilities Maintenance (36.0)		2,657.2	
	(-50) Transportation (28.0)		1,245.7	
(8.0)ASF	(-60) Prison Industries (22.0)	972.9	917.4	
(2.0)NSF	(-70) Education (23.0)	1.0	1,170.3	
	TOTAL — Internal Program Units	$ 973.9	$ 22,606.0	
	(38-04-00) Prisons			
	Personnel Costs (954.0)			$ $ 31,913.3

				Year Ending June 30, 1991	
	Travel				22.0
	Contractual Services			6.0	2,097.3
	Energy				1,496.2
	Supplies and Materials				1,343.9
	Contingency - Hazardous Outy				58.2
	Capital/Equipment				134.5
	Sub-Total			$ 6.0	$ 37,065.4
	Debt Service				$ 3,404.2
	TOTAL -- Prisons			$ 6.0	$ 40,469.6
	(-01) Office of the Bureau Chief (41.0)	$	$ 1,880.1		
	(-02) Pre-Trial Annex (25.0)	1.0	1,005.4		
	(-03) Delaware Correctional Center (432.0)	1.0	17,428.6		
	(-04) Sussex Correctional Institution (170.0)	1.0	6,827.6		
	(-05) Women's Correctional Institution (43.0)	1.0	1,845.8		
	(-06) Multi-Purpose Criminal Justice Facility (216.0)	1.0	10,375.6		
	(-07) Morris Correctional Institution (27.0)	1.0	1,106.5		
	TOTAL -- Internal Program Units	$ 6.0	$ 40,469.6		
	(38-06-00) Community Custody and Supervision				
	Personnel Costs (259.0)			$	$ 8,117.9
	Travel				16.6
	Contractual Services			21.0	2,073.2
	Energy				74.0
	Supplies and Materials			20.0	111.8
	Capital/Equipment			3.0	66.9
	Sub-Total			$ 44.0	$ 10,460.4
	Debt Service				$ 23.9
	TOTAL -- Community Custody and Supervision			$ 44.0	$ 10,484.3
	(-01) Office of the Bureau Chief (50.0)	$	$ 3,030.3		
	(-02) Probation and Parole (92.0)		3,435.3		
	(-03) Intensive Supervision (51.0)		1,343.3		
	(-04) House Arrest (3.0)		68.5		
	(-05) Administrative Supervision (6.0)		167.9		
	(-06) Plummer Halfway House (30.0)	1.0	1,382.0		
	(-07) Sussex Halfway House (27.0)	43.0	1,057.0		
	TOTAL -- Internal Program Units	$ 44.0	$ 10,484.3		
	TOTAL -- DEPARTMENT OF CORRECTION			$ 1,023.9	$ 73,559.9

TOTAL POSITIONS

GF - 1,471.0
ASF - 8.0
NSF - 2.0

(40-00-00) DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

(40-01-00) Department Management

(14.0)ASF	Personnel Costs (31.5)	$ 416.4	$ 1,169.1
(7.5)NSF	Travel	3.0	4.9
	Contractual Services	29.7	124.8
	Energy		19.3
	Supplies and Materials	73.4	21.5
	Capital/Equipment	8.0	20.0

			Year Ending June 30, 1991	
	Non-Game Habitat		20.0	
	Coastal Zone Management		100.0	
	Conservationist Magazine			65.5
	Sub-Total		$ 650.5	$ 1,425.1
	Debt Service			$ 2,239.1
	TOTAL -- Department Management		$ 650.5	$ 3,664.2
(14.0)ASF (7.5)NSF	(-01) Department Management (31.5)	$ 650.5 $ 3,664.2		
	TOTAL -- Internal Program Unit	$ 650.5 $ 3,664.2		
	(40-05-00) Fish and Wildlife			
(45.25)ASF	Personnel Costs (68.0)		$ 1,512.3	$ 2,290.1
(1.5)NSF	Travel		30.6	12.4
	Contractual Services		1,101.0	720.4
	Energy		17.3	69.5
	Supplies and Materials		364.2	276.7
	Capital/Equipment		1,472.5	115.7
	Spraying and Insecticides			392.1
	Oyster Seeding & Cultivation			25.0
	Ommelanden		53.0	
	Non-Game Habitat		15.0	25.0
	Other Items		4.3	
	Sub-Total		$ 4,570.2	$ 3,926.9
	Debt Service			$ 575.0
	TOTAL -- Fish and Wildlife		$ 4,570.2	$ 4,501.9
(1.0)ASF	(-01) Management and Support - Fish & Wildlife (1.5)	$ 119.3 $ 609.6		
(44.25)ASF	(-02) Wildlife/Fisheries (17.5)	4,328.8 1,013.7		
	(-04) Mosquito Control (18.0)	4.2 1,154.1		
	(-05) Oog Control	105.9 437.4		
(1.5)NSF	(-06) Fish & Wildlife Enforcement (31.0)	12.0 1,287.1		
	TOTAL -- Internal Program Units	$ 4,570.2 $ 4,501.9		
	(40-06-00) Parks and Recreation			
(41.5)ASF	Personnel Costs (79.5)		$ 2,330.5	$ 2,568.0
(1.0)NSF	Travel		10.4	2.8
	Contractual Services		645.6	137.8
	Energy		63.4	211.4
	Supplies and Materials		936.1	39.9
	Capital/Equipment		1,239.1	
	Non-Game Habitat		15.0	25.0
	Grants		37.4	
	Other Items		20.0	
	Sub-Total		$ 5,297.5	$ 2,984.9
	Debt Service			$ 1,157.9
	TOTAL -- Parks and Recreation		$ 5,297.5	$ 4,142.8
(3.0)ASF	(-01) Management & Support - Parks and Recreation (6.0)	$ 72.3 $ 286.8		
(32.5)ASF	(-02) Operations & Maintenance (50.5)	3,878.5 1,856.9		
(5.0)ASF (1.0)NSF	(-03) Special Programs (6.0)	305.1 259.8		
(1.0)ASF	(-04) Parks Technical Services (17.0)	1,041.6 1,739.3		
	TOTAL -- Internal Program Units	$ 5,297.5 $ 4,142.8		
	(40-07-00) Soil and Water Conservation			

				Year Ending June 30, 1991	
(1.0)ASF	Personnel Costs (52.0)			$ 10.6	$ 1,592.4
	Travel			1.1	10.8
	Contractual Services			421.0	542.4
	Energy				15.2
	Supplies and Materials			5.1	249.5
	Capital/Equipment			5.0	84.5
	New Castle County Dredge				150.0
	Beach Erosion Control Program			750.0	
	Tax Ditches*				180.0
	Sub-Total			$ 1,192.8	$ 2,824.8
	Debt Service				$ 1,229.0
	TOTAL -- Soil and Water Conservation			$ 1,192.8	$ 4,053.8
	(-01) Management & Support - Soil & Water (6.0)	$	$ 726.3		
	(-02) Drainage (14.0)		1,184.0		
	(-03) Beach Preservation (12.0)	902.6	848.2		
(1.0)ASF	(-04) District Operations (5.0)	234.0	474.4		
	(-05) Dredge Operations (15.0)	56.2	820.9		
	TOTAL -- Internal Program Units	$ 1,192.8	$ 4,053.8		

*Pursuant to Section 3921, Title 7, Delaware Code

(40-08-00) Water Resources

(60.0)ASF	Personnel Costs (67.0)			$ 2,054.6	$ 2,724.9
(28.0)NSF	Travel			27.7	18.0
	Contractual Services			654.2	320.7
	Energy				49.1
	Supplies and Materials			155.2	135.7
	Capital/Equipment			295.6	21.3
	Estuaries Research				96.3
	Water Resources Agency				50.0
	Sub-Total			$ 3,187.3	$ 3,416.0
	Debt Service				$ 2,273.2
	TOTAL -- Water Resources			$ 3,187.3	$ 5,689.2
	(-01) Management & Support -				
(1.0)ASF	Water Resources (3.0)	$ 146.7	$ 385.8		
	(-02) Water Resources Technical				
(20.0)ASF	Services (20.0)	1,303.0	958.2		
(3.0)NSF					
(7.0)ASF	(-03) Planning & Support (4.0)	260.9	288.5		
(7.0)NSF					
(15.0)ASF	(-04) Surface Water Management (16.0)	928.0	3,140.9		
(15.0)NSF					
(17.0)ASF	(-05) Ground Water Management (24.0)	548.7	915.8		
(3.0)NSF					
	TOTAL -- Internal Program Units	$ 3,187.3	$ 5,689.2		

(40-09-00) Air and Waste Management

(25.0)ASF	Personnel Costs (42.0)			$ 1,112.6	$ 1,791.8
(61.0)NSF	Travel			26.6	8.1
	Contractual Services			282.3	283.9
	Energy				84.9
	Supplies and Materials			34.8	56.6
	Capital/Equipment			110.5	120.2
	Superfund			590.0	
	Sub-Total			$ 2,156.8	$ 2,345.5
	Debt Service				$ 231.3
	TOTAL - Air and Waste Management			$ 2,156.8	$ 2,576.8

				Year Ending June 30, 1991	
	(-01) Management & Support -				
(8.0)ASF	Air & Waste (7.0)	$ 365.9	$ 515.5		
(1.0)NSF					
(8.0)ASF	(-02) Air Resources (13.0)	455.8	640.8		
(13.0)NSF					
(9.0)ASF	(-03) Waste Management (22.0)	1,335.1	1,420.5		
(47.0)NSF					
	TOTAL -- Internal Program Units	$ 2,156.8	$ 2,576.8		
	TOTAL -- DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL			$ 17,055.1	$ 24,628.7

TOTAL POSITIONS

GF - 340.0
ASF - 186.75
NSF - 99.0

(45-00-00) DEPARTMENT OF PUBLIC SAFETY

(45-01-00) Office of the Secretary

(23.0)NSF	Personnel Costs (49.5)			$	$ 1,786.7
	Travel				17.9
	Contractual Services			100.0	255.4
	Energy				15.9
	Supplies and Materials			89.0	22.3
	Police Training Council				20.0
	Other Items			.7	
	Sub-Total			$ 189.7	$ 2,118.2
	Debt Service				$ 374.8
	TOTAL -- Office of the Secretary			$ 189.7	$ 2,493.0
	(-01) Administration (14.0)	$ 100.0	$ 934.2		
	(-10) Boiler Safety (7.0)		263.8		
	(-20) Communication (16.0)	89.7	769.2		
(20.5)NSF	(-30) EPO (7.5)		306.0		
(2.5)NSF	(-40) Highway Safety (5.0)		219.8		
	TOTAL -- Internal Program Units	$ 189.7	$ 2,493.0		

(45-06-00) State Police

(5.0)ASF	Personnel Costs (667.0)			$ 947.9	$ 27,815.9
(17.0)NSF	Travel			25.0	25.4
	Contractual Services			200.5	2,099.9
	Energy				264.3
	Supplies and Materials			239.9	1,226.3
	Capital/Equipment			66.0	1,186.2
	Pension - 20 Year Retirees				10,057.2
	Crime Reduction Fund				75.0
	Sub-Total			$ 1,479.3	$ 42,750.2
	Debt Service				$ 344.6
	TOTAL -- State Police			$ 1,479.3	$ 43,094.8
	(-01) Executive (37.0)	$	$ 12,624.1		
	(-02) Building Maintenance & Construction (6.0)		359.8		
	(-03) Patrol (347.0)	143.4	16,421.0		
	(-04) Criminal Investigation (77.0)		3,580.1		
(12.0)NSF	(-05) Special Investigation (20.0)		976.6		
	(-06) Aviation (18.0)		1,670.2		
(4.0)ASF	(-07) Traffic (22.0)	1,065.9	951.3		

				Year Ending June 30, 1991	
	(-08) State Bureau of Identification (30.0)	90.0	975.1		
	(-09) Training (6.0)		317.6		
(1.0)ASF	(-10) Communications (78.0)	30.0	2,841.9		
	(-11) Transportation (17.0)		1,971.4		
(5.0)NSF	(-12) Community Relations (9.0)	150.0	405.7		
	TOTAL - Internal Program Units	$ 1,479.3	$ 43,094.8		
	(45-07-00) Licenses, Taxes & Registrations				
	Personnel Costs (231.0)			$	$ 5,990.6
(2.0)NSF	Travel			9.0	19.1
	Contractual Services			185.0	596.6
	Energy				63.1
	Supplies and Materials			10.0	495.5
	Capital/Equipment				19.1
	Sub-Total			$ 204.0	$ 7,184.0
	Debt Service				$ 64.5
	TOTAL -- Licenses, Taxes & Registrations			$ 204.0	$ 7,248.5
	(-01) Administration - LT & R (29.0)	$ 204.0	$ 1,252.7		
(2.0)NSF	(-10) Driver Services (70.0)		2,004.2		
	(-20) Vehicle Services (116.0)		3,254.2		
	(-30) Motor Fuel Tax (16.0)		737.4		
	TOTAL -- Internal Program Units	$ 204.0	$ 7,248.5		
	TOTAL -- DEPARTMENT OF PUBLIC SAFETY			$ 1,873.0	$ 52,836.3
	TOTAL POSITIONS				
	GF - 947.5				
	ASF - 5.0				
	NSF - 42.0				
	(50-00-00) DEPARTMENT OF COMMUNITY AFFAIRS				
	(50-01-00) Office of the Secretary				
(2.5)ASF	Personnel Costs (12.0)			$ 77.6	$ 440.1
	Travel				7.1
	Contractual Services			9.4	109.6
	Supplies and Materials				10.7
	Capital/Equipment			13.2	3.2
	TOTAL -- Office of the Secretary			$ 100.2	$ 570.7
(2.5)ASF	(-01) Office of the Secretary (12.0)	$ 100.2	$ 570.7		
	TOTAL -- Internal Program Unit	$ 100.2	$ 570.7		
	(50-02-00) Community Services				
(14.5)NSF	Personnel Costs (4.5)				$ 168.1
	Travel				4.3
	Contractual Services				76.7
	Supplies and Materials				5.3
	Congregate Feeding				35.5
	Emergency Assistance				520.0
	Sub-Total				$ 809.9
	Debt Service				$ 91.3
	TOTAL -- Community Services				$ 901.2
(10.0)NSF	(-01) Community Services (3.0)		$ 765.5		
(4.5)NSF	(-20) Office of Handicapped Services (1.5)		135.7		
	TOTAL -- Internal Program Units		$ 901.2		

				Year Ending June 30, 1991	
	(50-03-00) Volunteer Services				
(1.0)ASF	Personnel Costs (17.7)			$ 30.9	$ 529.9
(3.6)NSF	Travel				9.3
	Contractual Services			.3	651.6
	Supplies and Materials				17.5
	Kent County RSVP				31.6
	TOTAL — Volunteer Services			$ 31.2	$ 1,239.9
(1.0)ASF(-10)	Office of the Director (4.5)	$ 31.2	$ 201.9		
(3.6)NSF(-20)	Senior Volunteer Programs (13.2)		1,038.0		
	TOTAL — Internal Program Units	$ 31.2	$ 1,239.9		
	(50-04-00) Office of the Public Advocate				
(1.0)ASF	Personnel Costs (2.0)			$ 50.1	$ 94.0
	Travel			4.4	3.0
	Contractual Services			73.8	17.9
	Supplies and Materials			5.4	2.5
	TOTAL — Office of the Public Advocate			$ 133.7	$ 117.4
(1.0)ASF(-01)	Office of the Public Advocate (2.0)	$ 133.7	$ 117.4		
	TOTAL — Internal Program Unit	$ 133.7	$ 117.4		
	(50-06-00) Office of Human Relations				
(1.0)ASF	Personnel Costs (9.0)			$ 32.4	$ 323.6
	Travel			3.0	7.0
	Contractual Services				25.7
	Supplies and Materials			.5	3.9
	TOTAL — Office of Human Relations			$ 35.9	$ 360.2
(1.0)ASF (-01)	Office of Human Relations (9.0)	$ 35.9	$ 360.2		
	TOTAL — Internal Program Unit	$ 35.9	$ 360.2		
	(50-07-00) Office for the Commission for Women				
	Personnel Costs (3.0)				$ 99.1
	Travel				4.2
	Contractual Services				24.0
	Supplies and Materials				2.4
	TOTAL — Office for the Commission for Women				$ 129.7
	(-10) Office for the Commission for Women (3.0)		$ 129.7		
	TOTAL — Internal Program Unit		$ 129.7		
	(50-10-00) Libraries				
(9.0)NSF	Personnel Costs (10.0)				$ 298.3
	Travel				2.0
	Contractual Services				201.6
	Supplies and Materials				50.8
	Library Standards				933.0
	Sub-Total				$ 1,485.7
	Debt Service				$ 2.5
	TOTAL — Libraries				$ 1,488.2
(9.0)NSF (-01)	Libraries (10.0)		$ 1,488.2		
	TOTAL — Internal Program Unit		$ 1,488.2		

			Year Ending June 30, 1991	
(50-11-00) Consumer Affairs				
Personnel Costs (13.0)			$	$ 448.8
Travel				4.4
Contractual Services			1.5	26.4
Supplies and Materials				5.1
Capital/Equipment				11.3
TOTAL -- Consumer Affairs			$ 1.5	$ 496.0
(-01) Consumer Affairs (13.0)	$ 1.5	$ 496.0		
TOTAL -- Internal Program Unit	$ 1.5	$ 496.0		
TOTAL -- DEPARTMENT OF COMMUNITY AFFAIRS			$ 302.5	$ 5,303.3

TOTAL POSITIONS

GF - 71.2
ASF - 5.5
NSF - 27.1

(55-00-00) DEPARTMENT OF TRANSPORTATION

(55-01-01) Office of the Secretary				
(1.0)TTF	Salaries (13.0)	$		$ 492.0
	Other Employment Costs			136.8
	Operations/Capital		50.3	
TOTAL -- Office of the Secretary			$ 50.3	$ 628.8
(55-02-01) Office of Administration				
(2.0)NSF	Salaries (70.0)	$		$ 2,065.8
	Other Employment Costs			548.1
	Operations/Capital		587.7	
TOTAL -- Office of Administration			$ 587.7	$ 2,613.9
(55-03-00) Division of Transportation Planning				
(55-03-01) Transportation Planning				
(2.0)TTF	Salaries (30.0)	$		$ 965.2
	Other Employment Costs			269.9
	Operations/Capital		22.7	
TOTAL -- Division of Transportation Planning			$ 22.7	$ 1,235.1
(55-04-00) Division of Highways				
(55-04-01) Office of the Director				
(1.0)TTF	Salaries (15.0)	$		$ 628.9
	Other Employment Costs			124.0
	Operations/Capital		443.5	
TOTAL -- Office of the Director			$ 443.5	$ 752.9
(55-04-10) Pre-Construction				
(4.0)NSF	Salaries (58.0)			$ 2,483.3
(93.0)TTF	Other Employment Costs			686.0
TOTAL -- Pre-Construction				$ 3,169.3
(55-04-30) Bureau of Materials and Research				
(59.0)TTF	Salaries (22.0)	$		$ 772.6
	Other Employment Costs			210.9

			Year Ending June 30, 1991
	Operations/Capital	74.6	
	TOTAL -- Bureau of Materials and Research	$ 74.6	$ 983.5
	(55-04-40) Bureau of Construction		
(100.0)TTF	Salaries (91.0)		$ 2,809.6
	Other Employment Costs		812.2
	TOTAL -- Bureau of Construction		$ 3,621.8
	(55-04-50) Bureau of Traffic		
(6.0)TTF	Salaries (107.0)	$	$ 2,774.2
	Other Employment Costs		785.4
	Operations/Capital	3,104.3	
	TOTAL -- Bureau of Traffic	$ 3,104.3	$ 3,559.6
	(55-04-60) Field Services		
(2.0)TTF	Salaries (16.0)		$ 537.2
	Other Employment Costs		153.4
	TOTAL -- Field Services		$ 690.6
	(55-04-70) Bureau of Maintenance		
	Salaries (590.0)	$	$ 12,304.5
	Other Employment Costs		4,132.0
	Operations/Capital	10,863.3	
	TOTAL -- Bureau of Maintenance	$ 10,863.3	$ 16,436.5
	TOTAL -- Division of Highways	$ 14,485.7	$ 29,214.2
	(55-06-01) Delaware Transportation Authority		
(17.0)TTF	Delaware Transportation Authority Operations	$ 2,890.1	
	Delaware Transportation Authority Capital	1,128.0	
	Commuter Services	242.2	
(133.0)TTF	Turnpike Operations	4,830.6	
	Turnpike Operating Reserve	57.7*	
	Turnpike Improvements	1,203.5	
	Interstate Operations	2,327.8	
	Interstate Improvements	550.9	
	OART Operations "Public"	5,958.0	
	OAST Operations "E & H"	1,909.2	
	Taxi Services Support "E & H"	175.0	
	Newark Transportation	63.5	
	Kent and Sussex Transportation "E & H"	750.0	
	Rail Operations	1,600.0	
	Aviation	25.0	
	Contingencies	15.0	
	Dover Transportation "E & H"	105.7	
	Sub-Total	$ 23,832.2	
	Debt Service		
	Motor Fuel Tax Bonds	$ 2,441.8	
	General Obligations	26,074.0	
	Transportation Trust Fund	34,625.0	
	TOTAL -- Delaware Transportation Authority	$ 86,973.0**	

*The Cumulative Turnpike Operating Reserve Fund is established at $ 805.1

**Delaware Transportation Authority, Chapter 13, Title 2,

				Year Ending June 30, 1991	
	Delaware Code. These funds, except the Regulatory Revolving Funds, are not deposited with the State Treasurer.				
	TOTAL -- DEPARTMENT OF TRANSPORTATION		$102,119.4		$ 33,692.0
	TOTAL POSITIONS				
	GF - 1,012.0				
	NSF - 6.0				
	TTF - 414.0				
	(60-00-00) DEPARTMENT OF LABOR				
	(60-01-00) Administration				
(7.2)ASF	Personnel Costs (1.8)			$ 335.2	$ 76.0
(18.0)NSF	Travel			5.0	.6
	Contractual Services			40.5	4.9
	Supplies and Materials			3.7	
	Capital/Equipment			1.8	
	TOTAL -- Administration			$ 386.2	$ 81.5
(7.2)ASF	(-10) Office of the Secretary (.8)	$ 386.2	$ 38.0		
(18.0)NSF	(-20) Office of Occupational and Labor Market Information (1.0)		43.5		
	TOTAL -- Internal Program Units	$ 386.2	$ 81.5		
	(60-06-00) Unemployment Insurance				
(5.0)ASF	Personnel Costs			$ 114.3	$
(148.0)NSF	Travel			1.6	
	Contractual Services			56.5	173.8
	Supplies and Materials			9.2	
	Capital/Equipment			1.9	
	TOTAL -- Unemployment Insurance			$ 183.5	$ 173.8
(5.0)ASF (148.0)NSF	(-01) Unemployment Insurance	$ 183.5	$ 173.8		
	TOTAL -- Internal Program Unit	$ 183.5	$ 173.8		
	(60-07-00) Industrial Affairs				
(5.5)NSF	Personnel Costs (45.5)			$	$ 1,375.2
	Travel			8.0	15.0
	Contractual Services			140.3	126.7
	Supplies and Materials			3.7	15.1
	Capital/Equipment				5.0
	Second Injury			4,859.7	
	TOTAL -- Industrial Affairs			$ 5,011.7	$ 1,537.0
(1.5)NSF	(-01) Workers Compensation, Safety and Health (30.5)	$ 5,011.7	$ 1,031.9		
(4.0)NSF	(-02) Enforcement (15.0)		505.1		
	TOTAL -- Internal Program Units	$ 5,011.7	$ 1,537.0		
	(60-08-00) Vocational Rehabilitation				
(6.0)ASF	Personnel Costs			$ 203.3	$
(116.8)NSF	Contractual Services				1,355.5
	Supplies and Materials				36.7
	Sheltered Workshop				320.4
	Governor's Committee				11.9
	TOTAL -- Vocational Rehabilitation			$ 203.3	$ 1,724.5

				Year Ending June 30, 1991	
(6.0)ASF (-10) Vocational Rehabilitation					
(85.8)NSF Services		$ 203.3	$ 1,724.5		
(31.0)NSF (-20) Disability Determination					
Services					
TOTAL -- Internal Program Units		$ 203.3	$ 1,724.5		
(60-09-00) Employment and Training					
(1.0)ASF	Personnel Costs (21.1)			$ 46.0	$ 601.8
(99.9)NSF	Travel			.5	8.4
	Contractual Services			23.8	127.2
	Supplies and Materials			1.1	7.7
	Capital/Equipment				3.0
	Women's Vocational Services				48.2
	Dislocated Workers' Program				52.0
	Summer Youth Program				145.7
	Blue Collar Projects			1,302.2	
TOTAL -- Employment and Training				$ 1,373.6	$ 994.0
(68.9)NSF (-10) Placement Services (7.0)		$	$ 253.4		
(1.0)ASF (-20) Training Services (14.1)		1,373.6	740.6		
(31.0)NSF					
TOTAL -- Internal Program Units		$ 1,373.6	$ 994.0		
TOTAL -- DEPARTMENT OF LABOR				$ 7,158.3	$ 4,510.8

TOTAL POSITIONS

GF - 68.4
ASF - 19.2
NSF - 388.2

(65-00-00) DEPARTMENT OF AGRICULTURE

(65-01-00) Resource Management

(1.5)ASF	Personnel Costs (36.0)			$ 37.1	$ 1,200.7
(1.5)NSF	Travel			7.5	11.7
	Contractual Services			32.7	76.5
	Energy				61.7
	Supplies and Materials			40.7	30.0
	Capital/Equipment			37.5	11.0
	First State Trotting & Pacing Series				150.0
Sub-Total				$ 155.5	$ 1,541.6
Debt Service					$ 49.1
TOTAL -- Resource Management				$ 155.5	$ 1,590.7
(1.0)ASF (-01) Administration (12.0)		$ 37.5	$ 626.3		
(-02) Agricultural Lands					
Preservation (5.0)			152.3		
(.5)ASF (-03) Forestry (18.0)		118.0	610.2		
(1.5)NSF					
(-04) Harness Racing Commission (1.0)			201.9		
TOTAL -- Internal Program Units		$ 155.5	$ 1,590.7		
(65-03-00) Consumer Protection					
(.5)ASF	Personnel Costs (32.5)			$ 22.0	$ 1,040.4
(2.0)NSF	Travel				10.6
	Contractual Services			.1	55.3
	Energy				9.7
	Supplies and Materials				45.8
	Capital/Equipment				30.9

			Year Ending June 30, 1991	
Sub-Total			$ 22.1	$ 1,192.7
Debt Service				$ 8.4
TOTAL — Consumer Protection			$ 22.1	$ 1,201.1
(-02) Agriculture Compliance Lab (6.0)	$ 10.2	$ 260.3		
(-03) Weights & Measures (7.0)		225.5		
(-05) Meat Inspection (14.0)		543.2		
(.5)ASF (-07) Pesticides Compliance (5.5) (2.0)NSF	11.9	172.1		
TOTAL — Internal Program Units	$ 22.1	$ 1,201.1		
(65-04-00) Promotion and Production Support				
(15.0)ASF Personnel Costs (24.0)			$ 520.7	$ 808.0
Travel			5.2	25.3
Contractual Services			3.2	450.4
Energy				12.9
Supplies and Materials			4.4	54.2
Capital/Equipment				73.6
Agriculture Development Program				60.7
TOTAL — Promotion and Production Support			$ 533.5	$ 1,485.1
(11.0)ASF (-04) Agriculture Products Grading (2.0)	$ 324.1	$ 93.3		
(-05) Marketing & Product Development (5.0)		502.2		
(-06) Plant Industry (7.0)		447.8		
(-07) Poultry & Animal Health (7.0)		306.2		
(4.0)ASF (-08) Seed Lab (3.0)	209.4	135.6		
TOTAL — Internal Program Units	$ 533.5	$ 1,485.1		
TOTAL — DEPARTMENT OF AGRICULTURE			$ 711.1	$ 4,276.9

TOTAL POSITIONS

GF - 92.5
ASF - 17.0
NSF - 3.5

(70-00-00) DEPARTMENT OF ELECTIONS

(70-01-01) Commissioner of Elections

Salaries (6.0)	$ 128.3
Other Employment Costs	42.7
Travel	1.5
Contractual Services	51.9
Supplies and Materials	5.8
TOTAL — Commissioner of Elections	$ 230.2

(70-02-01) New Castle County Department of Elections

Salaries (12.0)	$ 307.1
Other Employment Costs	64.1
Travel	10.4
Contractual Services	186.6
Energy	12.9
Supplies and Materials	7.7
Other Items	20.0
TOTAL — New Castle County Department of Elections	$ 608.8

(70-03-01) Kent County Department of Elections

Salaries (5.0)	$ 141.7
Other Employment Costs	39.8
Travel	3.1
Contractual Services	65.3

		Year Ending June 30, 1991	
	Energy		11.7
	Supplies and Materials		6.0
	Other Items		6.0
	TOTAL — Kent County Department of Elections		$ 273.6
	(70-04-01) Sussex County Department of Elections		
	Salaries (4.0)		$ 134.7
	Other Employment Costs		25.8
	Travel		1.4
	Contractual Services		19.9
	Supplies and Materials		5.4
	Other Items		13.0
	TOTAL — Sussex County Department of Elections		$ 200.2
	TOTAL — DEPARTMENT OF ELECTIONS		$ 1,312.8
	TOTAL POSITIONS		
	GF - 27.0		
	(75-00-00) FIRE PREVENTION COMMISSION		
	(75-01-01) Office of the State Fire Marshal		
(20.3)ASF	Salaries (20.7)	$ 518.4	$ 575.1
	Other Employment Costs	142.8	175.5
	Travel	12.9	6.2
	Contractual Services	66.0	63.8
	Energy		19.7
	Supplies and Materials	31.4	36.2
	Capital Outlay	29.5	27.0
	Juvenile Firesetter Intervention Program		5.0
	Sub-Total	$ 801.0	$ 908.5
	Debt Service		$ 4.7
	TOTAL — Office of the State Fire Marshal	$ 801.0	$ 913.2
	(75-02-01) State Fire School		
(5.3)NSF	Salaries (12.7)	$	$ 359.9
	Other Employment Costs		115.4
	Travel		2.0
	Contractual Services	23.5	127.8
	Energy		87.7
	Supplies and Materials		38.9
	Sub-Total	$ 23.5	$ 731.7
	Debt Service		$ 262.1
	TOTAL — State Fire School	$ 23.5	$ 993.8
	(75-03-01) State Fire Prevention Commission		
	Salaries (1.0)		$ 19.0
	Other Employment Costs		8.4
	Travel		20.0
	Contractual Services		20.3
	Supplies and Materials		1.2
	Statewide Fire Safety Education		50.0
	TOTAL — State Fire Prevention Commission		$ 118.9
	TOTAL — FIRE PREVENTION COMMISSION	$ 824.5	$ 2,025.9

		Year Ending June 30, 1991
TOTAL POSITIONS		
GF - 34.4		
ASF - 20.3		
NSF - 5.3		
(76-00-00) DELAWARE NATIONAL GUARD		
(76-01-01) Delaware National Guard		
(43.6)NSF	Salaries (30.4)	$ 828.1
	Other Employment Costs	225.6
	Travel	4.3
	Contractual Services	301.6
	Energy	370.0
	Supplies and Materials	97.4
	Educational Assistance	40.0
	Sick-Leave Entitlements	19.5
	Unit Fund Allowance	7.0
	Sub-Total	$ 1,893.5
	Debt Service	$ 194.0
TOTAL -- DELAWARE NATIONAL GUARD		$ 2,087.5
TOTAL POSITIONS		
GF - 30.4		
NSF - 43.6		
(77-00-00) ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS		
(77-01-01) Advisory Council for Exceptional Citizens		
	Salaries (2.0)	$ 31.7
	Other Employment Costs	5.1
	Travel	5.9
	Contractual Services	3.9
	Supplies and Materials	.8
TOTAL -- ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS		$ 47.4
TOTAL POSITIONS		
GF - 2.0		
(90-00-00) HIGHER EDUCATION		
(90-01-00) University of Delaware		
(90-01-01) University of Delaware		
	Operations	$ 62,090.9
	Scholarships	4,421.3
	Agricultural Programs	767.4
	Other Programs	2,267.7
	Beechwood Program	63.4
	Sub-Total	$ 69,610.7
	Debt Service	$ 4,870.0
	TOTAL -- University of Delaware	$ 74,480.7
(90-01-02) Delaware Geological Survey		
	Operations	$ 810.0

		Year Ending June 30, 1991
	River Master Program	66.0
	TOTAL -- Delaware Geological Survey	$ 876.0
	TOTAL -- University of Delaware	$ 75,356.7
	(90-02-01) Delaware Institute of Medical Education and Research	
	Operations	$ 1,557.0
	TOTAL -- Delaware Institute of Medical Education and Research	$ 1,557.0
	(90-03-00) Delaware State College	
	(90-03-01) Operations	
(132.5)NSF	Operations (393.3)	$ 16,300.4
	Work Study	169.5
	Summer School for Teachers	36.0
	Faculty Development	100.0
	Mishoe Scholarships	50.0
	Cooperative Extension	15.1
	Cooperative Research	88.6
	Title VI Compliance	120.0
	Academic Incentive	50.0
	General Scholarships	154.0
	Athletic Grant	83.1
	Aid to Needy Students	120.0
	Energy	857.0
	Sub-Total	$ 18,143.7
	Debt Service	$ 1,679.4
	TOTAL -- Operations	$ 19,823.1
	(90-03-05) Sponsored Programs and Research	
(39.9) NSF	Salaries	
	TOTAL -- Sponsored Programs and Research	
	TOTAL -- Delaware State College	$ 19,823.1
	TOTAL POSITIONS -- Delaware State College	
	GF - 393.3	
	NSF - 172.4	
	(90-04-00) Delaware Technical and Community College	
	(90-04-01) Office of the President	
(5.0)NSF	Salaries (34.0)	$ 1,253.4
	Other Employment Costs	320.9
	Travel	6.5
	Contractual Services	197.4
	Energy	16.2
	Supplies and Materials	31.2
	Capital Outlay	7.0
	Occupational Teacher Program	36.8
	Academic Incentive	50.0
	Dental Program	78.8
	Salary Plan A Contingency	1,032.6
	Salary Contingency	141.7
	Salary Contingency - Administrators	208.5
	2 + 2 Pre-Technical Curriculum	75.0
	Day Care Training	40.0

		Year Ending June 30, 1991	
	Sub-Total		$ 3,496.0
	Debt Service		$ 143.1
	TOTAL -- Office of the President		$ 3,639.1
	(90-04-02) Southern Campus		
(40.7)NSF	Salaries (146.0)		$ 5,406.2
	Other Employment Costs		1,472.3
	Travel		6.8
	Contractual Services		664.0
	Energy		195.4
	Supplies and Materials		86.3
	Capital Outlay		66.7
	NOSL Match		6.6
	Aid to Needy Students		66.7
	Work Study		16.5
	Sub-Total		$ 7,987.5
	Debt Service		$ 724.3
	TOTAL -- Southern Campus		$ 8,711.8
	(90-04-04) Wilmington Campus		
(24.0)NSF	Salaries (113.0)	$	$ 4,168.5
	Other Employment Costs		992.4
	Travel		4.0
	Contractual Services		469.7
	Energy		299.7
	Supplies and Materials		57.9
	Capital Outlay		87.2
	Aid to Needy Students		71.2
	Work Study		20.0
	Dental Program		53.5
	Other Items	97.7	
	Sub-Total	$ 97.7	$ 6,224.1
	Debt Service		$ 1,381.1
	TOTAL -- Wilmington Campus	$ 97.7	$ 7,605.2
	(90-04-05) Stanton Campus		
(39.0)NSF	Salaries (138.0)	$	$ 5,268.6
	Other Employment Costs		1,360.1
	Travel		5.0
	Contractual Services		27.2
	Energy		20.2
	Supplies and Materials		101.5
	Capital Outlay		46.2
	Aid to Needy Students		61.1
	Work Study		21.0
	Other Items	73.4	
	Satellite Campus		250.0
	Sub-Total	$ 73.4	$ 7,160.9
	Debt Service		$ 812.5
	TOTAL -- Stanton Campus	$ 73.4	$ 7,973.4
	(90-04-06) Terry Campus		
(51.2)NSF	Salaries (96.0)		$ 3,324.9
	Other Employment Costs		880.9
	Travel		2.0
	Contractual Services		255.1
	Energy		139.9

		Year Ending June 30, 1991
	Supplies and Materials	229.0
	Capital Outlay	330.0
	Misc. Master	11.0
	Aid to Needy Students	154.7
	Work Study	18.0
	Sub-Total	$ 4,725.5
	State Share	$ 533.2
	TOTAL -- Every Campus	$ 5,258.7
	TOTAL -- Delaware Technical and Community College	$ 11,771.1 $ 33,188.2

TOTAL POSITIONS -- Delaware Technical and Community College

GF - 522.0
NSF - 159.9

(90-07-01) Delaware Institute of Veterinary Medical Education

	Subvention	$ 329.5
	TOTAL -- Delaware Institute of Veterinary Medical Education	$ 329.5

(90-08-01) Delaware Institute of Dental Education and Research

	Subvention	$ 93.5
	TOTAL -- Delaware Institute of Dental Education and Research	$ 93.5
	TOTAL -- HIGHER EDUCATION	$ 1771.1 $138,348.8

TOTAL POSITIONS -- HIGHER EDUCATION

GF - 920.3
NSF - 332.3

(95-00-00) PUBLIC EDUCATION

(95-01-00) State Board of Education and State Board for Vocational Education

(7.0)ASF	Personnel Costs (86.8)	$ 308.7	$ 4,774.2
(52.5)NSF	Travel		38.0
	Contractual Services		175.5
	Supplies and Materials		38.6
	Capital Outlay		76.2
	Other Items:		
	Education Compact of the States		32.3
	Teacher in Space		60.0
	Teacher of the Year		46.5
	Principal of the Year		15.0
	Pension - Retired and Disabled Teachers		34.8
	Desegregation Monitoring		100.0
	Films		22.0
	Operating Costs - Training Lab		20.0
	Pupil Accounting System		41.8
	Career Guidance System		16.5
	Operating Costs - Direct	183.4	294.5
	Tallman Scholarships	3.6	
	Mather Library Endowment Fund	2.5	
	Brown Trust Fund	35.0	
(1.8)ASF	Film Library	62.4	
	Department of Public Instruction Library	34.0	
	Trailer Rental Fund	27.5	

				Year Ending June 30, 1991	
	DPI Publications			10.0	
(1.0)ASF	Delaware Secondary School Athletic Fund			70.0	
	Registration Fees			40.0	
	TOTAL -- State Board of Education and State Board for Vocational Education			$ 839.1	$ 5,785.9
(1.0)ASF					
(.5)NSF	(-01) State Board & Superintendent (12.5)	$ 76.2	$ 999.3		
(1.5)ASF	(-02) Administrative Services (26.5)				
(14.0)NSF		175.0	1,633.2		
(6.0)ASF	(-03) Office of Educational Computing Services (6.0)	477.9	680.9		
(1.0)ASF	(-04) Instructional Services (41.0)	110.0	2,472.5		
(38.0)NSF					
	TOTAL -- Internal Program Units	$ 839.1	$ 5,785.9		
	(95-02-00) School District Operations				
	Division I Units (5,731)				
	Formula Salaries (9,092.5)				$ 192,387.0
	Cafeteria Funds				2,364.4
	Other Employment Costs				63,439.9
	Division II Units (6,522)				
	All Other Costs				16,770.9
	Energy				9,225.4
	Division III				
	Equalization				31,994.9
	Sub-Total				$ 316,182.5
	Other Items				
	General Contingency				$ 4,915.0
	Other Items				230.9
	Delmar Tuition				454.8
	Orthopedic Summmer School				82.4
	Sub-Total				$ 5,683.1
	Debt Service				
	State Board				$ 1,231.7
	School Districts				8,217.3
	Sub-Total				$ 9,449.0
	TOTAL -- School District Operations				$ 331,314.6
	(-01) Division Funding		$ 316,264.9		
	(-02) Other Items		5,600.7		
	(-03) Debt Service		9,449.0		
	TOTAL -- Internal Program Units		$ 331,314.6		
	(95-03-00) Pass Through Programs				
	School Readiness Programs				
	Parent Early Education Center				$ 441.9
	0-2 Preschool Program Planning (1.0)				45.0
	3-5 Preschool Handicapped Program				120.0
	Regular Elementary/Secondary Programs				
	Basic Skills Units				5,957.7
	Education Refinement Program				4,316.6
	Substitutes in Districts				1,768.4
	Non-Public and Summer Driver Education				473.7
	Operation and Maintenance - Driver Education Cars				130.8
	District Grants - Unit Allocations				400.0
	Nurse Staffing Fund				300.0
	Privately Operated Programs				
	Delaware Nature Society				$ 11.0

		Year Ending June 30, 1991	
	Supplies and Materials		29.0
	Capital Outlay		30.0
	NDSL Match		1.0
	Aid to Needy Students		54.7
	Work Study		8.0
	Sub-Total		$ 4,725.5
	Debt Service		$ 533.2
	TOTAL -- Terry Campus		$ 5,258.7
	TOTAL -- Delaware Technical and Community College	$ 171.1	$ 33,188.2

TOTAL POSITIONS -- Delaware Technical and Community College

GF - 527.0
NSF - 159.9

(90-07-01) Delaware Institute of Veterinary Medical Education

	Subvention		$ 129.5
	TOTAL -- Delaware Institute of Veterinary Medical Education		$ 129.5

(90-08-01) Delaware Institute of Dental Education and Research

	Subvention		$ 93.5
	TOTAL -- Delaware Institute of Dental Education and Research		$ 93.5
	TOTAL -- HIGHER EDUCATION	$ 171.1	$130,148.0

TOTAL POSITIONS -- HIGHER EDUCATION

GF - 920.3
NSF - 332.3

(95-00-00) PUBLIC EDUCATION

(95-01-00) State Board of Education and State Board for Vocational Education

(7.0)ASF	Personnel Costs (86.0)	$ 370.7	$ 4,774.2
(52.5)NSF	Travel		38.0
	Contractual Services		175.5
	Supplies and Materials		38.6
	Capital Outlay		76.2
	Other Items:		
	Education Compact of the States		32.3
	Teacher in Space		60.0
	Teacher of the Year		46.5
	Principal of the Year		15.0
	Pension - Retired and Disabled Teachers		34.8
	Desegregation Monitoring		100.0
	Films		22.0
	Operating Costs - Training Lab		20.0
	Pupil Accounting System		41.8
	Career Guidance System		16.5
	Operating Costs - Direct	183.4	294.5
	Tallman Scholarships	3.6	
	Mather Library Endowment Fund	2.5	
	Brown Trust Fund	35.0	
(1.5)ASF	Film Library	62.4	
	Department of Public Instruction Library	34.0	
	Trailer Rental Fund	27.5	

				Year Ending June 30, 1991	
	DPI Publications			10.0	
(1.0)ASF	Delaware Secondary School Athletic Fund			70.0	
	Registration Fees			40.0	
	TOTAL -- State Board of Education and State Board for Vocational Education			$ 839.1	$ 5,785.9
(1.0)ASF					
(.5)NSF	(-01) State Board & Superintendent (12.5)	$ 76.2	$ 999.3		
(1.5)ASF	(-02) Administrative Services (26.5)				
(14.0)NSF		175.0	1,633.2		
(6.0)ASF	(-03) Office of Educational Computing Services (6.0)	477.9	680.9		
(1.0)ASF	(-04) Instructional Services (41.0)	110.0	2,472.5		
(38.0)NSF					
	TOTAL -- Internal Program Units	$ 839.1	$ 5,785.9		
	(95-02-00) School District Operations				
	Division I Units (5,731)				
	Formula Salaries (9,092.5)				$ 192,387.0
	Cafeteria Funds				2,364.4
	Other Employment Costs				63,439.9
	Division II Units (6,522)				
	All Other Costs				16,770.9
	Energy				9,225.4
	Division III				
	Equalization				31,994.9
	Sub-Total				$ 316,182.5
	Other Items				
	General Contingency				$ 4,915.0
	Other Items				230.9
	Delmar Tuition				454.8
	Orthopedic Summer School				82.4
	Sub-Total				$ 5,683.1
	Debt Service				
	State Board				$ 1,231.7
	School Districts				8,217.3
	Sub-Total				$ 9,449.0
	TOTAL -- School District Operations				$ 331,314.6
	(-01) Division Funding		$ 316,264.9		
	(-02) Other Items		5,600.7		
	(-03) Debt Service		9,449.0		
	TOTAL -- Internal Program Units		$ 331,314.6		
	(95-03-00) Pass Through Programs				
	School Readiness Programs				
	Parent Early Education Center				$ 441.9
	0-2 Preschool Program Planning (1.0)				45.0
	3-5 Preschool Handicapped Program				120.0
	Regular Elementary/Secondary Programs				
	Basic Skills Units				5,957.7
	Education Refinement Program				4,316.6
	Substitutes in Districts				1,768.4
	Non-Public and Summer Driver Education				473.7
	Operation and Maintenance - Driver Education Cars				130.8
	District Grants - Unit Allocations				400.0
	Nurse Staffing Fund				300.0
	Privately Operated Programs				
	Delaware Nature Society				$ 11.0

	Year Ending June 30, 1991
Beach House	72.1
READ ALOUD Delaware	113.2
STRIVE - Green Circle Program	70.0
Special Needs Programs	
Private Placement of the Handicapped	2,090.2
Exceptional Student Unit - Vocational	729.1
Related Services for the Handicapped	1,122.8
Homebound Instruction Program	852.0
Pregnant Students Program	229.5
Children-at-Risk Intervention Program	1,337.6
Alternative Secondary Education Program	540.0
Adolescent Day Program	36.0
Sterck Summer Program	40.0
Student Advancement Programs	
Gifted and Talented Units	2,391.7
Summer School - Gifted and Talented	152.5
Advanced Studies	108.0
Lecturer in Residence	40.0
Odyssey of the Mind	15.0
Career Readiness/Vocational Programs	
Career Placement Counselors	1,295.3
Educational Resources Program	180.6
Youth Organizations	103.6
Articulation	82.0
Student Work Study	125.0
Summer Occupational and Vocational Education Program	569.6
Adult Programs	
Adult Incarcerated	197.0
Adult Trade Extension	692.0
Apprentice Program	476.5
James H. Groves High School	883.4
Adult Basic Education	178.8
New Castle County Learning Center	150.6
Wilmington Skills Center	327.5
Education Monitoring/Advancement Programs	
RE:Learning (1.0)	459.3
Curriculum Improvement	107.9
Center for Economic Education	142.5
Private Business and Trade School	2.0
Evaluation - Higher Education	1.0
Educational Assessment	271.9
Quality Performance Profile	33.6
Teacher Development Programs	
Staff Training	$ 15.0
Education in Math	22.6
Education in Science	22.6
Delaware Institute for Arts in Education	100.0
Tuition Reimbursement	450.0
Delaware Teacher Center	309.4
Critical Curricular Areas	533.5
Professional Development	402.8
Summer Institute	100.0
Mentoring	75.0
TOTAL -- Pass Through Programs	$ 32,215.8

(-01) School Readiness Programs (1.0)	$ 606.9
(-02) Regular Elementary/Secondary Programs	13,347.2
(-03) Privately Operated Programs	266.3
(-04) Special Needs Programs	6,977.2
(-05) Student Advancement Programs	2,707.2
(-06) Career Readiness/Vocational Programs	2,356.1
(-07) Adult Programs	2,905.8
(-08) Education Monitoring/Advancement Programs (1.0)	1,018.2
(-09) Teacher Development Programs	2,030.9

		Year Ending June 30, 1991	
TOTAL -- Internal Program Units	$ 32,215.8		
(95-04-00) Pupil Transportation			
Public School Transportation			$ 31,108.1
Non-Public School Transportation Reimbursement			2,830.7
TOTAL -- Pupil Transportation			$ 33,938.8
(-01) Transportation	$ 33,938.8		
TOTAL -- Internal Program Unit	$ 33,938.8		
TOTAL -- State Board of Education and State Board for Vocational Education		$ 839.1	$ 403,255.1

TOTAL POSITIONS -- STATE BOARD OF EDUCATION

GF - 88.0
ASF - 9.5
NSF - 52.5

TOTAL POSITIONS -- PUBLIC SCHOOL DISTRICTS - 9,092.5

(95-06-00) Delaware Advisory Council on Career and Vocational Education			
(1.5)NSF Personnel Costs (3.5)			$ 69.9
TOTAL -- Delaware Advisory Council on Career and Vocational Education			$ 69.9
(1.5)NSF (-01) Advisory Council (3.5)	$ 69.9		
TOTAL -- Internal Program Unit	$ 69.9		

TOTAL POSITIONS -- DELAWARE ADVISORY COUNCIL ON CAREER AND VOCATIONAL EDUCATION

GF - 3.5
NSF - 1.5

TOTAL -- PUBLIC EDUCATION	$ 839.1	$403,325.0

TOTAL POSITIONS - PUBLIC EDUCATION

GF - 9,184.0
ASF - 9.5
NSF - 54.0

TOTALS

TOTAL -- DEPARTMENTS	$ 154,217.1	$ 682,225.1
TOTAL -- HIGHER EDUCATION	171.1	130,148.0
TOTAL -- PUBLIC EDUCATION	839.1	403,325.0
GRAND TOTAL -- DEPARTMENTS AND EDUCATION	$ 155,227.3	$1,215,698.1

TOTAL POSITIONS

GF - 20,889.9
ASF - 740.45

NSF - 1,874.1
TTF - 414.0

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. 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 5. 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, 1990.

Section 6. 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 1991.

Section 7. 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, 1990, 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 8(c) and (d) and Merit System Rule 13.0110.

(b) The salary of employees whose salary in effect as of June 30, 1990, 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 8(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 8. (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, 1991, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1990, the following pay plans are established for State Merit System employees:

Annual Salary
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	10,368	13,824	17,280
2	11,093	14,791	18,489
3	11,871	15,828	19,785
4	12,700	16,933	21,166
5	13,591	18,121	22,651
6	14,543	19,390	24,238
7	15,559	20,745	25,931
8	16,648	22,197	27,746
9	17,814	23,752	29,690
10	19,062	25,416	31,770
11	20,394	27,192	33,990
12	21,823	29,097	36,371
13	23,351	31,134	38,918
14	24,984	33,312	41,640
15	26,734	35,645	44,556
16	28,605	38,140	47,675
17	30,608	40,810	51,013
18	32,748	43,664	54,580
19	35,042	46,722	58,403
20	37,496	49,995	62,494
21	40,120	53,493	66,866
22	42,929	57,238	71,548
23	45,934	61,245	76,556
24	49,151	65,534	81,918
25	52,590	70,120	87,650
26	56,271	75,028	93,785

* Annual Salary in $

Annual Salary
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	11,059	14,745	18,431
2	11,833	15,777	19,721
3	12,662	16,882	21,103
4	13,547	18,063	22,579
5	14,497	19,329	24,161
6	15,511	20,681	25,851
7	16,596	22,128	27,660
8	17,759	23,678	29,598
9	19,001	25,334	31,668
10	20,332	27,109	33,886
11	21,753	29,004	36,255
12	23,277	31,036	38,795
13	24,907	33,209	41,511
14	26,651	35,534	44,418
15	28,515	38,020	47,525
16	30,513	40,684	50,855
17	32,648	43,530	54,413
18	34,932	46,576	58,220
19	37,379	49,838	62,298
20	39,995	53,327	66,659
21	42,796	57,061	71,326
22	45,791	61,055	76,319
23	48,995	65,327	81,659
24	52,427	69,903	87,379
25	56,096	74,795	93,494
26	60,022	80,029	100,036

* Annual Salary in $

(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, 1991, 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 8(a) for Fiscal Year 1991 shall be limited to those governments and institutions of higher education as follows:

Delaware	Other Counties and Municipalities
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	

Other States
Maryland
Pennsylvania
New Jersey
North Carolina
Massachusetts
New York
Virginia

(ii) The findings of the survey in Section 8(a) for Fiscal Year 1992 shall be calculated in the same manner as Fiscal Year 1991, using the same weighting formula and other components.

(iii) The pay policy for Fiscal Year 1992 shall address the salaries for employees at or beyond the midpoint.

(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, 1990, 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 8(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, 1990, the salary of each employee shall be increased by 4.0 percent, unless otherwise noted in this Section.

(ii) The salary of employees whose salary in effect as of June 30, 1990, is above the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1990, shall be increased by 2.0 percent.

(iii) The salary of employees whose salary in effect as of June 30, 1990, is near the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1990, and where the general 4.0 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 2.0 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.

(e) Any such reclassifications/regrades 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, 1991, provided that such reclassifications/regrades have been processed as part of the regular budgetary process and the funds for such reclassifications/regrades shall be appropriated.

(f) The classification of any position whose salary is covered by the appropriations in Section 1 of this Act, may be changed to be effective January 1, 1991, or July 1, 1991, 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, 1991, or July 1, 1991; and

(2) The funding source is approved by the State Budget Director; and

(3) The requested change is approved by the Controller General.

(g) Other than those reclassifications/regrades approved in accordance with Section 8(e) or 8(f), no position shall be reclassified or regraded during the fiscal year ending June 30, 1991.

(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, of the Delaware Code, 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 $15,546.00 and divided by .7 for ten months employment. If employed on an eleven or twelve month basis, the ten month amount shall be multiplied by 1.1 or 1.2 respectively.

(i) Any Merit System employee who is denied the general salary increase referred to in Section 8(d)(1) due to an unsatisfactory performance rating in accordance with Merit Rule 5.1000, shall become eligible for the general increase six months after the effective date of the scheduled increase, but not retroactively, provided that upon re-appraisal, the employee's overall performance rating is at least satisfactory.

(j) During the fiscal year ending June 30, 1991, paragraph 5.1100 of the Merit Rules for a Merit System of Personnel Administration shall be null and void.

(k) The review date for employees of the classified service shall be December 31 of each fiscal year."

(l) The administrative regulation and procedures necessary to implement this Section shall be promulgated by the State Personnel Director, Budget Director and Controller General.

(m) 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.

(n) 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.

(o) Salary schedules and staffing formulas contained in Title 14, Chapter 13, Delaware Code, shall be revised as specified in this Subsection.

(1) Amend Title 14, Subsection 1305(b), Delaware Code, by striking the value, "$14,789.00," as it appears therein and by substituting in lieu thereof the value, "$15,546.00."

(2) Amend Title 14, Subsection 1308(a), Delaware Code, 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	$ 8,350	$ 9,493	$10,157	$10,544	$11,187
1	8,768	9,927	10,593	10,982	11,631
2	9,185	10,361	11,029	11,421	12,076
3	9,603	10,796	11,465	11,859	12,520
4	10,020	11,230	11,901	12,298	12,964
5	10,438	11,664	12,338	12,736	13,409
6	10,855	12,098	12,774	13,174	13,853
7	11,273	12,532	13,210	13,613	14,297
8	11,690	12,967	13,646	14,051	14,741
9	12,108	13,401	14,082	14,490	15,186
10	12,525	13,835	14,518	14,928	15,630
11	12,943	14,269	14,954	15,366	16,074
12	13,360	14,703	15,390	15,805	16,519
13	13,778	15,138	15,826	16,243	16,963
14	14,195	15,572	16,262	16,682	17,407
15	14,613	16,006	16,699	17,120	17,852
16	15,030	16,440	17,135	17,558	18,296
17	15,448	16,874	17,571	17,997	18,740
18	15,865	17,309	18,007	18,435	19,184
19	16,283	17,743	18,443	18,874	19,629
20	16,700	18,177	18,879	19,312	20,073

"

(3) Amend Title 14, Subsection 1311(a), Delaware Code, 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	$10,683	$11,121	$11,342	$12,219	$12,626	$12,984
1	11,012	11,449	11,672	12,549	13,007	13,425
2	11,342	11,778	12,001	12,877	13,390	13,864
3	11,672	12,109	12,329	13,206	13,773	14,303
4	12,001	12,437	12,660	13,536	14,107	14,742
5	12,329	12,765	12,985	13,865	14,538	15,182
6	12,660	13,097	13,316	14,194	14,920	15,621
7	12,985	13,427	13,645	14,524	15,304	16,061
8	13,316	13,754	13,973	14,852	15,685	16,498
9	13,645	14,085	14,303	15,182	16,067	16,938
10	13,973	14,414	14,634	15,511	16,451	17,377
11	14,303	14,743	14,964	15,840	16,832	17,816

"

(4) Amend Title 14, Subsection 1322(a), Delaware Code, 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	$ 9,630	$10,341	$11,051	$11,761	$12,475	$13,183	$13,896
1	9,985	10,695	11,408	12,118	12,828	13,540	14,250
2	10,341	11,051	11,761	12,475	13,183	13,896	14,607
3	10,695	11,408	12,118	12,828	13,540	14,250	14,962
4	11,051	11,761	12,475	13,183	13,896	14,607	15,319
5	11,408	12,118	12,828	13,540	14,250	14,962	15,676
6	11,761	12,475	13,183	13,896	14,607	15,319	16,030
7	12,118	12,828	13,540	14,250	14,962	15,676	16,385
8	12,475	13,183	13,896	14,607	15,319	16,030	16,742
9	12,828	13,540	14,250	14,962	15,676	16,385	17,098
10	13,183	13,896	14,607	15,319	16,030	16,742	17,451

11	13,540	14,250	14,962	15,676	16,385	17,098	17,817
12	13,896	14,607	15,319	16,030	16,742	17,451	18,192
13	14,250	14,962	15,676	16,385	17,098	17,817	18,546
14	14,607	15,319	16,030	16,742	17,451	18,192	18,904
15	14,962	15,676	16,385	17,098	17,808	18,549	19,261"

(S) Amend Title 14, Subsection 1322(c), Delaware Code, 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	$5.55	$6.16
1	5.64	6.24
2	5.75	6.34
3	5.83	6.43
4	5.92	6.52
5	6.05	6.65
6	6.15	6.74
7	6.21	6.81
8	6.28	6.87
9	6.36	6.96
10	6.46	7.07
11	6.57	7.17
12	6.68	7.27
13	6.78	7.37
14	6.86	7.46
15	6.96	7.55
16	7.08	7.68
17	7.18	7.77 "

(6) Amend Title 14, Subsection 1324(b), Delaware Code, by striking said Subsection in its entirety and by substituting in lieu thereof the following:

"(b) Aides actually working and paid 10 months per year shall receive annual salaries in accordance with the following schedule:

Years of Experience	Service Aides	Instructional Aides
0	$ 7,751	$ 9,479
1	8,009	9,795
2	8,268	10,111
3	8,526	10,427
4	8,785	10,743
5	9,043	11,059
6	9,301	11,375
7	9,560	11,691
8	9,818	12,007
9	10,077	12,323
10	10,335	12,639
11	10,593	12,955
12	10,852	13,271
13	11,110	13,587
14	11,369	13,903
15	11,627	14,219
16	11,885	14,535
17	12,144	14,851
18	12,402	15,167
19	12,661	15,483
20	12,919	15,799

The 12-year step on the schedule in this Subsection is effective July 1, 1989, and one additional step shall be effective in each succeeding fiscal year. Thus, the 20-year step will be effective for the fiscal year beginning July 1, 1997."

(7) Amend Title 14, Subsection 1326(a), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"Class A - $55.79 per day
Class B - $45.06 per day
Class C - $34.31 per day"

(p) 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.

(q) Effective July 1, 1990, the State shall pay 38% of the annual salary rate for school lunch employees as set forth in the salary schedules in Title 14, Section 1322(a) and (b), Delaware Code and 34% of the salary rate for school lunch employees as set forth in the salary schedule in Title 14, Section 1322(c), Delaware Code. 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.

(r) 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.

(s) Section 1 of this Act provides an amount for salaries and other employment costs for Formula Employees in Public Education. Additional amounts are included in some Pass Through Programs (95-03-00). 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 other employment costs that can be charged to State appropriations for any one-day 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 Title 14, Chapter 13, Delaware Code, 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) which may be charged for local contractual obligations before local current operating funds are used.

(t) Amend Title 14, Section 9219(c), Delaware Code, by striking said Subsection in its entirety and by substituting in lieu thereof the following:

"(c) The actual Fiscal Year 1991 salary paid to any Salary Plan A employee shall be determined as follows:

(1) Placement on the index for Fiscal Year 1991 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, 1990. Advancement in any of these areas after that date will become effective for salary purposes on July 1, 1991.

(2) For Fiscal Year 1991 the minimum increase for a 10-month Salary Plan A employee shall be $1,081.0 The minimum increase for a 12-month employee shall be $1,298.0."

(u) During Fiscal Year 1991, 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 1991.

2. (a) The class specifications for positions occupied by Delaware Technical and Community College 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.

(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 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, 1990, all Plan B employees are eligible to receive general salary increases as provided by Section 8(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 will be handled in accordance with hiring/compensation procedures outlined in the 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 Technical and Community College 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 Technical and Community College 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 Technical and Community College's flexible benefits plan shall remain at the discretion of the College.

(v) (1) There is hereby created an Administrative Salary Plan. That salary plan shall cover full-time employees of Delaware Technical and Community College not covered by Salary Plan A or Salary Plan B. The compensation of an employee on the Administrative Salary Plan shall be computed as follows:

(a) The base salary shall be determined by placement on the same index and in the same manner as Salary Plan A as outlined in Title 14, Section 9219;

(b) In addition to the salary received under Section 1, a employee will receive an annual amount for administrative responsibility. That amount will be computed by multiplying the amount provided under Section (1) by the index volume specified in the schedule below that corresponds with the appropriate classification and experience level.

ADMINISTRATIVE RESPONSIBILITY
YEARS IN LEVEL

Level 1	0	4%
	1	5%
	2	6%
	3	7%
	4	8%
Level 2	0	9%
	1	10%
	2	11%
	3	12%
Level 3	0	26%
	1	28%
Level 4		37%
Level 5		55%

(2) The following provisions shall apply during Fiscal Year 1991 for the purpose of implementing the Administrative Salary Plan:

(a) Placement on the Plan A index for the Fiscal Year 1991 shall be based on actual degrees, additional credits and relevant work experience.

(b) Initial Placement on the years in grade level for administrative responsibility shall be determined by the employees actual level of experience in their positions in the Administrative Pay Plan at Delaware Technical & Community College.

(c) That the salary for fiscal 1991 for any employee shall be at least 4% higher than that employee's salary received for Fiscal Year 1990.

(d) That the new salary for any employee shall not be effective until the presentation by the employee of proof of credentials to support claimed degrees, additional credits, and relevant work experience.

(e) Initial allocation of jobs in the Administrative Pay Plan to grade levels will be effective upon approval by the Budget Director and Controller General.

(f) After Fiscal Year 1991, any changes in the allocation of jobs to grade level will be approved by the Board of Trustees and filed with the Budget Director and the Controller General.

(g) The Board of Trustees may provide additional compensation and benefits with Non-State funds to employees in the Administrative Salary Plan.

Section 9. (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, part-time or casual and seasonal 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 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/her principal employer, with the consent of his/her principal employer, and may be paid additional compensation therefore, provided such additional duties are not a part of his/her regular duties for the principal employer and not rendered during time paid for by the principal employer.

Section 10. (a) For the fiscal Year ending June 30, 1991, the salaries displayed below represent the salary effective on July 1, 1990.

Budget Unit	Line Item	July 1, 1990 General Funds	July 1, 1990 All Other Funds
(02-01-00)	Chief Justice - Supreme Court	$ 102.6	$
(02-01-00)	Justice - Supreme Court	99.0	
(02-02-00)	Chancellor - Court of Chancery	97.8	
(02-02-00)	Vice Chancellor - Court of Chancery	94.1	
(02-03-00)	President Judge - Superior Court	97.8	
(02-03-00)	Associate Judge - Superior Court	94.1	
(02-03-00)	New Castle County Prothonotary	35.4	
(02-03-00)	Kent County Prothonotary	13.1	
(02-03-00)	Sussex County Prothonotary	9.9	
(02-06-00)	Chief Judge - Court of Common Pleas	96.6	
(02-06-00)	Judge - Court of Common Pleas	91.7	
(02-08-00)	Chief Judge - Family Court	96.6	
(02-08-00)	Associate Judge - Family Court	91.7	
(02-13-00)	Chief Magistrate - Justice of the Peace Courts	67.5	
(02-13-00)	Magistrate - Justice of the Peace Courts	38.3	
(02-17-00)	Director - Administrative Office of the Courts	67.5	
(02-18-00)	Public Guardian	40.1	
(02-18-00)	Executive Secretary - Violent Crimes Compensation Board		45.1
(02-18-00)	Executive Director - Foster Care Review Board	36.8	
(10-01-01)	Governor	80.0	
(10-02-00)	Budget Director	79.1	
(10-02-00)	Executive Director - Postsecondary Education Commission	51.9	
(10-02-00)	Executive Director - Information Systems	77.8	
(10-03-01)	Director - Delaware Development Office	79.1	

(10-03-04)	Director - State Housing Authority		64.7
(10-04-02)	Personnel Director	73.7	
(10-07-01)	Executive Director - CJC	$ 56.8	$
(10-07-02)	Executive Director - DELJIS	47.7	
(10-07-03)	Executive Director - SAC	58.6	
(12-01-01)	Lieutenant Governor	36.5	
(12-02-01)	Auditor	62.8	
(12-03-01)	Insurance Commissioner	62.8	
(12-05-01)	State Treasurer	68.2	
(15-01-01)	Attorney General	84.7	
(15-02-01)	Public Defender	68.2	
(15-03-01)	Parole Board Chairman	50.0	
(20-01-01)	Secretary - State	73.7	
(20-05-01)	Director - Corporations	29.6	29.6
(20-06-01)	Director - Historical and Cultural Affairs	55.9	
(20-07-01)	Director - Arts	41.8	
(20-15-01)	State Banking Commissioner		71.0
(25-01-00)	Secretary - Finance	84.7	
(25-05-00)	Director - Accounting	63.6	
(25-06-00)	Director - Revenue	73.3	
(25-07-00)	Director - State Lottery		60.6
(30-01-00)	Secretary - Administrative Services	68.2	
(30-01-00)	Executive Director - Public Employment Relations Board	45.5	
(30-03-00)	Executive Secretary - Alcoholic Beverage Control Commission	49.4	
(30-03-00)	Director - Professional Regulation	49.8	
(30-03-00)	Director - Public Service Commission		48.2
(30-04-00)	Director - Support Operations		48.3
(30-05-00)	Director - Facilities Management	56.9	
(30-05-00)	Executive Secretary - Architectural Accessibility Board	35.7	
(30-06-00)	Director - Purchasing	50.5	
(35-01-00)	Secretary - Health and Social Services	$ 84.7	$

(35-01-00)	Director - Business Administration	54.5	6.0
(35-01-00)	Director - Planning Research & Evaluation	54.5	
(35-04-00)	Chief Medical Examiner	97.6	
(35-05-00)	Director - Public Health	101.4	
(35-06-00)	Director - Alcoholism, Drug Abuse and Mental Health	86.9	
(35-07-00)	Director - Social Services	35.3	34.0
(35-10-00)	Director - Child Support Enforcement	18.0	34.9
(35-11-00)	Director - Mental Retardation	69.3	
(35-12-00)	Director - State Service Centers	48.7	
(35-14-00)	Director - Aging	50.5	
(37-01-00)	Secretary - Services for Children, Youth, and Their Families	73.7	
(37-01-00)	Director - Administration	58.4	
(37-02-00)	Director - Child Protective Services	65.4	
(37-03-00)	Director - Child Mental Health Services	80.3	
(37-05-00)	Director - Youth Rehabilitation Services	61.3	
(37-08-00)	Director - Program Support	57.3	
(38-01-00)	Commissioner - Correction	79.1	
(38-01-00)	Bureau Chief - Administration and Operational Support	55.6	
(38-04-00)	Bureau Chief - Prisons	69.3	
(38-06-00)	Bureau Chief - Community Custody and Supervision	55.6	
(40-01-00)	Secretary - Natural Resources and Environmental Control	73.7	
(40-05-00)	Director - Fish and Wildlife	25.5	25.5
(40-06-00)	Director - Parks and Recreation	60.4	
(40-07-00)	Director - Soil and Water Conservation	53.4	
(40-08-00)	Director - Water Resources	64.4	
(40-09-00)	Director - Air and Waste Management	69.6	
(45-01-00)	Secretary - Public Safety	$ 73.7	$
(45-01-00)	Director - Boiler Safety	38.2	
(45-01-00)	Director - Emergency Planning and Operations	23.1	23.2

(45-01-00)	Director - Highway Safety	44.7	
(45-06-00)	Superintendent - State Police	70.6	
(45-06-00)	Assistant Superintendent - State Police	58.4	
(45-07-00)	Director - Motor Vehicles	59.3	
(50-01-00)	Secretary - Community Affairs	68.2	
(50-02-00)	Director - Community Services	44.9	
(50-03-00)	Director - Volunteer Services	40.0	
(50-04-00)	Public Advocate	53.4	
(50-06-00)	Director - Human Relations	44.5	
(50-10-00)	State Librarian	41.9	
(50-11-00)	Director - Consumer Affairs	44.7	
(55-01-01)	Secretary - Transportation	79.1	
(55-01-01)	Deputy Secretary - Transportation	78.2	
(55-02-01)	Chief - Administration	55.2	
(55-03-01)	Director - Transportation Planning	63.0	
(55-04-01)	Director - Highways	76.5	
(55-06-01)	Director - Delaware Transportation Authority		68.0
(60-01-00)	Secretary - Labor	8.8	59.4
(60-06-00)	Director - Unemployment Insurance		57.4
(60-07-00)	Director - Industrial Affairs	48.2	
(60-08-00)	Director - Vocational Rehabilitation		57.4
(60-09-00)	Director - Employment and Training	3.7	53.7
(65-01-00)	Secretary - Agriculture	62.8	
(65-01-00)	Deputy Secretary - Agriculture	51.3	
(70-01-01)	Commissioner - Elections	$ 41.2	$
(70-02-01)	Administrative Director - New Castle County Elections	38.2	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	37.3	
(70-03-01)	Administrative Director - Kent County Elections	38.2	
(70-03-01)	Deputy Administrative Director - Kent County Elections	37.3	
(70-04-01)	Administrative Director - Sussex County Elections	38.2	

(70-04-01)	Deputy Administrative Director - Sussex County Elections	37.3	
(75-01-01)	State Fire Marshal	32.6	16.3
(75-02-01)	Director - Fire School	32.6	16.3
(76-01-01)	Adjutant General	62.8	
(95-01-00)	Superintendent - State Board of Education	97.0	
(95-06-00)	Executive Secretary - Advisory Council on Career and Vocational Education	29.5	29.6

(b) For the fiscal year ending June 30, 1991, the following line item salaries represent the maximum salaries appropriated within Salaries in Section 1 of this Act:

Budget Unit	Line Item	General Funds	All Other Funds
(10-02-00)	Commission Members - Postsecondary	$ 2.4	$
(10-04-02)	Personnel Commissioners	7.5	
(10-04-06)	Board Members - Pensions		9.6
(15-03-01)	Board Members - Parole	15.0	
(25-06-00)	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	50.2	
(30-03-00)	Board Members - Public Service Commission		80.0
(30-05-00)	Board Members - Architectural Accessibility Board	2.3	
(38-04-00)	Institutional Classification Board	12.0	

Budget Unit	Line Item	General Funds	All Other Funds
(50-06-00)	Board Members - Human Relations	$ 2.5	$
(50-11-00)	Board Members - Consumer Affairs	3.5	
(60-07-00)	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	
(95-01-00)	Board Members - State Board of Education	8.4	

(c) (i) Salaries of designated positions in Section 10(a) of this Act shall have no further increase applied by any other section of this Act except as provided in Section 10(c)(ii) or Section 10(c)(iv) or Section 10(c)(v).

(ii) The salaries contained in Section 10(a) of this Act for the New Castle County Prothonotary, the Kent County Prothonotary, and the Sussex County Prothonotary shall remain in effect until such time as the current term expires or the position becomes vacant. Upon expiration of the current term or when a vacancy occurs, the State Personnel Director, the Budget Director and the Controller General shall determine an evaluated pay range for the position based on a Position Classification Questionnaire (PCQ) approved by the President Judge of the Superior Court. If the elected incumbent is appointed, the salary in effect shall remain at the current level or be brought to the minimum of the evaluated pay range, whichever is greater. If the appointee is other than the elected incumbent, compensation shall be set according to Sections 10(c)(iv) and (v) of this Act.

(iii) Amend Title 29, Chapter 33, Section 3303 (a) of the Delaware Code by deleting the phrase "the Prothonotaries in each of the 3 counties".

(iv) If a position in Section 10(a) becomes vacant during the fiscal year and the scheduled salary associated with a vacant position is below the position's evaluated midpoint and the appointing authority determines that a suitable replacement cannot be recruited and hired for the compensation provided under this Section, the appointing authority may submit a request to the Personnel Director to increase the salary up to the evaluated midpoint. If the scheduled salary associated with a vacant position is above the position's evaluated midpoint, the appointing authority shall justify to the Personnel Director why the salary of a proposed replacement should be kept above the evaluated midpoint. If adequate justification cannot be provided, the starting salary shall be decreased as appropriate and may be set lower than the evaluated midpoint depending upon the qualifications of the proposed incumbent. In reviewing requests made pursuant to this paragraph, the Personnel Director shall provide an analysis of the request and shall solicit the advice and written consent of the Budget Director and the Controller General.

(v) Regardless of the provisions of this Act, any State employee who is offered a promotional opportunity to become a Division Level Manager and who at the time such offer is made, is being paid a salary that equals or exceeds the salary for the Division Level Manager position as established by this Section of this Act, shall be eligible for a five percent promotional salary increase. This eligibility shall be conditioned on a determination that the duties and responsibilities of the Division Level Manager position are at least one paygrade higher than the position proposed to be vacated based on a comparison of equivalent value. For the purpose of this paragraph, the equivalent value of one paygrade is defined as a seven percent difference in the constant fiscal year dollar value of the evaluated pay range midpoint of the Division Level Manager position compared to the position that the employee is vacating. If an employee is offered an appointment to a Division Level Manager position that has an equivalent value equal to or less than the paygrade assigned to the position the employee is vacating, the employee may retain his/her current salary, provided that it does not exceed the evaluated pay range midpoint, or the current salary of the Division Level Manager position, whichever is greater.

(d) Effective May 1, 1991, the Office of State Personnel shall submit to the Joint Finance Committee a listing of employees designated in Section 10(a). The listing shall indicate for each position the number of points applicable for Fiscal Year 1991 and the number of points of any recommended changes for any position for Fiscal Year 1992.

Section 11. 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. All agencies shall absorb termination pay within the appropriations set forth in Section 1 of this Act.

Section 12. The abbreviations set forth in this Act for Special Fund authorized positions means funding from the following:

ASF - Appropriated Special Funds
NSF - Non-appropriated Special Funds
TTF - Transportation Trust Fund

Section 13. All agencies or schools receiving federal funds must transfer to the Budget Office three-tenths or five-tenths of one percent, respectively, 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 14. All Departments with Internal Programs identified in Section 1 of this Act are hereby authorized to transfer appropriations among Travel, Contractual Services, Supplies and Materials, and Capital Outlay lines within an internal program and amend ASF estimated appropriations/receipts. 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 15. In accordance with the Freedom of Information Act (Title 29, Section 10003, Delaware Code) an agency may charge a reasonable amount approved by the Budget Director for reproducing public documents. This charge shall be credited to Agency Accounts as expenditure reducing for reproduction costs as charged.

Section 16. All State agencies and departments which own land shall inform the Budget Director, the Controller General, and the General Assembly, quarterly, as to any and all developments relating to the possible new use, lease or sale, of any portion of said land. This section shall not apply to lands owned by the Department of Transportation that are intended for highway use.

Section 17. For the fiscal year ending June 30, 1990, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1991.

Fiscal Year Appropriation	Account Codes	Remarks
1988	(01-01-01-01-98)	Research Grant
1986	(01-05-01-01-80)	Radioactive
1986	(01-05-01-03-54)	Radioactive
1989	(01-08-02-01-82)	Reapportionment
1990	(01-08-02-01-85)	Reapportionment
1990	(10-02-01-01-82)	Computer Hardware/Software
1990	(10-02-01-01-85)	Development Fund
1990	(10-02-01-01-91)	Budget Automation
1990	(10-02-04-01-85)	Legal Fees
1990	(10-02-09-01-98)	Hardware, Software and Network Enhancements
1990	(10-02-11-01-98)	Information Processing and Telecommunications Equipment
1989/90	(10-02-15-01-99)	Development Special Projects
1990	(15-02-01-01-98)	Office Automation and Networking
1988	(20-06-01-01-98)	Bicentennial Projects
1990	(20-06-04-01-98)	Truck/Belmont Hall
1990	(20-07-01-01-82)	Delaware Art
1989	(25-01-01-01-81)	Input/Output
1989/90	(25-01-01-01-85)	Systems Development
1990	(25-01-01-01-80)	Notebook
1990	(30-01-10-01-98)	Department Business Systems Plan
1990	(35-05-03-01-50)	Paramedic Training
1990	(35-11-30-01-98)	Group Home Start-Up
1990	(37-08-20-01-98)	Computer Enhancements
1987	(40-01-01-01-98)	Superfund

1990	(40-08-04-01-80)	Estuaries
1988	(40-09-03-01-98)	Hazardous Revolving Fund
1986	(45-01-01-03-81)	Hazardous Waste Revolving Fund
1990	(45-06-10-01-98)	Telecommunications/Tower move
1989	(65-01-01-01-80)	Crop Insurance
1990	(65-03-02-01-98)	LIMS Automated Lab Computerization
1990	(75-03-01-01-80)	Statewide Fire Safety Education/Fire Safety Education Materials
1989	(76-01-01-01-84)	Maintenance/Restoration
1990	(76-01-01-01-98)	Dover Armory Upgrade
1990	(95-03-01-01-98)	Extended-Day Latchkey
1990	(95-03-09-01-88)	Minority Scholarship
1990	(95-04-01-01-90)	Public School Transportation
1990	(95-10-00-01-98)	At-Risk
1990	(95-13-00-01-98)	At-Risk
1990	(95-15-00-01-98)	At-Risk
1990	(95-16-00-01-98)	At-Risk
1990	(95-17-00-01-98)	At-Risk
1990	(95-18-00-01-98)	At-Risk
1990	(95-23-00-01-98)	At-Risk
1990	(95-24-00-01-98)	At-Risk
1990	(95-29-00-01-98)	At-Risk
1990	(95-31-00-01-98)	At-Risk
1990	(95-32-00-01-98)	At-Risk
1990	(95-33-00-01-98)	At-Risk
1990	(95-34-00-01-98)	At-Risk
1990	(95-35-00-01-98)	At-Risk
1990	(95-36-00-01-98)	At-Risk
1990	(95-37-00-01-98)	At-Risk
1990	(95-38-00-01-98)	At-Risk
1990	(95-39-00-01-98)	At-Risk
1990	(95-40-00-01-98)	At-Risk

LEGISLATIVE

Section 18. 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 19. 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 20. 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 21. The Hay points and the salary schedule for the Controller General shall be calculated in a manner comparable to Division Directors.

JUDICIAL

Section 22. The amount appropriated to Chancery Court (02-02-20) for "Historical Records Reproduction", as contained in "Contingency and One-Time Appropriations" in the amount of $15.0, shall be made available to the Register in Chancery in Kent County.

Section 23. Any fees, assessments, costs or other financial obligations imposed by the Family Court for the issuance and service of subpoenas or summons by way of court rules, regulations or administrative procedure may not be charged to the Department of Services for Children, Youth and Their Families. Any such costs associated with these procedures shall be the financial responsibility of Family Court.

Section 24. Position #412, Training Administrator I, is hereby transferred from the Family Court (02-08-10) to the Administrative Office of the Courts, Office of the Director (02-17-01). Section 1 of this Act accomplishes the transfer of the position authorization and the associated personnel costs.

Section 25. Section 1 of this Act authorizes one (1.0) new position and appropriates $15.0 to the Justice of the Peace Courts (02-13-10). This position is to be a Court Clerk for Justice of the Peace Court No. 5, Milford.

Section 26. Section 1 of this Act appropriates $5.0 under Personnel Costs to the Justice of the Peace Courts (02-13-10). This appropriation shall be used as overtime to expand the Justice of the Peace Court's hours for civil cases in Penny Hill Court No. 15.

Section 27. AMEND Title 21, §709, by striking subsection (1) (2) as it currently reads and inserting in lieu thereof the following:

"(1) (2) If a payment due pursuant to this section is not received by the court or applicable mail-in fine center to which the summons is returnable within 10 days from the date of arrest (excluding Saturdays and Sundays), the court or applicable mail-in fine center may:

a. After entering pertinent information in a log maintained by the court or applicable mail-in fine center, return all papers delivered to it pursuant to paragraph (1) of this subsection to the arresting officer. It shall thereafter be the responsibility of the arresting officer to return the proper papers to the court or applicable mail-in fine center at which time he may swear out a warrant for the violator's arrest on the original charge. In addition, he may further swear out a warrant charging the violator the failure to answer summons in violation of §702 of this title.

Should the court or mail-in fine center receive payment from the violator after returning the papers to the arresting officer but before an arrest is made on the warrant or warrants, the payment shall be accepted by the court or applicable mail-in fine center which shall prepare a mail-in disposition slip consisting of an original and two copies. The original shall remain with the court or applicable mail-in fine center. Both copies shall be forwarded to the arresting officer. The warrant shall immediately be withdrawn and the warrant charging failure to answer summons may also be withdrawn.

OR:

b. In lieu of the procedures specified in (1) (2) (a) the court or mail-in fine center may issue an arrest warrant and enter the pertinent information on the DELJIS system notifying the officer of the default in the voluntary assessment agreement, further they shall retain all charging documents at the court or applicable mail-in fine center. In addition, the arresting officer may further swear out a warrant charging the violator with failure to answer a summons in violation of §702 of this Title.

Should the court or mail-in fine center receive payment from the violator after entering the wanted information onto the DELJIS system, the court or applicable mail-in fine center shall accept payment and shall immediately withdraw the warrant from the DELJIS system notifying the arresting officer of said withdrawal."

This amendment shall become effective for any violations committed on or after January 1, 1991.

Section 28. For the period July 1, 1990 through June 30, 1991, the State Escheator shall deposit all escheated monies from the Judicial Department into a special fund revolving account in the Administrative Office of the Courts (02-17-01), for the specific purpose of addressing the reconciliation expenses incurred during the initiation of a centralized accounting system for all State courts. The Administrative Office of the Courts shall submit a work plan for the reconciliation project to the Secretary of Finance, the Controller General and the Budget Director on or before July 31, 1990.

Furthermore, be it enacted, that all accounts which were delinquent as of January 1, 1989, and which are collected shall have their general fund costs and fines deposited in the same revolving special fund as the Judicial Escheat monies. Deposits into this account shall not exceed $200.0.

Section 29. Section 1 of this Act appropriates $39.0 to the Administrative Office of the Courts (02-17-01) for a "Court Tracking Project". Said funds shall be used to contract with the University of Delaware, College of Urban Affairs and Public Policy, for continuation of the analysis for the benefit of the State's criminal justice system.

Section 30. Section 1 of this Act authorizes one (1.0) position and appropriates $14.3 for the Foster Care Review Board (02-18-03). Said position shall be a Secretary.

Section 31. Section 1 of this Act appropriates $16.4 under "Other Items" for the Foster Care Review Board (02-18-03). Said appropriation shall be deposited into the Ivy Davis Scholarship Fund and shall not be subject to reversion after June 30, 1991.

EXECUTIVE

Section 32. (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, development and procurement services for the following State Department/Agencies development projects and feasibility studies:

DEPARTMENT/AGENCY	SERVICE NEED
Judicial	Civil Information System Development
Executive	
Office of the Budget	BIS Enhancements State-wide GIS
Office of State Personnel	State-wide Human Resource Management System
State	Corporations System Enhancements
Finance	Information System Enhancements
Health and Social Services	Information System Enhancements
Services for Children, Youth and Their Families	CYCIS System Enhancements
Correction	Information System
Public Safety	MFT System Enhancements
Labor	Information System Development
Elections	Phase II
Public Education	State-wide Administrative and Instructional Information System Development

Allocation of the funds appropriated for this purpose shall be made by the Budget Director in consultation with the affected Department/Agency head. Service need allocations shall not be transferred to another department or service need unless approved by the Budget Director. 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 1991 unless covered by a formalized plan approved by the Department/Agency head and the Budget Director. After the Budget Director approves a formalized project,

he/she shall forward a copy to the Controller General. 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 quarterly 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.

(g) The Department of Elections/Voter Registration - Phase II Project, identified above in the FY 1991 Development Fund, shall be administered by and under the project management of the Office of Information Systems. This project management direction is the same as the Phase I Project activities executed in FY 1990 during the development of the initial Voter Registration System for the Department of Elections.

The General Assembly, within the guidelines established by the Office of Information Systems, shall have on-line access to the Voter Registration data base. The General Assembly may extract certain data elements from said data base for the purpose of developing a separate data base to be used for the 1990 - 1991 reapportionment process.

Section 33. 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 34. The amount appropriated to the Office of the Budget - 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 account for Fiscal Year 1990 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 1990 applicable line code will require the requesting Agency or school district to reimburse the Prior Years' Obligations account 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: proof of circumstances beyond an agency's ability to encumber must be documented on the request for transfer to be 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' Obligations account 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 35. 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 Budget Office shall make, at the discretion of the Budget Director, the

necessary adjustment to accommodate the new energy values while loading the Fiscal Year 1991 budget into the State Accounting System.

Section 36. The appropriation in Section 1 of the Budget Appropriation Bill to the Office of the Budget - Contingency (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 Budget Director and the Controller General.

Section 37. Section 1 of this Act provides an appropriation to Office of the Budget - Contingency and One-Time Items (10-02-04) for the Fiscal Year ending June 30, 1991. It is the intent that the appropriation for One-Time Appropriations in the amount of $10,353.0 shall be non-recurring expenditure items. The Budget Director shall transfer the appropriations as itemized to the departments. Each receiving department shall identify the line item, object code and, for all practical purposes, complete and separate accountability for each appropriation amount transferred. No appropriation shall be transferred without the Budget Director and Controller General approvals. Any one-time appropriation for computer/word processing hardware, software and telecommunications, which contemplates the development of computer-related systems, shall be transferred into the line computer one-time 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 approval of the Executive Director of the Office of Information Systems or his/her designee, and subject to the same language in Section 32 of this Act.

Further, it is the legislative intent that none of the appropriations for One-Time Appropriations be included, or be considered, as a part of the basic budget request for the Fiscal Year 1992 Appropriation Bill.

Where applicable, the appropriations to Office of the Budget - Contingency - One-Time Appropriations (10-02-04) are subject to the following terms and conditions:

DDS	Amount	Purpose
01-08-02	101.3	Computer Equipment
02-02-20	15.0	Historical Records Reproduction - Kent County
02-03-10	20.0	Board of Canvass
02-17-01	141.5	Upgrade Mainframe
	15.0	Telecommunications - Civil Information System
	90.0	Records Management - Court of Chancery
	167.4	Records Management - Family Court
02-18-03	5.0	Furniture and Equipment
10-03-02	46.5	Flags and Pins
10-03-04	4,000.0	Housing Development Fund
10-04-02	15.2	Classification Review
10-07-02	760.0	DELJIS Development
	200.0	DELJIS Hardware
	109.5	Memory Upgrade for Message Switcher
12-05-01	50.0	Flexible Benefits Proposal
15-02-01	69.6	Tenant Improvements and Moving Expenses
20-06-04	1.5	Historical Marker for Fort Saulsburg
	1.5	Historical Marker for Georgetown as a County Seat
	1.5	Historical Marker for Iron Hill
	3.0	Afro-American Historic Markers
30-01-40	8.0	Office Equipment
30-03-20	60.0	Integrated Regulatory Management System
35-01-10	225.0	Mobile Mammography Van
35-01-20	150.0	Demonstration Program - Certain Health Care Classifications in Institutions
35-04-01	17.0	Preventative Maintenance
35-05-02	9.6	Minor Cap-Diamond Deliveries Program
	15.0	Implementation - House Bill No. 677
35-08-01	10.3	Car-Mobility Instructor

35-10-01	5.7	Office Furniture - New Positions
	22.4	Personal Computers - New Positions
35-11-20	150.0	Wheel Chairs
35-11-30	60.0	Start-up for Two Apartments
	10.0	Transition - Post 21 Clients
	48.3	Start-up for One Group Home
	25.0	Start-up for Post 21 Expansion
35-14-01	41.2	Four Vehicles
37-01-10	50.0	Furniture - Family Court Building - Dover
37-03-50	50.0	Start-up for Indian River Project
37-05-30	3.0	Office Furniture and Equipment
	4.8	Computer Equipment
37-05-40	10.0	Office Furniture and Equipment
37-08-50	2.4	Child Care Background Checks
38-01-20	24.0	Food Preparation Equipment
	21.0	MSU Satellite Feeding Equipment and Vehicle
38-01-70	20.0	Law Library Books
38-04-01	20.0	Replacement Radios
38-04-05	258.2	Rent - Woods Haven-Kruse
38-04-07	10.0	Storage Facility
38-04-08	55.5	Three Vans
38-06-01	5.0	Office Equipment and Furniture
	3.0	Bulletproof Vests
	45.0	Equipment for Community Service Cleanup
38-06-03	10.0	Office Equipment
	34.5	Three Vehicles Including Radios
38-06-04	107.7	Electronic Monitoring Anklets
40-01-01	20.0	Nanticoke River Marina - Planning and Design
40-05-02	18.0	Van
	10.0	Equipment
40-05-04	5.0	Pesticide/Chemical Waste Disposal
40-05-06	30.0	Replacement of Boats, Motors and Trailers
40-07-02	18.0	Christina River Watershed Project
40-07-03	1.0	Office Equipment for New Beach Preservation Position
40-07-04	3.0	Office Equipment for New District Operations Positions
	7.0	Computer Equipment for New District Operations Positions
	20.6	Two Intermediate Sedans for the New District Operations Positions
40-08-04	1.0	Office Equipment for New Environmental Scientist Position
40-09-01	30.6	Two Vehicles for New EPO Positions
40-09-03	1.0	Office Equipment for New SERT Environmental Scientist Position
	3.7	Computer Equipment for New SERT Environmental Scientist Position
	10.3	Vehicle for New SERT Environmental Scientist Position
45-01-10	5.0	Inspection Regulations Issuance
45-06-05	26.9	Electronic Surveillance Equipment
45-06-10	26.0	Low Band Base Station Transmitters
45-07-20	10.0	Odometer Forms
45-07-30	2.0	Bar Coding Machine
70-01-01	128.5	Election Year Costs
70-02-01	870.2	Election Year Costs
70-03-01	113.0	Election Year Costs
70-04-01	81.9	Election Year Costs
75-01-01	3.6	AIMS Computer
75-02-01	5.6	Seven High Speed Modems for the DERIN Computer System
90-01-01	35.0	Poultry House Renovation
90-01-02	203.0	Topographical Maps
90-03-01	50.0	Instructional and Laboratory Equipment
	125.0	Administrative Computing System
	30.0	Computer Equipment
90-04-02	10.0	Computer Equipment
90-04-06	25.0	Computer Equipment
95-02-02	145.0	Public Education Computing Fund
95-03-01	20.0	Parent Early Ed Center, Start-up
95-03-03	50.0	Delaware Geographic Alliance

95-03-04	70.0	Specialized Equipment
95-04-01	733.0	School Bus Replacement

Section 38. Section 1 of this Act makes an appropriation to Postsecondary Education Commission (10-02-07) for scholarships: $200.0 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; $200.0 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; $100.0 shall be used for the Engineering and Science Fund in accordance with Senate Substitute 1 for Senate Bill 334 of the 134th General Assembly; $13.0 shall be used for the B. Bradford Barnes Scholarship Program.

Section 39. Listed below are the allocations of Office of Information Systems services for Fiscal Year 1991.

Agency	Fiscal Year 1991 Projections General Funds	Other Funds
Legislative	$ 38.0	$
Judicial	160.0	
Executive	2,027.4	55.0
Other Elective Offices	140.0	
Legal	40.0	
State	1,400.0	66.0
Finance	5,484.1	3.0
Administrative Services	185.0	
Health and Social Services (Dover)	250.0	20.4
Health and Social Services (Biggs)	918.2	1,019.3
Children, Youth and Their Families (Dover)	32.0	
Children, Youth and Their Families (Biggs)	90.0	
Correction	80.0	65.0
Natural Resources and Environmental Control	50.0	2.0
Public Safety	700.0	
Community Affairs	16.0	
Transportation	350.0	2.0
Labor	50.0	
Agriculture	10.0	
Elections	140.0	
Fire Prevention Commission	20.0	
National Guard	3.0	
Higher Education	62.0	
Public Education	300.0	
Total:	$ 12,545.7	$ 1,232.7
GRAND TOTAL	$ 13,778.4	

Section 40. Section 1 of this Act appropriates $130.0 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 41. Section 1 of this Act appropriates $779.7 ASF for Contractual Services to the State Housing Authority (10-03-04). Of this amount, $25.0 shall be used to support the data collection and analysis of loans and investments to 31 targeted census tracts. The contractor shall be selected by the Director of the State Housing Authority, the Budget Director and the Controller General.

Section 42. Of the amount appropriated in Section 1 of this Act as a one-time appropriation to the Delaware Development Office, State Housing Authority (10-03-04) Housing Development Fund, $50.0 shall be distributed by July 31, 1990 to the Department of Health and Social Services, Division of Aging, Aging Services (35-14-10) for the Accessory Apartment Pilot Project. These funds shall be placed in a special fund account to be established in the Division of Aging, Aging Services (35-14-10) called the Accessory Apartment Pilot Project and shall be disbursed by the Division of Aging in a manner consistent with the intentions of the program.

Section 43. (a) Section 1 of this Act appropriates to the State Housing Authority (the "Authority") $4,050.3 for its Fiscal Year 1991 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, 1991, 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 Director of the Delaware Development Office, requests a lesser amount.

Section 44. No 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 45. Section 1 of this Act appropriates $277.7 to the Office of State Personnel, Operations (10-04-02) for Generic Aides/Handicapped Employees. This appropriation is intended to encourage and enable qualified mentally and physically handicapped persons to obtain State employment per the provisions of Senate Bill 496 of the 132nd General Assembly and House Bill 136 of the 134th General Assembly.

Section 46. The State Employees Pension Benefits Review Committee will continue to review the pension plan by using appropriate and accepted comparative analysis, including, but not limited to, the benefit structure of the various State pension systems for the purpose of evaluating current pension plan benefits and recommending changes.

The Committee membership will consist of the Chairman and the Vice Chairman of the Legislative Joint Finance Committee, one member of the Senate appointed by the President Pro Tem, one member of the House of Representatives appointed by the Speaker, three members appointed by the Chairman of the Board of Pension Trustees, one member of the Pension Advisory Council, the Pension Administrator, the State Personnel Director, the Budget Director, and the Controller General.

The Budget Office, the Controller General's Office, and the Pension Office shall provide the Committee with staff support and such other resources as the Committee may require.

The Committee shall report by April 1, 1991, to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate its findings and recommendations.

Section 47. Section 1 of this Act contains General Fund appropriations for a pension increase for State Pensioners effective July 1, 1990. These appropriations are contingent upon enactment of legislation during the 135th General Assembly granting pension benefit increases.

Section 48. 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 49. Section 1 of this Act makes an appropriation to the Office of the Budget - Contingency - One-Time Appropriations (10-02-04) for one-time items for DELJIS (10-07-02). At the request of the agency, these amounts may be transferred among the various items listed with the approval of the Budget Director and the Controller General.

Section 50. Amend Title 29, Chapter 61, Section 6103 of the Delaware Code by deleting the phrase, ", with a copy thereof to the Secretary of Finance" in the last sentence.

Section 51. Amend Title 29, Chapter 63, Section 6334 of the Delaware Code by deleting Subsections (c)(3) and (c)(4) in their entirety.

Section 52. Amend Title 29, Chapter 63, Section 6334 of the Delaware Code by adding the following Subsection:

"(e) The requirement to submit a budget in the zero-based format is waived for those agencies which will be part of the Strategic Planning and Budgeting Process."

Section 53. Amend Title 29, Chapter 63, Section 6340 of the Delaware Code by adding the following Subsections:

"(g) Other employment costs are reflected within each 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.

(h) The State Treasurer is hereby directed to collect on each pay cycle all the other employment costs from all funds."

Section 54. Amend Title 29, Chapter 65, Section 6524 of the Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§6524. Statement of property under agency control.

Every agency shall furnish the Secretary of Finance annually with a distinct statement of all qualifying property of the State under the control or jurisdiction of the agency, and the cost price of such property. Such statement shall be prepared in accordance with instructions set forth in the Budget and Accounting Policy Manual, and shall be certified by the of the agency making the same."

Section 55. Amend Title 29, Chapter 65, Section 6528 of the Delaware Code by adding the following Subsections:

(g) Agencies having appropriated special funds in Section 1 of the Budget Appropriation Bill and only one holding account may directly deposit funds into their appropriation lines, not to exceed the total appropriation for each line contained in Section 1 of the Budget Appropriation Bill. Any additional receipts must be deposited in the holding account.

(h) Transfers among the various appropriated special fund appropriation lines, excluding those in Subsection (f) of this Section and from a holding account into an expenditure account, require the approval of the Budget Director and Controller General.

(i) All agencies with internal program units identified in Section 1 of the Budget Appropriation Bill are hereby authorized to transfer prior-year funds between internal program units to complete organization restructuring approved in Section 1 of the Budget Appropriation Bill. These transfers shall not require the approval of the Budget Director or Controller General.

(j) All General Fund and appropriated special fund transfers requested by Public Education require the approval of the Budget Director and Controller General.

OTHER ELECTIVE OFFICES

Section 56. Section 1 of this Act provides a Special Fund appropriation of $342.5 for the Auditor of Accounts (12-02-01) Contractual Services. Of that amount, $9.0 shall be used for the federally-mandated External Quality Control Review and $2.0 shall be used to provide for the federally-mandated continuing education requirements.

Section 57. Section 1 of this Act provides a General Fund appropriation of $163.3 for the Auditor of Accounts (12-02-01) Contractual Services. Of that amount, $9.0 shall be used for the federally-mandated External Quality Control Review and $2.0 shall be used to provide the federally-mandated continuing education requirements.

Section 58. Of the total positions authorized in Section 1 of this Act for the Auditor of Accounts (12-02-01), the position of Public Information Officer shall be exempt from classified service.

Section 59. 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 1991, the State Auditor should experience a cash flow deficit in fulfillment of federal audit responsibilities, the Budget Director, upon the request of the State Auditor, shall attempt to advance sufficient funding from the Federal Audit Set-Aside or Indirect Cost Accounts.

Section 60. Section 1 of this Act contains an authorization to the Insurance Commissioner, Regulatory Activities (12-03-01) for three positions associated with the Bank and Trust Company Insurance Powers Act of 1989. These positions shall not be filled without approval of the Budget Director and Controller General.

Section 61. Section 1 of this Act provides a Special Fund appropriation of $1,288.0 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 $1,288.0 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 62. A sum of $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, 1991.

Section 63. 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/her designated beneficiary or in the absence of a designated beneficiary, the amount shall be paid to the deceased pensioner's estate.

Section 64. Section 1 of this Act authorizes $207.7 for Expense of Issuing Bonds 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 Expense of Issuing Bonds fund shall not be made without the prior approval of the State Treasurer and the Secretary of Finance.

LEGAL

Section 65. Section 1 of this Act authorizes an appropriation for Contractual Services for the Office of Attorney General (15-01-01). Of this amount, $340.9 shall be used for the purpose of providing services covering family violence in New Castle County and $174.5 shall be used for the purpose of providing services covering family violence in Kent and Sussex Counties.

Section 66. 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 67. 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.

Section 68. Of the total Deputy Attorneys General authorized in Section 1 of this Act to the Office of the Attorney General (15-01-01), one half (.5) shall be assigned to the Foster Care Review Board.

Section 69. Section 1 of this Act provides an appropriation of $145.1 in Appropriated Special Funds and four positions to the Office of the Attorney General (15-01-01). Of this amount, $94.4 and three positions are for the purpose of operating a Securities Enforcement Division which will serve to aid the Securities Commissioner in the enhanced enforcement powers of investor protection statutes as outlined in House Bill No. 444 of the 135th General Assembly. To support the enhanced enforcement powers program, the Attorney General is authorized to collect and use up to $100.0 from the increased fees realized by House Bill No. 444 of the 135th General Assembly. All revenues in excess of $100.0 collected from the fees and charges as outlined in House Bill No. 444 of the 135th General Assembly shall be deposited to the General Fund of the State of Delaware.

Section 70. Section 1 of this Act appropriates $69.6 in one-time funding to the Public Defender (15-02-01) for Tenant Improvements/Moving costs. These funds are to be expended for such purpose in accordance with recommendations from the Division of Facilities Management of the Department of Administrative Services.

STATE

Section 71. Section 1 of this Act provides an appropriation to the Department of State, Office of the Secretary, Delaware Commission on Veteran's Affairs (20-01-02), for Contractual Services. Of that amount, $28.8 shall be used to provide mental health services for veterans in Kent and Sussex Counties.

Section 72. Section 1 of this Act includes the amount of $12.0 in Salaries & Wages (Casual & Seasonal) for grounds maintenance for Dickinson Mansion in the Department of State, Division of Historical & Cultural Affairs, Bureau of Museums and Historic Sites (20-06-04).

Section 52. Amend Title 29, Chapter 63, Section 6334 of the Delaware Code by adding the following Subsection:

"(e) The requirement to submit a budget in the zero-based format is waived for those agencies which will be part of the Strategic Planning and Budgeting Process."

Section 53. Amend Title 29, Chapter 63, Section 6340 of the Delaware Code by adding the following Subsections:

"(g) Other employment costs are reflected within each 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.

(h) The State Treasurer is hereby directed to collect on each pay cycle all the other employment costs from all funds."

Section 54. Amend Title 29, Chapter 65, Section 6524 of the Delaware Code by striking said Section in its entirety and substituting in lieu thereof the following:

"§6524. Statement of property under agency control.

Every agency shall furnish the Secretary of Finance annually with a distinct statement of all qualifying property of the State under the control or jurisdiction of the agency, and the cost price of such property. Such statement shall be prepared in accordance with instructions set forth in the Budget and Accounting Policy Manual, and shall be certified by the of the agency making the same."

Section 55. Amend Title 29, Chapter 65, Section 6528 of the Delaware Code by adding the following Subsections:

(g) Agencies having appropriated special funds in Section 1 of the Budget Appropriation Bill and only one holding account may directly deposit funds into their appropriation lines, not to exceed the total appropriation for each line contained in Section 1 of the Budget Appropriation Bill. Any additional receipts must be deposited in the holding account.

(h) Transfers among the various appropriated special fund appropriation lines, excluding those in Subsection (f) of this Section and from a holding account into an expenditure account, require the approval of the Budget Director and Controller General.

(i) All agencies with internal program units identified in Section 1 of the Budget Appropriation Bill are hereby authorized to transfer prior-year funds between internal program units to complete organization restructuring approved in Section 1 of the Budget Appropriation Bill. These transfers shall not require the approval of the Budget Director or Controller General.

(j) All General Fund and appropriated special fund transfers requested by Public Education require the approval of the Budget Director and Controller General.

OTHER ELECTIVE OFFICES

Section 56. Section 1 of this Act provides a Special Fund appropriation of $342.5 for the Auditor of Accounts (12-02-01) Contractual Services. Of that amount, $9.0 shall be used for the federally-mandated External Quality Control Review and $2.0 shall be used to provide for the federally-mandated continuing education requirements.

Section 57. Section 1 of this Act provides a General Fund appropriation of $163.3 for the Auditor of Accounts (12-02-01) Contractual Services. Of that amount, $9.0 shall be used for the federally-mandated External Quality Control Review and $2.0 shall be used to provide the federally-mandated continuing education requirements.

Section 58. Of the total positions authorized in Section 1 of this Act for the Auditor of Accounts (12-02-01), the position of Public Information Officer shall be exempt from classified service.

Section 59. 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 1991, the State Auditor should experience a cash flow deficit in fulfillment of federal audit responsibilities, the Budget Director, upon the request of the State Auditor, shall attempt to advance sufficient funding from the Federal Audit Set-Aside or Indirect Cost Accounts.

Section 60. Section 1 of this Act contains an authorization to the Insurance Commissioner, Regulatory Activities (12-03-01) for three positions associated with the Bank and Trust Company Insurance Powers Act of 1989. These positions shall not be filled without approval of the Budget Director and Controller General.

Section 61. Section 1 of this Act provides a Special Fund appropriation of $1,288.0 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 $1,288.0 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 62. A sum of $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, 1991.

Section 63. 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/her designated beneficiary or in the absence of a designated beneficiary, the amount shall be paid to the deceased pensioner's estate.

Section 64. Section 1 of this Act authorizes $207.7 for Expense of Issuing Bonds 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 Expense of Issuing Bonds fund shall not be made without the prior approval of the State Treasurer and the Secretary of Finance.

LEGAL

Section 65. Section 1 of this Act authorizes an appropriation for Contractual Services for the Office of Attorney General (15-01-01). Of this amount, $340.9 shall be used for the purpose of providing services covering family violence in New Castle County and $174.5 shall be used for the purpose of providing services covering family violence in Kent and Sussex Counties.

Section 66. 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 67. 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.

Section 68. Of the total Deputy Attorneys General authorized in Section 1 of this Act to the Office of the Attorney General (15-01-01), one half (.5) shall be assigned to the Foster Care Review Board.

Section 69. Section 1 of this Act provides an appropriation of $145.1 in Appropriated Special Funds and four positions to the Office of the Attorney General (15-01-01). Of this amount, $94.4 and three positions are for the purpose of operating a Securities Enforcement Division which will serve to aid the Securities Commissioner in the enhanced enforcement powers of investor protection statutes as outlined in House Bill No. 444 of the 135th General Assembly. To support the enhanced enforcement powers program, the Attorney General is authorized to collect and use up to $100.0 from the increased fees realized by House Bill No. 444 of the 135th General Assembly. All revenues in excess of $100.0 collected from the fees and charges as outlined in House Bill No. 444 of the 135th General Assembly shall be deposited to the General Fund of the State of Delaware.

Section 70. Section 1 of this Act appropriates $69.6 in one-time funding to the Public Defender (15-02-01) for Tenant Improvements/Moving costs. These funds are to be expended for such purpose in accordance with recommendations from the Division of Facilities Management of the Department of Administrative Services.

STATE

Section 71. Section 1 of this Act provides an appropriation to the Department of State, Office of the Secretary, Delaware Commission on Veteran's Affairs (20-01-02), for Contractual Services. Of that amount, $28.8 shall be used to provide mental health services for veterans in Kent and Sussex Counties.

Section 72. Section 1 of this Act includes the amount of $12.0 in Salaries & Wages (Casual & Seasonal) for grounds maintenance for Dickinson Mansion in the Department of State, Division of Historical & Cultural Affairs, Bureau of Museums and Historic Sites (20-06-04).

Section 73. The allocation of Fiscal Year 1991 microfilm services listed for budget unit Microfilm Services (20-06-05) 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 or other related developments during Fiscal Year 1991. 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.

	Fiscal Year 1991 Projections	
Agency	GF	ASF
Legislative	3.7	
Judicial	100.6	
Executive	2.1	10.2
Other Elective Offices	54.2	
State	49.4	4.7
Finance	1.1	
Administrative Services		6.2
Health and Social Services	69.3	.5
Children, Youth and Their Families	9.2	
Correction	8.9	
Natural Resources and Environmental Control	15.0	
Public Safety	86.5	
Transportation	27.6	2.8
Fire Prevention Commission	9.8	
Higher Education	25.7	
Public Education - State Board	2.0	
Public Education - School Districts	43.5	
Other Sources		18.0
Grand Total	$ 508.6	$ 42.4

Section 74. Amend Title 29, Chapter 59, Section 5903, Delaware Code by adding the following Subsection:

"(21) One position within the Division of State Banking Commission, Department of State in addition to those listed in Subsection (5) of this Section".

FINANCE

Section 75. 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 may provide for either or both: (a) collection or assistance in collection of delinquent accounts from businesses or persons; and (b) audit of business taxables. 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 the Division 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 annually to the Budget Director and the Controller General.

Section 76. The Director of the Division 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. Unencumbered balances on June 30, 1991, in excess of $5.0 shall revert to the General Fund. Any transfer into this account shall be reversed prior to June 30, 1991. 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, 1991, before January 1, 1992.

Section 77. The Director of the Division 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/she 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, including charges relating to receiving and processing remittances and reports by holders, and claims by owners, of abandoned property 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 78. 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 79. (a) In the event that the gross sales of the State Lottery shall exceed the amount specified in Section 1 of this Act, the Appropriated Special Funds budget 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, 1991, shall not exceed 20 percent of gross sales as limited by Title 29, Chapter 48, Delaware Code.

(b) The Appropriated Special Funds budget for the State Lottery Office (25-07-01) provides for the services of two resident auditors and additional audit services under the appropriation for Contractual Services. In addition to the duties of the two resident auditors, other duties shall be performed as assigned by the Secretary of Finance.

Section 80. The Director of the Delaware State Lottery shall have the authority to contract for the operation of an Overseas Lottery. The operation of the Overseas Lottery shall be separate from the Delaware Lottery, and all sales, expenses and profits shall be accounted for separately. All monies received from the sale of Overseas Lottery tickets shall be accounted for to the State Treasurer and all net monies shall be placed into a special Overseas Lottery Fund Account. The Overseas Lottery operations shall be exempt from the limitations on prize payouts, operating expenses and State share as set by Title 29, Chapter 48, Subchapters 4805 and 4815 of the Delaware Code. The Director of the Delaware State Lottery shall be authorized to pay for the operation and administration of the Overseas Lottery from the Overseas Lottery Fund Account as necessary to produce the greatest income for the State. All net proceeds after payment of prizes, operating expenses and participating partner's share shall accumulate in the Overseas Lottery Fund Account in an amount not to exceed $1,000,000; and thirty days after the end of each quarter, any amount in excess of $1,000,000 shall be paid to the General Fund of the State.

The Director of the Delaware State Lottery shall be authorized to use up to $1,000,000 from the net proceeds of the Delaware State Lottery to fund the start-up costs of the Overseas Lottery; such costs to be repaid in full from the proceeds of the Overseas Lottery within one year from start-up.

ADMINISTRATIVE SERVICES

Section 81. (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 541 is not enacted into law:

Personnel Costs (1)	$17.1
Contractual Services	12.0
Supplies and Materials	1.5

(b) Of the funds appropriated in Section 1 of this Act to the Budget Office - Other Items, Office of the Budget, Executive (10-02-04), the following amounts will revert to the General Fund if House Substitute No. 1 for House Bill 541 is not enacted into law:

Furniture and Equipment	$8.0

Section 82. 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 $133.7 from the Public Service Commission's Revolving Account (8600) to the Public Advocate's Appropriated Special Fund Account.

Section 83. 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 84. All graphics and printing services for State agencies shall be obtained from the Division of Support Operations or, if appropriate the Director of the Division of Support Operations may award a contract in accordance with Chapter 69 of Title 29 of the Delaware Code.

Section 85. 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 86. 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 87. 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, and procedures.

Section 88. With the exception of the custodial work associated with Legislative Hall and the Governor's Office, the Department of Administrative Services (30-00-00) may not hire any permanent, full-time custodial employees in any fiscal year without the approval of the Budget Director and the Controller General.

Section 89. During Fiscal Year 1991, the Secretary of Administrative Services is authorized to lease approximately 25,000 square feet of office space in Wilmington, for the Probation and Parole function.

Section 90. The Secretary of Administrative Services is authorized to carry out the necessary planning, design, site improvements and construction of a new approximately 60,000 to 70,000 square feet office building to be located on State property adjacent to the Highway Administration Building in Dover. The facility shall serve primarily as a consolidated location for several State agencies for which the Department of Administrative Services currently leases space in the Dover area. Financing for the cost of such facilities in an aggregate principal amount not to exceed $8.0 million, shall be provided under arrangements approved by the Secretary of Finance provided that any such financing arrangement shall not constitute a general obligation of the State nor a pledge of its full faith and credit and provided that any such financing arrangement shall have a projected revenue positive or neutral affect on the State budget. The Secretary of Finance will report to the Budget Director and the Controller General the details of such financing arrangement.

Section 91. The Secretary of Administrative Services shall be empowered to enter into lease purchase, installment sale or other similar contractual arrangements providing for the financing of the construction, occupancy/use and acquisition costs of real property, buildings and equipment to be used by the State and its agencies; to grant a mortgage on or security interest in any such property to secure the obligations of the State under any such financing arrangement; to subdivide such property as may be required; and to transfer any such property in satisfaction of any such obligation. The provisions of Chapter 94 of Title 29 shall not apply to any transfer of any such property by the State in satisfaction of any such obligation. The provisions of Chapter 65 of Title 18 shall not apply to the acquisition of any credit enhancement, title insurance or related insurance required in connection with any such financing arrangements. Any such financing arrangement shall not constitute a general obligation of the State nor a pledge of its full faith and credit. The State's financial obligation under any such financing arrangement shall be limited to amounts appropriated by the General Assembly and in any case where the State appropriates funds to meet any obligation with respect to such financing, the State covenants to cause those funds to be applied to meet that obligation. Any transactions entered into by the Secretary of Administrative Services pursuant to this provision must be reported to the Budget Director and the Controller General.

Section 92. The Department of Administrative Services will be responsible for developing standards for office furniture and equipment for the Carvel 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 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 93. In addition to the positions authorized in Section 1 of this Act, an additional 2.0 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 1992.

Section 94. During Fiscal Year 1991, the Department of Administrative Services, Division of Facilities Management, Building Operations/Maintenance IPU (30-05-20) shall retain the rental fees as ASF for the building known as the Wilmington Public Building. The retained portion must be deposited as per State laws and shall be disbursed as per this Act's Section 1 ASF budget for Building Operations/Maintenance (30-05-20).

Section 95. (a) The Division of Purchasing, Department of Administrative Service (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 1991, 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 $13.5. Funding for additional copies will be the responsibility of the requesting agency.

Section 96. All State agencies are required to determine if the Division of Purchasing (30-06-00) can meet the needs of the agency prior to ordering equipment from vendors.

Section 97. State agencies are encouraged to purchase letterhead stationery and business cards printed on recycled paper by utilizing contracts with the Division of Purchasing.

Section 98. Amend subsection 6505(c), Chapter 69, Title 29 of the Delaware Code by adding an additional sentence at the end of the subsection which shall read as follows:

"Credit cards authorized by the Secretary of the Department of Finance and distributed by the Division of Purchasing to State employees for duly authorized travel expenses may also be issued and used provided, however, prior approval for said expenses is obtained by the employee in advance. The State of Delaware is not liable for payment of any expenses incurred on an individual's credit card issued under this section."

HEALTH AND SOCIAL SERVICES

Section 99. Section 1 of this Act includes a reduction in authorized positions and funding in the Division of Long-Term Care from the Fiscal Year 1990 Budget. This project is referred to as the Long-Term Care Reduction Plan. The Secretary of the Department of Health & Social Services shall insure that no individual employees are laid off as a result of the implementation of this plan.

Section 100. Results of investigations conducted by the Welfare Fraud Unit concerning any and all public welfare programs administered by the Department of Health and Social Services 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. The Office of the Attorney General 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 the next month after the end of a quarter, which report shall not be subject to prior review by any other authority.

Section 101. 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 quarterly.

Section 102. 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 103. 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 104. Section 1 of this Act includes an appropriation of $150.0 in one-time funding to the Department of Health & Social Services, Administration, Business Administration (35-01-20). The purpose of this appropriation is to establish a Demonstration Program designed to fill vacancies in the following health care classifications in institutions in the Department of Health & Social Services:

a. Registered Nurses
b. Psychiatric Nurses
c. Licensed Practical Nurses
d. Attendants
e. Psychiatric Attendants

The Secretary of the Department of Health & Social Services shall develop a program to use this appropriation to attract health care personnel to fill vacancies in the above classifications. Such plan will be approved by the Budget Director and Controller General. These funds shall be used for the purposes outlined in this Section notwithstanding any other provisions of this Act, the Merit Rules of the State of Delaware, or any other rule or regulation which might impede the intent of this Section.

The Secretary of the Department of Health & Social Services shall evaluate this program and report his findings to the Budget Director and Controller General by May 15, 1991, so that a determination can be made to continue, modify, or discontinue this Demonstration Program.

Section 105. 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 106. Section 1 of this Act provides an appropriation 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, 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 107. 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
Radon Testing
Summer Food Inspection
Casual/Seasonal Nursing Services
Case Management for High Risk Pregnancies
Vaccines

Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and expend fees from the aforementioned accounts except as noted below. Corresponding Appropriated Special Fund spending authority has been provided in Section 1 of this Act.

The Handicapped Children (Appropriation 8610) and Maternal and Child Health Services (Appropriation 8611) programs shall continue to deposit 30% and 56% respectively of program collections to the General Fund.

Section 108. Section 1 of this Act includes an appropriation to Public Health, Community Health (35-05-02) for Contractual Services. Of that amount, $137.1 shall be used for the purpose of providing school nursing services three days a week to non-public schools in New Castle County. Included in the above funding is a four percent inflationary increase for this 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 of each year. The Secretary will also ensure that timely payments are made to all contractors.

Section 109. Section 1 of this Act provides an appropriation for Contractual Services to the Department of Health & Social Services, Public Health, Community Health (35-05-02). Of that amount, $100.0 shall be used to initiate two "challenge grants" with local school districts to provide for the operation of at least two School-Based Health Centers. A participating district must provide a match of at least $50.0.

Local School Boards of Education shall adhere to the State Board of Education Policy on the establishment and operation of School-Based Health Centers.

Section 110. Section 1 of this Act includes an appropriation of $15.0 in one-time funding to the Department of Health & Social Services, Public Health, Community Health (35-05-02). The purpose of this appropriation is to provide start-up funding for the implementation of House Bill No. 677 of the 135th General Assembly. These funds shall be expended only upon the enactment of House Bill No. 677 into law.

Section 111. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Public Health, Community Health (35-05-02), in the line item "Office of Narcotics and Dangerous Drugs" in the amount of $30.0. This amount includes $20.0 which shall be used at the discretion of the Drug Control Administrator.

Section 112. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Public Health, Community Health (35-05-02), for "Renal Disease". Of that amount, $35.0 represents an increase over Fiscal Year 1990. Of that increase, $8.0 shall be used for transportation, $10.0 for drugs and other supplies, and $17.0 for the use of dialysis equipment.

Section 113. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Alcoholism, Drug Abuse & Mental Health, Inpatient Mental Health (35-06-30), for Contractual Services. Of that amount, $41.2 shall be made available for a Nurse Intern Program. Such program will enable graduate nurses to take graduate courses to increase their skills in specialty areas.

It is understood that participants in this program will provide clinical services with compensation to Delaware State Hospital during the duration of their graduate level education. It is further understood that these individuals shall remain in the employ of Delaware State Hospital for a minimum of one year after graduation or reimburse the State for any and all tuition received.

Section 114. Section 1 of this Act provides an appropriation to the Inpatient Mental Health (35-06-30) (Delaware State Hospital) for Personnel Costs. Of this amount, $75.0 has been provided to create a pool of trained, casual and 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, 1991, as to the effectiveness of this strategy in reducing overtime at the State Hospital.

Section 115. 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 116. Section 1 of this Act includes funding for a Pharmacy contract in the Inpatient Mental Health (35-06-30). This contract shall continue to provide once a month drug inspections of the Terry Children's Psychiatric Center.

Section 117. 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 118. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Alcoholism, Drug Abuse & Mental Health, Alcoholism & Drug Abuse (35-06-40) in Contractual Services. In addition to this General Fund appropriation, the Director of the Division of Alcoholism, Drug Abuse & Mental Health, shall insure that the amount of $25.0 be expended from available Federal Funds to contract for employment, alcohol, and drug counseling and referral services for youth and adults to encourage an alcohol and drug-free environment in South Wilmington.

Section 119. Section 1 of this Act includes an appropriation to the Department of Health & Social Services, Alcoholism, Drug Abuse and Mental Health, Alcoholism & Drug Abuse (35-06-40) in Contractual Services. In addition to this General Fund appropriation, the Director of the Division of Alcoholism, Drug Abuse and Mental Health, shall insure that the following services will be provided with available Federal Funds for the State fiscal year ending June 30, 1991:

(a) Full year funding Alcohol/Drug Services	$168.7
(b) Severe Alcohol/Drug Abuse Services	97.6
(c) IV Drug Abuse Services	100.0
(d) Inflationary increase for contractors	34.1
(e) Block Grant carryover	201.6

In addition to the above, available Federal Funds shall fund an inflationary increase for contractors in Community Mental Health (35-06-20) in the amount of $39.2.

Section 120. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Alcoholism, Drug Abuse and Mental Health, Alcoholism & Drug Abuse (35-06-40) for Contractual Services. Of that amount, $120.0 shall be used for compulsive gambling services.

Section 121. Section 1 of this Act provides an appropriation to the Division of Social 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 122. (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:

(i) 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;

(ii) 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 children up to the age of 6 in families with incomes up to 133% 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 and children who from birth are placed with private agencies for the purpose of adoption. Medicaid coverage will be from the date of birth until the child is placed with the prospective adoptive parent(s).
(24) Hospice services
(25) Extended Services for pregnant women
(26) Medicare Premiums
(27) Optional Medicaid Services-Rehabilitative Services
(28) Additional services provided to eligible individuals, in the home or community, offered under an AIDS waiver as an alternative to institutionalization including:
(a) routine dental services for adults,
(b) intensive supervision and supplemental payment for children and adults in foster care,
(c) private duty nursing,
(d) mental health services.
These services will only become effective if approved for Federal Medicaid funding by the Health Care Financing Administration.
(29) Other medical or remedial care recognized as under State Law, that is identified as medically necessary for individuals under age 21 through the Early and Periodic Screening Diagnosis and Treatment (EPSDT) Program, within limitations defined by the State's Medicaid Program."

(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 210 percent of the federal Supplemental Security Income (SSI) monthly payment standard effective January 1, 1991, and if they meet other eligibility requirements. The income eligibility limit shall be 200 percent of SSI from July 1, 1990, to December 31, 1990. 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.

(e) Qualified Medicare Beneficiaries (QMBs) with incomes less than 100% of the federal non-farm poverty limit and resources less than two times the SSI resource limits are eligible only for Medicare premiums and Title XVIII coinsurance and deductibles.

Section 123. 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 AFDC on and after October 1, 1990, shall be as follows, based on family size:

1-person household	$201.00 per month
2-person household	$270.00 per month
3-person household	$338.00 per month
4-person household	$407.00 per month
5-person household	$475.00 per month
6-person household	$544.00 per month
7-person household	$612.00 per month

and for each additional person beyond seven in the household which qualifies for assistance, the monthly standard of need amounts will be 40.3% of the 1989 Poverty Income Guidelines issued by the U.S. Department of Health and Human Services."

Section 124. For the fiscal year ending June 30, 1991, the Division of Social 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 125. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Visually Impaired Services (35-08-01), for personnel costs and contractual services. Of those amounts, $35.7 and $10.0, respectively, shall be used for an additional Mobility Instructor and support costs for the Independent Living Program.

Section 126. In addition to the positions authorized in Section 1 of this Act for the Division of Facility-Based Long-Term Care, an additional 8.9 FTE positions associated with the Long-Term Care Reduction Initiative 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 FY 1992.

Section 127. The Secretary of The Department of Health and Social Services is authorized to transfer vacant positions and funds between the Long-Term Care APU (35-09-00) and Delaware State Hospital IPU (35-06-30) to implement the Laundry Consolidation Plan with the approval of the Budget Director and Controller General.

Section 128. Section 1 of this Act provides an appropriation for Contractual Services to the Department of Health and Social Services, Mental Retardation, Institutional Services (35-11-20). Of that amount, up to $10.0 shall be available for services provided by Camp Barnes.

Section 129. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Mental Retardation, Institutional Services (35-11-20), for Contractual Services. Of that amount, up to $10.0 shall be used to study the feasibility of the construction of an indoor physical therapy pool for use by Stockley Center handicapped clients.

Section 130. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Mental Retardation, Community Services (35-11-30) for Purchase of Care. Of that amount, $20.0 shall be used for operating costs for an additional neighborhood home for two months in Fiscal Year 1991. An additional amount of $36.0 from Purchase of Care shall be used for four additional Independent Residential Community Placements for nine months in Fiscal Year 1991.

Section 131. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Mental Retardation, Community Services (35-11-30), for Contractual Services. Of that amount, $482.4 shall be used to provide sheltered workshop services for current clients while they are actively attending sheltered workshop programs which receive the workshop subsidy and who would qualify for services by normal intake criteria provided by the Divisions of Mental Retardation, Alcoholism, Drug Abuse and Mental Health, and Visually Impaired. Reimbursement to the facilities for these clients shall be based upon a verified per diem rate and shall not in the aggregate exceed the appropriation amount of $482.4 in Fiscal Year 1991.

The Divisions of Mental Retardation, Alcoholism, Drug Abuse and Mental Health, and Visually Impaired are encouraged, where appropriate, to provide supported employment opportunities for these clients within the appropriation limit.

Section 132. 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 lending car seats to families who cannot afford to buy them and to publish a Human Services Directory, respectively.

Section 133. Section 1 of this Act provides an appropriation to the Department of Health & 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 134. The Division of State Service Centers, Service Center Management IPU (35-12-20), currently operates 12 facilities throughout the State for which a Tenant User Fee for service is charged to partially offset the cost of Service Center Operations. The holding account for this function is entitled "Facility Reimbursement".

Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and deposit to the aforementioned accounts. Corresponding Appropriated Special Fund spending authority has been provided in Section 1 of this Act.

Section 135. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Aging, Aging Services (35-14-01), for Contractual Services. Of that amount, $100.0 shall be used for the Statewide Respite Care Program. These funds shall be used to provide respite care on a per diem or hourly basis for disabled, physically handicapped and/or mentally ill individuals. The individual's family shall be assessed a fee for this service based on their ability to pay.

Section 136. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Aging, Aging Services (35-14-01), for Contractual Services. Of that amount, $25.0 shall be used for the Elderlink - Elder Care Program.

Section 137. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Aging, Aging Services (35-14-01), for Contractual Services. Of that amount, $26.8 shall be used to expand day care, foster care, and homemaker services for the elderly.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 138. The Secretary of the Department of Services for Children, Youth and Their Families shall keep the Budget Director and Controller General well informed on a quarterly basis 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 139. 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, 1990, 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 140. The Division of Child Protective Services is hereby directed to formally notify, in advance, the Foster Care Review Board of any meeting, hearing or other event of which the Board desires notification. Said notification shall be directed to the Executive Director of the Board.

Section 141. 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 youths shall not take place in Ferris School.

Section 142. Section 1 of this Act includes an appropriation to the Department of Services for Children, Youth & Their Families, Program Support, Office of Child Care Licensing (37-08-50) for Personnel Costs, Contractual Services, and Supplies & Materials. Of those amounts, $21.0 and 1.0 position, $27.1, and $.2 respectively shall be used for Child Care Background Checks. Also, the one-time list includes $2.4 for associated capital outlay items. These funds shall be expended only upon the enactment of House Bill No. 737 of the 135th General Assembly into law.

CORRECTION

Section 143. Section 8913, Title 29, Delaware Code, specifies conditions and policies regarding the financial liability of a person, juvenile or adult, committed to an adult or juvenile detention facility. The Commissioner of Correction, or his designee(s), shall report to the General Assembly no later than December 15, 1990, on policies that have been

developed, all programs or other services that are provided and the charges received, any programs or services provided which are not assessed against the adult or juvenile, and any obstacles or problems which may impede compliance of Section 8913, Title 29, Delaware Code.

Section 144. Section 1 of this Act provides for Appropriated Special Funds to the Department of Correction in all Adult Prison facilities, Education, and Plummer House. These appropriations are contingent upon passage of Senate Bill No. 102 of the 135th General Assembly.

Section 145. Section 1 of this Act includes funding for five positions for an Internal Affairs Unit in the Department of Correction, Office of the Commissioner (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. Merit Rule 7.0111 (Recruitment) shall not apply to these positions.

Section 146. 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 use or sale of any portion of the Woods Haven-Kruse property.

Section 147. Section 1 of this Act provides an appropriation for Personnel Costs to the Department of Correction - Office of the Commissioner (38-01-01). Of the total amount appropriated, $15.0 shall be used to employ an attorney on a casual and seasonal basis to oversee the para-legal staff assigned to the Department of Correction - Education (38-01-70).

Section 148. Section 1 of this Act provides an appropriation to the Department of Correction, Medical Services (38-01-30). 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 149. Section 1 of this Act provides an appropriation to the Department of Correction (38-00-00), Administration - Medical Services (38-01-30). None of these funds may be transferred and any funds remaining unexpended or unencumbered on June 30, 1991, shall revert to the General Fund of the State of Delaware.

Section 150. The Commissioner of the Department of Correction or his designee(s) shall develop policies and procedures relating to transportation of detainees, inmates or other persons in the custody of the Department of Corrections. Such policies and procedures shall detail the times and conditions under which inmates may be transported from an institution to the courts, medical facilities, or any other location or condition which may require the transport of an inmate or inmates. Further, such policies and procedures shall be submitted to the State Budget Director and Controller General for approval no later than October 1, 1990. Following adoption of the policies and procedures, the Department of Correction shall adhere to such policies except when conditions arise which, in the opinion of the Commissioner, require special transportation needs. A report of all exceptions to the established transportation policies shall be submitted to the State Budget Director and Controller General quarterly beginning December 31, 1990.

Section 151. Section 1 of this Act appropriates funds to be used for Maintenance and Restoration projects to Facilities Maintenance (38-01-40). A proposed plan for the expenditure of these funds shall be presented to the Controller General and to the Budget Director by July 31, 1990. 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 preliminary plan for maintenance projects for Fiscal Year 1992 by October 30, 1990, to the Budget Director and Controller General.

Section 152. In addition to the positions authorized in Section 1 of this Act for the Department of Correction (38-00-00), additional positions are authorized in the Office of the Commissioner (38-01-01) 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 153. Section 1 of this Act includes funding for relief positions in the Staff Training Section, Office of the Commissioner of the Department of Correction (38-01-01). These positions shall be used for training relief only.

Section 154. Section 1 of this Act appropriates the sum of $15.0 in "gate money" or "release money" to the Department of Correction, Prisons - Office of the Bureau Chief (38-04-01). The General Assembly intends that these funds be used for inmates, who upon their release, are financially unable to obtain transportation away from the 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) Upon release, a prisoner who within 30 days prior to release has $50.00 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.

(b) Upon release, a prisoner who has less than $50.00 in his/her inmate account or accounts shall be paid in cash the amount remaining in his/her account or accounts and may be paid an additional sum sufficient to ensure transportation to their place of residence. Such sum sufficient, together with the funds available in the inmate account, shall not exceed $50.00.

(c) Any prisoner who, after using option (a) or (b) of said Section, has insufficient funds to provide a one-way bus ticket to their place of residence, shall forfeit all such funds and shall be provided with a one-way bus ticket to their place of residence as well as sufficient funding to provide food during travel.

Section 155. Section 1 of this Act provides an appropriation for Personnel Costs to the Department of Correction, Prisons, Office of the Bureau Chief (38-04-01). Included in this appropriation is hazardous duty pay for F.Y. 1991 for all positions which received hazardous duty pay on June 30, 1989, but, as a result of maintenance reviews, were subsequently deleted from eligibility for such pay. Further, funds are available to provide, retroactively, hazardous duty pay for F.Y. 1990 for the same positions.

Section 156. (a) Of the total positions authorized in Section 1 of this Act for the Morris Correctional Institution (38-04-07), three positions shall be used to continue the existing highway beautification project.

(b) Of the total positions authorized in Section 1 of this Act for the Delaware Correctional Center (38-04-03), four positions shall be used to continue the existing highway beautification project.

(c) Of the total positions authorized in Section 1 of this Act for the Sussex Correctional Institution (38-04-04), four positions shall be used for a highway beautification project.

Section 157. 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, $5.0 shall be used for "tipping" fees.

Section 158. Section 1 of this Act appropriates $1,080.5 to the Department of Correction, Community Custody and Supervision - Office of the Bureau Chief (38-06-01) for Level IV Inpatient Drug and Alcohol programs. The Department will submit a proposed plan for the establishment and operation of a Department-operated Level IV Drug and Alcohol treatment facility to the Budget Director and Controller General by October 1, 1990. Such plan will include, but is not limited to, projected capital and operational costs, projected program capacity, and proposed implementation schedule.

Section 159. Section 1 of this Act makes an appropriation of $1,415.0 to the Department of Correction - Community Custody & Supervision (38-06-01) for various drug and alcohol treatment programs.

The Secretary of Health & Social Services and the Commissioner of Correction, or their designees, shall jointly participate in developing the appropriate Request for Proposals (RFP's) for contract services to provide drug and alcohol treatment. Further, each Department shall jointly participate in a Screening & Evaluation Team to determine levels of service required for each referral as well as periodic review of all referrals. All selected contract providers shall report on a regular basis to the Department of Correction on any and all follow-up regarding referrals to the various support programs.

Section 160. Section 1 of this Act makes a one-time appropriation to the Department of Correction, Community Custody & Supervision, Office of the Bureau Chief (38-06-01). That amount shall be used to provide materials and equipment for use by persons sentenced to provide community service as a condition of probation. Materials and equipment purchased shall be located and made available at adult facilities in each county.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 161. During Fiscal Year 1989, the Water Resources Technical Services IPU (40-08-02), was granted a loan from the Fiscal Year 1987 Superfund account for the purpose of achieving the earliest possible federal Environmental Protection Agency certification of

its lab for Superfund site testing purposes. As stated in Volume 66, Chapter 303, Section 245 of the Laws of Delaware, the loan repayment will be made as ASF into a Department Management IPU holding account specific to the purpose of receiving the loan repayments. The Department Management 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, 1992.

PUBLIC SAFETY

Section 162. 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 shall be defined as those expenses for which a Volunteer Company would not normally prepare for in its Company budget and are not covered by said Companies own private insurance.

Section 163. Section 1 of this Act makes an appropriation to the Division of State Police, Executive IPU (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.

Section 164. Of the funds appropriated in Section 1 of this Act to the State Bureau of Identification, Department of Public Safety (45-06-08), the following amounts will revert to the General Fund if appropriate legislation to conduct child care background investigations is not enacted into law:

Personnel Costs (1)	$18.0
Capital Outlay	2.4

Section 165. Of the funds appropriated in Section 1 of this Act to the State Bureau of Identification, Department of Public Safety (45-06-08), the following amounts will revert to the General Fund if House Bill No. 588 of the 135th General Assembly is not enacted into law:

Personnel Costs (4)	$55.7
Contractual Services	7.7
Supplies and Materials	1.2
Capital Outlay	5.4

Section 166. State Police - Aviation (45-06-06) is considered a critical component of the Statewide Advanced Life Support system. Therefore, continued education and recertification training for paramedics and pilots in State Police - Aviation shall be eligible for funding through appropriations to the Office of Paramedic Administration (35-05-03).

Section 167 Of the funds appropriated in Section 1 of this Act to the Motor Fuel Tax, Licenses, Taxes and Registrations, Department of Public Safety (45-07-30), the following amounts will revert to the General Fund if House Bill No. 63 is not enacted into law:

Personnel Costs (1)	$18.9
Capital Outlay	3.0

COMMUNITY AFFAIRS

Section 168. 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 169. If at any time during the fiscal year ending June 30, 1991, there should be a temporary delay in receiving federal funds to start up the Low Income Energy Assistance Program (LIHEAP) 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 Exxon Oil Overcharge Funds approved by the Delaware State Clearinghouse Committee for the Weatherization Program. The Department of Community Affairs, Division of Community Services, shall promptly reimburse the Exxon Oil Overcharge Fund upon receipt of the federal funds.

Section 170. Section 1 of this act makes an appropriation to the Department of Community Affairs, Division of Community Services, (50-02-01) for emergency assistance. Some of this appropriation may be used for programs of longer than 30 days duration.

Section 171. Section 1 of this Act contemplates the appropriation of Indirect Cost Funds to support programs in the Department of Community Affairs. The first transfers from

Indirect Cost Funds for F.Y. 1991 will be utilized to fund the programs in Volunteer Services (50-03-10).

Section 172. Section 1 of this Act provides an appropriation to Department of Community Affairs, Libraries (50-10-00), for library standards. Funds granted to any library under the provisions of Title 29, Chapter 66, if unspent at the end of the fiscal year shall not revert to the General Fund, but instead shall be held in an account for the benefit of the library from which the unspent funds came. These funds may be spent in subsequent years for purposes described in Title 29, Chapter 66. The use of such carryover funds shall not be used as part of any subsequent years' formula payment.

TRANSPORTATION

Section 173. 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, specialized transit services, etc. Partial payments or estimated payments will not be permitted.

Section 174. 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 175. 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 176. The Delaware Transportation Authority budget, as set forth in memorandum form in Section 1 of this Act for the fiscal year ending June 30, 1991, 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 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 1990. 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 177. Section 1 of this Act makes various appropriations of TTF Funds to the Department of Transportation for Operations and Capital Expenditures from the Transportation Trust Fund. These appropriations shall be made to the following budget units within the Department of Transportation for TTF Operations and Capital Outlay as follows:

Office of the Secretary	(55-01-01-68-00)	$ 50.3
Office of Administration	(55-02-01-68-00)	587.7
Transportation Planning	(55-03-01-68-00)	22.7
Office of the Director	(55-04-01-68-00)	443.5

Bureau of Materials & Research	(55-04-30-68-00)	74.6
Bureau of Traffic	(55-04-50-68-00)	3,104.3
Bureau of Maintenance	(55-04-70-68-00)	10,863.3
Total		$15,146.4

Section 178. 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 179. Section 1 of this act appropriates $443.5 to the Department of Transportation, Office of the Director (55-04-01) for Operations/Capital. Of this amount, $25.0 shall be used in support of the Adopt-A-Highway program.

Section 180. Section 1 of this Act appropriates funds to the Delaware Transportation Authority (55-06-01). Included in those appropriations are designations of TTF and NSF positions. Effective July 1, 1988, each of these 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 181. (a) Section 1 of this Act provides an appropriation of $145.7 to Employment and Training, Training Services (60-09-20) for the Delaware State-wide Summer Youth Employment Program to operate a ten-week program commencing July 1, 1990. 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, youths 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 youths 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 youths 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 State-wide 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 youths employed in the program to supervise and monitor the attendance and work performance of the youths 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 182. The funds appropriated for the Delaware State-wide Summer Youth Employment Program shall not be co-mingled with funds appropriated from any other source. The guidelines for youth employment and administrative costs 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 183. Section 1 of this Act authorizes two (2.0) positions in the Department of Agriculture, Resource Management, Agricultural Lands Preservation (65-01-02) for Agricultural Districts. These positions shall be contingent upon enactment of House Bill 636 of the 135th General Assembly. Funding for the two positions and related program costs shall be made available by transferring any remaining sums in Crop Insurance 1989 appropriation (65-01-01-01-80) subject to the approval of the Budget Director and the Controller General.

Section 184. (a) Section 1 of this Act provides an appropriation to the Department of Agriculture, Resource Management, Harness Racing Commission (65-01-04). Of the amount appropriated, $150.0 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.

FIRE PREVENTION

Section 185. Section 1 of this Act provides an appropriation of $50.0 to the State Fire Prevention Commission (75-03-01) in the line item "State-wide 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 186. Section 1 of this Act provides an appropriation for Energy to Delaware National Guard (76-01-01). Within this appropriation, sufficient energy funds are 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 187. (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 $2,066.6 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, Delaware Code or any other fringe benefit costs applicable to the University of Delaware.

Section 188. 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	$ 1,224.0	
Scholarships	1,201.1	
Title VI Compliance	901.3	
Aid-to-Needy Students	758.1	
Student Employment Program	136.8	
Carvel Scholarships	200.0	
Total		$ 4,421.3
Agricultural:		
Agricultural Experimental Station	$ 95.6	
Agricultural Cooperative Extension	191.0	
Poultry Disease Research	251.4	
Crop Extension	33.5	
Agricultural Environmental Quality	39.7	

Soil Testing and Pesticide Control	101.1	
Diagnostic Poultry Program	55.1	
Total		$ 767.4

Programs:		
Academic Incentive	$ 100.0	
Sea Grant	373.9	
Summer School for Teachers	206.8	
Urban Agent Program	64.5	
Public Service and Applied Research Projects	123.4	
Research Partnership Fund	1,068.4	
Minority Recruitment	202.9	
Pike Creek Greenway	50.0	
Urban Journalism	4.0	
Financial Services Center	52.7	
Local Government Research and Assistance	21.1	
Total		$ 2,267.7

Section 189. Section 1 of this Act appropriates $1,068.4 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 190. Section 1 of this Act appropriates $1,557.0 to the Delaware Institute of Medical Education and Research (90-02-01). This amount shall be allocated as follows:

Jefferson Medical College	$ 1,100.0
University of Delaware	49.0
Medical Center of Delaware	200.0
Scholarships	182.0
Summer Research Program	25.0
Academy of Medicine	1.0
	$ 1,557.0

Section 191. Section 1 of this Act provides funds to the University of Delaware (90-01-01) and Delaware State College (90-03-01) 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 192. Section 1 of this Act makes an appropriation to Delaware State College (90-03-01) for General Scholarships. Of that amount, $22.0 shall be for State Scholarships for high ability students and $20.0 shall be for Departmental Scholarships to attract high achievers into the sciences.

Section 193. Of the funds appropriated in Section 1 of this Act to Delaware State College, Operations (90-03-01), $33.5 will revert to the General Fund and 1.0 FTE be deleted if the current Federal award supporting the Bibliographic Librarian is reauthorized.

Section 194. Amend §10002, (g), Chapter 100, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof a new subsection (g) to read as follows:

"(g) 'Public body', 'public record' and 'meeting' shall not include activities of the University of Delaware and Delaware State College, except that the Board of Trustees of the University and the Board of Trustees of the College shall be 'public bodies', and University and College documents relating to the expenditure of public funds shall be 'public records', and each meeting of the full Board of Trustees of either institution shall be a 'meeting'."

Section 195. Section 1 of this Act makes an appropriation to Delaware Technical and Community College, Office of the President (90-04-01) for Day Care training. That appropriation shall be used to begin to offer a comprehensive training program for child care providers in each county.

Section 196. Section 1 of this Act makes an appropriation to Delaware Technical and Community College, Office of the President (90-04-01) for 2 + 2 Pre-Technical Curriculum. Of the appropriation in Section 1 of this Act, no more than $10.0 can be spent on tuition without the approval of the Budget Director and the Controller General.

Section 197. 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, 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 198. Beginning with the fiscal year ending June 30, 1989, 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 calculation shall not include loans from any source. 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 initiates this Section's provisions.

Section 199. Amend §8904, Title 14, Delaware Code by adding a new subsection (c) as follows:

"(c) The Fund established by this section, and the guidelines established therefore in §8905 of this Title shall be distinct from, and in addition to, the money directly given to the individual teachers as specified in §8903 of this Title."

Section 200. Amend §8906, Title 14, Delaware Code by inserting between the phrases "Teacher of the Year Award(s)" and "solely for computing the final average compensation" the words "as enumerated in §8903 of this Title".

Section 201. Section 1 of this Act provides an appropriation to Public Education, State Board of Education and State Board for Vocational Education, State Board of Education and Superintendent (95-01-01) 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 1990 - 1991, 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 202. The provisions of the Delaware Code to the contrary notwithstanding, for the fiscal year ending June 30, 1991, the salary of the incumbent Assistant State Superintendent for Administrative Services shall be $1.5 less than the salary paid to the Deputy State Superintendent for Instruction.

Section 203. Amend Delaware Code, Title 14, Subsection 107(a) by adding the following thereto:

"Non-reappointment shall be based upon and in accordance with Subsection (c) of this Section."

Section 204. Amend Delaware Code, Title 14, Subsection 121(3) by adding the following thereto:

"non-reappointment shall be based upon and in accordance with Subsection (5) of this Section;"

Section 205. (a) Section 1 of this Act provides appropriations of $192,387.0 for Formula Salaries and $63,439.9 for Other Employment Costs to Public Education, School District Operations, Division Funding (95-02-01). These amounts provide Salaries and Other Employment Costs for the following categories as determined by the September 30 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 Program operated by the Caesar Rodney and Red Clay Consolidated School Districts. These sums are $7.2 and $82.5, 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 Programs Appropriation Unit (95-03-00).

(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, Controller General and the local school district Board of Education shall develop and certify a written repayment plan.

(d) The local school district may choose to make the required General Fund reimbursement from its 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 206. Section 1 of this Act provides an appropriation to Public Education, School District Operations (95-02-01) for Formula Salaries. Expenditure of that $82.4 appropriation shall be contingent upon the 135th General Assembly enacting House Bill No. 499.

Section 207. Other Items line item funds appropriated in Section 1 of this Act to Public Education, School District Operations, Other Items (95-02-02) are to cover adjustments in the Appropriation Units of the State Board of Education and State Board for Vocational Education, Pass Through Programs, Pupil Transportation, 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 instruction teachers; pupil transportation costs; non-public and summer driver education programs; and unused sick pay for retirees.

Section 208. Section 1 of this Act provides certain appropriations to Public Education, School District Operations, Other Items (95-02-02) and Pass Through Programs (95-03-00) for school districts in the State for the fiscal year ending June 30, 1991. 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 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, 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 209. Section 1 of this Act provides certain appropriations to Public Education, School District Operations, Other Items and Debt Service 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 "Other Items" in the Internal Program Unit Other Items (95-02-02) shall be allocated as follows:

1.	Caesar Rodney - Americanization	$ 4.7
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	$ 230.9

Section 210. Section 1 of this Act makes appropriations to Public Education, School District Operations, Division Funding (95-02-01) for Division II - All Other Costs and Energy. During Fiscal Year 1991 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 - All 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 $1,414.50.

Section 211. Beginning in Fiscal Year 1991, two school districts are authorized to enter into long term contracts to test the concept of guaranteed energy cost reduction through energy management. A committee made up of one member each from the Budget Office, the Energy Office of the Division of Facilities Management, the Office of the Controller General, and the Department of Public Instruction will oversee the implementation of this program.

The Committee will survey districts to determine interest and select the participants. The selected districts will prepare bid specifications which will be reviewed and approved by the Committee. The Committee will also review the proposed contract prior to signing by the districts. During the life of the contract, the districts selected will be empowered to use yearly Division II energy appropriations to make payments on the contract. In no event will additional State revenue be available to the district by way of participation in the program. As is currently the case, in the event that the Division II energy appropriation is not sufficient to meet the cost of the contract and any additional energy used, the districts must cover the costs with other funds available to them.

The Division of Accounting is directed to assist the committee and school districts in implementing this program. The districts selected will be required to submit annual reports to the committee detailing savings for the life of the contract.

Section 212. Section 1 of this Act provides an appropriation of $16,770.9 to Public Education, School District Operations, Division Funding (95-02-01) 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 Information Systems Planning and Development of the Office of the Budget.

Section 213. Section 1 of this Act provides an appropriation of $441.9 to Public Education, Pass Through Programs, School Readiness Programs (95-03-01) for Parent Early Education Center. Of the total amount, $165.2 shall be used to expand Parent Early Education services to four additional locations, two in Kent County and two in Sussex County.

Section 214. This Act authorizes a continuing one-time appropriation (95-03-01-01-98) for the Extended Day Latchkey Program. The State Board of Education is authorized to continue making one-time grants of up to $6.0 per location to local school districts for the start-up of new Latchkey programs to service student participants in grades K through 6. These funds shall be used to continue establishing programs at up to 50 locations with a requirement that each school district is eligible for at least one grant. Newly 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 locally.

Section 215. Section 1 of this Act makes an appropriation to Public Education, Pass Through Programs, (95-03-01) for 0-2 Preschool Program Planning. No application may be made for the fourth year planning grant funds for P.L. 99-457, Part H until the Governor and the General Assembly agree that the following information on the program has been provided and accepted:

1. A definition of the children to be served;
2. How many children there are, by type and location;
3. What services these children are receiving and by what agency;
4. What required services are not being provided these children;
5. Which agency will provide these services and what resources will be required to provide these services.

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 Programs Appropriation Unit (95-03-00).

(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, Controller General and the local school district Board of Education shall develop and certify a written repayment plan.

(d) The local school district may choose to make the required General Fund reimbursement from its 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.

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Section 208. Section 1 of this Act provides certain appropriations to Public Education, School District Operations, Other Items (95-02-02) and Pass Through Programs (95-03-00) for school districts in the State for the fiscal year ending June 30, 1991. 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 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, 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 209. Section 1 of this Act provides certain appropriations to Public Education, School District Operations, Other Items and Debt Service 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 "Other Items" in the Internal Program Unit Other Items (95-02-02) shall be allocated as follows:

1.	Caesar Rodney - Americanization	$ 4.7	
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		$ 230.9

Section 210. Section 1 of this Act makes appropriations to Public Education, School District Operations, Division Funding (95-02-01) for Division II - All Other Costs and Energy. During Fiscal Year 1991 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 - All 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 $1,414.50.

Section 211. Beginning in Fiscal Year 1991, two school districts are authorized to enter into long term contracts to test the concept of guaranteed energy cost reduction through energy management. A committee made up of one member each from the Budget Office, the Energy Office of the Division of Facilities Management, the Office of the Controller General, and the Department of Public Instruction will oversee the implementation of this program.

The Committee will survey districts to determine interest and select the participants. The selected districts will prepare bid specifications which will be reviewed and approved by the Committee. The Committee will also review the proposed contract prior to signing by the districts. During the life of the contract, the districts selected will be empowered to use yearly Division II energy appropriations to make payments on the contract. In no event will additional State revenue be available to the district by way of participation in the program. As is currently the case, in the event that the Division II energy appropriation is not sufficient to meet the cost of the contract and any additional energy used, the districts must cover the costs with other funds available to them.

The Division of Accounting is directed to assist the committee and school districts in implementing this program. The districts selected will be required to submit annual reports to the committee detailing savings for the life of the contract.

Section 212. Section 1 of this Act provides an appropriation of $16,770.9 to Public Education, School District Operations, Division Funding (95-02-01) 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 Information Systems Planning and Development of the Office of the Budget.

Section 213. Section 1 of this Act provides an appropriation of $441.9 to Public Education, Pass Through Programs, School Readiness Programs (95-03-01) for Parent Early Education Center. Of the total amount, $165.2 shall be used to expand Parent Early Education services to four additional locations, two in Kent County and two in Sussex County.

Section 214. This Act authorizes a continuing one-time appropriation (95-03-01-01-98) for the Extended Day Latchkey Program. The State Board of Education is authorized to continue making one-time grants of up to $6.0 per location to local school districts for the start-up of new Latchkey programs to service student participants in grades K through 6. These funds shall be used to continue establishing programs at up to 50 locations with a requirement that each school district is eligible for at least one grant. Newly 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 locally.

Section 215. Section 1 of this Act makes an appropriation to Public Education, Pass Through Programs, (95-03-01) for 0-2 Preschool Program Planning. No application may be made for the fourth year planning grant funds for P.L. 99-457, Part H until the Governor and the General Assembly agree that the following information on the program has been provided and accepted:

1. A definition of the children to be served;
2. How many children there are, by type and location;
3. What services these children are receiving and by what agency;
4. What required services are not being provided these children;
5. Which agency will provide these services and what resources will be required to provide these services.

Section 216. Section 1 of this Act provides an appropriation of $400.0 to Public Education, Pass Through Programs, Regular Elementary/Secondary Programs (95-03-02) for District Grants - Unit Allocations. 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 Information Systems Planning and Development of the Office of the Budget.

Section 217. Section 1 of this Act provides an appropriation to Public Education, Pass Through Programs, Regular Elementary/Secondary Programs (95-03-02) for Nurse Staffing Fund. A local school district may apply to the State Board of Education by October 15, 1990, to receive resources from this fund for school nurses under the following conditions:

1. The local school district certifies that it receives fewer nurses through the unit system than it has school buildings in the district.
2. That it will provide the local salary supplement for nurses granted under this Section.

In the event that the State Board of Education receives more requests than the funding will totally support, the State Board of Education is authorized to allocate the funds on the basis of need.

Section 218. Section 1 of this Act provides an appropriation of $4,316.6 to Public Education, Pass Through Programs, Regular Elementary/Secondary Programs (95-03-02) for the Education Refinement Unit Program. During the fiscal year ending June 30, 1991, 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 $38.0. 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 219. (a) The total amount of $1,768.4 appropriated in Section 1 of this Act to Public Education, Pass Through Programs, Regular Elementary/Secondary Programs (95-03-02) for Substitutes in Districts shall be allocated to the local 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, 1990. 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 Appropriation Units (95-03-00) and (95-04-00) and the Delmar Tuition, General Contingency, Teacher of the Year, Principal of the Year, Desegregation Monitoring, and Debt Service Appropriations in Appropriation Units (95-01-00) and (95-02-00) 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 $852.0 to Public Education, Pass-Through Programs, Special Needs Program (95-03-04) 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, provided, however, that any such teacher employed on a full-time basis shall be entitled to other employee costs (fringe benefits) specified in Delaware Code, Title 29, Section 6340. As of July 1, 1990, existing centrally-located programs shall be funded through the first allocation from this appropriation. Remaining funds shall be allocated to the local school districts on the basis of the relative proportion of Division I Units.

(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 catch all for low-achieving, unmotivated or disruptive pupils without serious physiological or neurological disorders. All pupils classified learning disabled or socially or emotionally maladjusted must be reevaluated at least every two years, except psychological evaluation shall be made at least every three years.

Section 220. Section 1 of this Act provides an appropriation of $11.0 to Public Education, Pass Through Programs, Privately Operated Programs (95-03-03) for the Delaware Nature Society. It is the intent that this money be used to provide summer programs including an eighth grade program in environmental heritage.

Section 221. Section 1 of this Act appropriates an amount in one-time funding of $50.0 to Public Education, Pass Through Programs, Privately Operated Programs (95-03-03) for the Delaware Geographic Alliance. Up to the full amount of these funds shall be used to

provide a 50% match to funds provided to the State by the National Geographic Society Education Foundation for the purposes of improving geography teaching methods and curriculum materials.

Section 222. Section 1 of this Act provides an appropriation of $113.2 to Public Education, Pass Through Programs, Privately Operated Programs (95-03-03) for the READ-ALOUD Delaware Program. READ-ALOUD Delaware is to continue to develop and foster programs for the purpose of encouraging regular reading to preschool-aged children as an 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 segment of the population of preschool-aged children. The State Board of Education shall report annually on the number of children participating and the effectiveness of the program.

Section 223. Section 1 of this Act provides an appropriation of $2,090.2 to Public Education, Pass Through Programs, Special Needs Programs, Private Placement of the Handicapped (95-03-04) to implement Title 14, Section 3124, Delaware Code. The provisions of the Delaware Code to the contrary notwithstanding, for the fiscal year ending June 30, 1991, the State Board of Education is authorized to continue a pilot project utilizing funds appropriated for private placement of the handicapped in Section 1 of this Act to develop unique program alternatives, in lieu of private placement, for up to twelve persons who have been, or who would otherwise be, identified as "complex or rare" and unable to benefit from the regularly offered free, appropriate public educational programs and up to three students in present education programs within this State whose individual education plan requires services not presently available within the present unit funding system. Unique program alternatives shall be defined and approved by the State Board of Education and may include, but not be limited to, related and supportive services. The State Board of Education shall report to the Governor and General Assembly on the progress of the pilot project by December 21, 1990.

Section 224. Section 1 of this Act provides an appropriation of $729.1 to Public Education, Pass Through Programs, Special Needs Programs (95-03-04) for Exceptional Student Unit - Vocational. 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(i), Delaware Code, shall not apply to the units authorized by this Section.

Section 225. 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 226. Section 1 of this Act appropriates a sum of $1,337.6 to Public Education, Pass Through Programs, Special Needs Programs, (95-03-04), for the Children-at-Risk Intervention Program. This program shall serve at-risk children through early intervention and prevention strategies designed to reduce Delaware's dropout rate and to enhance grade-level performance. This program shall enhance the relationship between the public schools, the Department of Public Instruction, and the Department of Services for Children, Youth and Their Families.

For the purposes of this Section, "Children-at-Risk" are those children who exhibit or who can be reasonably projected to exhibit poor performance in traditional academic programs and classroom settings and are, therefore, considered to have an increased propensity toward dropping out of school or who, upon graduation, are likely to enter society without the skills necessary to be responsible individuals, competent employees, or successful continuing education students.

Each school district shall submit on or before September 1, 1990, a preliminary program proposal and budget to the State Board of Education. School districts may propose strategies including but not limited to extended-day/school year academic programs, tutorial programs, parent education programs, social service counseling, programs for teen-age mothers and the care of their children, lifestyle and personal decision-making curricula, pupil mentoring programs, the development of alternatives to suspension, or implementation of substance abuse prevention programs. Proposals shall clearly state planned program activities and goals; indicate local resource commitments, whether monetary or in-kind contributions; and indicate how other relevant programs that affect at-risk students and are already operating will be integrated. Proposals must include clear program performance measures that can be assessed on an annual (school program year) basis. Such performance measures should be substantively meaningful and educationally sound. For programs operated at the secondary level, the primary program performance

measure(s) shall relate to change in the district's dropout rate or change in the return-to-school rate of students who had already dropped out of school. Two or more school districts may submit proposals for joint programs. Teacher planning and parental involvement in developing proposals are encouraged. The Department of Public Instruction may establish additional criteria to be used in developing program proposals.

The Children-at-Risk Evaluation and Monitoring Committee is charged with reviewing school district program proposals submitted to the State Board of Education under this Section, advising the State Board of Education on suggested modifications, periodically monitoring approved Children-at-Risk Intervention Programs, evaluating program outcomes and assessing the extent to which program performance measures have been met. The committee shall review the program proposal criteria developed by the Department of Public Instruction and the program performance measures submitted by the school districts and shall make recommendations for their improvement. These recommendations shall be submitted in a report to the Governor and General Assembly by April 1, 1991. The committee shall also serve as a forum for the dissemination of effective early intervention strategies and programs which have been demonstrated to be successful.

Funds allocated under this Section may be expended for any approved program. The only exception is that funds may not be used to pay salary and other employment costs that are in excess of what would normally be considered a full state share pursuant to Chapter 13, Title 14, Delaware Code. This provision is applicable both on an annual or equivalent hourly basis. Funds authorized may also be expended for the purchase of professional services, either under contract with a State agency or a private service provider or as a direct hire of the school district. No funds appropriated under this Section may be used to supplant local funds used to operate established programs.

(1) Of the total amount appropriated, an amount of $1,232.6 shall be allocated among all local school districts based upon their proportionate share of the total Division I units in the State as of September 30, 1989. Funds allocated to the local school districts may only be expended with the approval of the State Board of Education acting with the advice of the Children-at-Risk Evaluation and Monitoring Committee. The State Board of Education may propose alternative one-time uses of funds remaining due to disapproval pursuant to the previous sentence. Funds allocated for approved programs which operate during the summer months or cover the personnel costs associated with the twenty four pay option shall not be subject to reversion until September 1, 1991.

(2) Of the total amount appropriated, an amount of $32.6 shall be transferred to the Department of Services for Children, Youth and Their Families for the purpose of supporting informational forums, developing informational materials, and conducting presentations for school district staff that will enhance teachers', counselors', and administrators' understandings of available services and strengthen the ability of the schools to identify children in need of services.

(3) A minimum local match of 25% shall be required. This local match shall supplement State funds. No more than half of this match may be in-kind contributions from the school district. During the Fiscal Year ending June 30, 1991, former Disruptive Pupil Referral Unit programs for which continuing approval under the Children-at-Risk Intervention program is sought shall be permitted to operate in the then current manner.

(4) Of the total amount appropriated, an amount of $105.0 shall be used to pilot a high school program for "at risk" children.

Section 227. Section 1 of this Act appropriates an amount of $540.0 to Public Education, Pass Through Programs, Special Needs Programs (95-03-04) for the Alternative Secondary Education Program. The State Board of Education shall use these funds to implement the recommendations of the Delaware Alternative Secondary Education Initiative to serve "at risk" children ages 15-21 through services provided to younger children by a "school-within-a-school" concept and to older children through the James H. Groves High School.

Funding will be provided to James H. Groves centers upon approval of the State Board of Education based on proposals submitted from the participating districts and the number of classes conducted throughout the year in the extended year, extended day, and evening programs.

Section 228. Section 1 of this Act makes a One-Time Appropriation of $70.0 which may be granted by the State Board of Education to those local school districts and agencies reporting low-incidence handicapped students for the purpose of providing specialized equipment, and the repair and maintenance of such equipment, textbooks, and materials as required in the Individual Educational plans for those students (excluding personal hearing aids). Low-incidence disabilities include visually impaired, deaf, deaf/blind, hearing impaired, and orthopedically impaired as defined in the Administrative Manual for Programs for Exceptional Children.

The Department of Public Instruction shall disburse the funds to school districts and those public agencies, upon their application, which count low-incidence disabled children for state and/or federal purposes. The counting agency for the Visually Impaired shall be the Division for the Visually Impaired; for the deaf, deaf/blind, and hearing impaired, the

Margaret S. Sterck School; and for the orthopedically disabled the orthopedic school from which the child receives services.

As a condition for receiving funds, local school districts and agencies shall assure the redistribution of such equipment once it is no longer needed by a particular child.

The State Board of Education shall report to the Budget Director and Controller General on December 15, 1990, and April 15, 1991, on the use of these funds.

Section 229. Section 1 of this Act makes an appropriation of $15.0 to Public Education, Pass Through Programs, Student Advancement Programs (95-03-05) for Odyssey 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 230. Section 1 of this Act provides an appropriation of $108.0 to Public Education, Pass Through Programs, Student Advancement Programs (95-03-05) 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 231. Section 1 of this Act makes an appropriation to Public Education, Pass Through Programs, (95-03-05), for Gifted and Talented Units. Notwithstanding the provisions of Title 14, regarding the calculation of the number of units for gifted and talented programs, in determining the unit count for gifted and talented units for Fiscal Year 1991, a district shall not include any students in any grade level at which the district provided a self-contained gifted/talented class(es) in Fiscal Year 1990 unless such district continues to operate a self-contained gifted/talented class(es) of comparable magnitude at such grade level in Fiscal Year 1991.

Section 232. Section 1 of this Act provides an appropriation of $82.0 to Public Education, Pass Through Programs, Career Readiness/Vocational Programs (95-03-06) 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 233. Section 1 of this Act provides an appropriation of $569.6 to Public Education, Pass Through Programs, Career Readiness/Vocational Programs (95-03-06) for the Summer Occupational and Vocational Education Program. Of that amount, at least $99.6 shall be reserved for programs in school districts in Kent County, and $122.6 shall be reserved for programs in Sussex County, and $218.2 shall be reserved for programs in the New Castle County Vocational and Technical School District.

Section 234. Section 1 of this Act makes an appropriation of $1,295.3 to Public Education, Pass Through Programs, Career Readiness/Vocational Programs (95-03-06) 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 235. Section 1 of this Act makes an appropriation to Public Education, Pass Through Programs, Adult Programs (95-03-07). Of that amount, $327.5 shall be transferred to New Castle County Vocational Technical School District, Wilmington Skills Center, for Adult Education.

Section 236. Section 1 of this Act provides an appropriation of $883.4 to Public Education, Pass Through Programs, Adult Programs (95-03-07) for the 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 237. Section 1 of this Act provides an appropriation of $150.6 to Public Education, Pass Through Programs, Adult Programs (95-03-07) 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 238. Section 1 of this Act provides an appropriation of $197.0 to Public Education, Pass Through Programs, Adult Programs (95-03-07) for the Adult Incarcerated Program. 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 239. Section 1 of this Act provides an appropriation of $459.3 to Public Education, Pass Through Programs, Education Monitoring/Advancement Programs (95-03-08) for the RE:Learning Pilot Program. These funds shall be distributed to pilot schools that are to be selected by the State Board of Education. The goal of this program is to restructure the organization of individual schools to personalize 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 of Education regulations. Participating school districts must agree to at least maintain existing resource allocations to an individual pilot school site. A project coordinator shall be employed as a staff member of the Department of Public Instruction. The incumbent's sole responsibility shall be to the RE:Learning Project including a focus on the general concept of restructuring the education system in Delaware. The incumbent shall promote the coordination of said activities among the local school districts, the State Board of Education, and Delaware's institutions of higher learning. The State Board of Education shall prepare a status report for submission to the Budget Director and the Controller General on or before October 15, 1990, 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 240. Section 1 of this Act provides an appropriation of $15.0 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for Staff Training. This appropriation shall be allocated by the State Board of Education to provide in-service educational programs for local school district personnel.

Section 241. Section 1 of this Act provides an appropriation of $100.0 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for the Delaware Institute for 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 242. Section 1 of this Act provides an appropriation of $309.4 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) 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, Sussex and New Castle County Centers.

Section 243. It is the intent of the General Assembly that sabbatical leave authorized under Delaware Code, Title 14, Section 1325, at State expense, be limited to one full year leave or two 1/2 year leaves per local school district during the fiscal year ending June 30, 1991. Nothing in this section, however, shall prevent a school district from granting additional sabbatical leaves if the district pays the salary and other employment costs for the employee who is on leave.

Section 244. Section 1 of this Act provides an appropriation of $450.0 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) 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 Bachelors 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. Local school district Boards of Education are encouraged to prioritize the allocation of the funds they receive to support the educational advancement efforts of regular education teachers taking special education and/or mainstreaming-related courses. 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 $450.0, 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, 1990. 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. Funding for each school district shall be divided into two equal parts. The first one-half shall be prorated as described above among eligible employees who complete their courses prior to February 1, 1991. The second one-half shall be prorated as described above among eligible employees who complete their courses prior to June 15, 1991. In the event that funds remain in either half year, the district shall be authorized to reallocate those funds to reimburse eligible employees in the other portion of the year who did not receive full reimbursement. This Section shall not supersede a current collective bargaining agreement.

Section 245. Section 1 of this Act makes an appropriation of $402.8 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for Professional Development. This amount shall be used for staff training programs staff development grants to local districts and for continued development and implementation of the staff evaluation system. Funds may be used for activities such as: development of teacher and administrator evaluation instruments, training of school personnel in the use of the instruments, staff development grants to be used by Department of Public Instruction (DPI) personnel, the Delaware Principal's Academy, DPI Staff training including required travel costs, and support services.

Section 246. Section 1 of this Act provides an appropriation of $75.0 to Public Education, Pass Through Programs, Teacher Development Programs (95-03-09) for the Mentoring Program. The funds appropriated shall be used by the State Board to continue developing recommendations for new teacher incentives and career development proposals.

Section 247. This Act authorizes a continuing appropriation for Minority Scholarships. Expenditure of these funds shall be contingent upon the General Assembly enacting Senate Bill 164 of the 135th General Assembly.

Section 248. Amend Title 14, Section 1251, Paragraph (4), Delaware Code, by adding the following thereto:

"An individual can meet this requirement either by actually teaching in a Delaware public school for one year or by providing a notarized statement that the individual has sought employment in at least five Delaware public school districts but has not been able to secure a teaching position in any of those districts. The notarized statement must be accompanied by evidence of unsuccessful applications for teaching positions in at least five Delaware public school districts."

Section 249. (a) Section 1 of this Act provides an appropriation of $2,830.7 to Public Education, Pupil Transportation (95-04-01) 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.

(b) Transportation funds for public school districts during the fiscal year ending June 30, 1991, shall be allocated and shall not exceed $31,108.1, 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 unleaded 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 1991 operating allowance adjustment for inflation shall be 3.75 percent.

(3) For the fiscal year ending June 30, 1991, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 1990 State bid price for new buses minus 3 percent for salvage value, plus 3.75 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 1989 for determining the allowable cost for any size bus that it did not bid in Fiscal Year 1989. 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, 1991, 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.

(c) 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.

(d) 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.

(e) An account called the Transportation Incentive Fund shall be established for each school district in the State which has a district-operated pupil transportation system. When the State Board of Education approves the district-operated pupil transportation funding allocation for a school district and initiates the transfer of State funds to the district transportation account, an amount equivalent to 10% of the district's prior year net allocation for district-operated pupil transportation shall be placed into the district's Transportation Incentive Fund account. Into the district's current year district-operated pupil transportation account shall be placed the difference between the current year district-operated pupil transportation allocation and the amount placed into the district's Transportation Incentive Fund account. Funds in the Transportation Incentive Fund account may be transferred at any time to the district transportation account. On June 1, 1991, any balance remaining in the Transportation Incentive Fund account may be transferred to Division II - All Other Costs if the district so chooses based on a projected year-end transportation surplus. In no case shall district transportation cost overruns be reimbursed with State funds if a transfer identified in the previous sentence has been made. If pupil transportation savings cannot be realized, up to the full balance in the Transportation Incentive Fund account may be transferred to the school district's transportation account.

Section 250. (a) During the fiscal year ending June 30, 1991, 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 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.
(18) K-3 - New Todd Estates Development to Jeannie Smith - because of hazards of Route 4 at Pierson Drive intersection.
(19) Children living in West Wilmington Manor who walk to Wilmington Manor Elementary School"

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 251. During the fiscal year ending June 30, 1991, 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 252. This Act authorizes a continuing appropriation for Public School Transportation. If available, up to $400.0 may be used to procure a computerized school bus scheduling and routing package for State-wide use.

Approved July 2, 1990.

CHAPTER 282

FORMERLY

SENATE BILL NO. 514

AN ACT TO AMEND AN ACT ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1991; SPECIFYING CERTAIN CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BEING SENATE BILL NO. 500 OF THE 135TH GENERAL ASSEMBLY OF THE STATE OF DELAWARE.

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

Section 1. Amend Section 1 of Senate Bill No. 500 of the 135th General Assembly of the State of Delaware by striking the figure "53,245.1" as it appears on line 18, page 24 of said Bill and inserting in lieu thereof the figure "47,545.1".

Section 2. Further amend Section 1 of Senate Bill No. 500 of the 135th General Assembly of the State of Delaware by recomputing all totals and subtotals as they appear in said Bill.

Approved July 2, 1990.

CHAPTER 283

FORMERLY

SENATE BILL NO. 511

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 1991; 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 (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:

Accounting Code	Organization/Description	Amount
	Dept. of Health & Social Services	
(35-01-10)	Office of Secretary Adolescent Program	$ 493,000
(35-05-03)	Office of Paramedic Administration Paramedic Program Operations	$ 2,590,000

Accounting Code	Organization/Description	Amount
(35-14-10)	Division of Aging	
	Senior Centers	
	Absolom Jones Senior Center	$ 100,738
	Brandywine Senior Center	71,991
	Bridgeville Senior Center	77,886
	Cape Henlopen Senior Center	126,116
	Chesapeake and Delaware Senior Center	44,862
	Clarence Fraim Senior Center	107,568
	DeLaWarr Senior Center	75,991
	Frederica Adult Center	63,305
	Georgetown CHEER Center	28,703
	Greenwood CHEER Center	28,703
	Harrington Senior Center	59,557
	Harvest Years Senior Center	32,557
	Howard Weston Senior Center	197,990
	Huling Cove Community Center- Lewes CHEER Center	43,661
	Indian River Senior Center	65,925
	Jewish Community Center	61,375
	Jimmy Jenkins Senior Center	61,399
	Julia Tallman Golden Age Center	61,356
	Kenton/Hartly Senior Center	55,476
	Kirkwood United Methodist Church Senior Center	24,752
	Laurel Senior Center	131,159
	Lewes Senior Citizens Center	36,386
	Los Abuelos Senior Center (Methodist Action Program)	20,656
	M.O.T. Senior Center	68,862
	Mid-County Senior Center	125,000
	Milford Senior Center	71,557
	Modern Maturity Center	175,186
	Nanticoke Senior Center	112,473
	New Castle Senior Center	54,754
	Newark Senior Center	102,460
	Northeast Senior Center	64,508
	Oak Grove Senior Center, Inc	127,131
	Oak Orchard CHEER Center	28,703

Peoples Settlement - Senior Citizens Program	52,043
Roxana CHEER Center	28,703
St. Ann's Neighborhood Services	81,226
St. Anthony's Senior Center	83,906
St. Hedwig's Senior Center	159,652
St. Patrick's Senior Center	104,766
St. Peter's Adult Center	81,566
St. Thomas Senior Center	96,269
Sellers Senior Center	78,991
Slaughter Neck CHEER Center	28,703
Smyrna-Clayton Senior Center	23,506
South Wilmington Senior Adult Center	16,450
West Center City Senior Activity Center	73,556
Wilmington Senior Center	141,554

Department of Public Safety

(45-01-01)	Office of Secretary - Administration	
	Local Police Coordination	$ 41,300
	Aid to Local Law Enforcement	350,000
	TOTAL - Section 1	$ 7,033,937

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

Category/Description	Amount
One-Time Items:	
Layton Home for Aged Persons	$ 140,000
Criminal Justice Council - Aid to Local Law Enforcement	1,500,000
Arts/Historical/Cultural/Tourism	
Afro-American Historical Society of Delaware, Inc.	$ 16,200
Associated Community Talents, Inc.-The Everett Theater	15,000
Delaware Academy of Science-Iron Hill Museum	5,900
Delaware Agriculture Museum	35,000
Delaware City Day Committee	13,500
Delaware Humanities Council-Visiting Scholars Program	29,700
Delaware Nature Society, Inc.	10,000
Delaware State Fair	190,000
Greater Harrington Historical Society	13,100
Historic Red Clay Valley, Inc. Wilmington & Western Railroad	10,800
Historical Society of Delaware	56,500
Miss Delaware Pageant	6,200
Naaman's Kill Questors, Inc.	5,000
Nanticoke Indian Association, Inc.	7,600
New Castle - Separation Day	10,800
New Castle Historical Society	5,900
WHYY	380,000
Wilmington Garden Center, Inc.	9,000
Aging - Other	
Boys Club of Wilmington	$ 14,500
Geriatric Services of Delaware, Inc.	105,000
Meals on Wheels - Lewes and Rehoboth	35,500
Rehabilitative Opportunities for Homebound Residents	30,000
Sussex County Home Services (HOPE Program)	35,000
West Center City Community Center - Physical Fitness Program	6,900
Handicapped/Health/Labor	
AHEDD, Inc. - Dover	$ 23,000
AHEDD, Inc. - Wilmington	18,000

Adult Educable Mentally Retarded		42,000
Alliance for the Mentally Ill		35,000
American Diabetes Assoc. - Delaware Affiliate, Inc.		5,000
Arthritis Foundation		15,000
Association for Retarded Citizens		8,000
Career Exploration Program, Inc.		34,000
Delaware Association for Blind Athletes		6,000
Delaware Association for the Blind		44,000
Delaware Elwyn Institute		18,000
Delaware Epilepsy Association		5,000
Delaware Hospice, Inc.		180,000
Delaware Paralyzed Veterans Prosthetic Foundation, Inc.		27,000
Delaware Special Olympics		13,000
Easter Seal Society for Crippled Children & Adults of Delaware		79,000
Institute for Development of Human Resources		24,000
Jobs for Delaware Graduates		171,000
Kent/Sussex Industries		48,000
Mancus Foundation		33,000
Mary Campbell Center, Inc.		100,000
Mental Health Association in Delaware		13,500
National Multiple Sclerosis Society of Delaware		10,000

Family and Youth Services

Residential Treatment		
Aid-in-Dover, Inc.	$	43,000
Children's Home, Inc.		43,000
Diamond State Youth, Inc.		105,000
Independent Living, Inc.		85,000
Other		
Because We Care II	$	12,000
Big Brothers/Big Sisters of Delaware, Inc.		42,500
Boys Club of Wilmington		16,500
Child Care Connection		64,000
Child, Inc.		73,000
Children's Bureau of Delaware		115,000
Delaware Assn. of Chiefs of Police - Camp Barnes		22,500
Del. Guidance Services for Children & Youth, Inc.		150,000
Del. State Headstart Parents Association		14,000
Family Services of Delaware		47,000
Jewish Family Service of Delaware		21,000
Juvenile Awareness Education Program		25,000
National Council on Agricultural Life and Research Fund, Inc.		28,000
Parents Anonymous of Delaware		30,000
Peoples Place II		88,000
Turnabout Counseling Center/Seaford Action Committee		170,000
United Cerebral Palsy of Delaware, Inc.,		50,000
YMCA of Southern Delaware - Mini-Bike		25,000
Youth Guidance Program		14,000
Adult Day Care		
Total Living Care, Inc.	$	25,000

Alcohol/Drug Abuse

1212 Program	$	23,900
ANKH, Inc.		25,000
Center for Pastoral Care		31,500
Delaware Association for Children of Alcoholics		8,500
Limen House		37,500
Open Door, Inc.		117,000
Peoples Settlement Association		16,000
Resource Center, Inc.		48,000

Neighborhood/Community Services

American Red Cross, Delaware Chapter	$	11,000
Casa San Francisco		48,300

Chesapeake Bay Girl Scout Council, Inc.	29,000
Civil Air Patrol - Cadet Program	15,000
Church Home Foundation, Inc.	33,000
Claymont Community Center	220,500
Community Legal Aid - Social Security Advocacy	93,500
CONTACT Delaware, Inc.	60,000
Delaware Crime Stoppers	14,000
Delaware Crop Improvement Association	2,500
Delaware Housing Coalition	16,000
Delaware Safety Council, Inc.	38,000
Delmarva Rural Ministries, Inc.	22,000
Eastlawn Area Human Services, Inc.	85,000
Eastside Citizens, Inc.	45,000
Edgemoor Educational and Recreational Community Center	170,000
First State Games, Inc.	27,000
Food Conservers	110,000
Girls Club of Delaware	32,500
Greater Elsmere Recreation & Education Center	132,300
Hilltop Lutheran Neighborhood Center	33,600
Hockessin Community Center	75,500
Home of Divine Providence, Inc.	37,000
Latin American Community Center, Inc.	32,000
M.O.T. Community Action	60,000
Mary Mother of Hope - House of Joseph	29,500
Mary Mother of Hope House - Phase I	51,500

Neighborhood/Community Services (cont.)

Mary Mother of Hope House - Phase II and III	$ 55,500
Mary Mother of Hope House - Emmanuel Dining Room	54,500
Mary Mother of Hope House - Job Placement Center	21,500
Methodist Mission and Church Extension Society, Inc. - Methodist Action Program	34,000
Neighborhood House, Inc.	48,800
New Castle County Crisis Pregnancy Center	24,000
Newark Housing Ministries	36,500
Richardson Park Community Action	15,000
Rosehill Community Center, Inc.	133,000
Salvation Army Emergency Housing	80,000
Salvation Army - Kent County Crisis Alleviation	28,000
Salvation Army - Supported Employment Program	5,000
Salvation Army - Sussex Crisis Alleviation	5,000
Slaughter Neck Community Action Committee	38,000
South Wilmington Medical Center	80,000
Southwest Wilmington Community Center	95,500
STEHM, Inc.	11,000
Sussex Community Crisis Housing Services, Inc.	18,000
Sussex County Community Action	53,000
Tri-State Bird Rescue and Research	20,400
Union Baptist Services	65,000
West End Neighborhood House, Inc.	32,500
Whatcoat Social Service Agency	50,000
YMCA of Delaware Eastern Sussex Family Branch	19,000
YWCA of New Castle County	168,000
TOTAL - Section 2	$ 7,969,400

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	$ 14,147
Belvedere Volunteer Fire Company	Belvedere	14,147
Brandywine Hundred Fire Co. No. 1	Bellefonte	14,147
Christiana Fire Co.	Christiana	14,147
Claymont Fire Co.	Claymont	14,147
Cranston Heights Fire Co.	Cranston Heights	14,147
Delaware City Fire Co.	Delaware City	14,147

Elsmere Fire Co.	Elsmere	14,147
Five Points Fire Co. No. 1	Richardson Park	14,147
Goodwill Fire Co. No. 1	New Castle	14,147
Hockessin Fire Co.	Hockessin	14,147
Holloway Terrace Fire Co.	Holloway Terrace	14,147
Mill Creek Fire Co.	Marshallton	14,147
Minquadale Fire Co.	Minquadale	14,147
Minquas Fire Co. No. 1	Newport	14,147
Odessa Fire Co., Inc.	Odessa	14,147
Port Penn Volunteer Fire Co., Inc.	Port Penn	14,147
Talleyville Fire Co., Inc.	Talleyville	14,147
Townsend Fire Co., Inc.	Townsend	14,147
Volunteer Hose Co., Inc.	Middletown	14,147
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	14,147
Kent County		
Bowers Volunteer Fire Co., Inc.	Bowers	$ 14,147
Camden-Wyoming Fire Co.	Camden	14,147
Carlisle Fire Co.	Milford	14,147
Cheswold Volunteer Fire Co.	Cheswold	14,147
Citizens' Hose Co. No. 1, Inc.	Smyrna	14,147
Clayton Fire Co.	Clayton	14,147
Robbins Hose Co. (Dover Fire Dept.)	Dover	14,147
Farmington Volunteer Fire Co.	Farmington	14,147
Felton Community Fire Co.	Felton	14,147
Frederica Volunteer Fire Co.	Frederica	14,147
Harrington Fire Co.	Harrington	14,147
Hartly Volunteer Fire Co.	Hartly	14,147
Houston Volunteer Fire Co.	Houston	14,147
Leipsic Volunteer Fire Co.	Leipsic	14,147
Little Creek Volunteer Fire Co.	Little Creek	14,147
Magnolia Volunteer Fire Co.	Magnolia	14,147
Marydel Volunteer Fire Co., Inc.	Marydel	14,147
South Bowers Fire Co.	South Bowers	14,147
Sussex County		
Bethany Beach Volunteer Fire Co.	Bethany Beach	$ 14,147
Blades Volunteer Fire Co., Inc.	Blades	14,147
Bridgeville Volunteer Fire Co.	Bridgeville	14,147
Dagsboro Volunteer Fire Co.	Dagsboro	14,147
Delmar Fire Department	Delmar	14,147
Ellendale Volunteer Fire Co.	Ellendale	14,147
Frankford Volunteer Fire Co.	Frankford	14,147
Georgetown Fire Co., Inc.	Georgetown	14,147
Greenwood Volunteer Fire Co.	Greenwood	14,147
Gumboro Volunteer Fire Co.,Inc.	Gumboro	14,147
Indian River Volunteer Fire Co.	Indian River	14,147
Laurel Fire Department, Inc.	Laurel	14,147
Lewes Fire Department, Inc.	Lewes	14,147
Millsboro Fire Co.	Millsboro	14,147
Milton Volunteer Fire Co.	Milton	14,147
Millville Volunteer Fire Co.	Millville	14,147
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	14,147
Roxanna Volunteer Fire Co.	Roxanna	14,147
Seaford Volunteer Fire Dept., Inc.	Seaford	14,147
Selbyville Volunteer Fire Co., Inc.	Selbyville	14,147
Slaughter Beach Memorial Fire Co.	Slaughter Beach	14,147
	TOTAL	$ 848,820

(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	$ 1,938
Blades Volunteer Fire Co., Inc.	Blades	1,938
Bridgeville Volunteer Fire Co.	Bridgeville	1,938
Bowers Volunteer Fire Co., Inc.	Bowers	1,938
Brandywine Hundred Fire Co., No. 1	Bellefonte	1,938
Camden-Wyoming Fire Co.	Camden	1,938
Carlisle Fire Co.	Milford	1,938
Cheswold Volunteer Fire Co.	Cheswold	1,938

Christiana Fire Co.	Christiana	1,938
Claymont Fire Co.	Claymont	1,938
Cranston Heights Fire Co.	Cranston Heights	1,938
Dagsboro Volunteer Fire Co.	Dagsboro	1,938
Delaware City Fire Co.	Delaware City	1,938
Delmar Fire Department	Delmar	1,938
Ellendale Volunteer Fire Co.	Ellendale	1,938
Elsmere Fire Co.	Elsmere	1,938
Felton Community Fire Co.	Felton	1,938
Five Points Fire Co. No. 1	Richardson Park	1,938
Frankford Volunteer Fire Co. No. 1	Frankford	1,938
Frederica Volunteer Fire Co.	Frederica	1,938
Goodwill Fire Co. No. 1	New Castle	1,938
Greenwood Volunteer Fire Co.	Greenwood	1,938
Gumboro Volunteer Fire Co., Inc.	Gumboro	1,938
Harrington Fire Co.	Harrington	1,938
Hartly Volunteer Fire Co., Inc.	Hartly	1,938
Holloway Terrace Fire Co.	Holloway Terrace	1,938
Hockessin Fire Co.	Hockessin	1,938
Laurel Fire Department, Inc.	Laurel	1,938
Leipsic Volunteer Fire Co.	Leipsic	1,938
Lewes Fire Department, Inc.	Lewes	1,938
Magnolia Volunteer Fire Co.	Magnolia	1,938
Mill Creek Fire Co.	Marshallton	1,938
Millville Volunteer Fire Co., Inc.	Millville	1,938
Milton Volunteer Fire Co.	Milton	1,938
Minquadale Fire Co.	Minquadale	1,938
Minquas Fire Co. No. 1	Newport	1,938
Port Penn Volunteer Fire Co.	Port Penn	1,938
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	1,938
Roxanna Volunteer Fire Co.	Roxanna	1,938
Seaford Volunteer Fire Co., Inc.	Seaford	1,938
Selbyville Volunteer Fire Co., Inc.	Selbyville	1,938
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,938
Talleyville Fire Co., Inc.	Talleyville	1,938
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	1,938
	TOTAL	$ 85,272

(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	$ 1,938
Bethany Beach Volunteer Fire Co.	Bethany Beach	1,938
Blades Volunteer Fire Co.	Blades	1,938
Bowers Volunteer Fire Co., Inc.	Bowers	1,938
Brandywine Hundred Fire Co. No. 1	Bellefonte	1,938
Bridgeville Volunteer Fire Co.	Bridgeville	1,938
Camden-Wyoming Fire Co.	Camden	1,938
Carlisle Fire Co.	Milford	1,938
Cheswold Volunteer Fire Co.	Cheswold	1,938
Christiana Fire Co.	Christiana	1,938
Citizens' Hose Co. No. 1, Inc.	Smyrna	1,938
Claymont Fire Co.	Claymont	1,938
Clayton Fire Co.	Clayton	1,938
Cranston Heights Fire Co.	Cranston Heights	1,938
Dagsboro Volunteer Fire Co.	Dagsboro	1,938
Delaware City Fire Co.	Delaware City	1,938
Delmar Fire Department	Delmar	1,938
Robbins Hose Co. (Dover Fire Dept.)	Dover	1,938
Elsmere Fire Co.	Elsmere	1,938
Farmington Volunteer Fire Co.	Farmington	1,938
Felton Community Fire Co.	Felton	1,938
Five Points Fire Co. No. 1	Richardson Park	1,938
Frederica Volunteer Fire Co.	Frederica	1,938
Georgetown Fire Co.	Georgetown	1,938
Greenwood Fire Co. No. 1	Greenwood	1,938
Goodwill Fire Co. No. 1	New Castle	1,938
Harrington Fire Co.	Harrington	1,938
Hartly Volunteer Fire Co., Inc.	Hartly	1,938
Hockessin Fire Co.	Hockessin	1,938

Holloway Terrace Fire Co.	Holloway Terrace	1,938
Indian River Volunteer Fire Co.	Indian River	1,938
Laurel Fire Dept., Inc.	Laurel	1,938
Leipsic Volunteer Fire Co.	Leipsic	1,938
Lewes Fire Department, Inc.	Lewes	1,938
Little Creek Volunteer Fire Co.	Little Creek	1,938
Magnolia Volunteer Fire Co.	Magnolia	1,938
Marydel Volunteer Fire Co.	Marydel	1,938
Mill Creek Fire Co.	Marshallton	1,938
Millsboro Fire Co.	Millsboro	1,938
Millville Volunteer Fire Co., Inc.	Millville	1,938
Milton Volunteer Fire Co.	Milton	1,938
Minquadale Fire Co.	Minquadale	1,938
Minquas Fire Co. No. 1	Newport	1,938
Odessa Fire Co., Inc.	Odessa	1,938
Port Penn Volunteer Fire Co., Inc.	Port Penn	1,938
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	1,938
Roxanna Volunteer Fire Co.	Roxanna	1,938
Seaford Volunteer Fire Department, Inc.	Seaford	1,938
Selbyville Fire Co., Inc.	Selbyville	1,938
Slaughter Beach Memorial Fire Co.	Slaughter Beach	1,938
South Bowers Fire Co.	South Bowers	1,938
Ellendale Volunteer Fire Co.	Ellendale	1,938
Houston Volunteer Fire Co.	Houston	1,938
Talleyville Fire Co., Inc.	Talleyville	1,938
Townsend Fire Co.,Inc.	Townsend	1,938
Volunteer Hose Co., Inc.	Middletown	1,938
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	1,938
	TOTAL	$ 110,466

(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	$ 2,889
Brandywine Hundred Fire Co., No. 1	Bellefonte	2,889
Christiana Fire Co.	Christiana	2,889
Claymont Fire Co.	Claymont	2,889
Delaware City Fire Co.	Delaware City	2,889
Elsmere Fire Co.	Elsmere	2,889
Five Points Fire Co. No. 1	Richardson Park	2,889
Goodwill Fire Co.No. 1	New Castle	2,889
Mill Creek Fire Co.	Marshallton	2,889
Talleyville Fire Co., Inc.	Talleyville	2,889
Volunteer Hose Co., Inc.	Middletown	2,889
Wilmington Manor Volunteer Fire Co.	Wilmington Manor	2,889

Kent County

Camden-Wyoming Fire Company	Camden	$ 2,889
Carlisle Fire Co.	Milford	2,889
Citizens' Hose Co., No. 1, Inc.	Smyrna	2,889
Hartly Volunteer Fire Co., Inc.	Hartly	2,889
Robbins Hose Co., (Dover Fire Dept.)	Dover	2,889

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	$ 2,889
Lewes Fire Department, Inc.	Lewes	2,889
Millsboro Fire Co.	Millsboro	2,889
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,889
Seaford Volunteer Fire Co., Inc.	Seaford	2,889
	TOTAL	$ 63,558

(e) There is appropriated to the listed fire companies the following sums to be used for the maintenance and operation of rescue boats in the public service:

Bowers Volunteer Fire Co., Inc	Bowers	$	1,750
Citizens' Hose Co. No. 1, Inc.	Smyrna		1,750
Delaware City Fire Co.	Delaware City		1,750
Goodwill Fire Co. No. 1	New Castle		1,750
Holloway Terrace Fire Co.	Holloway Terrace		1,750
Leipsic Volunteer Fire Co.	Leipsic		1,750
Little Creek Volunteer Fire Co.	Little Creek		1,750
Milton Volunteer Fire Co.	Milton		1,750
Port Penn Volunteer Fire Co., Inc.	Port Penn		1,750
Roxanna Volunteer Fire Co.	Roxanna		1,750
South Bowers Fire Co.	South Bowers		1,750
	TOTAL	$	19,250

(f) There is appropriated to the Mayor and Council of Wilmington the following sums to be used for:

(i) The prevention and extinguishment of fires throughout the City of Wilmington and for the maintenance of the apparatus and equipment of the 8 fire companies organized and equipped in the City.	$	113,176
(ii) The maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguishing highrise fires throughout the City of Wilmington.	$	8,667
(iii) The maintenance and operation of rescue boats in the public service.	$	1,750
TOTAL	$	123,593

(g) 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	$	18,553
Blades Volunteer Fire Co., Inc.	Blades		18,553
Bowers Volunteer Fire Co., Inc.	Bowers		18,553
Bridgeville Volunteer Fire Co.	Bridgeville		18,553
Camden-Wyoming Fire Co.	Camden		18,553
Carlisle Fire Co.	Milford		18,553
Cheswold Volunteer Fire Co.	Cheswold		18,553
Citizens' Hose Co. No. 1, Inc.	Smyrna		18,553
Clayton Fire Co.	Clayton		18,553
Dagsboro Volunteer Fire Co.	Dagsboro		18,553
Delmar Fire Department	Delmar		18,553
Robbins Hose Co., (Dover Fire Dept.)	Dover		18,553
Ellendale Volunteer Fire Co.	Ellendale		18,553
Farmington Volunteer Fire Co.	Farmington		18,553
Felton Community Fire Co.	Felton		18,553
Frankford Volunteer Fire Co.	Frankford		18,553
Frederica Volunteer Fire Co.	Frederica		18,553
Georgetown Fire Co., Inc.	Georgetown		18,553
Greenwood Volunteer Fire Co.	Greenwood		18,553
Gumboro Volunteer Fire Co., Inc.	Gumboro		18,553
Harrington Fire Co.	Harrington		18,553
Hartly Volunteer Fire Co.	Hartly		18,553
Houston Volunteer Fire Co.	Houston		18,553
Indian River Volunteer Fire Co.	Indian River		18,553
Laurel Fire Department, Inc.	Laurel		18,553
Leipsic Volunteer Fire Co.	Leipsic		18,553
Lewes Fire Department, Inc.	Lewes		18,553
Little Creek Volunteer Fire Co.	Little Creek		18,553
Magnolia Volunteer Fire Co.	Magnolia		18,553

Marydel Volunteer Fire Co., Inc.	Marydel	18,553
Millsboro Fire Co.	Millsboro	18,553
Milton Volunteer Fire Co.	Milton	18,553
Millville Volunteer Fire Co.	Millville	18,553
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	18,553
Roxanna Volunteer Fire Co.	Roxanna	18,553
Seaford Volunteer Fire Dept., Inc.	Seaford	18,553
Selbyville Volunteer Fire Co., Inc.	Selbyville	18,553
Slaughter Beach Memorial Fire Co.	Slaughter Beach	18,553
South Bowers Fire Co.	South Bowers	18,553
	TOTAL	$ 723,567

(h) 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	$ 1,938
American Legion, Sussex Post #8	Georgetown	1,938
American Legion, Kent Post #14	Smyrna	1,938
Sussex Memorial Post #7422, V.F.W.	Millsboro	1,938
TOTAL		$ 7,752

Total - Section 3 $ 1,982,278

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	$ 25,402
Veterans of Foreign Wars, Department of Delaware	25,402
Disabled American Veterans, Department of Delaware	21,165
Vietnam Veterans of America, Department of Delaware	21,165
Paralyzed Veterans of America, Department of Delaware	21,165

(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	$ 6,177
American Legion, Department of Delaware	6,177
Disabled American Veterans, Department of Delaware	6,177
Vietnam Veterans of America	6,177
Jewish War Veterans of the U.S., Department of Delaware	3,536
Delaware Veterans of World War I	2,641
Paralyzed Veterans of America, Department of Delaware	5,295

(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 $4,993 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 $4,993 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 $1,995 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 $ 162,460

Section 5. Section 1 of this Act appropriates $190,000 to the Delaware State Fair. Of that amount, $65,000 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 and shall be paid by the State Treasurer at the beginning of the first quarter of Fiscal Year 1991. The remaining $125,000 shall be paid in quarterly allotments, as provided in Chapter 65, Section 6505 of Title 29, Delaware Code.

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.

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. 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 1992 in grants-in-aid to agencies for the purchase of capital equipment, relocation, rehabilitation, renovation or purchase of buildings.

Section 12. 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, 1991, shall revert to the General Fund of the State of Delaware.

Section 13. (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 1991 for the agencies as follows:

Association for Retarded Citizens
Delaware Association for Blind Athletes
Delaware Association of Police Chiefs - Camp Barnes
Delaware City Day Committee
First State Games, Inc.
Miss Delaware Pageant
National Multiple Sclerosis Society
New Castle - Separation Day
West Center City Community Center - Physical Fitness Program

(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 1991 for the municipalities which receive $6,000 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 1991.

Section 14. 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, rehabilitatiol 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 15. (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 1992:

(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. 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 1992.

(f) For Fiscal Year 1991, 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, 1990. Such financial information shall be in the form as defined in Subsection (a)(i) or Subsection (a)(ii) 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 16. (a) Section 2 of this Act appropriates a one-time item to the Criminal Justice Council - Aid to Local Law Enforcement in the amount of one million five hundred thousand dollars ($1,500,000) for the purpose of contracting with local law enforcement agencies for Emergency Illegal Drug Enforcement programs.

(b) There is hereby established a Drug Emergency Fund for Local Law Enforcement Agencies to be administered by the State Aid to Local Law Enforcement Committee (SALLE) and disbursed by the Criminal Justice Council under authorized contracts.

(c) Local law enforcement agencies are encouraged to develop and maintain increased programs to combat illegal drug manufacturing, sale, and abuse. The

Criminal Justice Council may contract with any local law enforcement agency which qualifies under standards established by the SALLE Committee to establish and maintain emergency programs to increase their efforts to combat illegal drug use and abuse. No part of this appropriation may be used to supplant funds already committed by a local law enforcement agency to regular police operations, or to pay salaries of full-time police officers and supporting personnel authorized by said agency as of June 30, 1990.

(d) The funds appropriated in Section 2 shall be allocated according to the formula presently used by the SALLE Committee as revised from time to time.

(e) Local law enforcement agencies may combine their allocations, upon approval of the SALLE Committee, to support a pool arrangement to fund a contiguous area served by more than one local law enforcement agency.

(f) Each local law enforcement agency contracting for an allocation shall, not later than April 1, 1991, report in detail the plan under which such funds are being expended, and any other information requested by the SALLE Committee. The SALLE Committee shall report to the General Assembly of the State of Delaware on or before May 1, 1991, as to the agencies that were awarded grants from these funds, the amount of the grant, and the purpose of the grant.

Section 17. For Fiscal Year 1991, the sum of $6,722 in Account Number F.Y. 90 (35-14-10-01-84) shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 1991. This amount shall be appropriated to the Kenton/Hartly Senior Center.

Section 18. Section 1 of this Act makes an appropriation to the Department of Health & Social Services, Public Health, Office of Paramedic Administration (35-05-03), for the state component of the operational costs associated with each county's paramedic service for Advanced Life Support. These funds shall be disbursed by the Office of Paramedic Administration on a quarterly basis to counties that operate approved programs.

The Office of Paramedic Administration shall have an audit performed by the State Auditor annually to insure that reimbursement to the counties for the State share of costs was for approved Advanced Life Support Services. Adjustments shall be made to the final quarterly reimbursement based on the audit results.

Approved July 2, 1990.

CHAPTER 284

FORMERLY

SENATE BILL NO. 515

AN ACT TO PROVIDE FOR A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF SOCIAL SERVICES FOR THE PURPOSE OF AN EMERGENCY CONCERNING MEDICAID FUNDS FOR NON-STATE INSTITUTIONS.

WHEREAS, the cost of health care is increasing at an astronomical rate; and

WHEREAS, the need for funds to match federal funding is deemed critical; and

WHEREAS, patients in Non-State institutions have the urgent need for medical care; and

WHEREAS, it is essential to maximize the availability of federal funds; and

WHEREAS, an emergency situation exists when the patients in Non-State institutions cannot receive medical care.

NOW, THEREFORE:

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

Section 1. The General Assembly hereby finds that an emergency exists in the appropriation of funds for Medicaid for Non-State institutions.

Section 2. The amount of five million seven hundred thousand dollars ($5,700.0) is hereby appropriated to the Department of Health and Social Services, Division of Social Services for the purpose of Medicaid for Non-State institutions.

Section 3. This Act is a supplementary appropriation and the monies herein appropriated shall be paid by the State Treasurer out of funds in the General Fund of the State of Delaware not otherwise appropriated.

Section 4. The funds herein appropriated which remain unencumbered on June 30, 1991, shall revert to the General Fund of the State of Delaware.

Approved July 2, 1990.

CHAPTER 285

FORMERLY

HOUSE BILL NO. 777

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES DEAUTHORIZING AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, REVENUE BONDS OF THE DELAWARE TRANSPORTATION AUTHORITY AND LAND & WATER CONSERVATION BONDS; APPROPRIATING FUNDS FROM THE FIRST STATE IMPROVEMENT FUND AND THE TRANSPORTATION TRUST 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 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 VOLUME 65, CHAPTER 385, LAWS OF DELAWARE; AMENDING TITLE 30, CHAPTER 54 RELATING TO LAND & WATER CONSERVATION BONDS; AMENDING VOLUME 66, CHAPTER 92, LAWS OF DELAWARE, VOLUME 66, CHAPTER 360, LAWS OF DELAWARE AND VOLUME 67, CHAPTER 46, LAWS OF DELAWARE; AMENDING TITLE 29, CHAPTER 50, DELAWARE CODE RELATING TO THE ADVANCED REAL PROPERTY ACQUISITION FUND AND THE ADVANCED PLANNING FUND AND RELATING TO SMALL BUSINESS REVOLVING AND CREDIT ENHANCEMENT FUND; AMENDING TITLE 16, CHAPTER 97, DELAWARE CODE RELATING TO A HEALTH FACILITIES ACT; AMENDING CERTAIN SECTIONS OF CHAPTER 50, TITLE 29, DELAWARE CODE, DIRECTING CERTAIN ACTIVITIES RELATING TO HOUSE BILL NO. 708, 135TH GENERAL ASSEMBLY; AUTHORIZING THE TERMINATION OF THE CIVIC CENTER COMMITTEE AND THE CREATION OF THE CIVIC CENTER CORPORATION;AMENDING CERTAIN PROVISIONS OF THE HEALTH FACILITIES ACT; AMENDING CHAPTER 51, TITLE 30, DELAWARE CODE RELATING TO MUNICIPAL STREET AID; AND AMENDING CHAPTER 3, TITLE 21, CHAPTER 14, TITLE 2 AND CHAPTER 52, TITLE 30, DELAWARE CODE REALLOCATING AND PLEDGING CERTAIN TRANSPORTATION RELATED GENERAL FUNDS TO THE TRANSPORTATION TRUST 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. Authorization of Twenty-Year Bonds. The State hereby authorizes the issuance of Eighty One Million Nine Hundred Forty Two Thousand Four Hundred Forty Two Dollars ($81,942,442) 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 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof and summarized as follows:

Department, Agency, or Instrumentality	Amount
Judicial	$ 356,000
Budget Office	385,596
Delaware Development Office	7,319,000
Department of State	1,260,000
Department of Administrative Services	6,190,000
Department of Health & Social Services	6,899,000
Department of Services for Children, Youth & Their Families	3,668,000
Department of Correction	13,792,000
Department of Natural Resources & Environmental Control	7,508,494
Department of Community Affairs	787,000
Department of Agriculture	1,000,000
State Fire Prevention Commission	469,400
Delaware National Guard	1,350,000
University of Delaware	7,000,000
Delaware State College	3,850,000
Delaware Technical & Community College	8,785,000
State Board of Education	11,322,952

Purpose	Maximum State Share	Local Share	Maximum Total Cost
Christina-Complete Pulaski	$ 444,102	$ 296,068	$ 740,170
Appoquinimink-New Elementary	450,000	300,000	750,000
Laurel-District Renovations and Additions	1,938,250	1,292,167	3,230,417
Appoquinimink-Redding Repairs and Replacements	306,000	204,000	510,000

Appoquinimink-New Elem. School and District Repairs	633,600	422,400	1,056,000
Christina-New Elem. School and Site Acq.	4,380,000	2,920,000	7,300,000
Caesar Rodney-Land Acq.	225,000	150,000	375,000
Capital-Classroom Additions	696,000	464,000	1,160,000
Ennis Pool	250,000	166,667	416,667
Kent Vo-Tech	500,000	-0-	500,000
Sussex Vo-Tech	250,000	-0-	250,000
Hodgson Vo-Tech Athletic Facility & Fields	900,000	-0-	900,000
Howard Career Center-Roof, Restroom & Parking Lot	350,000	-0-	350,000
Subtotal	$11,322,952	$6,215,302	$17,538,254

TOTAL $81,942,442

Section 2. Authorization of Ten-Year Bonds. The State hereby authorizes the issuance of Seventeen Million Five Hundred Ninety One Thousand Six Hundred Forty Eight Dollars ($17,591,648) 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 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof and summarized as follows:

Department, Agency, or Instrumentality	Amount
Budget Office	$ 375,000
Department of State	250,000
Department of Finance	1,500,000
Department of Administrative Services	2,100,614
Department of Health & Social Services	2,825,379
Department of Services for Children, Youth & Their Families	845,000
Department of Correction	1,335,492
Department of Natural Resources & Environmental Control	952,539
Department of Public Safety	780,902
State Fire Prevention Commission	76,000
Delaware State College	516,027
Delaware National Guard	200,345
Delaware Technical & Community College	430,000
State Board of Education	5,404,350

Purpose	Maximum State Share	Local Share	Maximum Total Cost
Minor Capital Improvements	$4,211,550	$ -0-	$4,211,550
Annual Maintenance Program	1,015,100	-0-	1,015,100
Howard Career Center-Minor Capital Improvements	17,700	-0-	17,700
Subtotal	$5,244,350	$ -0-	$5,244,350

TOTAL $17,591,648

Section 3. Appropriation of First State Improvement Fund. The State hereby authorizes the appropriation of Fifteen Million Fifty Five Thousand Seven Hundred Sixty Dollars ($15,055,760) from the First State Improvement Fund for a portion of the purposes set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Delaware Development Office	$ 1,994,254
Department of Natural Resources & Environmental Control	13,011,506
Department of Community Affairs	50,000
TOTAL	$15,055,760

Section 4. Deauthorization of State Guaranteed Bonds.

(a) Amend §5054(a)(2) of Title 29 of the Delaware Code, as amended, by striking the number "$22,219,218" wherever it appears in said subsection and inserting in lieu thereof the number "$15,885,315".

(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 68 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 Three Million Dollars ($3,000,000) 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 1991 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 1991 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, 1993, shall revert to the General Fund of the State of Delaware.

Department, Agency, or Instrumentality	Amount
Delaware Development Office	$3,000,000
TOTAL	$3,000,000

Section 6. Reversion of Fund Balances to the State Treasurer's Bond Reversion Account. On the effective date of this Act, the State Treasurer shall transfer the remaining appropriation balances, not in excess of the amounts indicated below in the enumerated project accounts, to the State Treasurer's Bond Reversion Account (12-05-003-8101).

Department, Agency, or Instrumentality	Authorized Act & Ch.	Project Appropriation Code	Amount
Dept. of Correction	67/45	38-04-10-6093	460,000
State Fire Prevention Commission	67/45	75-02-10-6082	34
TOTAL			$460,034

Section 7. Transfers from the State Treasurer's Bond Reversion Account. Notwithstanding the provisions of other State law, the State Treasurer shall transfer, as funds become available, the sum of Eight Hundred Fourteen Thousand Four Hundred Four Dollars ($814,404) from the State Treasurer's Bond Reversion Account (12-05-003-8101) to the following departments in the following amounts for the purposes set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Budget Office	$814,404
TOTAL	$814,404

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 Six Thousand Six Hundred Ninety Eight Dollars ($306,698) on deposit in the School Bond Reversion Account (12-05-003-8102) for the following purposes in the following amounts as set forth in the "Fiscal Year 1991 Capital Improvements Projects Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality			Amount
State Board of Education			$306,698
Purpose	Maximum State Share	Local Share	Maximum Total Cost
Christina-Complete Pulaski	$306,698	$204,465	$511,163

Subtotal	$306,698	$204,465	$511,163
TOTAL			$306,698

Section 9. General Fund Reprogramming.

(a) Pursuant to previous years' authorizations by the General Assembly, certain projects have been completed at less than anticipated costs or are unable to be completed. For the fiscal year ending June 30, 1990, the following amounts shall remain as continuing appropriations and shall be transferred in accordance with subsection (b) of this Section and shall not be subject to reversion until June 30, 1993.

Department, Agency, or Instrumentality	Authorized Vol. & Ch.	Project Appropriation Code	Amount
Dept. of Health & Social Services	66/360	35-12-20-0180	$ 33
Dept. of Services for Children, Youth and Their Families	67/46	37-01-10-0181	75,000
Dept. of Natural Resources & Environmental Control	67/46	40-08-01-0182	935,000
Delaware Technical & Community College	67/46	90-04-06-0180	61
TOTAL			$1,010,094

(b) The Budget Office shall transfer the remaining appropriation balances listed in subsection (a) above to the following departments in the following amounts for the purposes set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Delaware Development Office/Industrial Development Fund	$1,000,000
Delaware Development Office/Development Incentive Fund	10,094
TOTAL	$1,010,094

Section 10. First State Improvement Fund Reprogramming.

(a) Pursuant to previous years' authorizations by the General Assembly, certain projects have been completed at less than anticipated costs or are unable to be completed. The following fund lines represent such projects and shall not be subject to reversion until June 30, 1993.

Department, Agency, or Instrumentality	Authorized Vol. & Ch.	Project Appropriation Code	Amount
Delaware Development Office	66/92	10-03-03-9633	$300,000
Delaware Development Office	65/212	10-03-03-9606	195,652
TOTAL			$495,652

(b) The Budget Office shall transfer the remaining appropriation balances listed in subsection (a) above to the following departments in the following amount for the purpose set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Delaware Development Office/Small Business Revolving Loan and Credit Enhancement Fund	$ 5,746
Delaware Development Office/Delaware Incentive Fund	489,906
TOTAL	$495,652

Section 11. Allocation of Stripper Well Funds. The State hereby authorizes the Department of Administrative Services to allocate Eight Hundred Thousand Dollars

(a) Amend §5054(d)(2) of Title 29 of the Delaware Code, as amended, by striking the number "$22,219,218" wherever it appears in said subsection and inserting in lieu thereof the number "$15,883,515".

(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 Three Million Dollars ($3,000,000) 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 1991 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 1991 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, 1993, shall revert to the General Fund of the State of Delaware.

Department, Agency, or Instrumentality	Amount
Delaware Development Office	$3,000,000
TOTAL	$3,000,000

Section 6. Reversion of Fund Balances to the State Treasurer's Bond Reversion Account. On the effective date of this Act, the State Treasurer shall transfer the remaining appropriation balances, not in excess of the amounts indicated below in the enumerated project accounts, to the State Treasurer's Bond Reversion Account (12-05-003-8101).

Department, Agency, or Instrumentality	Authorized Vol. & Ch.	Project Appropriation Code	Amount
Dept. of Correction	67/46	38-04-01-6013	480,000
State Fire Prevention Commission	67/46	75-02-01-6012	34
TOTAL			$480,034

Section 7. Transfers from the State Treasurer's Bond Reversion Account. Notwithstanding the provisions of other State law, the State Treasurer shall transfer, as funds become available, the sum of Eight Hundred Fourteen Thousand Four Hundred Four Dollars ($814,404) from the State Treasurer's Bond Reversion Account (12-05-003-8101) to the following departments in the following amounts for the purposes set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Budget Office	$814,404
TOTAL	$814,404

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 Six Thousand Six Hundred Ninety Eight Dollars ($306,698) on deposit in the School Bond Reversion Account (12-05-003-8102) for the following purposes in the following amounts as set forth in the "Fiscal Year 1991 Capital Improvements Projects Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
State Board of Education	$306,698

Purpose	Maximum State Share	Local Share	Maximum Total Cost
Christina-Complete Pulaski	$306,698	$204,465	$511,163

Subtotal	$306,698	$204,465	$511,163	
TOTAL				$306,698

Section 9. General Fund Reprogramming.

(a) Pursuant to previous years' authorizations by the General Assembly, certain projects have been completed at less than anticipated costs or are unable to be completed. For the fiscal year ending June 30, 1990, the following amounts shall remain as continuing appropriations and shall be transferred in accordance with subsection (b) of this Section and shall not be subject to reversion until June 30, 1993.

Department, Agency, or Instrumentality	Authorized Vol. & Ch.	Project Appropriation Code	Amount
Dept. of Health & Social Services	66/360	35-12-20-0180	$ 33
Dept. of Services for Children, Youth and Their Families	67/46	37-01-10-0181	75,000
Dept. of Natural Resources & Environmental Control	67/46	40-08-01-0182	935,000
Delaware Technical & Community College	67/46	90-04-06-0180	61
TOTAL			$1,010,094

(b) The Budget Office shall transfer the remaining appropriation balances listed in subsection (a) above to the following departments in the following amounts for the purposes set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Delaware Development Office/Industrial Development Fund	$1,000,000
Delaware Development Office/Development Incentive Fund	10,094
TOTAL	$1,010,094

Section 10. First State Improvement Fund Reprogramming.

(a) Pursuant to previous years' authorizations by the General Assembly, certain projects have been completed at less than anticipated costs or are unable to be completed. The following fund lines represent such projects and shall not be subject to reversion until June 30, 1993.

Department, Agency, or Instrumentality	Authorized Vol. & Ch.	Project Appropriation Code	Amount
Delaware Development Office	66/92	10-03-03-9633	$300,000
Delaware Development Office	65/212	10-03-03-9606	195,652
TOTAL			$495,652

(b) The Budget Office shall transfer the remaining appropriation balances listed in subsection (a) above to the following departments in the following amount for the purpose set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency, or Instrumentality	Amount
Delaware Development Office/Small Business Revolving Loan and Credit Enhancement Fund	$ 5,746
Delaware Development Office/Delaware Incentive Fund	489,906
TOTAL	$495,652

Section 11. Allocation of Stripper Well Funds. The State hereby authorizes the Department of Administrative Services to allocate Eight Hundred Thousand Dollars

($800,000) from the proceeds of the Stripper Well Court Case Settlement for eligible projects up to the amounts set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof. All potentially eligible projects will be submitted to the State 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.

Department, Agency, or Instrumentality	Amount
Department of Administrative Services	$ 90,000
Department of Health & Social Services	360,000
Department of Correction	240,000
Department of Natural Resources & Environmental Control	20,000
Department of Public Safety	50,000
Delaware National Guard	40,000
TOTAL	$800,000

Section 12. Land & Water Conservation Bonds.

(a) Amend Title 30, Chapter 54, Subchapter II, Delaware Code by deleting the phrase "Realty Transfer Tax Revenue Bonds" wherever it appears and inserting in lieu thereof the phrase "Land & Water Conservation Bonds".

(b) Pursuant to Title 30, Chapter 54, Subchapter II, Delaware Code, the General Assembly hereby authorizes bonds for the conservation program described in Volume 65, Chapter 212 of the Delaware Code not to exceed the sum of Fifteen Million Dollars ($15,000,000). Notwithstanding Title 30, Chapter 54, Subchapter II, Delaware Code, up to Five Hundred Thousand Dollars ($500,000) of the Fifteen Million Dollars ($15,000,000) authorized herein shall be used for greenways, as described in Section 44 of this Act.

Section 13. Transportation Trust Fund Authorizations.

(a) There is hereby appropriated Two Hundred Forty-Eight Million Twenty-Seven Thousand Dollars ($248,027,000) from the Transportation Trust Fund for transportation programs as set forth in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

(b) To fund a portion of the amount set forth in subsection (a) above, the Delaware Transportation Authority is hereby authorized to issue bonds in an amount not exceeding One Hundred Eighty Five Million Two Hundred Thousand Dollars ($185,200,000) pursuant to the provisions of Chapter 14, Title 2, Delaware Code, as amended, of which One Hundred Seventy Five Million Dollars ($175,000,000) shall be issued for purposes set forth in the "Fiscal Year 1991 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.

Section 14. 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 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Section 15. Advanced Planning & Real Property Acquisition Fund.

(a) Amend Title 29, Chapter 50, Subchapter II of the Delaware Code by deleting the title of Subchapter II, "Advanced Planning Fund" and inserting in lieu thereof the title "Advanced Planning and Real Property Acquisition Fund".

(b) Amend Title 29 of the Delaware Code, Section 5030 by deleting the title "Advanced Planning Fund." and inserting in lieu thereof the title "Advanced Planning and Real Property Acquisition Fund.".

(c) Amend Title 29 of the Delaware Code, Section 5030(a) by adding the words "and Real Property Acquisition" immediately after the words "Advanced Planning" and before the word "Fund".

(d) Amend Title 29 of the Delaware Code, Section 5030 by deleting subsection (b) in its entirety and by renaming subsection (c) subsection (b).

(e) Amend Title 29 of the Delaware Code, Section 5030 by adding a new subsection (c) to read as follows:

"(c) The Fund shall be expended for earnest money of up to ten percent (10%) for the acquisition of real property (including any improvements thereon) by State agencies. The Fund may not be expended for highway right-of-way acquisition.".

(f) Amend Title 29 of the Delaware Code, Section 5031(a) by adding the words "or advanced real property acquisition" immediately after the phrase "advanced planning" and inserting the phrase "or desiring real property" immediately after the phrase "to erect a State facility".

(g) Amend Title 29 of the Delaware Code, Section 5031 by deleting subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) If an agency requests monies from the Fund to erect a state facility, the Delaware Development Office must determine that the proposed facility is consistent with the capital program and its construction is likely to be authorized in the foreseeable future. If the Delaware Development Office makes such a determination, then the Budget Commission may authorize an expenditure from the Fund to cover the cost of advanced planning for the proposed facility.".

(h) Amend Title 29 of the Delaware Code, Section 5031 by adding a new subsection (c) to read as follows:

"(c) If an agency requests monies from the Fund for real property acquisition, the Delaware Development Office must determine that the proposed real property acquisition is consistent with the capital program or its long-range planning recommendations for the State. If the Delaware Development Office makes such a determination, then the Budget Commission may authorize an expenditure from the Fund to cover the cost of earnest money for the acquisition of real property.".

(i) Amend Title 29 of the Delaware Code, Section 5032 by inserting the phrase "or for advanced real property acquisition" immediately after the phrase "for advanced planning".

(j) Amend Title 29 of the Delaware Code, Section 5033(a) by inserting the phrase "or advance real property acquisition funds" immediately after the phrase "advance planning" and after the word "funds" and by inserting the phrase "or real property." immediately after the phrase "for the facility.".

(k) Amend Title 29 of the Delaware Code, Section 5033(a) by adding the phrase "or other source of funds provided" after the phrase "appropriation made" and before the phrase "for the facility."

(l) Amend Title 29 of the Delaware Code, Section 5033 by adding two new subsections (c) and (d) to read as follows:

"(c) If federal funds are received as reimbursement for any real property purchased with the Fund, such monies shall be deposited as a refund to the Fund.

(d) In the event real property is purchased and then plans for utilization of the site are abandoned, the agency, with approval of the Budget Commission, may sell the real property and shall deposit the receipts to the Fund.".

(m) Amend Title 29 of the Delaware Code by deleting Sections 5040, 5041, 5042 and 5043 in their entirety.

(n) Amend Title 29 of the Delaware Code, Section 5044 by inserting the

phrase "Advanced Planning and" immediately before the phrase "Advanced Real Property Acquisition Fund".

Section 16. Reimbursement to the Advanced Planning & Real Property Acquisition Fund. It is the intent of the General Assembly that the following agencies reimburse the Advanced Planning & Real Property Acquisition Fund, as created in Section 15 of this Act for the following amounts from the following projects, as listed in the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof.

Department, Agency or Instrumentality	Amount	Project Name
Laurel School District	$75,000	Laurel School District
Dept. of Natural Resources & Environmental Control	1,500	Dorzback Property Acquis.
Department of Services for Children, Youth & Their Families	50,000	Secure Detention Facility
TOTAL	$126,500	

JUDICIAL

Section 17. Harrington JP Court No. 6. The sum of Two Hundred Fifty Six Thousand Dollars ($256,000) appropriated in Section 1 of this Act to the Judicial Branch shall be transferred or disbursed immediately by the Budget Office and the State Treasurer to the Department of Administrative Services. The funds appropriated herein shall not be spent without the approvals of the Secretary of the Department of Administrative Services and the Chief Magistrate or his designee.

BUDGET OFFICE

Section 18. Electronic Voting Machines. It is the intent of the General Assembly that the Fifty Thousand Dollars ($50,000) appropriated in Section 2 of this Act to the Budget Office be used to conduct a study of electronic voting machines and the voting tabulation process. To manage this study, there is hereby created an 11 member committee to be known as the Advisory Committee on Electronic Voting Machines ("Committee"). The Committee members shall be as follows:

President Pro Tem who shall co-chair the Committee,
Speaker of House who shall co-chair the Committee,
Chairman of Senate Committee on Insurance and Elections,
Chairman of House Committee on Land Use and Government Relations,
Chairman, State Democratic Party,
Chairman, State Republican Party,
State Elections Commissioner,
New Castle County Department of Elections, Administrative Director,
Kent County Department of Elections, Deputy Administrative Director,
Director, Office of Information Systems, and
Controller General.

The Committee shall oversee, evaluate and review the study performed by the Office of Information Systems, which shall act as staff to the Committee. The study will evaluate electronic voting machines and include: an assessment of maintainability, reliability, telecommunications capabilities, vendor stability and future directions of the product offerings, method of handling write-in votes, transportability, ease-of-use, and the experiences of reference accounts. After its review, the Committee shall report its findings and recommendations to the Governor and members of the General Assembly by December 1, 1990. After receiving the report from the Committee, the Legislative Committee on Capital Improvement Programs, if it deems appropriate, may recommend a pilot program to benchmark one or more systems of up to forty (40) machines as a pilot program.

DELAWARE DEVELOPMENT OFFICE

Section 19. Composites Technical Park. It is the intent of the General Assembly that One Million Five Hundred Thousand Dollars ($1,500,000) appropriated in Section 3 of this Act to the Delaware Development Office be used for a Composites Technical Park. Funds shall be used for, but not limited to, a site plan, park design and all phases of infrastructure and building construction.

Section 20. Dover Civic Center.

(a) Delete in their entirety Section 24, Chapter 92, Volume 66 of the Laws of Delaware, Section 27, Chapter 360, Volume 66 of the Laws of Delaware and Section 23, Chapter 46, Volume 67 of the Laws of Delaware.

(b) Amend Volume 66, Chapter 92, Laws of Delaware by deleting the word "Study" after the words "Civic Center" and adding the word "Dover" before the words "Civic Center" under "Delaware Development Office" in the "Fiscal Year 1988 Capital Improvements Project Schedule".

(c) The Committee, as established in Section 27, Volume 66, Chapter 360 Laws of Delaware, is terminated when the Civic Corporation, as described herein is incorporated.

(d) The counsel to the Office is hereby authorized to act as incorporator of and to establish a Civic Center Corporation (the "Corporation") pursuant to the General Corporation Law of the State of Delaware. The Corporation shall have five (5) directors. Of the five (5) directors, three (3) directors shall be appointed or elected by the Governor, one (1) of which shall be the President of the Corporation; one (1) director shall be appointed or elected by the Mayor of the City of Dover; and one (1) director shall be appointed or elected by the President of Kent County Levy Court. The directors of the Corporation may be the same individuals who served as members of the Committee, as established in Section 27, Volume 66, Chapter 360, Laws of Delaware.

(e) The Corporation shall be created and organized for the following purposes:

(i) to execute and perform its duties and obligations under a development agreement, as it may be amended from time to time, with a development team for the development of the Dover Civic Center;

(ii) to execute and perform its duties and obligations under an intergovernmental agreement, as it may be amended from time to time, with the City of Dover, Delaware, the Kent County Levy Court and the Department of Finance on behalf of the State of Delaware for the purpose of providing funds to the Corporation which will enable the Corporation to apply funds to the development, construction and/or operation of the Dover Civic Center;

(iii) to take any and all actions necessary to receive, invest, hold, administer and disburse any private or public monies provided to it from any source whatsoever, including, without limitation, the Delaware Development Office ("Office"), the City of Dover and the Kent County Levy Court, for the uses set forth in Subsection (f) below; and

(iv) to take any and all actions and engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware which the Corporation, in its sole discretion, deems necessary or advisable to further the development, construction and/or operation of the Dover Civic Center or the public interest, including without limitation, entering into agreements and authorizing agents to perform the Corporation's duties.

(f) The General Assembly authorizes that each of the unencumbered previous appropriations and the Five Hundred Thousand Dollars ($500,000) appropriated in Section 1 of this Act to the Office for the Dover Civic Center be used by the Office, in its sole discretion, for the development, construction and/or operation of the Dover Civic Center or other related public purpose, including, without limitation, the payment of fees, costs and expenses incurred by the Office, the Corporation or their agents with respect to or in connection with the Dover Civic Center. Any and all funds delivered by the Office to the Corporation, including, but not limited to, the unencumbered previous appropriations, shall be used by the Corporation, in its sole discretion, for the development, construction and/or operation of the Dover Civic Center or other public purpose, including, but not limited to, the fees, costs and expenses incurred by it or its agents with respect to or in connection with the Dover Civic Center.

Section 21. Small Business Revolving Loan and Credit Enhancement Fund.

(a) Amend Section 5048(b) of Subchapter III-A, Chapter 50, Title 29, Delaware Code by adding a sentence at the end of said section to read as follows:
"Credit enhancements purchased shall not exceed $100,000 and the credit enhancement amount purchased shall be determined by The Authority."

(b) Amend Section 5049(c) of Subchapter III-A of Chapter 50, Title 29, Delaware Code by deleting the word "Fund" and inserting in lieu thereof the word "Loan".

(c) Amend Section 5049(d), Subchapter III-A, Chapter 50, Title 29, Delaware Code by deleting the word "Loan" and inserting in lieu thereof the phrase "Fund Proceeds".

Section 22. Industrial Park Development Fund.

(a) Amend Section 29(c), Volume 67, Chapter 46, Laws of Delaware by deleting the words "State Treasurer's Bond Reversion Account" and inserting in lieu thereof the phrase "Fund and may be used subsequently for purposes consistent with this Section."

(b) Amend Section 29(a), Volume 67, Chapter 46, Laws of Delaware by adding the words "to construct speculative buildings" after the phrase "The Office shall use the funds appropriated herein to" and before the phrase "purchase land and/or to renovate, construct, upgrade and/or otherwise improve infrastructure to and in publicly owned industrial parks in the State."

(c) Amend Section 29(a), Volume 67, Chapter 46, Laws of Delaware by deleting the last two sentences in their entirety and substituting in lieu thereof the following: "Monies may be used to construct speculative building(s) provided that funds used for such construction is repaid to the State. Such payments must be made within nine (9) months of completion of such building(s)."

Section 23. Multi-Purpose Sports Facility.

(a) It is the intent of the General Assembly that the Two Million Dollars ($2,000,000) appropriated in Section 1 of this Act to the Delaware Development Office ("Office") be used for a multi-purpose sports facility "(Facility"). Funds appropriated herein and funds appropriated in Volume 67, Chapter 46, Laws of Delaware for the Facility may be encumbered only after the following criteria have been met:

(1) A professional baseball team with a major league affiliation must sign a non-exclusive lease to locate at the Facility;

(2) The chosen development team must conduct a traffic impact study by a pre-qualified traffic engineering firm on the proposed site. Results of the study must comply with the existing Agreement 82-239 between the Department of Transportation and New Castle County; and

(3) A Development Agreement must be executed among the State, the development team and the Delaware Technical & Community College.

(b) The State Treasurer and the Secretary of Finance are directed to deposit funds appropriated herein and funds appropriated in Volume 67, Chapter 46, Laws of Delaware for the Facility into an interest bearing account. Interest earned may not be encumbered until (1), (2), and (3) above are met.

(c) In no instance shall the State subsidize any costs of the Facility after the State has appropriated a total of Six Million Dollars ($6,000,000). Interest accruing to this Six Million Dollars ($6,000,000) shall not be considered a subsidy to the Facility.

(d) Delete Section 22, Volume 67, Chapter 46, Laws of Delaware in its entirety.

(e) It is also the intent of the General Assembly that this Facility be available to local, school and community groups.

(f) Notwithstanding Subsection (a) above, up to Seventy-Five Thousand Dollars ($75,000) may be used by the Office for planning, legal fees and other miscellaneous costs associated with the Facility. In no case shall the funds appropriated herein or in Volume 67, Chapter 46, Laws of Delaware be used for administrative expenses of the Office.

Section 24. Agriculture and Aquaculture Businesses.

(a) Delete Section 30, Volume 66, Chapter 360, Laws of Delaware in its

entirety. Delete in its entirety the phrase "Agribusiness BIDCO" under "Delaware Development Office" in the "Fiscal Year 1989 Capital Improvements Project Schedule" contained in Volume 66, Chapter 360, Laws of Delaware and insert in lieu thereof the phrase "Agriculture & Aquaculture Businesses".

(b) Delete Section 27, Volume 67, Chapter 46, Laws of Delaware in its entirety. Delete in its entirety the phrase "Agribusiness Industrial Development Corporation" under "Delaware Development Office" in the "Fiscal Year 1990 Capital Improvements Project Schedule" contained in Volume 67, Chapter 46, Laws of Delaware and insert in lieu thereof the phrase "Agriculture & Aquaculture Businesses".

DEPARTMENT OF STATE

Section 25. Minor Capital Improvements. It is the intent of the General Assembly that of the Two Hundred Thirty Thousand Dollars ($230,000) appropriated in Section 2 of this Act to the Department of State for minor capital improvements that the following amounts be spent on the following projects:

Project	Cost
Historical Markers	$ 6,000
Hale Byrnes House	8,000
Abbotts Mill	45,000
Robinson House	10,000
TOTAL	$69,000

Section 26. Archives Records Center. It is the intent of the General Assembly that Forty Thousand Dollars ($40,000) appropriated in Section 2 of this Act to the Department of Administrative Services for the Archives Records Center be immediately transferred or disbursed by the State Treasurer and Budget Director to the Department of State. The Secretary of State shall submit a report by January 1, 1991 to the General Assembly concerning the most appropriate way to alleviate damage to documents contained in the Archives Records Center.

Section 27. Bicentennial Funding. For the fiscal year ending June 30, 1990, any sum in the Fiscal Year 1987 Appropriation Account (20-01-01-01-80) for Bicentennial Projects shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 1991.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Section 28. Legislative Hall/Tatnall Building. It is the intent of the General Assembly that Two Million Dollars ($2,000,000) appropriated in Section 1 of this Act to the General Assembly be used for Legislative Hall and the Tatnall Building. Of this amount, no more than Five Hundred Thousand Dollars ($500,000) may be used for the Tatnall Building.

Section 29. Architectural Barrier Removal. It is the intent of the General Assembly that fund balances previously appropriated to the Department of Community Affairs in previous years' Capital & Operating Budget Acts for architectural barrier removal be immediately transferred or disbursed to the Department of Administrative Services as such fund balances become available to the Department of Community Affairs.

Section 30. Underground Storage Tanks. The Secretary of the Department of Administrative Services ("Secretary") shall be responsible for developing a prioritized plan for State compliance with Federal and State laws and regulations concerning underground storage tanks owned by the State and its agencies.

The Secretary shall develop procedures and specifications for the installation, removal, replacement and testing of all State-owned underground storage tanks. All contracts awarded for such work and for all remedial work shall be approved by the Secretary.

Upon enactment of House Bill No. 708, 135th General Assembly, into law, the Secretary of the Department of Administrative Services and the Secretary of the Department of Natural Resources and Environmental Control shall, with the approval of the Budget Director, develop a long-term plan and schedule as funds are needed for the transfer of funds on a project by project basis from the Hazardous Substance Clean-up Fund to the Secretary of the Department of Administrative Services to finance the remedial cost or the cost of providing a remedy for releases or imminent threats of releases from underground storage tanks owned by the State or its agencies. The Secretary of Natural Resources and Environmental Control, with the approvals of the Budget Director and the Controller General, and subject to the total limitations on

(b) Amend Section 5049(c) of Subchapter III-A of Chapter 50, Title 29, Delaware Code by deleting the word "Fund" and inserting in lieu thereof the word "Loan".

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(b) The State Treasurer and the Secretary of Finance are directed to deposit funds appropriated herein and funds appropriated in Volume 67, Chapter 46, Laws of Delaware for the Facility into an interest bearing account. Interest earned may not be encumbered until (1), (2), and (3) above are met.

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DEPARTMENT OF ADMINISTRATIVE SERVICES

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The Secretary shall develop procedures and specifications for the installation, removal, replacement and testing of all State-owned underground storage tanks. All contracts awarded for such work and for all remedial work shall be approved by the Secretary.

Upon enactment of House Bill No. 708, 135th General Assembly, into law, the Secretary of the Department of Administrative Services and the Secretary of the Department of Natural Resources and Environmental Control shall, with the approval of the Budget Director, develop a long-term plan and schedule as funds are needed for the transfer of funds on a project by project basis from the Hazardous Substance Clean-up Fund to the Secretary of the Department of Administrative Services to finance the remedial cost or the cost of providing a remedy for releases or imminent threats of releases from underground storage tanks owned by the State or its agencies. The Secretary of Natural Resources and Environmental Control, with the approvals of the Budget Director and the Controller General, and subject to the total limitations on

administrative funds in House Bill No. 708, shall also transfer to the Secretary of the Department of Administrative Services funds which may be necessary for the administration of his responsibility for developing a plan of action for State compliance with underground storage tank laws and regulations.

Section 31. State Police, Troop 5-Bridgeville. From funds made available from the insurance settlement, and from Minor Capital Improvement Funds appropriated in Section 2 of this Act to the Department of Administrative Services, the Secretary of the Department of Administrative Services is authorized to repair the damage to State Police, Troop 5, in Bridgeville, Delaware.

DEPARTMENT OF HEALTH & SOCIAL SERVICES

Section 32. Amendment to Health Facilities Act. Section 9704(a) of Title 16, Delaware Code shall be amended to add the following at the end thereof:

"For the purposes of this Section, a member's residency, political affiliation, position or employment, skill, knowledge and experience in a specified area shall be determined as of the date of the initial appointment of such member."

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH & THEIR FAMILIES

Section 33. Secure Detention Center, Minor Capital Improvements & Equipment, Marine Bay Program Buildings and Ferris Campus Improvements. It is the intent of the General Assembly that the sum of Three Million Six Hundred Thousand Dollars ($3,600,000) appropriated in Section 1 of this Act for the Secure Detention Facility, that the sum of Two Hundred Forty-Five Thousand Dollars ($245,000) appropriated in Section 2 of this Act for Minor Capital Improvements and Equipment, that the sum of Sixty-Eight Thousand Dollars ($68,000) appropriated in Section 1 of this Act for the Marine Bay Program Buildings, and that the sum of Two Hundred Fifty Thousand Dollars ($250,000) appropriated in Section 2 of this Act for Ferris Campus Improvements to the Department of Services for Children, Youth & Their Families be transferred and/or disbursed immediately by the Budget Office and the State Treasurer to the Department of Administrative Services. The funds appropriated herein shall not be spent without the approvals of the Secretary of the Department of Services for Children, Youth & Their Families and the Secretary of the Department of Administrative Services.

DEPARTMENT OF CORRECTION

Section 34. Women's Correctional Facility.

(a) It is the intent of the General Assembly that the sum of Eight Million Dollars ($8,000,000) appropriated in Section 1 of this Act to the Department of Correction be used for a women's correctional facility to be located west of the former Penn Central railroad tracks and north of Interstate 295, which lands include a portion of the grounds housing the main headquarters' campus of the Department of Health and Social Services including the Delaware State Hospital, and other State-owned lands adjacent thereto. Said lands being more specifically described as a portion of New Castle County Tax Parcel No. 10-009.00-007, and Parcel No. 10-009.00-001. Funds anticipated not to be encumbered during Fiscal Year 1991 may be used for the Multi-purpose Criminal Justice Facility at Gander Hill with the approvals of the Director of the Delaware Development Office, the Controller General and the Budget Director.

(b) Amend Volume 67, Chapter 46, Laws of Delaware by deleting the figure "3,300,000" wherever it appears after the phrase "600-Bed Fac.-Budd Metal" within the "Fiscal Year 1990 Capital Improvements Project Schedule" and insert in lieu thereof the figure "25,000". Also amend Volume 67, Chapter 46, Laws of Delaware by adding a new phrase "Women's Correctional Facility" under the phrase "600-Bed Fac.-Budd Metal" and above the phrase "Modular Housing Units" and add the figure "3,275,000" after "Women's Correctional Facility" as added herein and below the figure "3,300,000" wherever it appears and above the figure "480,000*" and above the figure "480,000" in the "Fiscal Year 1990 Capital Improvements Project Schedule". Also amend Volume 67, Chapter 46, Laws of Delaware by deleting Section 39 in its entirety.

(c) If for any reason no site is available, then the Commissioner of the Department of Correction and the Director of the Delaware Development Office must present alternative proposals to the Joint Legislative Committee on the Capital Improvement Program and the Co-Chairs of the House and Senate Correction Committees for their review and approval before these funds may be expended for a site other than the site described in this Section.

Section 35. Multi-Purpose Criminal Justice Facility.

(a) It is the intent of the General Assembly that the sum of Five Million Dollars ($5,000,000) appropriated in Section 1 of this Act to the Department of Correction be used for renovation and additions to the Multi-purpose Justice Facility at Gander Hill. Funds anticipated not to be encumbered during Fiscal Year 1991 may be used for the Women's Correctional Facility adjacent to the Department of Health & Social Services campus in New Castle with the approvals of the Director of the Delaware Development Office, the Controller General and the Budget Director.

(b) If for any reason no site is available, then the Commissioner of the Department of Correction and the Director of the Delaware Development Office must present alternative proposals to the Joint Legislative Committee on the Capital Improvement Program and the Co-Chairs of the House and Senate Correction Committees for their review and approval before these funds may be expended for a site other than the site described in this Section.

DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL

Section 36. Heavy Equipment & Machinery. It is the intent of the General Assembly that monies in fund lines 40-0702-7782 and 40-0702-5012 be transferred into a revolving special fund that is not subject to reversion unless specifically mandated by the General Assembly.

Section 37. Tax/Public Ditches.

(a) It is the intent of the General Assembly that Section 42, Volume 67, Chapter 46 of the Laws of Delaware be deleted in its entirety.

(b) Amend Volume 65, Chapter 385, Laws of Delaware by deleting the phrase "Tax Ditches" and inserting in lieu thereof the phrase "Tax/Public Ditches" under the Agency/Project "Department of Natural Resources & Environmental Control" within the "Fiscal Year 1987 Capital Improvements Project Schedule."

(c) Amend Volume 65, Chapter 385, Laws of Delaware by deleting the phrase "Tax Ditches" and inserting in lieu thereof the phrase "Tax/Public Ditches" under the Agency/Project "Department of Natural Resources & Environmental Control" in the "Fiscal Year 1988 Capital Improvements Project Schedule."

Section 38. Water & Wastewater Facilities.

(a) It is the intent of the General Assembly that of the Nine Million Four Hundred Thousand Dollars ($9,400,000) appropriated in Section 3 of this Act to the Department of Natural Resources & Environmental Control Two Million Three Hundred Thousand Dollars ($2,300,000) be used for the State match to the federal Wastewater Facilities Construction Grants Program. It is also the intent of the General Assembly that the remaining Seven Million One Hundred Thousand Dollars ($7,100,000) be used for the Wastewater Facilities State Revolving Program provided that no portion of such appropriations shall be loaned by the Department of Natural Resources and Environmental Control to eligible recipients until such time as legislation is enacted that creates the planning, financing and regulatory processes deemed necessary by the General Assembly to ensure and protect an adequate water and wastewater infrastructure for the State both in the present and in the future. Notwithstanding the language contained herein, should an emergency situation arise, the Secretary of the Department of Natural Resources and Environmental Control, with the approval of the Director of the Delaware Development Office and the Controller General may enter into an agreement before July 1, 1991 with the federal government to expend the monies appropriated herein for the Wastewater Facilities State Revolving Program.

(b) Amend Volume 67, Chapter 46, Section 43(a), Laws of Delaware by adding the following phrase after the phrase "State Revolving Fund Program:"

"provided that no portion of such appropriation(s) shall be loaned by the Department of Natural Resources and Environmental Control to eligible recipients until such time as legislation is enacted that creates the planning, financing and regulatory processes deemed necessary by the General Assembly to ensure and protect an adequate water and wastewater infrastructure for the State both in the present and in the future. Notwithstanding the language contained herein, should an emergency situation arise, the Secretary of the Department of Natural Resources and Environmental Control, with the approval of the Director of the Delaware Development Office and the Controller General may enter into an agreement before July 1, 1991 with the federal government to

expend the monies appropriated herein for the Wastewater Facilities State Revolving Program."

Section 39. Dorzback Property. It is the intent of the General Assembly that the One Hundred Fifty Thousand Dollars ($150,000) appropriated in Section 1 of this Act to the Department of Natural Resources and Environmental Control immediately be transferred or disbursed by the Budget Office and the State Treasurer to the Department of Administrative Services to allow the Secretary of the Department of Administrative Services to acquire approximately 30,000 square feet of land with improvements on King's Highway, Dover, commonly known as the "Dorzback Properties," identified on the Kent County Tax Map as parcels ED-05 77.05-04-62; ED-05 77.05-04-63; ED-05 77.05-04-64. Such funds may be supplemented with Minor Capital Improvement Funds appropriated in Section 2 of this Act to the Department of Administrative Services. It is the determination of the General Assembly that the acquisition of this property is necessary for the future expansion of offices for the Department of Natural Resources and Environmental Control.

Section 40. 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 Five Million Eighty Eight Thousand Four Hundred Ninety Four Dollars ($5,088,494) appropriated in Section 1 of this Act and One Million Eight Hundred Sixty-One Thousand Five Hundred Six Dollars ($1,861,506) appropriated in Section 3 of this Act and Fifty Thousand Dollars ($50,000) appropriated in Section 2 of this Act to the Department of Natural Resources & Environmental Control ("Department") be deposited into the Land & Water Conservation Fund ("Fund") to acquire or partially acquire the following parcels of land commonly known as the duPont tracts 1 & 4, the Hickman tract, the Timmons tract, and lands for Killens Pond State Park. Should any of the tracts listed above not be purchased, then the Department may purchase additional lands recommended by the Department and approved by the Delaware Open Space Council.

(b) Notwithstanding Section 5423(d), Title 30, Delaware Code, interest earned on the amount appropriated herein shall be expended on the properties listed in subsection (a) above or for properties purchased by State agencies and approved by the Delaware Open Space Council.

(c) The Secretary of the Department is hereby empowered to conduct negotiations for the acquisition of the parcels described in subsection (a) above, and to enter into contracts for the purchase of or options to purchase said parcels and may, in consultation with the Secretary of Finance, utilize various methods of acquisition including, but not limited to, outright purchases, installment purchases, and mortgages (such as purchase money mortgages). 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.

Section 41. Beach Renourishment and Preservation. The General Assembly hereby appropriates One Million Dollars ($1,000,000) to the Department of Natural Resources and Environmental Control ("Department") in Section 1 of this Act to renourish and preserve the State's beaches. The Department may not encumber the funds appropriated herein for privately-owned ocean beaches. The Department may not encumber the funds appropriated herein for publicly accessible municipal ocean beaches until at least an equal amount of non-State funds, except for the lodging tax as defined in Chapter 61, Title 30 of the Delaware Code, are available for such projects. The availability of the aforementioned non-State matching funds must be approved by the Director of the Delaware Development Office and the Secretary of the Department.

Section 42. 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 & Environmental Control ("Department") in Section 1 of this Act be used for the Department's Soil and Water 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 43. Banning Park. Amend Volume 67, Chapter 46, Laws of Delaware by deleting Section 40 in its entirety and inserting in lieu thereof *the following new* Section 40:

"Section 40. Banning Park. It is the intent of the General Assembly that the balance of fund line 40-06-04-89-100-0182 be used for *equipment and* enhancements in Banning Park."

Section 44. Greenways.

(a) It is the intent of the General Assembly that bonds authorized pursuant to Section 12 of this Act for greenways be used by the Department of Natural Resources & Environmental Control to promote the establishment of greenways through the following methods:

(1) Develop a statewide comprehensive greenway plan in cooperation with other government and private agencies;

(2) Develop at least one detailed model greenway plan in each of the three counties;

(3) Implement portions of the above plans as opportunities and funding allow; and

(4) Provide coordination with and technical assistance to government, private and non-profit organizations which are promoting the establishment of greenways.

(b) Other than the costs related to the issuance of the Land & Water Conservation Bonds, the funds authorized 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.

Section 45. Environmental Management Fund and the Hazardous Substance Cleanup Fund.

(a) Amend Chapter 46, Volume 67, Laws of Delaware, "Fiscal Year 1990 Capital Improvement Project Schedule" by deleting the figures "1,650,000" wherever it appears and inserting in lieu thereof the figure "24,634", by adding the phrase "Environmental Management Fund" after the phrase "State Superfund/Underground Storage Tanks" and before the phrase "Conserv. Cost Share Prog.", by adding the figure "765,600" after the phrase "Environmental Management Fund" and under the title "General Funds", by adding the figure "765,600" after the phrase "Environmental Management Fund" and below the title "Total" and by adding the phrase "Hazardous Substance Cleanup Fund" below the phrase "Beach Preservation" and above the phrase "State Superfund/Underground Storage Tanks", by adding the figure "859,766" after the phrase "Hazardous Substance Cleanup Fund" and under the title "General Funds" and by adding the figure "859,766" after the phrase "Hazardous Substance Cleanup Fund" and below the title "Total".

(b) This Section shall transfer the Environmental Management Fund to the Office of the Secretary of the Department of Natural Resources & Environmental Control as an Appropriated Special Fund account. This account shall be used to assist the Department of Natural Resources & Environmental Control in maintaining the fiscal year 1990 level of Appropriated Special Fund programs during fiscal year 1991. Any transfer from the Environmental Management Fund requires approvals of the Budget Director and the Controller General.

Section 46. Fox Point Park. It is the intent of the General Assembly that of the Three Hundred Fifty Nine Thousand Twelve Dollars ($359,012) appropriated in Section 2 of this Act to the Department of Natural Resources and Environmental Control for Building and Road Rehabilitation, Ten Thousand Dollars ($10,000) be used at Fox Point Park in New Castle County for landscaping and benches.

Section 47. Resource, Conservation and Development Projects.

(a) It is the intent of the General Assembly that Six Hundred Fifty Five Thousand Dollars ($655,000) appropriated in Section 1 of this Act to the Department of Natural Resources and Environmental Control ("Department") be used for the following projects in the following amounts:

Project	Cost
Little Mill Flood Abatement	$ 500,000
Four Seasons Excavate Retention Pond	40,000
Complete Pepper's Creek Dredging	50,000
Complete Vine's Creek Dredging	15,000
Assawoman Canal Dredging	50,000
TOTAL	$655,000

(b) For Little Mill Flood Abatement and Four Seasons Excavate Retention

Pond projects, funds appropriated herein may not be encumbered unless non-State funds are used to cost-share with the State. The Secretary of the Department is hereby directed to negotiate with non-State entities to obtain the highest non-State/State cost share ratio possible for each project.

(c) The General Assembly hereby directs the Secretary of the Department to formulate a cost-share policy for resource, conservation and development projects by May 1, 1991.

(d) It is also the intent of the General Assembly that a Little Mill Flood Abatement Committee ("Committee") be established to develop and implement a plan to correct flooding in the Little Mill Creek area in New Castle County. The Committee shall be composed of the following members: two members of the State Senate, to be appointed by the President Pro Tem, two members of the House of Representatives, to be appointed by the Speaker of the House, the Secretary of the Department of Natural Resources and Environmental Control or his designee, the Secretary of Transportation or his designee, the New Castle County Executive, a representative of the New Castle County Soil & Water Conservation District and three persons to be appointed by the Governor. The President Pro Tem shall name the Co-Chair of the Committee from the Senate and the Speaker of the House shall name the Co-Chair of the Committee from the House.

Section 48. Killens Pond Cabins. It is the intent of the General Assembly that of the One Hundred Thousand Dollars ($100,000) appropriated in Section 2 of this Act to the Department of Natural Resources and Environmental Control for Killen's Pond Cabins no more than Five Thousand Dollars ($5,000) be used for a marketing or feasibility study.

DEPARTMENT OF PUBLIC SAFETY

Section 49. Minor Capital Improvements. It is the intent of the General Assembly that of the Eighty-Eight Thousand One Hundred Two Dollars ($88,102) appropriated in Section 2 of this Act to the Department of Public Safety for Minor Capital Improvements that Twenty-Five Thousand Dollars ($25,000) be used for the State Police Museum for planning and site improvements on State-owned property.

DEPARTMENT OF COMMUNITY AFFAIRS

Section 50. Library Fundings. It is the intent of the General Assembly that procedures contained in Senate Bill No. 444 of the 135th General Assembly, as amended, shall govern the use of funds appropriated herein for libraries.

DEPARTMENT OF TRANSPORTATION

Section 51. 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 1991 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 52. 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 1991 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 ensure 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 ensure that bridge repairs and replacements are carried out in an expeditious manner.

Section 53. Municipal Street Aid.

(a) Amend Section 5162, Chapter 51, Title 30 of the Delaware Code by redesignating the existing paragraph as subsection "(a)" and creating a new subsection "(b)" to read as follows:

"(b) When deemed in full compliance with the provisions of Section 5165(b), the State Treasurer is authorized to process payments to municipalities in the following manner:

(1) recipients of municipal street aid whose total fiscal year share is $50,000 or less shall receive a lump-sum distribution.

(2) recipients of municipal street aid whose total fiscal year share is greater than $50,000 but not more than $200,000 shall be paid in two (2) equal installments, one in July and the other in January.

(3) recipients of municipal street aid whose total fiscal year share exceeds $200,000 shall be paid in four (4) equal installments, one each in July, October, January, and April of each year."

(b) Amend Section 5165(a), Chapter 51, Title 30 of the Delaware Code by striking the work "bank" appearing therein.

(c) Amend Section 5165(b), Chapter 51, Title 30 of the Delaware Code by deleting subparagraph (2) in its entirety, and inserting in lieu of thereof the following:

"(2) In a form prescribed by the State Treasurer, submit an accurate and complete annual report not later than October 1 of each year to the State Treasurer showing expenditures of municipal street aid funds for the preceding fiscal year ended June 30."

(d) Amend Section 5165(b), Chapter 51, Title 30 of the Delaware Code by deleting subparagraph (4) and (5) in its entirety, and inserting in lieu thereof the following:

"(4) On or before May 15 of each year, file with the Department of Transportation an affidavit signed by the mayor, city manager, or president of the council of the municipality, setting forth (i) the population of the municipality, based on a complete house by house and person by person census of the municipality. In the absence of this special census, the Department of Transportation will use whichever is greatest: the latest decennial census or the latest official estimate prepared by either the United States Bureau of the Census or the Delaware Population Consortium. For purposes of this subchapter, the population of a municipality which is a summer resort shall be deemed to include all property owners entitled to vote in a municipal election; and (ii) a tabulation of streets added during the past fiscal year which are dedicated to public use and maintained by their municipal forces. Said tabulations should include street names, starting and ending points, and length in feet or miles, and be accompanied by a map indicating location of any new streets."

Section 54. Dept. of Transportation Administration Building. It is the intent of the General Assembly that Six Hundred Fifty Thousand Dollars ($650,000) appropriated in this Act to the Department of Transportation ("Department") and listed in the Engineering and Contingencies Account (57/00) as part of the "Fiscal Year 1991 Capital Improvements Project Schedule" attached hereto and made a part hereof be expended by the Department for the purpose of making heating, ventilation, air conditioning, electrical and such other improvements (including the rehabilitation of offices to maximize the utilization of space when Public Safety relocates to their new building) as may be necessary to the Department of Transportation Administration Building.

Section 55. Motor Fuel Tax. Amend Section 5110, Chapter 51, Title 30, Delaware Code as amending by Volume 65, Chapter 385, Laws of Delaware 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 16 cents per gallon through December 31 ,1990. Thereafter, the tax shall be 19 cents per gallon. Effective January 1, 1991, the tax shall be no more or no less than 19 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 Delaware to the Delaware Transportation Authority, said tax shall not be decreased during the period any bonds of that authority are outstanding and unpaid."

Section 56. Transfer and Rededication of General Fund Revenues to the Transportation Trust Fund.

(a) Amend Section 307, Title 21, Delaware Code by deleting the second sentence in its entirety and inserting in lieu thereof the following:

"Except for those monies received by the Department pursuant to Sections 309 and 706 of this Title, the State Treasurer shall transfer or disburse from the General Fund all other monies received by the Department, on a daily basis, to the Transportation Trust Fund, created under Title 2."

(b) Amend Section 5204(b), Title 30, Delaware Code by adding the following sentence at the end of the subsection:

"Prior to any such refund or credit is paid out of the General Fund, the Delaware Transportation Authority shall reimburse the General Fund from the Transportation Trust Fund, on receipt of a notice from the Treasurer reflecting the pending payment of the refund or credit and the amount by which the General Fund must be reimbursed."

(c) Amend Section 5204(c), Title 30, Delaware Code by adding the following sentence at the end of the subsection:

"Any deposits received into the General Fund pursuant to this subsection shall be credited and deposited in the same fashion as all other taxes, fees, penalties and interest received by the State under this Chapter."

(d) Amend Section 5206(a), Title 30, Delaware Code by deleting the phrase "All money received by the Department of Public Safety for the annual registration of motor carriers pursuant to Section 5211(a) of this Title," and inserting in lieu thereof the following:

"All taxes, fees, penalties and interest received by the State under this chapter".

(e) Amend Section 5206(a), Title 30, Delaware Code by deleting the phrase "Chapter 13" appearing therein and inserting in lieu thereof the phrase "Chapters 13 and 14".

(f) Amend Section 5206, Title 30, Delaware Code by deleting subsection (b) thereof in its entirety.

(g) Amend Section 1409, Title 2, Delaware Code by deleting the phrase "or diminished" appearing in the third sentence of said Section and inserting in lieu thereof the following:

"and those taxes and fees shall not be reduced or adversely altered".

(h) Amend Section 1414(b), Title 2, Delaware Code by deleting the phrase "and the motor carrier registration fees imposed by the State pursuant to Section 5211(a) of Chapter 52, Title 30, as amended from time to time," appearing therein, and inserting in lieu thereof the following:

"the motor carriers road use taxes and registration fees imposed by the State pursuant to Chapter 52, Title 30, Delaware Code, as amended from time to time, and the monies transferred or disbursed to the Transportation Trust Fund pursuant to Section 307, Chapter 3, Title 21, Delaware Code, as amended from time to time,".

(i) Amend Section 1417, Title 2, Delaware Code by inserting the following between the phrase "motor vehicle registration fees," and the phrase "receipts and revenues derived from the Delaware Turnpike" appearing in the second sentence of said Section:

"motor carrier road use taxes and registration fees, the monies transferred or disbursed to the Transportation Trust Fund pursuant to Section 307, Chapter 3, Title 21, Delaware Code".

DEPARTMENT OF AGRICULTURE

Section 57. Agricultural Building. The sum of One Hundred Thousand Dollars ($100,000) appropriated in Section 1 of this Act to the Department of Agriculture for the Agricultural Building shall be transferred or disbursed immediately by the Budget Office and the State Treasurer to the Department of Administrative Services. The funds appropriated herein shall not be spent without the approvals of the Secretary of the Department of Agriculture and the Secretary of the Department of Administrative Services.

Section 58. Forest Land Acquisition. It is the intent of the General Assembly that Nine Hundred Thousand Dollars ($900,000) appropriated in Section 1 of this Act to the Department of Agriculture be used solely for the acquisition of forest land in the State. To enable the Department of Agriculture to take advantage of the Department of Natural Resources & Environmental Control's expertise in land acquisition, the knowledge and experience of the Delaware Open Space Council and the interest bearing benefits of the Land and Water Conservation Fund, the funds appropriated herein shall immediately be transferred or disbursed by the Budget Office and State Treasurer into the Land & Water Conservation Fund. The Department of Natural Resources & Environmental Control and the Delaware Open Space Council shall administer the fund. Notwithstanding Volume 65, Chapter 212, Laws of Delaware, the monies appropriated herein shall be used directly for forest land acquisition.

STATE FIRE PREVENTION COMMISSION

Section 59. Northern Fire Training Center. It is the intent of the General Assembly that Fifty Thousand Dollars ($50,000) appropriated in Section 2 of this Act for the Northern Training Center to the State Fire Prevention Commission be transferred or disbursed immediately by the Budget Office and the State Treasurer to the Department of Administrative Services. The funds appropriated herein shall not be spent without the approvals of the State Fire Prevention Commission or its designee and the Secretary of the Department of Administrative Services or his designee.

Section 60. Fire Marshall's Sussex Office. The sum of Two Hundred Fifty Thousand Dollars ($250,000) appropriated in Section 1 of this Act to the State Fire Prevention Commission shall be transferred or disbursed immediately by the Budget Office and the State Treasurer to the Department of Administrative Services. The funds appropriated herein shall not be spent without the approvals of the State Fire Marshall and the Secretary of the Department of Administrative Services.

Section 61. Hydraulic Rescue Tools. It is the intent of the General Assembly that Twenty-Six Thousand Dollars ($26,000) appropriated in Section 2 of this Act be used to purchase hydraulic rescue tools for the Lewes, Millcreek, Indian River, Roxana and Rehoboth Fire companies.

DELAWARE NATIONAL GUARD

Section 62. National Guard Land. It is the intent of the General Assembly that Five Hundred Thousand Dollars ($500,000) appropriated in Section 1 of this Act to the Delaware National Guard can be used as the first payment to purchase approximately 11.4 acres of land now owned by New Castle County. The land to be purchased with monies appropriated herein is located at Basin Road and Arnold Avenue to the east of Commons Boulevard, in the Greater Wilmington Airport.

Section 63. Lora Little School. Notwithstanding Title 14, Chapter 1057, Delaware Code, it is the intent of the General Assembly that Eight Hundred Fifty Thousand Dollars ($850,000) appropriated in Section 1 of this Act to the Delaware National Guard be used to purchase, plan and renovate the Lora Little School for the Delaware National Guard. Proceeds of the sale of the school appropriated herein and received by the Red Clay School District for the purchase of the Lora Little School must be used by the Red Clay School District to construct new or expand existing schools in the Red Clay School District. These proceeds may not be used for high schools.

STATE BOARD OF EDUCATION

Section 64. Appropriations for Minor Capital Improvements. It is the intent of the General Assembly that the sum of Four Million Two Hundred Eleven Thousand Five Hundred Fifty Dollars ($4,211,550) appropriated in Section 2 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	$ 91,736	$ 61,157	$ 152,893
Brandywine	422,477	281,651	704,128
Special	20,265	-0-	20,265
Christina	654,621	436,415	1,091,036
Special	45,335	-0-	45,335
Colonial	361,021	240,681	601,702
Special	12,406	-0-	12,406
New Castle Vo-Tech	204,724	-0-	204,724
Red Clay	543,558	362,372	905,930
Special	27,539	-0-	27,539
Caesar Rodney	192,864	128,576	321,440
Special	8,444	-0-	8,444
Capital	243,759	162,506	406,265
Kent Vo-Tech	50,272	-0-	50,272
Lake Forest	124,432	82,955	207,387
Milford	137,487	91,658	229,145
Smyrna	113,754	75,836	189,590
Cape Henlopen	136,903	91,268	228,171
Special	7,145	-0-	7,145
Delmar	22,603	15,069	37,672
Indian River	242,006	161,337	403,343
Special	10,132	-0-	10,132
Laurel	77,278	51,519	128,797
Seaford	129,148	86,098	215,246
Sussex Vo-Tech	65,275	-0-	65,275
Woodbridge	66,366	44,244	110,610
MINOR CAPITAL IMPROVEMENTS	$4,011,550	$2,373,342	$6,384,892
STATE BOARD OF EDUCATION	$ 115,000	$ 76,667	$ 191,667
VOCATIONAL EQUIPMENT	$ 85,000	$ 56,667	$ 141,667
TOTAL	$4,211,550	$2,506,676	$6,718,226

Section 65. Appropriation for Architectural Barrier Removal. It is the intent of the General Assembly that the sum of One Hundred Sixty Thousand Dollars ($160,000) appropriated in Section 2 of this Act to the State Board of Education be used for the State's sixty percent (60%) share of architectural barrier removal projects as defined in Section 7528 of Title 29 of the Delaware Code. Each qualifying school district having approved architectural barrier removal projects shall authorize its forty percent (40%) share. 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.

Section 66. Books. Except for funds appropriated to the Department of Public Instruction, it is the intent of the General Assembly that funds appropriated in this Act shall not be used for books unless otherwise specifically appropriated for such use.

Section 67. Appoquinimink School District. In Section 8 of the Fiscal Year 1990 Capital Budget Bill (Volume 67, Chapter 46, Laws of Delaware), the State

appropriated Three Hundred One Thousand Three Hundred Ninety-Five Dollars ($301,395) in State funds for Appoquinimink School District projects but failed to authorize the local share. Therefore, the General Assembly hereby states that Two Hundred Thousand Nine Hundred Thirty Dollars ($200,930) may be the local share for the State's Fiscal Year 1990 appropriation, as described herein.

Section 68. Laurel School District. It is the intent of the General Assembly that of the One Million Nine Hundred Thirty Eight Thousand Two Hundred Fifty Dollars ($1,938,250) appropriated in Section 1 of this Act to the State Board of Education, Three Hundred Sixty-Five Thousand Dollars ($365,000) be transferred or disbursed immediately into fund line 90-95-0102-6012.

Section 69. 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 70. 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 71. 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 72. Effective Date. This Act shall take effect in accordance with the provisions of State law.

Approved July 2, 1990.

FISCAL YEAR 1991 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	DFMS NO.	NEW GO BOND AUTHOR-IZATIONS	DEAUTHOR-IZATIONS	REVERSION & REPRO-GRAMMING	1ST STATE IMPROV.	STRIPPER WELL	TRANSPORTATION TRUST FUNDS	GENERAL FUNDS	TOTAL
JUDICIAL									
J. P. Court 6, Harrington	91001PDL	$0	$256,000	$0	$0	$0	$0	$0	$256,000
Kent County Cell Block Space	91002PDR	0	100,000	0	0	0	0	0	100,000
Subtotal		$0	$356,000	$0	$0	$0	$0	$0	$356,000
BUDGET									
WRA-EIS	91003PDE	$0	$25,000 *	$0	$0	$0	$0	$0	$25,000
E911 Enhancement-Kent & Sussex Counties	91004PDE	0	300,000 *	0	0	0	0	0	300,000
800 Megahertz System	90002PDE	0	385,596	814,404	0	0	0	0	1,200,000
	90002PRE								
Elections Voting Machines-Study	91005PDE	0	50,000 *	0	0	0	0	0	50,000
Subtotal		$0	$760,596	$814,404	$0	$0	$0	$0	$1,575,000
DELAWARE DEVELOPMENT OFFICE									
Dover Civic Center	88005PDC	$0	$500,000	$0	$0	$0	$0	$0	$500,000
Multipurpose Sports Facility	90010PDC	0	2,000,000	0	0	0	0	0	2,000,000
Development Incentive Fund (DIF)	89005PFD	0	0	500,000	0	0	0	0	500,000
	89005PGD								
Ind. Development Fund	90006PGD	0	0	1,000,000	0	0	0	1,000,000	2,000,000
Small Bus.Rev.Loan & Cr.Enh. Fund	90009PFD	0	0	5,746	494,254	0	0	0	500,000
Composites Technical Park	88004PFD	0	0	0	1,500,000	0	0	0	1,500,000
Port of Wilmington	91006PBD	1,723,939	776,061	0	0	0	0	0	2,500,000
	91007PDD								
Little Mill Sewer	91008PDO	0	2,000,000	0	0	0	0	0	2,000,000
Newark Water Plant	91009PDO	0	319,000	0	0	0	0	0	319,000
Housing Development Fund	91010PGC	0	0	0	0	0	0	2,000,000	2,000,000
Subtotal		$1,723,939	$5,595,061	$1,505,746	$1,994,254	$0	$0	$3,000,000	$13,819,000

*10-Year Bonds

FISCAL YEAR 1991 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	DFMS NO.	NEW GO BOND AUTHOR-IZATIONS	DEAUTHOR-IZATIONS	REVERSION & REPRO-GRAMMING	1ST STATE IMPROV.	STRIPPER WELL	TRANSPORTATION TRUST FUNDS	GENERAL FUNDS	TOTAL
STATE									
Minor Capital Improvements	90014PDM	$0	$230,000 *	$0	$0	$0	$0	$0	$230,000
Biggs-Visitors Center	91011PDC	0	100,000	0	0	0	0	0	100,000
Veterans Cemetery Enhancement	84005PDO	0	60,000	0	0	0	0	0	60,000
Belmont Hall	90015PDR	0	800,000	0	0	0	0	0	800,000
DeBraak Artifacts	91012PDO	0	300,000	0	0	0	0	0	300,000
Redding House-Study	91013PDP	0	20,000 *	0	0	0	0	0	20,000
Subtotal		$0	$1,510,000	$0	$0	$0	$0	$0	$1,510,000
FINANCE									
Imaging Processing System-Div. of Revenue	91014PDE	$0	$1,500,000 *	$0	$0	$0	$0	$0	$1,500,000
Subtotal		$0	$1,500,000	$0	$0	$0	$0	$0	$1,500,000
ADMINISTRATIVE SERVICES									
Legislative Hall Alt./Add.	90020PDR	$0	$2,000,000	$0	$0	$0	$0	$0	$2,000,000
Minor Capital Improvements	82021PDM 82021PSM	0	1,960,614 *	0	0	90,000	0	0	2,050,614
Asbestos Abatement	86019PDM	0	2,820,000	0	0	0	0	0	2,820,000
Court & State Agency Wilm. Office Space	91015PDP	0	100,000 *	0	0	0	0	0	100,000
Public Safety Bldg./Const. & Furn.	90016PDC	0	775,000	0	0	0	0	0	775,000
Architectural Barrier Removal	91016PDM	0	210,000	0	0	0	0	0	210,000
Public Building	82023PDR	0	325,000	0	0	0	0	0	325,000
Archives Records Center	91017PDR	0	40,000 *	0	0	0	0	0	40,000
Sussex Family Court Parking	91018PDR	0	60,000	0	0	0	0	0	60,000
Subtotal		$0	$8,290,614	$0	$0	$90,000	$0	$0	$8,380,614

*10-Year Bonds

FISCAL YEAR 1991 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	DFMS NO.	NEW GO BOND AUTHOR-IZATIONS	DEAUTHOR-IZATIONS	REVERSION & REPRO-GRAMMING	1ST STATE IMPROV.	STRIPPER WELL	TRANSPORTATION TRUST FUNDS	GENERAL FUNDS	TOTAL
HEALTH & SOCIAL SERVICES									
Public Health Laboratory	90021PDC	$0	$992,300	$0	$0	$0	$0	$0	$992,300
Chief Medical Examiner's Lab	89017PDC	0	2,200,000	0	0	0	0	0	2,200,000
Minor Capital Improvements	83029PDM	0	2,219,619 *	0	0	360,000	0	0	2,579,619
	83029PSM								
Campus Renewal	87036PDR	0	3,000,000	0	0	0	0	0	3,000,000
HIV Wellness Clinic	91019PDC	0	416,700	0	0	0	0	0	416,700
Georgetown Service Center	91020PDP	0	290,000	0	0	0	0	0	290,000
Furniture & Equipment	91021PDE	0	605,760 *	0	0	0	0	0	605,760
Subtotal		$0	$9,724,379	$0	$0	$360,000	$0	$0	$10,084,379
SERVICES FOR CHILDREN, YOUTH & THEIR FAMILIES									
Minor Capital Improvements	86037PDM	$0	$245,000 *	$0	$0	$0	$0	$0	$245,000
NCC Secure Detention Facility	91022PDC	0	3,600,000	0	0	0	0	0	3,600,000
Staff Secure Res. Treatment Fac.-Girls	91023PDP	0	100,000 *	0	0	0	0	0	100,000
Ferris Planning	91024PDP	0	250,000 *	0	0	0	0	0	250,000
Marine Bay Program Buildings	91025PDC	0	68,000	0	0	0	0	0	68,000
Ferris Bldgs.-Life/Safety Improvements	91026PDR	0	250,000 *	0	0	0	0	0	250,000
Subtotal		$0	$4,513,000	$0	$0	$0	$0	$0	$4,513,000

*10-Year Bonds

FISCAL YEAR 1991 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	DFMS NO.	NEW GO BOND AUTHORIZATIONS	DEAUTHORIZATIONS	REVERSION & REPROGRAMMING	1ST STATE IMPROV.	STRIPPER WELL	TRANSPORTATION TRUST FUNDS	GENERAL FUNDS	TOTAL
CORRECTION									
Minor Capital Improvements	80005PDM	$0	$410,492 *	$0	$0	$240,000	$0	$0	$650,492
	80005PSM								
Maintenance & Restoration	91027PDM	0	200,000 *	0	0	0	0	0	200,000
New Women's Correctional Facility	87047PBC	8,000,000	0	0	0	0	0	0	8,000,000
Gander Hill Expansion	91028PDR	0	5,000,000	0	0	0	0	0	5,000,000
Sewer-DCC	91029PDR	0	400,000	0	0	0	0	0	400,000
Roofs-DCC	91030PDR	0	142,000	0	0	0	0	0	142,000
American Legion Bldgs Purch. & Improvs.	91031PDR	0	250,000	0	0	0	0	0	250,000
HVAC Improvements-ACLU	91032PDE	0	225,000 *	0	0	0	0	0	225,000
ACLU-DCC-Plumbing Needs	91033PDE	0	200,000 *	0	0	0	0	0	200,000
ACLU-DCC-Replace Commodes, Sinks, Etc.	91034PDE	0	300,000 *	0	0	0	0	0	300,000
Subtotal		$8,000,000	$7,127,492	$0	$0	$240,000	$0	$0	$15,367,492
NATURAL RESOURCES & ENVIRONMENTAL CONTROL									
Land & Water Conservation Fund	86050PBL	$50,000 *	$5,088,494	$0	$1,861,506	$0	$0	$0	$7,000,000
	86050PDL								
	86050PFL								
Water/Wastewater Facilities	90033PFC	0	0	0	9,400,000	0	0	0	9,400,000
Beach Preservation	78032PDO	0	1,000,000	0	0	0	0	0	1,000,000
Bldg. & Road Rehab. (Parks & Rec.)	81031PBM	359,012 *	0	0	0	0	0	0	359,012
Conservation Cost Sharing Proj.	85033PDL	0	315,000	0	0	0	0	0	315,000
Minor Capital Improvements	90035PBM	343,527 *	0	0	0	20,000	0	0	363,527
	90035PSM								
Tax/Public Ditches	78031PDO	0	300,000	0	0	0	0	0	300,000
Park Dev.-Brandywine Run./Aquatic Center	80026PFR	0	0	0	1,750,000	0	0	0	1,750,000
Land Acquisition/Dorzback Property	91035PBL	150,000	0	0	0	0	0	0	150,000
Laboratory Equipment	91036PBE	100,000 *	0	0	0	0	0	0	100,000
Resource Conservation and Development	91037PBO	655,000	0	0	0	0	0	0	655,000
Killen's Pond Cabins-Planning/Infra.	91038PBP	100,000 *	0	0	0	0	0	0	100,000
Subtotal		$1,757,539	$6,703,494	$0	$13,011,506	$20,000	$0	$0	$21,492,539

*10-Year Bonds

FISCAL YEAR 1991 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	DFMS NO.	NEW GO BOND AUTHOR-IZATIONS	DEAUTHOR-IZATIONS	REVERSION & REPRO-GRAMMING	1ST STATE IMPROV.	STRIPPER WELL	TRANSPORTATION TRUST FUNDS	GENERAL FUNDS	TOTAL
PUBLIC SAFETY									
Automated Fingerprint ID System	87066PBE	$442,800 *	$0	$0	$0	$0	$0	$0	$442,800
Helicopter Replacement	90041PBE	250,000 *	0	0	0	0	0	0	250,000
Minor Capital Improvements/Equip.	83049ODM	0	88,102 *	0	0	50,000	0	0	138,102
	83049OSM								
Subtotal		$692,800	$88,102	$0	$0	$50,000	$0	$0	$830,902
COMMUNITY AFFAIRS									
Public Lib. Const.-Hockessin	91039PBC	$275,000	$0	$0	$0	$0	$0	$0	$275,000
South Coastal Library	91040PBC	250,000	0	0	0	0	0	0	250,000
Bridgeville Library-Restrooms	91041PBC	12,000	0	0	0	0	0	0	12,000
Milford Library	91042PBC	250,000	0	0	0	0	0	0	250,000
Selbyville Library	91043PBC	0	0	0	50,000	0	0	0	50,000
Subtotal		$787,000	$0	$0	$50,000	$0	$0	$0	$837,000
TRANSPORTATION									
Corridor/Non-Corridor Program (66/00)	78040PTT	$0	$0	$0	$0	$0	$137,065,000	$0	$137,065,000
Rehabilitation and Reconstruction (64/00)	86074PTT	0	0	0	0	0	16,400,000	0	16,400,000
Pave & Rehab. (64/00)	78042PTT	0	0	0	0	0	15,000,000	0	15,000,000
Bridge Replacement/Rehabilitation (65/00)	79034PTT	0	0	0	0	0	9,600,000	0	9,600,000
Safety and Intersection Impr. (63/00)	81056PTT	0	0	0	0	0	2,900,000	0	2,900,000
Traffic Control Devices/Hwy. Ltg. (61/00)	78044PTT	0	0	0	0	0	600,000	0	600,000
Engineering and Contingencies (57/00)	78049PTT	0	0	0	0	0	1,350,000	0	1,350,000
Advanced Right of Way Program (59/00)	80055PTT	0	0	0	0	0	700,000	0	700,000
Advanced Planning Program (60/00)	80056PTT	0	0	0	0	0	300,000	0	300,000
Suburban Streets (56/00)	78043PTT	0	0	0	0	0	13,950,000	0	13,950,000
Dirt Roads/Surface Treatment (62/00)	78048PTT	0	0	0	0	0	1,000,000	0	1,000,000
Municipal Street Aid (71/00)	89034PTT	0	0	0	0	0	3,000,000	0	3,000,000
Del. Trans. Auth. Impr. (55-06, 67-00)	89035PTT	0	0	0	0	0	34,762,000	0	34,762,000
Miscellaneous/Drainage (56/00)	78043NTT	0	0	0	0	0	1,200,000	0	1,200,000
Reserve Account	90044OTT	0	0	0	0	0	10,200,000	0	10,200,000
Subtotal		$0	$0	$0	$0	$0	$248,027,000	$0	$248,027,000

*10-Year Bonds

FISCAL YEAR 1991 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	DFMS NO.	NEW GO BOND AUTHOR-IZATIONS	DEAUTHOR-IZATIONS	REVERSION & REPRO-GRAMMING	1ST STATE IMPROV.	STRIPPER WELL	TRANSPORTATION TRUST FUNDS	GENERAL FUNDS	TOTAL
AGRICULTURE									
Agriculture Complex Completion	88087PBC	$100,000	$0	$0	$0	$0	$0	$0	$100,000
Forest Land Acquisition	91044PBL	900,000	0	0	0	0	0	0	900,000
Subtotal		$1,000,000	$0	$0	$0	$0	$0	$0	$1,000,000
STATE FIRE PREVENTION COMMISSION									
Hydraulic Rescue Tools	91045PBE	$26,000 *	$0	$0	$0	$0	$0	$0	$26,000
Fire Marshall's Sussex Office	91046PBC	250,000	0	0	0	0	0	0	250,000
Northern Fire Training Center	91047PBP	50,000 *	0	0	0	0	0	0	50,000
Southern Fire Training Center	91048PBC	219,400	0	0	0	0	0	0	219,400
Subtotal		$545,400	$0	$0	$0	$0	$0	$0	$545,400
DELAWARE NATIONAL GUARD									
Lora Little Purchase/Planning & Renov.	91049PBR	$850,000	$0	$0	$0	$0	$0	$0	$850,000
Air National Guard Land Acquisition	91050PBL	500,000	0	0	0	0	0	0	500,000
Minor Capital Improvements	91051PBM 91052PSM	200,345 *	0	0	0	40,000	0	0	240,345
Subtotal		$1,550,345	$0	$0	$0	$40,000	$0	$0	$1,590,345

*10-Year Bonds

FISCAL YEAR 1991 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	DFMS NO.	NEW GO BOND AUTHOR-IZATIONS	DEAUTHOR-IZATIONS	REVERSION & REPRO-GRAMMING	1ST STATE IMPROV.	STRIPPER WELL	TRANSPORTATION TRUST FUNDS	GENERAL FUNDS	TOTAL
UNIVERSITY OF DELAWARE									
Chem.,Biochem.,Marine Sci. Bldg.	90054PBC	$4,000,000	$0	$0	$0	$0	$0	$0	$4,000,000
Sports/Convocation Center	90055PDC	0	3,000,000	0	0	0	0	0	3,000,000
Subtotal		$4,000,000	$3,000,000	$0	$0	$0	$0	$0	$7,000,000
DELAWARE STATE COLLEGE									
Minor Capital Improvements	80074PBM	$416,027 *	$0	$0	$0	$0	$0	$0	$416,027
Ext. Renov.-Humanities Bldg.	91053PDR	0	3,500,000	0	0	0	0	0	3,500,000
Science Center Annex-Planning	91054PBP	350,000	0	0	0	0	0	0	350,000
Fiber Optic Cable System	91055PBE	100,000 *	0	0	0	0	0	0	100,000
Subtotal		$866,027	$3,500,000	$0	$0	$0	$0	$0	$4,366,027
DELAWARE TECHNICAL & COMMUNITY COLLEGE									
Higher Ed. Facility-Southern	90062PDC	$0	$3,900,000	$0	$0	$0	$0	$0	$3,900,000
Wilmington/Stanton-MCI's and Equipment	91056PBM	430,000 *	0	0	0	0	0	0	430,000
Ind. Trng./Ed. Bldg.-Stanton	91057PBC	4,000,000	0	0	0	0	0	0	4,000,000
Sci.& Eng. Tech. Center-Terry	91058PBC	525,000	0	0	0	0	0	0	525,000
Renovate Existing Bldgs. & MCI-Terry	91059PBR	360,000	0	0	0	0	0	0	360,000
Subtotal		$5,315,000	$3,900,000	$0	$0	$0	$0	$0	$9,215,000

*10-Year Bonds

FISCAL YEAR 1991 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	DFMS NO.	NEW GO BOND AUTHOR-IZATIONS	DEAUTHOR-IZATIONS	REVERSION & REPRO-GRAMMING	1ST STATE IMPROV.	STRIPPER WELL	TRANSPORTATION TRUST FUNDS	GENERAL FUNDS	TOTAL
STATE BOARD OF EDUCATION									
Minor Capital Improvements	78050PBM	$4,211,550 *	$0	$0	$0	$0	$0	$0	$4,211,550
Annual Maintenance Program	78051OBM	1,015,100 *	0	0	0	0	0	0	1,015,100
Christina Complete Pulaski	91060PDR	0	444,102	306,698	0	0	0	0	750,800
	91061PRR								
Appoquinimink New Elem.	89059PDC	0	450,000	0	0	0	0	0	450,000
Laurel-District Renovations & Additions	91062PBR	1,938,250	0	0	0	0	0	0	1,938,250
Appoquinimink-Redding Repair & Replace.	91063PBR	306,000	0	0	0	0	0	0	306,000
Appoquinimink-New Elem. School/Dist. Rep.	91064PBR	633,600	0	0	0	0	0	0	633,600
Christina-New Elem. School & Site Acq.	91065PBR	4,380,000	0	0	0	0	0	0	4,380,000
Caesar Rodney-Land Acquisition	91066PBC	225,000	0	0	0	0	0	0	225,000
Capital-Classroom Additions	91067PBL	696,000	0	0	0	0	0	0	696,000
Ennis Pool	91068PBC	250,000	0	0	0	0	0	0	250,000
Kent Vo-Tech	91069PBC	500,000	0	0	0	0	0	0	500,000
Sussex Vo-Tech	91070PBP	250,000	0	0	0	0	0	0	250,000
Hodgson Vo-Tech Athletic Fac. & Fields	91071PBP	900,000	0	0	0	0	0	0	900,000
Howard Career Ctr.-Roof/Restroom/Parking	91072PBC	350,000	0	0	0	0	0	0	350,000
Howard Career Ctr.-Minor Cap. Impr.	91073PBR	17,700 *	0	0	0	0	0	0	17,700
Architectural Barrier Removal	91074PBM	160,000 *	0	0	0	0	0	0	160,000
Subtotal		$15,833,200	$894,102	$306,698	$0	$0	$0	$0	$17,034,000
GRAND TOTAL:		$42,071,250	$57,462,840	$2,626,848	$15,055,760	$800,000	$248,027,000	$3,000,000	$369,043,698

*10-Year Bonds

SUPPLEMENTAL LIST OF TRANSPORTATION PROJECTS
Fiscal Year 1991

I. Corridor/Non-Corridor (66/00)

Naamans, 202 to 13 (incl.RR access)	$ 1,700,000
Polly Drummond/Ebenezer Church Rd.	4,725,000
Old Baltimore Pike/Newtown Rd.	11,000,000
SR896, N. of Summit Br. to I-95	5,000,000
SR141, Price's Corner to US202	4,860,000
SR273, Newark To New Castle	840,000
SR1 (Relief Route)	102,385,000
Newark Area Improvement	1,315,000
SR7, US 13 to Pa.	4,150,000
Metroform Improvements	970,000
Valley Rd, Henderson to SR141	120,000
	$137,065,000

II. DTA Improvements

I-95 and SR 7 Interchange Reconfiguration and Capacity Improvements	$ 22,174,000
Turnpike & Interstate Improvements & Capital Expenses	3,137,000
Transit Facilities, Improvements & Capital Expenses	5,986,000
Rail Facilities, Improvements & Capital Expenses	2,725,000
CSA Facilities, Improvements & Capital Expenses	450,000
Aviation Facilities, Improvements & Capital Expenses	290,000
	$ 34,762,000

III. Rehabilitation/Reconstruction Program 4R/2R (64/00)

MAINT NO.	ROAD/NAME NO.	FROM	TO
N491	Thoroughfare Neck Rd.	Rd. 449 Fleming's Landing Rd.	Rd. 493 Collins Beach Rd.
N493	Collins Beach Rd.	Rd. 491 Thoroughfare Neck Rd.	End (Collins Beach)
N412	Lorewood Rd.	Rd. 412-A	Rd. 34C Main Street St. Georges
N427	Cedar Lane Rd.	Rd. 39 Old Summit Bridge Rd.	Rd. 15 Mt. Pleasant Rd.
N26	Old Baltimore Pike	Md. Line	Del. 896 (Rd. 387)
N328	Polly Drummond Hill Rd.	Del. 2 Kirkwood (Rd. 11)	New Linden Hill Rd. (Rd. 321)
N387	S. College Ave.-Newark	200' S. of Park Place	50' N. of Del. Ave. (Del. 2 EB)
N400	Porter Rd.	Rd. 387	(Del. 72) Rd. 356
N241	Nay Rd.	Rd. 261 Mt. Cuba Rd.	Rd. 243 Old Kennett Pike
N211	Grubbs Landing Rd.	Rd. 24 Phil. Pike	Rd. 50 SB. Govenor Printz Blvd.
N11WB	(Main St. Newark)	Del. 273 (Rd. 18)	Rd. 41 Nottingham Rd.
N378	River Rd. Del. 9	Rd. 380 Federal School Lane	(Grantham La.) Rd. 376
N-20	Old Capitol Trail	Eastern Ave.	St. James Drive
K8NB	US 113	Rd. 10 North End (DE 12)	(US 113A)
K8SB	US 113	Rd. 373	Rd. 18
K384	Lake Forest School Rd.	Rd. 385	(US 13) Rd. 5 NB
K27	US 113A	Rd. 8 SB US 113	Del. 10 Lebanon Rd.
K36	Del. 14	Broad St. Houston (Rd. 37)	0.27 M. of Rd. 388
K20	Walnut St. Milford	Sussex Line	Rd. 22
K40B	Tenth Street (Milford)	(Rd. 20) Walnut Street (Milford)	Rd. 8A Del. 1
K32	Rd. 32	Rd. 240	(U.S. 13) Rd. 5 S.B.
S212	Del. 30	Rd. 230	Rd. 206
S18	Del. 18	Rd. 6 Del. 404	Rd. 529
S18	US 9	Rd. 246	Rd. 248 Del. 30
S13	Rd. 13	Rd. 28 (Laurel)	Rd. 485
S18	US 9	Rd. 248 Del. 30	Belltown A-St.
S36	Del. 36	Rd. 44	Rd. 626
S213	S. Walnut St. (Milford)	Rd. 36-A (Seabury Ave.) (Milford)	KTLN (Milford)
		TOTAL	$16,400,000

IV. Paving and Rehabilitation (100% State Funded)

CO.	ROAD NO./NAME	FROM	TO
N	RD 2 (DEL 9)	END BRIDGE APPROACH	RD 411 CLINTON ST
N	RD 4 NB CONCORD PIKE	0.36 S. OF PA LINE	PA LINE
N	RD 4 SB CONDCORD PIKE	PA LINE	ZIEGLER LANE
N	RD 18 NB OGLETOWN RD	I-95	OGLETOWN
N	RD 18 SB OGLETOWN RD	OGLETOWN	I-95
N	RD 19SB NEW CASTLE AVE	RD 28 HEALD ST.	RD 369 ROGERS RD
N	RD 19 NB NEW CASTLE AVE	RD 369 ROGERS ROAD	RD 28 HEALD ST
N	RD 27 DUPONT RD.	RD 11C NEW RD.	RD 237 LANCASTER AVE.
N	RD 48 SALEM CHURCH RD	JOSEPH DRIVE	RD 336 COOCHES BRIDGE RD
N	RD 49 AUGUSTINE CUT-OFF	CANTERA RD	0.13 S. OF 4 SB
N	RD 52 DUPONT RD.	RD 237 LANCASTER PIKE	0.03 S OF RR CROSSING
N	RD 200 CARPENTER RD.	END OF CONTRACT#85-102-02	PA LINE
N	RD 212 SILVERSIDE RD	0.14 W R&R CROSSING	RD 24 PHIL. PK.
N	RD 217 N. BROOM ST.	RD 44 BAYNARD BLVD.	RD 502 LEA BLVD.
N	RD 234 THADELL MILL RD	0.20 E. OF RD 9	0.62 W. OF RD 232
N	RD 243 OLD KENNETT PIKE	RD 9 (DEL 52) KENNETT PKE	RD 240 OWLS NEST RD.
N	RD 243 OLD KENNETT PIKE	RD 244 SNUFF MILL RD.	PA LINE
N	RD 247 SNUFF ML.CRK ML	PA LINE	RD. 261 MT. CUBA RD
N	RD 256 CLOUDS RD	RD 250 POLISH ROW RD	PA LINE
N	RD 260 BRECKS LANE RD	RD 9 KENNETT PIKE	RD 279 RISING SUN RD
N	RD 262 NEW LONDON RD	RD 262-A CREEK RD	RD 269 HILLSIDE MILL RD
N	RD 265 BUCK RD	RD 9 WB KENNETT PIKE	RD 225 MONTCHANIN RD
N	RD 266 BARLY ML/BRECKS	RD 260 BRECKS LANE	RD 267 NEW BRIDGE RD.
N	RD 269 HILLSIDE MILL RD	0.21 E OF RD 261	RD 262 NEW LONDON RD
N	RD 275 OLD WILM. RD	RD 276 LOVEVILLE RD	RD 274 BRACKENVILLE RD
N	RD 276 LOVEVILLE RD	RD 237 LANCASTER PIKE	RD 275 OLD WILM. RD
N	RD 293 CROSSAN RD	RD 290 DOE RUN RD	RD 294 NORTH STAR RD
N	RD 294 VALLEY RD	RD 31 LIMESTONE RD	RD 237 LANCASTER PIKE
N	RD 295 PIKE CREEK RD	RD 298 GRANVILLE RD	RD 13 CURTIS MILL RD
N	RD 300 OLD LANCASTER PIKE	RD 274 BRACKENVILLE RD	ERICKSON AVENUE
N	RD 316 OLD COACH RD	ENT. CREEK LANDING	RD 322 PIKE CREEK RD
N	RD 330 GREENBANK RD	RD 272& RD 333 CENTRVLE RD	HILLSIDE AVENUE
N	RD 360 BARKSDALE RD.	RD 361 CASHO MILL RD.	HILLSIDE RD
N	RD 364 W CHESTNUT HILL	0.10 E. OF RD 397 SB	0.12 W. OF SMITHFIELD DR
N	RD 400 PORTER RD	0.06 W. OF RD 401	RD 402 WOODS RD
N	RD 409 KIRKWOOD RD	RD 34-E IN ST. GEORGES	0.40 S. OF RD 407
N	RD 411 COX'S NECK LANE	RD 34N.B. US 13	THIRD STREET
N	RD 411 COX'S NECK LANE	THIRD STREET	CANAL STREET
N	RD 505 ADAMS ST.	SECOND ST.	9TH ST.
N	RD 1303 DAWSON DRIVE	RD 356 (DEL 72)	END
N	RD 45 WALKER SCHOOL RD	RD 30 PADDOCK RD	RD 449 FLEMINGS LNDG RD
K	RD 55	END	RD 60 (DEL 14)
K	RD 77 HOWARD ST	RD 235	RD 240
K	RD 82	RD 317	RD 320
K	RD 85	RD 12 (DEL 9)	END
K	RD 97	RD 98	RD 41 (DEL 300)
K	RD 98	RD 97	RD 46 (DEL 11)
K	RD 102	RD 151	RD 2 (US 13)
K	RD 103	RD 73	RD 201
K	RD 105	RD 30 (DEL 10-A)	RD 360
K	RD 110	RD 255	RD 258
K	RD 111	RD 293	RD 455
K	RD 112	RD 63 (DEL 16)	MDLN
K	RD 119	RD 119-A	RD 404
K	RD146	RD 42	RD 90
K	RD 162	RD 158	RD 100
K	RD 167	RD 101	RD 168
K	RD 169	RD 46 (DEL 11)	RD 170
K	RD 174	RD 46 (DEL. 11)	RD 98
K	RD 182	RD 103	RD 49 (DEL 44) MAIN ST
K	RD 206	RD 222	RD 218
K	RD 207	MDLN	RD 212
K	RD 216	RD 215	RD 206
K	RD 222	RD 224	RD 50 (DEL 8)
K	RD 228	RD 228-A	RD 225
K	RD 232	RD 53 (DEL 10)	RD 52
K	RD 240-A	RD 54 (DEL 10-A) MAIN ST	END

CO.	ROAD NO./NAME	FROM	TO
K	RD 243	RD 57 (DEL 12) MAIN ST	RD 241
K	RD 245 HIGH ST	RD 57 MAIN ST	RD 243 WALNUT ST
K	RD 246	RD 57 (DEL 12)	RD 53 (DEL 10)
K	RD 255-A	MDLN	RD 53 (DEL 10)
K	RD 256	RD 257	RD 53 (DEL 10)
K	RD 263	RD 57 (DEL 12)	RD 56
K	RD 283	RD 285	RD 57 (DEL 12)
K	RD 291	MDLN	RD 296
K	RD 317	RD 318	RD 320 (DEL 9)
K	RD 323	RD 9 (DEL 6)	RD 11 (DEL 9)
K	RD 331	RD 330	RD 332
K	RD 332	RD 331	RD 88
K	RD 347-A	RD 347	END
K	RD 348 HORSEPOND RD	RD 17 (DEL 9)	OUT
K	RD 358	RD 31	RD 106
K	RD 361 LOCHMEATH WAY	RD 4 (US 13-A)	RD 24 (US 13)
K	RD 366 BANNING RD	RD 367	RD 27 (US 113-A)
K	RD 378	RD 379	RD 31
K	RD 393	RD 391	RD 392
K	RD 399	RD 398	RD 388 (DEL 15)
N	RD 412 LOREWOOD GROVE RD	RD 63 OLD SUMMIT BRDG RD	RD 412-A
N	RD 435 CHOPTANK RD	RD 437 BUNKER HILL RD	RD 433 BETHEL CHURCH RD
K	RD 442	RD 443	RD 620
N	RD 449 TAYLORS BRIDGE RD	RD 440 THOMAS LANDING RD	RD 441 OLD STATE RD
N	RD 449 FLEMINGS LNDG RD	RD 453 CEDAR SWAMP RD	RD 452 FIELDSBORO RD
N	RD 453 CEDAR SWAMP RD	RD 449 TAYLORS BRIDGE RD	END
N	RD 455 BLACKBIRD LNDG RD	RD 51	RD 456 NEW DISCOVERY RD
N	RD 456 NEW DISCOVERY RD	RD 14 SUMMIT BRIDGE RD	RD 449 FLEMINGS LNDG RD
N	RD 481 BLACK STALLION RD	RD 479 OAK HILL SCHOOL RD	RD 7 HARVEY STRAUGHN RD
N	RD 488 BRICK STORE LNDG	RD 485 SMYRNA LANDING RD	END
N	RD 2 PORT PENN RD	RD 418 THORNTOWN RD	RD 422 ST AUGUSTINE RD
N	RD 7 HARVEY STRAUGHN RD	RD 479 MORRIS RD.	RD 47 VAN DYKE GRNSPRG RD
N	RD 10 LEVELS RD	RD 447 ST ANNS CHURCH RD	RD 443 MDLTOWN/WARWICK RD
K	RD 63 (DEL. 16)	MDLN	RD 570
K	RD 65	RD 454 (DEL. 300)	RD 486
K	RD 100	RD 164	BEGIN DIVIDED
K	RD 108	RD 109	RD 240
K	RD 137	RD 41 (DEL. 300)	RD 39
K	RD 206	RD 218	RD 73
K	RD 320 (DEL. 9)	RD 9 (DEL. 6)	RD 449
K	RD 380	RD 383	RD 33
K	RD 384	RD 35	RD 385
K	RD 409	RD 21	RD 8-A SB (DEL. 1)
N	RD 412 LOREWOOD GROVE RD	RD 412-A	RD 34-C
K	ROAD 1-8	RD 1	END
S	RD 36 DEL 36	RD 208	RD 201
S	RD 82	RD 402	RD 411
S	RD 205	RD 206	RD 206
S	RD 206	RD 211	RD 212
S	RD 214	RD 216	RD 224
S	RD 214	RD 215	RD 212
S	RD 267	RD 268	RD 23
S	RD 279A	RD 279	RD 279
S	RD 286	RD 285	RD 23
S	RD 290	RD 18 US 9	RD 247
S	RD 305	RD 297	RD 306
S	RD 306	RD RD 305	RD 303
S	RD 306A	RD 307	RD 299
S	RD 338	RD 409	RD 82
S	RD 338	RD 82	RD 113SB US 113
S	RD 343	RD 54	RD 393
S	RD 349A	RD 84	RD 26 DEL 26
S	RD 361	RD 362	RD 363
S	RD 370B	RD 381A	RD 370
S	RD 372	RD 382	RD 369
S	RD 374	RD 365	RD 54
S	RD 375	RD 376	RD 92
S	RD 383	RD 382	RD 384
S	RD 388	RD 390A	RD 382
S	RD 392	RD 376	RD 375

CO.	ROAD NO./NAME	FROM	TO
S	RD 402	RD 4028	RD 113S8 US 113
S	RD 421	RD 431	RD 432
S	RD 422	RD 427	RD 429
S	RD 427	RD 64	RD 413
S	RD 433	RD 412	RD 410
S	RD 443	RD 435	RD 442
S	RD 443A	RD 62	RD 435
S	RD 446	RD 20 DEL 20	RD 28 US 9
S	RD 446	RD 444A	RD 46
S	RD 472	RD 432	RD 24 DEL 24
S	RD 472	RD 434A	RD 436
S	RD 476A	RD 475	RD 28 (US 9)
S	RD 478	RD 477	RD 20 DEL.20
S	RD 493A	RD 493	END
S	RD 508	RD 507	RD 509
S	RD 516	RD 46	RD 526
S	RD 517	RD 46	RD 484
S	RD 538	RD 78	RD 541
S	RD 542	RD 542A	RD 80
S	RD 544A	RD 13	RD 3S8 US 13
S	RD 556	RD 21 DEL 20	RD 547
S	RD 565	RD 579	RD 605
S	RD 567	MARYLAND LINE	RD 30
S	RD 568	RD 567	RD 31
S	RD 569	RD 580	RD 34
S	RD 578	RD 580	RD 34
S	RD 580	RD 578	RD 569
S	RD 589	RD 589A	RD 588
S	ROAD 589A	RD 4N.B. (US 13)	RD 589
S	RD 591	RD 40	RD 565
S	RD 594	RD 602	RD 16 DEL 16
S	RD 594	RD 40	RD 596
S	RD 602	RD 594	RD 611
S	RD 603	RD 594	RD 611
S	RD 610	RD 42	RD 16 DEL 16
S	RD 611	RD 565	RD 602
S	ROAD 5 (DEL. 404)	ROAD 545	ROAD 17 (DEL. 404)
S	ROAD 16 (DEL. 16)	ROAD 113 (U.S. 113)	ROAD 227
S	ROAD 16 (DEL. 16)	ROAD 22 (DEL. 5)	ROAD 14
S	ROAD 20	ROAD 483-A	ROAD 28 (DEL. 9)
S	ROAD 22	ROAD 280-A	ROAD 293
S	ROAD 26 (DEL. 26)	ROAD 410	ROAD 405-A
S	ROAD 28-A	BRIDGE	ROAD 13
S	ROAD 31	ROAD 562	ROAD 404
S	ROAD 48	ROAD 432	ROAD 297
S	ROAD 58	ROAD 113 NB (U.S. 113)	ROAD 376
S	ROAD 60 (DEL. 54)	ROAD 413	ROAD 380-A
S	ROAD 62	ROAD 476	ROAD 20 (DEL.20)
S	ROAD 80	MD LINE	RD 21 (DEL 20)
S	ROAD 83	OMNI BANK	RD 334
S	ROAD 248 (DEL. 30)	ROAD 48	ROAD 47
S	ROAD 324	ROAD 48	ROAD 321
S	ROAD 482	ROAD 470	ROAD 2 SB (U.S. 13)
S	ROAD 509	ROAD 76	ROAD 515
S	ROAD 535	ROAD 13	ROAD 535-B
S	ROAD 535-B	END	ROAD 535
S	ROAD 549	1 MILE N. OF RD 21 DEL 20	0.25 N. OF R&R CROSSING
S	ROAD 589-A	ROAD 4 NB (U.S. 13)	ROAD 589
S	ROAD 619	ROAD 36 (DEL. 36)	ROAD 619-A
		TOTAL	$15,000,000

V. Suburban Streets Program

Adams Dam Road from Rockland Road to Road 10D	91-035	6,500
Alapocas - intersection of Edgewood Road and Granite Road	91-151	13,000
Anna Villa Road from Route 10 to Road 29	91-324	6,500
Appleby Road at Hilton Boulevard	91-517	47,000
Arundel - Galts Court from Elderon Drive to circle	91-133	7,800
Arundel - Kenleigh Court from Jaffe Road to circle	91-149	29,900
Ashbourne Hills - Ruby Drive from Keats Drive to E. Shelley Drive	91-484	35,100
Ashbourne Hills - S Shelley Drive from S Avon Drive to Glenrock Dr.	91-485	27,300
Ashbourne Hills-Topaz Drive from Naamans Drive to House #3601	91-487	33,800
Avalon - Wilson Street from Newport Gap Pike to end	91-153	19,500
Belvidere - Clyde Street from Kiamensi Road south to circle	91-250	49,400
Blackwater Village - Shawnee Drive (Rd 345-end) & (Rd 345-Hiawatha)	91-075	48,100
Blue Rock Manor - Alders Road from Hearn Road to end	91-152	46,800
Brackenville Woods - Sage Way, Cinnamon Drive, Basil Court	91-044	46,800
Bradys Lane - drainage improvements by Charles Shockley property	91-400	35,100
Brandywine Forge - Forge Drive and Bellows Drive	91-192	113,100
Brandywood - Greenstone Road from Anson Road to Brandywood Drive	91-143	27,300
Briarwood - Briar Drive (all) & Madelyn Av from Briar Rd to circle	91-094	32,500
Brookmeade - Turnstone Drive from Centerville Road to House #2603	91-332	59,800
Brookmont - Flamingo Drive from Brookmont Drive to Plover Drive	91-285	96,200
Brookmont - Kemper Drive from Plover Drive to Brookmont Drive	91-286	59,800
Brookmont Farms - Brookmont Drive from Route 40 to Flamingo Drive	91-284	24,700
Brookside Park - Keller Drive from Kenmar Drive to Kollman Drive	91-159	32,500
Brookside Park - Kollman Drive from Kenmar Drive to end	91-158	54,600
Brookside Park - Kress Road from Kenmar Drive to Kenmar Drive	91-161	14,300
Brookside Park - Mallboro Drive from Marrows Road to Metten Drive	91-387	31,200
Brookside Park - Mercer Drive from Mallboro Drive to Montvale Drive	91-388	48,100
Brookside Park - Mercer Drive from Mallboro Drive to Montvale Drive	91-389	48,100
Brookside Park - Mercer Drive from Montvale Drive to Mercer Drive	91-390	32,500
Brookside Park - S Kingston Drive from Chestnut Hill Road to end	91-160	31,200
Brookside Park- Mallboro Road from Marrows Road to end of ballfield	91-262	8,400
Camden - Center Street from Main Street to West Street	91-443	31,000
Camden - Wesley Street from Camden-Wyoming Avenue to hot mix	91-445	27,000
Camden-Caesar rodney Avenue from Camden-Wyoming Avenue to Center Rd	91-142	29,500
Capitol Park - all streets	91-198	87,000
Caravel Farms-Caravel Dr(Rd 401 to Forrestal), Forrestal Dr(Caravel	91-310	80,600
Carousel Knoll - Hopkins Drive from Limestone Road to end	91-251	42,900
Carrcroft Crest - Baldwin Lane from Crest Road to Lakewood Drive	91-089	15,600
Castle Hills - Chelwyne Road from Castle Hills Drive to Midfield Dr	91-455	46,800
Centennial Village (Valley Wood) - 76th St from Smalley Dam Road	91-289	29,900
Christine Manor - Dixon Drive from Valley Road to Mason Drive	91-066	19,500
Christine Manor - Georgian Drive from Valley Road to Queen Anne Dr.	91-067	41,600
Christine Manor - Lakeside Drive from Mason Drive to Valley Road	91-068	26,000
Christine Manor - Mason Drive from new hot mix to end	91-069	26,000
Christine Manor -Queen Anne Drive from Georgian Circle to Valley Rd	91-070	18,200
Christine Manor -Queen Mary Drive from Valley Rd to Georgian Circle	91-071	16,600
City of New Castle - Casimir Drive from New Amstel Drive to 11th St	91-495	10,000
Cleland Heights - Saulsbury Drive from Manion Place to St Elizabeth	91-168	44,200
Coventry (Whitehall)-W Bellamy Drive from Airport Rd to W Edinburgh	91-416	10,800
Darley Road from entrance to Dyer Field to Naamans Drive	91-488	19,500
Deerhurst - York Road from Pierce Road to Hurst Road	90-189	62,400
Deerhurst - York Road from Pierce Road to Hurst Road	90-190	48,100
Delmar - Hantwerker Drive from Grove Street to end	91-229	28,600
Devonshire - Altamont Drive from N. Rockfield Dr to N. Rodkfield Dr	91-437	73,210
Dewey Beach - Dagsworthy Street from bay end to ocean end	91-474	35,100
Dewey Beach - Dickinson Street from Road 14 to end	91-473	15,600
Dewey Beach - Vandyke Street from Road 14 to ocean end	91-475	15,600
Dover - North Kings Highway by Shank property	91-049	45,000
Dover - Wyoming Avenue from Governors Avenue to New Burton Road	91-303	10,500
Dover-water and sewer lines between highway district & admin. bldg.	91-263	6,000
Dunleith - Robinson Drive from Anderson Drive to Bunche Boulevard	91-293	124,800
Eastman Heights - Evans Drive	91-329	61,100
Evergreen Farms - Marcus Road and Pierce Court	91-213	24,000
Forest Brook Glen - Maple Hill Rd & Glenhaven Ln from Forest Dr-end	91-084	35,100
Forwood - Greenway Road and Brookside Lane	91-515	66,200
Foulk Woods - Longwood Dr (Silverside to Deepwood) & Little Leaf Ct	91-184	72,800
Four Seasons - Festival Court from Holiday Place to Halloween Run	91-179	20,800
Four Seasons - Sunny Bend, Kayak Court and Clipper Court	91-356	33,800
Four Seasons-Canoe Ct(Summer Park Cresent-Edgewater), Sailboat Cir	91-373	24,700
Frederica - David Street from house #33 to church alley	91-327	58,500

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Garrisons Lake - Village Dr., Brighton Place, Windy Way, Windy Court	91-098	84,500
Glendale - Carlo Road from Glendale Road to end	91-234	34,500
Governor Printz Boulevard and Edgemoor post office	91-282	15,600
Graylyn Crest - Faun Road from Pan Road to Graywell Road	91-090	24,700
Graylyn Crest - Rambler Road from Longcome Drive to Harwyn Road	91-434	19,500
Green Acres - Grinnell Road from Silverside Road to Tulane Road	91-106	56,000
Green Acres - Quincy Drive from Grinnell Road to Silverside Road	91-109	40,300
Harmony Hills - Barrett Lane from Tamara Circle to Durso Drive	91-385	5,000
Harmony Hills - Catalina Drive from Tamara Circle to Tamara Road	91-376	37,700
Heritage Farms - Alcott Drive from Whitman Drive to Whitman Drive	91-258	18,200
Heritage Farms - Whittier Drive from Whitman Drive to Bryan Drive	91-261	15,600
Heritage Farms-Bryan Drive from Whitman Drive to Heritage Farms Dr	91-259	15,600
Heritage Farms-Emerson Drive from Heritage Farms Dr. to Whitman Dr.	91-260	24,700
Hickman Road - Road 17B from Leasure World entrance to House #20	91-493	15,600
Hickman Road - Road 17B from Naamans Road to Leasure World entrance	91-492	7,800
Hillcrest - Woodside Avenue from Beverly Place to Lore Avenue	91-219	57,200
Holiday Hills - Jamaica Drive from Nassau Drive to Jones Lane	91-091	41,600
Holly Oak - Walnut Street from House #1800 to House #1804	91-024	7,400
Huntley Circle - all streets	91-231	49,400
John Dickinson mansion	90-418	30,500
Keen Wik - Keen Wik Road from Road 58 to end	91-221	49,400
Klair Estates - Harris Place from Weer Circle to end	91-011	56,000
Klair Estates - House 2002 to exist SW and House 2003 to exist SW	91-029	4,000
Klair Estates - Shady Drive in front of House #4530	91-025	1,600
Klair Estates-Klair Place from Old Capitol Trail to Weer Circle	91-012	22,100
Leedom Estates - Morrison Avenue from Talbot Drive to Pennewill Dr.	91-12B	24,700
Leipsic - McClary Street from Main Street to woods	91-048	20,000
Limestone Gardens-McCawber Drive from Pickwick Drive to Pickwick Dr	91-017	18,200
Limestone Hills - Belmont Drive from House 19 to Saratoga Drive	91-134	6,500
Limestone Hills - Longspur Drive from Middleton Drive to House #22	91-073	27,300
Limestone Hills-Fairhill Dr (Saratoga to Fairhill)(Hse 112 to 118)	91-135	18,200
Limestone Hills-patch Middleton (Stony Batter to Hayloft, overlay	91-136	42,900
Lindell Village-St Francis Rd from St James Church Rd to hse #2204	91-252	52,000
Lynfield -Bette Rd (Marsh-Homewood) & Ridgeland Rd (Homewood-Bette)	91-092	49,400
Manley - Natalie Court and Robin Court	91-028	17,500
Manor Park - Morrison Avenue and Pennewill Avenue intersection	91-294	6,500
Marabou Meadows - Dolphin Dr (Marabou to Country Rd), Puffin Dr	91-312	44,200
Meadow Vista - Cole Rd(Rd 459 to new hot mix); all Buckingham Court	91-170	65,000
Meadowood - Forsythia Drive from Meadowood Drive to Pike Creek Road	91-253	39,000
Mealody Meadows - Stardust Drive from house 41 to house 44	91-313	2,600
Mendenhall Village - Stockbridge Drive from Village Drive to end	91-210	27,300
Mendenhall Village-Quail Hollow Dr.from Fox Run Dr. to Village Dr.	91-138	28,600
Middleboro Crest-East Reamer Avenue from Maryland Av to S Dupont Rd	91-295	35,100
Midvale - 2nd Av., 3rd Av., 4th Av., Valley Road	91-306	52,000
Milford - Brady Drive from NE Front Street to Rehoboth Boulevard	91-341	70,000
Milford -South Walnut Street from Kent Line to South Milford limits	91-521	125,000
Mill Pond Acres - Essex Road, Lancaster Road, Sherbrooke Road	91-056	26,000
Minquadale West - Maple Avenue from Hazeldell Avenue to Cresson Ave	91-297	50,000
Mitchell Estates - Mitchell turn from House #339 to House #349	91-468	9,100
Newark - Arbour Drive from West Chestnut Hill Road to Lark Drive	91-393	53,000
Newark - Casho Mill Road from Barksdale Road to Nottingham Road	91-465	111,800
Newark - Creek Bend Court from Creek Bend Drive to cul-de-sac	91-397	21,000
Newark - Delaware Avenue from Elkton Road to S. Chapel Street	91-466	29,200
Newark - East Main Street from Newark shopping center to Elkton Rd.	91-464	29,200
Newark - Hullihen Drive from Old Oak Road to Briar Lane	91-392	59,000
Newark - intersection of Library Avenue and Delaware Avenue	91-015	2,200
Newport Gap Pike in front of Stella Plaza	91-506	7,500
North Star - Jupiter Drive from north end to Sun Court	91-242	44,200
North Star - Mars Road from Mercury Road to Mercury Road	91-243	24,700
North Star - Mercury Road from Jupiter Drive to north end	91-244	42,900
North Star - Neptune Drive from North Star Road to Jupiter Drive	91-245	28,600
North Star - Venus Drive from Jupiter Drive to North Star Road	91-246	32,500
Norva Drive from Road 432 to dead end	91-510	33,700
Oak Meadows - Clover Lane	91-406	28,600
Old Lancaster Pike from School Lane (pole 249) to basin across road	91-318	18,200
Pembrey-East and West Pembry Drive-hot mix patching, N. Pembry	91-281	42,900
Penn Acres - Colesberry Drive from Crippen Drive to Fithian Road	91-442	28,600
Penn Acres - South Booth Drive from Fithian Drive to Oregon Ave.	91-453	62,400
Penn Acres South - Valley Forge Road from Bunker Hill Road to end	91-409	52,000
Pennwood - Stuart Drive from dead end to dead end	91-194	27,000
Port Penn - at corner by museum	91-404	39,000
Porter Square-Worthy Down(Jayson to Westbridge),Constance Ct-circle	91-314	52,000

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Rambleton Acres - Balbach Avenue from Prangs Lane to Holden Drive	91-410	27,300
Rambleton Acres - Prangs Lane	91-398	4,800
Ramblewood - Bittersweet Drive from Merribrook Road to end	91-489	10,400
Richardson Park - Howard Street from Dupont Road to Dorewood Avenue	91-441	35,100
Rivers End (Woodbridge)-Red Clay Rd, White Rock Rd, Walden Ct	91-163	53,900
Road - westbound at Road 258	91-057	6,500
Road 13 drainage between Broad Creek bridge and Chestnut Street	91-228	11,700
Road 147 south of Route 300 - drainage	91-496	16,900
Road 165 from Road 170 to Road 166	91-449	141,000
Road 20 (Route 20) shoulders from Road 483 to Road 483A	91-336	81,000
Road 234 from Road 4 (Route 13A) to railroad crossing	91-372	66,000
Road 28A from Front Street to Road 13	91-206	50,700
Road 319	91-127	15,000
Road 337 - Persimmon Tree Lane from Road 88 easterly about 400'	91-509	29,600
Road 371 from Road 378 to Road 381	91-014	82,000
Road 470 from Road 471 to .3 mile south	91-461	30,500
Road 484 from Road 471 to .8 mile south	91-462	80,000
Road 64 from Road 13 to Road 1 (Route 13)	91-371	81,900
Rockwood Road and Miller Road - in back of #4502 Pebble Drive	91-115	9,100
Rodney Village - Joshua Clayton Rd, Richard Bassett Rd, Nathaniel	91-197	86,000
Rodney Village-Nathaniel Mitchell from Charles Polk to new hot mix	91-223	37,600
Rodney Village-Richard Bassett Rd from John Clark to Joshua Clayton	91-224	33,400
Rosegate - Revis Avenue from Rose Lane to New Castle Avenue	91-298	18,200
Salem Woods - Jaymar Boulevard from Louis Court to Megan Court	91-287	15,600
Scotfield - entrance landscaping	91-240	4,800
Scotfield-Campfield Road from Oakfield Drive to Scotfield Drive	91-162	10,100
Sharpley - Ashford Road from Whitby Drive to Brockton Road	90-172	39,000
Sharpley - Whitby Drive from Concord Pike to Sharpley Road	91-255	26,500
Shelley Farms - Sonnet Drive from Lyric Drive to house 13	91-315	18,200
Shenandoah - Blue Ridge Drive and Lexington Drive	91-148	39,000
Shipley Road wall - north side by Rockwood Museum	91-351	23,400
Shipley Road wall - south side by Rockwood Museum	91-352	52,000
Skyline Ridge - Videre Drive from Linden Hill Road to House #5600	91-477	31,200
Star Hill Village - Lingo Drive and Bailey Circle	91-200	49,900
Starr development - Starr Road from New London Road to west end	91-256	31,200
Stirrup Farms - Horsehoe Run from Stirrup Run to Stirrup Run	90-309	41,600
Surrey Park - Saddler Lane from Sorrel Drive to circle	91-129	24,700
Surrey Park - Sorrel Drive from Coachman Road to Saddler Lane	91-130	41,600
Swanwick Estates - Festone Avenue from Edge Avenue to Dyer Avenue	91-366	39,000
Swanwick Estates - Stamm Boulevard from Glen Avenue to Edge Avenue	91-367	44,200
Swanwyck Estates - East Avenue from Landers Lane to end	91-421	6,500
Swanwyck Estates-West Market Place from New Castle Av to Landers Av	91-422	42,900
Tavistock - Hertford Road from Mt Lebanon Rd to Foxdale Rd & Hs 712	91-079	6,500
Tenby Chase - Tenby Chase turn, Tenby Chase Drive	91-247	53,300
The Woods - Apache Court from E. Seneca Drive to circle	91-377	15,600
The Woods - Pawee Court from W. Seneca Drive to circle	91-378	29,900
The Woods - Seneca Drive West from Gooding Drive to Pawnee Court	91-386	35,100
Tidbury Manor - Richardson Circle from Route 113A to Route 113A	91-203	32,500
Townsend - Commerce St(Main to dead end);Gray St(Commerce to south)	91-322	52,000
Traffic flashing signal - Route 6 and Clayton Avenue	91-046	12,200
Walker Acres - Wild Cherry Street	91-331	26,000
Weber Tract - Lloyd Place and Clearview Avenue	91-087	110,000
Wedgewood - Donmood Dr., Whitehaven Dr., Wedgefield Dr., Golden Dr.	91-518	13,000
Wedgewood - Duquesne Court from Wedgefield Drive to end	91-411	14,000
Wedgewood - Golden Drive from Layton Drive to end	91-412	7,800
Wedgewood - Kenton Ct., Arnell Ct., Dutton Ct., Fowler Ct.	91-414	32,500
Wedgewood - Layton Drive from Wedgefield Drive to end	91-413	25,050
Westview - Delaware Avenue from State Street to Cleveland Avenue	91-333	39,000
Westview - Washington St(Md Av to Del Av);State St(Rt 4 to Wash St)	91-334	19,500
Windsor Hills - Banbury Drive from Cambridge Drive to Warwick Drive	91-131	23,600
Windybush - Wynnwood Drive from Windybush Road to Chatham Place	91-190	39,000
Winterbury-Winterbury Circle-all; Winterbury Court from Winterbury	91-317	50,700
Woodbrook - Dexter Road from Country Club Drive to Route 141	91-045	16,900
Woodcrest - Troy Avenue from Marion Avenue to Jackson Avenue	91-432	160,000
Woodcrest - Victoria Avenue from Tyrone Avenue to Birmingham Ave.	91-218	39,000
Wyoming - West 3rd Street from railroad to dead end at park	91-353	27,500
Wyoming-South Layton Street from Camden-Wyoming Avenue to ballpark	91-355	39,300
Ziegler Lane and Cohee Circle	90-478	47,190

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Ainsley Woods-Shannon Pl(Jarrell Farms Dr-Cir),Anderson Ln(Jarrel	91-140	1,000
Boxwood - Main Avenue from Boxwood Road to West Moreland Avenue	91-167	59,350
Brandon - Thomas Lane from Robert Lane to Don's Lane and end	91-279	3,250
Brandywood - Brandywood Drive and Grubb Road intersection	91-505	1,000
Brookside Park - Kenmar Drive - entire length	91-156	8,700
Brookside Park - Kullen Drive from Kenmar Drive to Kenmar Drive	91-157	8,700
Chestnut Valley-Willow Creek Lane from Paper Mill Rd to Renee Lane	91-283	1,000
Deacons Walk - Ware Road from Sheldon Drive to White Clay Cresent	91-435	31,600
Duncan Road from Brandywine Boulevard to River Road	91-018	45,400
Four Seasons - Harvest Trail from Autumn Horseshoe to circle	91-177	11,050
Four Seasons - Harvest Trail from Autumn Horseshoe to circle	91-374	10,400
Four Seasons - Leafy Lane from Autumn Horseshoe to circle	91-178	8,200
Four Seasons-Leafy Ln(Autumn Horseshoe-circle), Festival Ct(Autumn	91-375	15,600
Graylyn Crest - Floral Drive from Silverside Road to Matwood Drive	91-113	52,700
Hollyoak - Walnut Lane from Orchard Lane to end	91-216	9,500
Kiamensi Gardens- Diamond Street from Fenwick Av across Kiamensi Rd	91-085	12,550
Klair Estates - Harris Place	91-077	1,000
Lancaster Village - Taft Ave from Dupont Rd to West Circle; Tatum	91-519	153,332
Limestone Hills - Morgan Lane from Fairhill Drive to Fairhill Dr.	91-137	1,000
Manor Park - Hazlett Avenue from Pennewell Drive to Bacon Avenue	91-481	27,100
Mayfield-Winstead(Mayfield-Hs 1200),Walton(Winston-Wilson), Salina	91-023	40,550
Old Capital Trail - across from Penndrew Manor towards Telegraph Rd	91-476	1,000
Road 26 - Ocean View - from high school to Central Ave. (Road 84)	91-316	14,500
Road 366 in front of Roland Neeman property	91-399	6,250
Road 509 from Road 76 to Road 515	91-369	57,000
Road 549 from 1 mile north of Rt 20 to 1/4 mile north of railroad	91-268	30,000
Road 58 - Selbyville - Church Street from Road 113 to road 376	91-270	45,000
Road 619 (Shawnee Road) from Road 36 to Road 113	91-211	200,000
Road 80 from Road 550 to Road 21 (Route 20)	91-230	222,000
Route 13 entrance to Lions Club	91-512	1,000
The Highlands - Barnsley Drive from E. Riding Drive to Skyline Dr.	91-254	17,100
Wedgewood - Wedgefield Drive from House #8 to House #140	91-415	11,200
Weldin Park-Wm Penn Ln,Weldin Park Dr,Clive,Belvoir & Aaron Circles	91-095	33,400
Westgate Farms - Cardew Ct, Wallasey Rd, Watford Rd, Wembly	90-375	60,000
Wilmington Manor East - Stahl Avenue from Route 13 to Route 13	91-454	26,800
Woodcrest - Birmingham Avenue from Curtis Avenue to Troy Avenue	91-431	120,000
Woodland Apartments - Centre Rd (Shop Ctr -Apartments, Lowery Road)	91-037	27,000

01st Representative District - Streets, City of Wilmington	91-701	200,000
02nd Representative District	91-702	13,632
03rd Representative District - Tenth Street - City of Wilmington	91-980	5,000
03rd Representative District - Townsend Street - City of Wilmington	91-978	20,000
03rd Representative District - tree planting City of Wilmington	91-984	25,000
03rd Representative District - 6th Street - City of Wilmington	91-982	10,000
03rd Representative District - Lobdell Street - City of Wilmington	91-977	8,000
03rd Representative District - Misc. Projects - City of Wilmington	91-703	34,500
03rd Representative District - 3rd Street - City of Wilmington	91-975	17,000
03rd Representative District - B Street - City of Wilmington	91-979	3,000
03rd Representative District - Clayton Street - City of Wilmington	91-981	10,000
03rd Representative District - Pearl Street - City of Wilmington	91-976	5,000
03rd Representative District - Pine Street - City of Wilmington	91-983	5,000
05th Representative District	91-705	85,000
05th Representative District - City of Wilmington - sidewalks	91-942	100,000
05th Representative District- City of Wilmington - trees	91-941	40,000
06th Representative District	91-706	80,450
08th Representative District	91-708	225,000
09th Representative District	91-709	65,700
13th Representative District	91-713	36,000
16th Representative District	91-716	23,000
17th Representative District	91-717	30,000
19th Representative District	91-719	70,900
20th Representative District	91-720	27,350
21st Representative District	91-721	24,000
24th Representative District	91-724	54,500
25th Representative District	91-725	10,500
26th Representative District	91-726	25,550

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27th Representative District	91-727	3,450
28th Representative District	91-728	47,400
29th Representative District	91-729	59,900
30th Representative District	91-730	225,000
31st Representative District	91-731	4,600
32nd Representative District	91-732	24,100
33rd Representative District	91-733	74,675
34th Representative District	91-734	5,150
35th Representative District	91-735	71,750
36th Representative District	91-736	20,645
37th Representative District	91-737	187,745
39th Representative District	91-739	125,600
41st Representative District	91-741	225,000
01st Senatorial District	91-801	153,200
02nd Senatorial District	91-802	215,900
03rd Senatorial District	91-803	225,000
05th Senatorial District	91-805	42,250
09th Senatorial District	91-809	68,850
12th Senatorial District	91-812	43,200
13th Senatorial District	91-813	10,450
15th Senatorial District	91-815	140,500
16th Senatorial District	91-816	3,125
17th Senatorial District	91-817	12,900
18th Senatorial District	91-818	27,500
19th Senatorial District	91-819	33,850
20th Senatorial District	91-820	101,155
21st Senatorial District	91-821	73,800
100 block of Concord Avenue - city of Wilmington	91-930	3,738
100 block of W. 23rd St. - City of Wilmington	91-928	15,672
100 block of W. 27th St. - City of Wilmington	91-929	16,986
1000 block of E. 28th Street - City of Wilmington	91-935	6,840
26th Street between Market and Washington - City of Wilmington	91-931	27,938
800 E. 28th Street - City of Wilmington	91-933	29,532
900 E. 28th Street - City of Wilmington	91-934	14,088
Ardentown - various projects	91-911	9,800
Benjamin Drive - off of Road 525 - .9 mi. south of Road 18	91-901	15,600
Bus shelter - Wilton	91-971	8,000
Bush Drive - North Kent County	91-918	5,000
Charles Street and S. E. Third Street	91-973	25,000
Church Road - City of Newark	91-917	5,000
City of New Castle - road improvements	91-906	40,000
City of Wilmington - tree planting in street sites thru Garden Ctr	91-959	7,150
Coverdale Crossroad - Child Development Center	91-912	12,000
Dry hydrants - Milton boat dock and marina in Milton on Behringer	91-948	6,000
Forest Green Development	91-904	50,000
Governor's Avenue water relief - City of Dover	91-937	17,000
Haines Street near Gilver A and B Drive - Univ. of De	91-951	10,000
Hamilton Park - South Street and Hamilton Street	91-974	82,500
Handicap ramp from Road to beach - South Bethany	91-926	20,000
Handicap ramp from road to beach - South Bethany	91-925	3,000
Harmony Woods	91-988	57,000
Hickory Dale Drive	91-919	5,000
Hobart Drive - speed humps	91-943	1,600
I-95 at 1000 block of Shallcross Avenue	91-958	41,000
Intersection of 113 and 24 - opticum preempt for west bound	91-965	2,800
Klamensi Gardens - miscellaneous improvements	91-960	33,700
Klamensi Heights - miscellaneous imrpovements	91-961	41,200
Kings Highway - Lockerman St to Division St - City of Dover	91-921	61,900
Laurel - Market Street - emergency vehicle signs	91-905	14,900
Leo Lane - off of Road 46 - 310' west of Road 535	91-902	16,900
Loockerman Street - beautification - City of Dover	91-920	50,000
Maxwellton	91-938	25,000
Milton Fire Dept - 2 vehicle control devices	91-947	3,510
New Castle Conservation District - Elizabeth Street ditch	91-916	6,000
New Castle County Conservation District	91-903	88,000
New Castle County Conservation District - Wm. Penn Square	91-915	5,000
North Park Drive - street lights - safety lighting	91-968	25,000
Orchard Manor	91-967	21,000
Pencader Drive - University of Delaware	91-907	10,000
Pennsylvania Avenue and Clayton Streets	91-957	15,000
Pennsylvania Avenue and Greenhill Avenue - City of Wilmington	91-955	35,000
Pine Drive from Road 485 to end (about .25 mile N of Road 488)	91-914	16,900

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Road 12 - Leipsic Road - Town of Smyrna	91-940	2,100
Roseville Park - drainage	91-950	1,000
Route 273 Service Road - Chestnut Hill Estates	91-953	40,000
S. Washington Streetfrom S. E. Front Street to Jefferson Avenue	91-972	20,000
Schuelt Acres from Road 542 to end	91-910	20,800
Sedgely Farms street drainage	91-949	10,000
Shellpot Creek	91-990	25,000
Sherman	91-939	35,100
Stafford I - speed humps	91-944	5,000
Stanton - miscellaneous improvements	91-962	25,100
State Street- Constitution to Silver Lake - City of Dover	91-922	10,000
Tatnal Street between Concord and 27th St. - City of Wilmington	91-932	32,942
Three vehicle mounted transmitter	91-966	5,145
Town of Ocean View - ditching	91-900	45,000
University of Delaware - Stadium Drive	91-954	15,000
University of Delaware Stadium Drive	91-952	10,000
Walker Road from Saulsbury Rd to Pear St, Dover H.S - City of Dover	91-924	500
West Loockerman Street from Queen St to State St - City of Dover	91-923	88,000
Westhaven - Vining Lane between 4 & 6, Dickinson Lane near Willing	91-956	3,000
Wilmington Manor East - Stahl Avenue	91-989	22,600

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CHAPTER 286

FORMERLY

SENATE BILL NO. 336
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REINCORPORATE THE CITY OF LEWES", BEING CHAPTER 170, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, CONCERNING THE PAYMENT OF A REAL ESTATE TRANSFER TAX.

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 (a) of Section 37B of Chapter 170, 57 Laws of Delaware, as amended by Chapter 51, Volume 61, Laws of Delaware, by striking said subparagraph (a) in its entirety and substituting in lieu thereof a new subparagraph (a) to read as follows:

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

Approved July 2, 1990.

CHAPTER 287

FORMERLY

SENATE BILL NO. 396

AN ACT TO AMEND CHAPTER 29, TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES; AND EXEMPTING CRABBERS FROM WHOLESALE LICENSE REQUIREMENTS.

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

Section 1. Amend §2908, Chapter 29, Title 30, Delaware Code by re-designating present subsection (g) as new subsection (h); and by adding to said section the following new subsection:

"(g) The provisions of §2902 of this Chapter shall not apply to any person who catches crabs for sale or who holds a crabbing license, or holds any other State occupational license which is required for a person to engage in commercial crabbing."

Section 2. Amend §2901, Chapter 29, Title 30, Delaware Code by striking the word 'wholesaler' as the same appears as the first word in subsection (7) of said section and substituting "(a) 'Wholesaler,'" in lieu thereof; by re-designating present paragraph a. through paragraph f. as new sub-paragraphs (1) through (6); and by adding a new paragraph to said subsection (7), which shall read as follows:

"(b) For purposes of this Chapter, the word 'wholesaler' shall not apply to a person who catches crabs for purposes of sale, or who holds a crabbing license, or who holds any other State occupational license which is required for a person to engage in commercial crabbing."

Approved July 2, 1990.

CHAPTER 288

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 391

AN ACT TO AMEND CHAPTER 60, TITLE 7, DELAWARE CODE RELATING TO THE REPORTING OF A DISCHARGE OF A POLLUTANT OR AN AIR CONTAMINANT.

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:

"Section 6028. REPORT OF DISCHARGE OF POLLUTANT OR 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, groundwater or on land, or disposal of solid waste in excess of any reportable quantity specified under either regulations implementing §102 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, §311 of the Clean Water Act of 1980, as amended, or Department regulations, whichever restriction is most stringent, shall report such an incident to the Department immediately upon discovery of said discharge and activating their emergency site plan unless circumstances exist which make such notification impossible. Discharges in compliance with a validly issued State permit or in compliance with other State and Federal regulations are exempt from the reporting requirement.

(b) The Department may adopt regulations revising the list, referred to above in Paragraph (a), of pollutants or air contaminants and their reportable quantities which are to be reported to the Department.

(c) 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.

(d) For the purpose of this Section, notification to the Department can be in person or by telephone communication. At the Department's discretion, the Department may require said person to file a written report with the Department describing in detail the facts and circumstances of the discharge and measures proposed to prevent such discharge from occurring in the future.

(e) Discharges of an air contaminant or pollutant (including petroleum substances) that are wholly contained within a building are exempt from the reporting requirements.

(f) Any person who violates this Section or any rule or regulations duly promulgated thereunder shall be punishable as follows:

(1) By a civil penalty of not less the $1,000 nor more then $10,000 for each violation; or

(2) For knowingly failing to comply, by a fine of not less than $2,500 nor more than $25,000 or imprisonment up to 6 months, or both.

The Superior Court shall have jurisdiction for enforcement of this Section."

Section 2. The Department shall within 90 days of the adoption of this Act, propose regulations implementing the new 7 Del. C. §6028, specifying reporting procedures, forms to be used, and such State Reportable Quantities as it deems appropriate. The Department shall have the authority to amend such regulations from time to time as specified under this Chapter.

Section 3. No action or prosecution pending on the effective date of this Act for any offense committed or for the recovery of any penalty incurred under any of the laws repealed by this Act shall be affected by this Act.

Approved July 2, 1990.

CHAPTER 289

FORMERLY

HOUSE BILL NO. 614

AN ACT TO AMEND CHAPTER 80, TITLE 29 OF THE DELAWARE CODE RELATING TO THE COUNCIL ON SHELL FISHERIES.

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

Section 1. Amend §8007(d), Chapter 80, Title 29 of the Delaware Code to add a sentence to said subsection to read as follows:

"Additionally, at least 1 member of the Council shall be a resident of New Castle County, at least 1 member of the Council shall be a resident of Kent County and at least 1 member of the Council shall be a resident of Sussex County."

Approved July 2, 1990.

CHAPTER 290

FORMERLY

HOUSE BILL NO. 710

AN ACT TO AMEND CHAPTER 29, TITLE 30 OF THE DELAWARE CODE AND ENACTING ADDITIONAL PROVISIONS RELATING TO THE TAX ON WHOLESALERS AND RETAILERS OF PETROLEUM PRODUCTS.

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 §2901(2)a., by striking the period (".") at the end of said paragraph, substituting therefor a semicolon ";" and adding thereafter the following phrase: "or receipts derived from the sale of petroleum products provided such products were sold to the retailer by a person who is licensed under this chapter and such sale is described in the definition of 'gross receipts' with regard to such person.".

Section 2. Amend §2901, Chapter 29, Title 30 of the Delaware Code by adding thereto a new subsection (8) to read as follows: "(8) 'Petroleum product' means crude oil, or any portion thereof, that is liquid at 70 degrees Fahrenheit and at standard atmospheric pressures, and includes motor fuel, gasohol, other alcohol blended fuels, diesel fuel, aviation fuel, jet fuel, heating oil, motor oil and other petroleum based lubricants.".

Section 3. Amend §2902(c), Chapter 29, Title 30 of the Delaware Code by adding thereto a new paragraph (3) to read as follows:

"(3) There shall be added to the tax provided in paragraph (1) of this subsection an additional tax of .25% on all taxable gross receipts determined under this section which are derived from the sale of petroleum or petroleum products defined in §2901(8) of this Chapter.".

Section 4. Amend §2901(2)b., Chapter 29, Title 30 of the Delaware Code by striking the period "." at the end of said paragraph and by substituting therefor a semicolon ";" and by adding thereto the following phrase: "(iii) receipts derived from the sale of any form of combustible petroleum product for heating or cooking which is sold for ultimate consumption.".

Section 5. The Director of Revenue is authorized to issue whatever regulations, forms, certificates, etc., he deems necessary for the purpose of implementing this Act. Such regulations or other such requirements shall have the force and effect of law.

Section 6. This Act shall be effective with regard to receipts occurring after December 31, 1990.

Approved July 2, 1990.

CHAPTER 291

FORMERLY

HOUSE BILL NO. 721

AN ACT TO AMEND CHAPTER 80, TITLE 29, DELAWARE CODE TO EMPOWER THE SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO ESTABLISH AND ADMINISTER A STATE REVOLVING LOAN PROGRAM FOR WASTEWATER TREATMENT AND DISPOSAL FACILITIES AND OTHER QUALIFYING PROJECTS.

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

Section 1. Amend Section 8003, Chapter 80, Title 29, Delaware Code by renumbering existing subsection "(12)" to subsection "(13)" and substituting a new subsection "(12)" to read as follows:

"(12) The Secretary is empowered to administer a state revolving loan program in accordance with the requirements set forth in Title VI of the federal Water Pollution Control Act.

a. Definitions:

1. 'Delaware Water Pollution Control Revolving Fund' shall mean the special fund created pursuant to this subsection.

2. 'Department' shall mean the Department of Natural Resources and Environmental Control.

3. 'Federal Water Pollution Control Act' shall mean the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq and regulations promulgated thereunder.

4. 'Person' shall mean any individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, state, municipality, commission, political subdivision of a state or any interstate body.

5. 'Secretary' shall mean the Secretary of the Department of Natural Resources and Environmental Control.

b. Delaware Water Pollution Control Revolving Fund:

There is hereby established a 'Delaware Water Pollution Control Revolving Fund' as contemplated by and to be administered pursuant to Title VI of the Federal Water Pollution Control Act. All federal capitalization grants received pursuant to the Federal Water Pollution Control Act; any state reallocations of federal construction grants funds pursuant to the Federal Water Pollution Control Act; all required matching state funds and all loan repayments received by the state pursuant to any loan agreement made under the Delaware Water Pollution Control Revolving Fund, shall be credited to the Delaware Water Pollution Control Revolving Fund. In addition, all proceeds of obligations issued by the state and supported by a pledge or other interest in the funds in the Delaware Water Pollution Control Revolving Fund, shall be held in or for such Fund. The Delaware Water Pollution Control Revolving Fund shall be deemed to be a special fund and shall be approved by the governor for the following purposes:

1. to accept and retain the funds and revenues specified herein;

2. to make loans to eligible persons for qualifying purposes under the Federal Water Pollution Control Act;

3. to buy or refinance debt obligations of eligible persons for qualifying purposes under the Federal Water Pollution Control Act;

4. to guarantee or purchase insurance for obligations of eligible persons for qualifying purposes under the Federal Water Pollution Control Act;

5. to make loans to eligible persons to implement a nonpoint source pollution control management program under the Federal Water Pollution Control Act;

6. to make loans to eligible persons to implement an estuary conservation and management program under the Federal Water Pollution Control Act;

7. to be a source of revenue or security for the payment of principal and interest on revenue bonds of the state if the proceeds of the sale of such bonds will be deposited in the Delaware Water Pollution Control Revolving Fund;

8. to earn interest on amounts on deposit in such fund;

9. to finance the reasonable costs incurred by the state in the administration of the Delaware Water Pollution Control Revolving Fund as permitted under the Federal Water Pollution Control Act;

10. to accomplish any other allowable purpose under the Federal Water Pollution Control Act.

The Department is designated as the administering agency of the Delaware Water Pollution Control Revolving Fund and shall have such powers necessary to administer such fund including, but not limited to, the power to enter into capitalization grant agreements with the Environmental Protection Agency, the power to accept capitalization grant awards made under the Federal Water Pollution Control Act and the power to manage and make loans from the Fund in accordance with the requirements of the Federal Water Protection Control Act. The Department shall take all actions necessary to secure for the State the benefits of Title VI of the Federal Water Pollution Control Act.

c. Standards and Procedures.

Before making any loan from the Delaware Revolving Loan Fund, the Department shall specify:

1. standards for the eligibility of borrowers and the type of projects to be financed with loans,

2. procedures for the preparation, review and approval of the 'project priority' list which must contain those projects for which financial assistance is sought,

3. procedures for submitting applications for financial assistance and procedures for Department approval of such applications,

4. procedures for completing an environmental review of projects pursuant to subsection (d) of this §8003,

5. conditions for financial assistance,

6. other relevant criteria, standards or procedures.

d. The Secretary shall conduct an environmental review of projects otherwise qualifying under this subsection which shall be sufficiently consistent with the provisions for environmental review established under 40 CFR, Part 6., and the Secretary's environmental review standards and procedures established in Title 7.

Approved July 2, 1990.

CHAPTER 292

FORMERLY

HOUSE BILL NO. 579

AN ACT TO AMEND CHAPTER 3, TITLE 30 OF THE DELAWARE CODE RELATING TO PERSONAL INCOME TAX RETURNS AND STATE TAX RETURN FORMS.

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

Section 1. Amend §356, Chapter 3, Title 30 of the Delaware Code by striking the phrase "December 1" and substitute in lieu thereof the phrase "December 31".

Section 2. Amend §355, Chapter 3, Title 30 of the Delaware Code by striking said section as its entirety and substitute in lieu thereof a new §355 to read as follows:

§355. Tax Return Forms.

The Secretary of Finance shall prepare and cause to have printed in sufficient numbers all blanks necessary for the making of all returns required by any tax law that is administered by the Department of Finance."

Approved July 2, 1990.

CHAPTER 293

FORMERLY

HOUSE BILL NO. 409
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND PART I, TITLE 7 OF THE DELAWARE CODE RELATING TO FISHING.

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

Section 1. Amend subsection (b), Section 929, subchapter I, Chapter 9, Part I, Title 7 of the Delaware Code by striking the word "and" at the end of paragraph (5); by striking the period "." at the end of paragraph (6) and by substituting ";and" in lieu thereof; and by adding to said section the following new paragraph:

"(7) Tautog (Tautog onotis): The minimum length of tautog shall be 12 inches."

Approved July 2, 1990.

CHAPTER 294

FORMERLY

SENATE BILL NO. 41
AS AMENDED BY
SENATE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1 TO
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 13, TITLE 19 OF THE DELAWARE CODE RELATING TO THE RIGHT OF PUBLIC EMPLOYEES TO ORGANIZE.

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 1301 (1) c., Chapter 13, Title 19 of the Delaware Code by striking the "." at the end of the sentence and substituting in lieu thereof a ",", and by adding the following language at the end of the sentence: "or which employs one hundred (100) or more full-time public employees.

Approved July 2, 1990.

CHAPTER 295

FORMERLY

HOUSE BILL NO. 760

AN ACT TO AMEND CHAPTER 19 OF 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 §1902(b)(8) of Chapter 19 of Title 30 of the Delaware Code by adding after the word "investments" where it first appears the words:

"or of the intangible investments of corporations or business trusts registered as investment companies under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 et seq.)".

Section 2. This Act shall become effective for taxable years beginning on or after July 1, 1990.

Approved July 5, 1990.

CHAPTER 296

FORMERLY

HOUSE BILL NO. 761

AN ACT TO AMEND CHAPTER 23 OF TITLE 30 OF THE DELAWARE CODE RELATING TO OCCUPATIONAL LICENSES AND FEES.

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

Section 1. Amend §2301 of Chapter 23 of Title 30 of the Delaware Code by adding new subsections (u) and (v) as follows:

"(u) Business trusts formed under the laws of this State which are registered as investment companies under the Investment Company Act of 1940, as amended (15 U.S.C. §80a-1 et seq.), are exempt from payment of fees as set forth in subsections (b) and (d) of this section.

(v) Corporations registered as investment advisors under the Investment Advisors Act of 1940, as amended (15 U.S.C. §80b-1 et seq.), corporations registered as transfer agents under section 17A of the Securities Exchange Act of 1934, as amended (15 U.S.C. §78q-1) and corporations acting as principal underwriters as defined in section 2(a)(29) of the Investment Company Act of 1940, as amended (15 U.S.C. §80a-2(a)(29)), are exempt from the payment of fees as set forth in subsection (b) of this section and from fees as set forth in subsection (d) of this section upon gross receipts received from business trusts described in subsection (u) of this section.".

Section 2. This Act shall become effective for taxable periods beginning on or after July 1, 1990; provided, however that license fees paid under 30 Del.C §2301(b) that are eliminated by this Act shall not be required to be refunded for any portion of tax year 1990.

Approved July 5, 1990.

CHAPTER 297

FORMERLY

SENATE BILL NO. 452
AS AMENDED BY
SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 38 OF TITLE 12 OF THE DELAWARE CODE RELATING TO BUSINESS TRUSTS.

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

Section 1. Amend §3803, Chapter 38, Title 12 of the Delaware Code by adding the words "and trustees" after the words "beneficial owners" and before the period in the heading of said section.

Section 2. Amend §3803, Chapter 38, Title 12 of the Delaware Code by designating the current language in said section as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) Except to the extent otherwise provided in the governing instrument of a business trust, a trustee, when acting in such capacity, shall not be personally liable to any person other than the business trust or a beneficial owner for any act, omission or obligation of the business trust or any trustee thereof."

Section 3. Amend §3801(c), Chapter 38, Title 12 of the Delaware Code by striking subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) 'Trustee' means the person or persons appointed as a trustee in accordance with the governing instrument of a business trust to manage the business and affairs of such business trust, and may include the beneficial owners or any of them."

Section 4. AMEND §3806, Chapter 38, Title 12 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"§3806. Management of Business Trust.

(a) The business and affairs of a business trust shall be managed by or under the direction of its trustees. To the extent provided in the governing instrument of a business trust, any person (including a beneficial owner) shall be entitled to direct the trustees in the management of a business trust. Except to the extent otherwise provided in the governing instrument of a business trust, neither the power to give direction to a trustee nor the exercise thereof by any person (including a beneficial owner) shall cause such person to be a trustee.

(b) A governing instrument may contain any provision relating to the management of the business and affairs of the business trust, and the rights, duties and obligations of the trustees, beneficial owners and other persons, which is not contrary to any provision or requirement of this chapter and, without limitation:

(1) may provide for classes, groups or series of trustees or beneficial owners, or classes, groups or series of beneficial interests, having such relative rights, powers and duties as the governing instrument may provide, and may make provision for the future creation in the manner provided in the governing instrument of additional classes, groups or series of trustees, beneficial owners or beneficial interests, having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior or subordinate to existing classes, groups or series of trustees, beneficial owners or beneficial interests;

(2) may establish or provide for the establishment of designated series of trustees, beneficial owners or beneficial interests having separate rights, powers or duties with respect to specified property or obligations of the business trust or profits and losses associated with specified property or obligations, and, to the extent provided in the governing instrument, any such series may have a separate business purpose or investment objective;

(3) may provide for the taking of any action, including the amendment of the governing instrument, the accomplishment of a merger or consolidation, the appointment of one or more trustees, the sale, lease, exchange, transfer, pledge or other disposition of all or any part of the assets of the business trust or the assets of any series, or the dissolution of the business trust, or may provide for the taking of any

action to create under the provisions of the governing instrument a class, group or series of beneficial interests that was not previously outstanding, in any such case without the vote or approval of any particular trustee or beneficial owner, or class, group or series of trustees or beneficial owners;

(4) may grant to (or withhold from) all or certain trustees or beneficial owners, or a specified class, group or series of trustees or beneficial owners, the right to vote, separately or with any or all other classes, groups or series of the trustees or beneficial owners, on any matter, such voting being on a per capita, number, financial interest, class, group, series or any other basis;

(5) may, if and to the extent that voting rights are granted under the governing instrument, set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on, waiver of any such notice, action by consent without a meeting, the establishment of record dates, quorum requirements, voting in person, by proxy or in any other manner, or any other matter with respect to the exercise of any such right to vote; or

(6) may provide for the present or future creation of more than one business trust, including the creation of a future business trust to which all or any part of the assets, liabilities, profits or losses of any existing business trust will be transferred, and for the conversion of beneficial interests in an existing business trust, or series thereof, into beneficial interests in the separate business trust, or series thereof."

Section 5. Amend §3807, Chapter 38, Title 12 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §3807 to read as follows:

"§3807. Trustee in State.

(a) Every business trust shall at all times have at least one trustee which, in the case of a natural person, shall be a person who is a resident of this State or which, in all other cases, has its principal place of business in this State.

(b) Notwithstanding the provisions of §3807(a), if a business trust is or becomes a registered investment company under the Investment Company Act of 1940, as amended (15 U.S.C. §§80a-1 et seq.), such business trust shall not be required to have a trustee who is a resident of this State or who has a principal place of business in this State if and for so long as such business trust shall have and maintain in this State:

(1) a registered office, which may but need not be a place of business in this State; and

(2) a registered agent for service of process on the business trust, which agent may be either an individual resident in this State whose business office is identical with such business trust's registered office, or a domestic corporation, or a foreign corporation authorized to transact business in this State, having a business office identical with such registered office.

(c) Any business trust maintaining a registered office and registered agent in this State under §3807(b) may change the location of its registered office in this State to any other place in this State, or may change the registered agent to any other person or corporation (meeting the requirements contained in §3807(b)), by filing an amendment to its certificate of trust in accordance with the applicable provisions of this chapter. If a business trust which is an investment company registered as aforesaid maintains a registered office and registered agent in this State as herein provided, then the reference in §3810(a)(2) to the "name and the business address at least one of the trustees meeting the requirements of §3807 of this chapter" shall be deemed a reference to the name and the business address of the registered agent and registered office maintained under this section, and the certificate of trust filed under §3810 shall reflect such information in lieu of the information otherwise required by §3810(a)(2).

(d) Service of process upon a registered agent maintained by a business trust pursuant to §3807(b) shall be as effective as if served upon 1 of the trustees of the business trust pursuant to §3804 of this chapter."

Section 6. Amend §3805(b), Chapter 38, Title 12 of the Delaware Code by striking the words in said subsection commencing with the words "nor shall" and ending with the words "business trust".

Section 7. Amend §3808, Chapter 38, Title 12 of the Delaware Code by designating the current language in said section as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) Except to the extent otherwise provided in the governing instrument of a business trust, the death, incapacity, dissolution, termination or bankruptcy of a beneficial owner shall not result in the termination or dissolution of a business trust."

Section 8. Amend Chapter 38, Title 12 of the Delaware Code by adding thereto new Sections 3815 through 3819 to read as follows:

"§3815. Merger and Consolidation.

(a) Pursuant to an agreement of merger or consolidation, a business trust may merge or consolidate with or into 1 or more business trusts or other business entities formed or organized or existing 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 business trust or other business entity as the agreement shall provide being the surviving or resulting business trust or other business entity. Unless otherwise provided in the governing instrument of a business trust, a merger or consolidation shall be approved by each business trust which is to merge or consolidate by all of the trustees and the beneficial owners of such business trust. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a business trust or other business entity which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting business trust or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a business trust or other business entity which is not the surviving or resulting business trust or other business entity in the merger or consolidation. 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.

(b) If a business trust is merging or consolidating under this section, the business trust 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 business trust 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 business trusts or other business entities which is to merge or consolidate;

(3) The name of the surviving or resulting business trust 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 executed agreement of merger or consolidation is on file at the principal place of business of the surviving or resulting business trust 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 business trust or other business entity, on request and without cost, to any beneficial owner of any business trust 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 business trust or other business entity formed or organized or existing 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 business trust 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 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 thereof at all such addresses furnished by the plaintiff by letter, certified mail, return receipt requested. Such letter shall enclose a copy of the process and any other papers served upon the Secretary of State. 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 made pursuant to this subsection, and to pay the Secretary of State the sum of $50 for use of the State of Delaware, 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 process setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceedings in which process has been served upon him, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from his receipt of the service of process.

(c) Any failure to file a certificate of merger or consolidation in connection with a merger or consolidation which was effective prior to (the effective date of this Act)shall not affect the validity or effectiveness of any such merger or consolidation.

(d) 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.

(e) A certificate of merger or consolidation shall act as a certificate of cancellation for a business trust which is not the surviving or resulting entity in the merger or consolidation.

(f) Notwithstanding anything to the contrary contained in the governing instrument of a business trust, a governing instrument of a business trust containing a specific reference to this §3815(f) may provide that an agreement of merger or consolidation approved in accordance with subsection (a) of this section may (1) effect any amendment to the governing instrument of the business trust or (2) effect the adoption of a new governing instrument of the business trust if it is the surviving or resulting business trust in the merger or consolidation. Any amendment to the governing instrument of a business trust or adoption of a new governing instrument of the business trust made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or consolidation or of any of the matters referred to herein by any other means provided for in the governing instrument of a business trust or other agreement or as otherwise permitted by law, including that the governing instrument of any constituent business trust to the merger or consolidation (including a business trust formed for the purpose of consummating a merger or consolidation) shall be the governing instrument of the surviving or resulting business trust.

(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 business trusts and other business entities that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of said business trusts and other business entities, as well as all other things and causes of action belonging to each of such business trusts and other business entities, shall be vested in the surviving or resulting business trust or other business entity, and shall thereafter be the property of the surviving or resulting business trust or other business entity as they were of each of the business trusts 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 business trusts 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 business trusts and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the said business trusts and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting business trust 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.

§3816. Derivation Actions.

(a) A beneficial owner may bring an action in the Court of Chancery in the right of a business trust to recover a judgment in its favor if trustees with authority to do so have refused to bring the action or if an effort to cause those trustees to bring the action is not likely to succeed.

(b) In a derivative action, the plaintiff must be a beneficial owner at the time of bringing the action:

(1) At the time of the transaction of which he complains; or

(2) His status as a beneficial owner had devolved upon him by operation of law or pursuant to the terms of the governing instrument of the business trust from a person who was a beneficial owner at the time of the transaction.

(c) In a derivative action, the complaint shall set forth with particularity the effort, if any, of the plaintiff to secure initiation of the action by the trustees, or the reasons for not making the effort.

(d) If a derivative action is successful, in whole or in part, or if anything is received by a business trust as a result of a judgment, compromise or settlement of any such action, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees. If anything is so received by the plaintiff, the court shall make such award of plaintiff's expenses payable out of those proceeds and direct plaintiff to remit to the business trust the remainder thereof, and if those proceeds are insufficient to reimburse plaintiff's reasonable expenses, the court may direct that any such award of plaintiff's expenses or a portion thereof be paid by the business trust.

§3817. Indemnification.

(a) Subject to such standards and restrictions, if any, as are set forth in the governing instrument of a business trust, a business trust shall have the power to indemnify and hold harmless any trustee or beneficial owner or other person from and against any and all claims and demands whatsoever.

(b) The absence of a provision for indemnity in the governing instrument of a business trust shall not be construed to deprive any trustee or beneficial owner or other person of any right to indemnity which is otherwise available to such person under the laws of this State.

§3818. Short Title.

This chapter may be cited as the 'Delaware Business Trust Act.'

§3819. Reserved Power of State to Amend or Repeal Chapter.

All provisions of this chapter may be altered from time to time or repealed and all rights of business trusts, trustees, beneficial owners and other persons are subject to his reservation."

Section 9. Amend §3801, Chapter 38, Title 12 of the Delaware Code by adding a new subsection (e) to read as follows:

"(e) 'other business entity' means a corporation, a partnership (whether general or limited), a common-law trust or any other unincorporated business, excluding a business trust."

Section 10. Amend §3805(a), Chapter 38, Title 12 of the Delaware Code by adding a comma "," after the words "business trust" and before the words "a beneficial owner shall have" and by striking the words "as set forth in the records maintained by the trustees" at the end of said subsection.

Section 11. Amend §3809, Chapter 38, Title 12 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section 3809 to read as follows:

"§3809. Applicability of Trust Law.

Except to the extent otherwise provided in the governing instrument of a business trust or in this chapter, 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 classified as a corporation, an association, a partnership, a trust or otherwise, as shall be determined under the United States Internal Revenue Code of 1986, as amended, or under any successor provision."

Section 12. Amend §3810, Chapter 38, Title 12 of the Delaware Code by striking subsections (a) and (b) of said section in their entirety and substituting in lieu thereof new subsections (a) and (b) to read as follows:

"(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 at least one of the trustees meeting the requirements of §3807 of this chapter;

(3) The future effective date or time (which shall be a date or time certain) of effectiveness of the certificate if it is not to be effective upon the filing of the certificate; and

(4) Any other information the trustees 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.

(b) A certificate of trust may be amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate of amendment shall set forth:

(1) The name of the business trust;

(2) The amendment to the certificate; and

(3) The future effective date or time (which shall be a date or time certain) of effectiveness of the certificate if it is not to be effective upon the filing of 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."

Section 13. Amend §3811, Chapter 38, Title 12 of the Delaware Code by striking subsection (a) of said section in its entirety and substituting in lieu thereof new subsection (a) to read as follows:

"(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 of the trustees;

(2) A certificate of amendment must be signed by at least one of the trustees;

(3) A certificate of cancellation must be signed by all of the trustees or as otherwise provided in the governing instrument of the business trust; and

(4) If a business trust is filing a certificate of merger or consolidation, the certificate of merger or consolidation must be signed by all of the trustees or as otherwise provided in the governing instrument of the business trust, or if the certificate of merger or consolidation is being filed by another business entity, the certificate of merger or consolidation must be signed by a person authorized to execute such instrument on behalf of such other business entity."

Section 14. Amend §3812, Chapter 38, Title 12 of the Delaware Code by striking subsections (a) through (c) of said section in their entirety and substituting in lieu thereof new subsections (a) through (c) to read as follows:

"(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 or any certificate of merger or consolidation shall be delivered to the office of 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, the certificate of cancellation or the certificate of merger or consolidation 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 trust in the office of the Secretary of State, or upon the future effective date or time of a certificate of trust as provided for therein, the certificate of trust shall be effective. 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 a certificate of merger or consolidation which acts as a certificate of cancellation in the office of the Secretary of State or upon the future effective date or time of a certificate of cancellation or a certificate of merger or consolidation which acts as a certificate of cancellation, as provided for therein, the certificate of trust shall be cancelled.

(c) A fee as set forth in §3813(a)(2) of this chapter shall be paid at the time of the filing of a certificate of trust, a certificate of amendment, a certificate of cancellation or a certificate of merger or consolidation."

Section 15. Amend §3813, Chapter 38, Title 12 of the Delaware Code by striking paragraph (2) of subsection (a) of said section in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Upon the receipt for filing of a certificate of trust, a certificate of amendment, a certificate of cancellation or a certificate of merger or consolidation, a fee in the amount of $100."

Section 16. AMEND §3801, Chapter 38, Title 12 of the Delaware Code by adding a new subsection (f) to read as follows:

"(f) Governing instrument" means a trust instrument which creates a business trust and provides for the governance of the affairs of the business trust and the conduct of its business. A governing instrument:

(1) may provide that a person shall become a beneficial owner and shall become bound by the governing instrument if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a beneficial interest) complies with the conditions for becoming a beneficial owner set forth in the governing instrument or any other writing and acquires a beneficial interest; and

(2) may consist of one or more agreements, instruments or other writings and may include or incorporate by-laws containing provisions relating to the business of the business trust, the conduct of its affairs and its rights or powers or the rights or powers of its trustees, beneficial owners, agents or employees."

Section 17. AMEND §3805(a), Chapter 38, Title 12 of the Delaware Code by adding a new sentence at the end of such subsection to read as follows:

"The governing instrument of a business trust may provide that the business trust or the trustees, acting for and on behalf of the business trust, shall be deemed to hold beneficial ownership of any income earned on securities of the business trust issued by any business entities formed, organized, or existing under the laws of any jurisdiction, including the laws of any foreign country."

Section 18. AMEND §3804, Chapter 38, Title 12 of the Delaware Code by adding a new sentence at the end of such subsection to read as follows:

"Notwithstanding the foregoing provisions of this §3804, in the event that the governing instrument of a business trust which is a registered investment company under the Investment Company Act of 1940, as amended (15 U.S.C. §§80a-1 et seq.), creates one or more series as provided in §3806(b)(2), and if separate and distinct records are maintained for any such series and the assets associated with any such series are held and accounted for separately from the other assets of the business trust, or any other series thereof, and if the governing instrument so provides, and notice of the limitation on liabilities of a series as referenced in this sentence is set forth in the certificate of trust of the business trust, then the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series shall be enforceable against the assets of such series only, and not against the assets of the business trust generally; provided that §3803(a) of this chapter, insofar as it establishes limitations on liability of beneficial owners, shall have no application to liabilities, if any, of beneficial owners arising by reason of the ownership of beneficial interests in any series as to which the governing instrument of the business trust and the certificate of trust provide for the limitations on liabilities among series set forth in this sentence, and the liabilities of such beneficial owners, if any, arising with respect to the ownership of such beneficial interests shall, in accordance with §3809 of this chapter, be determined under the laws of this State pertaining to trusts, including the common law (without reference to §3803(a) of this chapter)."

Section 19. This Act shall become effective immediately upon enactment with respect to all business trusts whenever created.

Approved July 5, 1990.

CHAPTER 298

FORMERLY

HOUSE BILL NO. 642

AN ACT TO AMEND CHAPTER 9, TITLE 7, DELAWARE CODE RELATING TO THE POSSESSION LIMITS OF CERTAIN FINFISH.

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 9, Title 7, Delaware Code by adding a new section to be designated as "§938" to read as follows:

"§938. Creel limits on finfish; exceptions.

(a) Unless otherwise provided in this Chapter, or by regulations promulgated by the Department, or permit issued by the Division, a fisherman shall not have in possession at or between the place caught and his or her personal abode or temporary or transient place of lodging more finfish that exceed the following numbers for the species listed:

(1) 20 for Tautog (Tautoga unitis) or blackfish.

(b) Each finfish of a species in possession that exceeds the number authorized in subsection (a) of this section shall constitute a separate violation."

Approved July 5, 1990.

CHAPTER 299

FORMERLY

HOUSE BILL NO. 666

AN ACT TO AMEND CHAPTER 51, TITLE 24 OF THE DELAWARE CODE RELATING TO AESTHETICIANS.

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 24 of the Delaware Code by adding a new subchapter II to read as follows:

"SUBCHAPTER II. AESTHETICIAN CERTIFICATION

§5121. Objectives.

The primary purpose for the certification of aestheticians is to guarantee to the public that each practitioner has achieved a minimum level of competence as an aesthetician.

§5122. Definitions.

(a) For the purpose of this chapter, an 'aesthetician' is defined as a person who is certified under this chapter to practice the cleansing, stimulating, manipulating and beautifying of skin, with hands or mechanical or electrical apparatus or appliances, and to give treatments to keep skin healthy and attractive. An aesthetician is not authorized to prescribe medication or provide medical treatments in the same manner as a dermatologist.

(b) 'Division' means the Division of Professional Regulation.

(c) 'School' means an institution privately owned and conducted for the purpose of teaching aesthetics.

§5123. Prohibitions.

(a) No person may engage in practice as an aesthetician or use any initials, letters, wording or abbreviation used by an aesthetician unless he or she is certified under this chapter.

(b) A person may not seek a certification or renewal by means of false or fraudulent actions or representations.

§5124. Exemptions.

Nothing in this chapter shall prohibit:

(a) A licensed cosmetologist from performing services as an aesthetician.

(b) A licensed dermatologist from performing services as a dermatologist.

§5125. Records.

The Division of Professional Regulation shall maintain a register of all applicants for certification. This register shall be available for public inspection. The certification to practice as an aesthetician in this state shall be renewed by the aesthetician every two years and shall be renewed upon payment of the renewal fee. The Division shall provide forms for application for certification and for the renewal of certification. The Division shall notify each registrant of the expiration date of his or her certificate and the amount of the fee that shall be required at least one month prior to the expiration thereof. It shall be the responsibility of the aesthetician to notify the Division of any change of address. A late fee shall be established by the Division to take effect one month after the expiration date of the certification. A late fee must be paid before the certification is renewed.

§5126. Qualifications.

No person shall be certified under this chapter unless he or she has:

(a) completed a course of study of not less than three hundred (300) hours in the principles pertaining to the practice of aesthetics.

(b) passed the National examination required in §5127 of this subchapter.

§5127. Examinations.

(a) Examinations for certification shall be professionally developed and used on a national basis.

(b) Examination services shall be contracted and approved by the Division of Professional Regulation.

(c) The Division of Professional Regulation shall administer the examination for certification. Grading will be performed by the contracted testing service.

§5128. Complaints.

(a) The Division of Professional Regulation shall investigate any written complaints concerning uncertified practitioners practicing or advertising themselves to be aestheticians. When it is determined that an individual is practicing aesthetics without certification, the Division shall apply to the appropriate court to issue a cease and desist order. If the violation continues, the Division shall make a formal complaint to the Attorney General.

(b) Where a person, not currently licensed as an aesthetician, is convicted of unlawfully practicing aesthetics in violation of this chapter such offender shall, upon the first offense, be fined five hundred dollars ($500) and shall pay all costs.

(c) Where a person previously convicted of unlawfully practicing aesthetics is convicted a second or subsequent time of such offense, the fine assessed against such person shall be increased by five hundred dollars ($500) for each subsequent offense thereafter.

§5209. Display of Certificate.

Each individual certified under this chapter shall prominently display his or her certificate issued by the Division in a conspicuous part of his or her office wherein the practice of aesthetics is conducted. In addition, each main or branch office shall have prominently displayed a name and telephone number where individuals may call concerning the services of the certified aesthetician.

§5210. Fees.

(a) The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the proportional expenses incurred by the Division in its services pursuant to this chapter. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose 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 fees for the coming year.

(b) In those instances where a national examination is to be taken in Delaware, applicants shall nevertheless pay all fees charged by the testing service directly to the testing service. Where the testing service refuses to accept direct payment, the applicant may pay the Division. In the event there are extra local expenses incurred by the State for its services in administering the examination, the applicant shall pay an additional fee to the Division to defray those local expenses.

§5211. Operation of Aesthetic Schools.

(a) Any school which holds a current license to conduct a school for the purpose of teaching cosmetology and its branches may apply for approval by the Division to teach a course pertaining to the principles of aesthetics.

(b) All other schools shall be separately certified and pay the prescribed fee. No school will be granted a certificate unless it shall have the following:

(1) A clinic room of no less than six hundred (600) square feet, to be used exclusively for the teaching of aesthetics, and containing all necessary equipment for clinical training.

(2) A lecture room of no less than four hundred (400) square feet, with arm chairs or desks and chairs for a minimum of twenty-five (25) students. The lecture room must be available for at least one period per day for exclusive use for instruction in aesthetics.

§5212. Equipment.

Every school shall have, and shall maintain in good working condition, appropriate and sufficient equipment for its entire student body. Minimum equipment for an aesthetic school will be established by regulation by the Board of Cosmetology and Barbering.

§5213. Instructors.

Every school shall at all times be in the charge of, and under the immediate supervision of, an instructor. Instructors shall be competent to teach the principles of aesthetics.

§5214. Course of Study.

Each school of aesthetics shall maintain a course of study of not less than three hundred (300) hours, extending over a period of a maximum of one hundred sixty (160) hours a month. Every school shall maintain regular class hours with a daily schedule."

Approved July 10, 1990.

CHAPTER 300

FORMERLY

SENATE BILL NO. 314

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" RELATING TO THE CONDUCT OF 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 2.113(a) Chapter 64, Volume 63, Laws of Delaware by deleting from the first sentence thereof the phrase "5:00 p.m." and inserting in lieu thereof the phrase "7:00 p.m."

Section 2. Amend Section 2.114, Chapter 64, Volume 63, Laws of Delaware by adding thereto the following paragraph:

"The Town Council may, by Ordinance, provide for a qualified voter, duly registered, to cast his vote by absentee ballot if he is unable to appear at the polling place due to the following reasons:

(1) Because such person is in the public service of the United States of this State; or

(2) Because such person is unavoidably absent on the day of the election; or

(3) Because such person is sick or physically disabled; or

(4) Because such person is absent while on vacations; or

(5) Because such person is unable to vote at a certain time or on a certain day due to the tenets or teaching of his religion."

Approved July 10, 1990.

CHAPTER 301

FORMERLY

SENATE BILL NO. 203

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO ASSISTANT COUNTY ATTORNEYS OF NEW CASTLE COUNTY.

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

Section 1. Amend §1444, Title 9 of the Delaware Code, by striking said section in its entirety and by substituting in lieu thereof the following:

"§1444. Assistant County Attorneys.

The County Attorney shall appoint such Assistant County Attorneys as may be authorized by the County government. The Assistant County Attorneys shall serve at the pleasure of the County Attorney."

Approved July 10, 1990.

CHAPTER 302

FORMERLY

SENATE BILL NO. 231

AN ACT TO AMEND CHAPTER 25, TITLE 7, DELAWARE CODE TO INCREASE THE MINIMUM SIZE OF LOBSTER IN INCREMENTS.

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

Section 1. Amend §2501, Chapter 25, Title 7, Delaware Code by striking same in its entirety and substituting in lieu thereof the following:

"2501. Minimum Size Limit

It shall be unlawful for any person to take from any waters within the jurisdiction of the State or have in his possession at any time any American lobster with a minimum carapace length measuring less than 3-1/4 inches between January 1, 1989 and December 31, 1990; 3-9/32 inches between January 1, 1991 and December 31, 1991 and 3-5/16 inches after January 1, 1992. The carapace, or body shell, is measured from the rear end of the eye socket along a line parallel to the center line of the carapace to the posterior end of the carapace."

Approved July 10, 1990.

CHAPTER 303

FORMERLY

SENATE BILL NO. 239
AS AMENDED BY
SENATE AMENDMENT NOS. 1 AND 2 AND HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 40, TITLE 31, DELAWARE CODE, RELATING TO SETTING MINIMUM STANDARDS FOR CONGREGATE HOUSING FACILITIES FOR THE HOMELESS.

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

Section 1. Amend Chapter 40, Title 31, Delaware Code, by adding thereto a new Subchapter VII to read as follows:

"Subchapter VII. Minimum Standards for Congregate Housing Facilities for the Homeless.

§4091. Definitions

As used in this Subchapter, except where the context clearly indicates a different meaning:

'Congregate housing facility' means a facility housing (8) or more homeless adults and children on a temporary basis.

§4092. Resident manager required

The sponsor of any congregate housing facility shall be responsible for having a responsible adult resident manager on the premises of such facility at all times.

§4093. Maintaining records

(a) The sponsor and resident manager of any congregate housing facility shall be responsible for maintaining a day-to-day record of residents of the facility, such record to include:

(1) The name, last known residence, and Social Security number, if any, of each resident of the facility.

(2) The destination of each resident when he or she leaves the facility.

(b) The information contained in such record shall be confidential and shall not be disclosed except to authorized agents of the facility's public funding sources as required by the terms of their funding agreements or as a result of a court order.

§4094. Premises to be kept clean

The sponsor and the resident manager shall be responsible for keeping the interior and exterior premises of a congregate housing facility at all times in a clean and sanitary condition and in compliance with all Federal, State or local laws, rules, and regulations relating to the cleanliness of multi-family dwellings in general.

§4095. Standard of conduct

The sponsor and resident manager of each congregate housing facility shall be responsible for publishing and posting in prominent places a standard of conduct for residents which is not disruptive to others within the facility, to the community, or to the residents of neighboring residences or businesses. The use of alcohol or illegal drugs in such facilities is prohibited. Loud or boisterous behavior, music or, other noise in violation of State or local noise laws, rules and regulations that deprives other residents of the quiet enjoyment of the facility shall be prohibited at all times, especially between sunset and sunrise.

§4096. The sponsor or resident manager of a congregate housing facility shall be responsible for making every effort to enlist the services of social agencies, public or private, to assist residents to move back into the mainstream of society, including, but not limited to, Alcoholic Anonymous, substance abuse counseling, employment counseling, and skills training.

§4097. Notification of authorities

The sponsor or resident manager of each congregate housing facility shall be responsible for notifying the chief executive officer of the county or municipality in which the facility is located that it is, or intends to be, conducting such a facility and the location thereof.

§4098. Penalties

Whoever violates the provisions of this subchapter is guilty of a violation and shall be fined not less than $50 nor more than $200 for a first offense and not less than $100 nor more than $500 for each subsequent like offense. Superior Court shall have jurisdiction over all violations of this subchapter.

§4099. Enforcement authority

The Department of Community Affairs shall be responsible for enforcing the provisions of this subchapter.

Approved July 10,1990.

CHAPTER 304

FORMERLY

SENATE BILL NO. 244

AN ACT TO AMEND CHAPTER 10, TITLE 20 OF THE DELAWARE CODE, RELATING TO PENSION BENEFITS FOR PARAPLEGIC VETERANS.

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

Section 1. Amend §1001(b)(4), Chapter 10, Title 20 of the Delaware Code by striking said subsection in its entirety and substitute in lieu thereof a new subsection (4) to read as follows:

"(4) The veteran is a bona fide resident of the State of Delaware."

Approved July 11, 1990.

CHAPTER 305

FORMERLY

SENATE BILL NO. 288

AN ACT PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 6 OF THE DELAWARE CONSTITUTION RELATING TO THE COMPOSITION OF THE SUPERIOR COURT AS A BOARD OF CANVASS IN KENT 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 Section 6 of Article V of the Delaware Constitution by striking the words "in Kent County of the Chancellor and the resident Associate Judge" as the same appears in the sixth paragraph of said Section 6 and substituting in lieu thereof the following: "in Kent County of the resident Associate Judge and an Associate Judge designated by the President Judge".

Section 2. Amend Section 6 of Article V of the Delaware Constitution by striking the words "the Chancellor or" as the same appears in the seventh paragraph of said Section 6.

Approved June 27, 1990.

CHAPTER 306

FORMERLY

SENATE BILL NO. 335
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 39, TITLE 7, DELAWARE CODE, RELATING TO GENERAL POWERS AND DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

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

Section 1. Amend §3905 (b) (13), Chapter 39, Title 7, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new §3905 (b) (13) to read as follows:

"(13) Cooperate with other agencies and departments of the State, Federal agencies, or any other landowners for use of the State dredge at the cost of the State agency and/or department, Federal agency or the landowners requesting use of the State dredge. Cost for the use of the State dredge shall be limited to actual project costs incurred by the Department plus an amount equal to ten percent of the actual project costs incurred for overhead expenses."

Approved July 10, 1990.

CHAPTER 307

FORMERLY

SENATE BILL NO. 348

AN ACT TO AMEND CHAPTER 13, TITLE 7, DELAWARE CODE, RELATING TO THE WILDLIFE THEFT PREVENTION SPECIAL FUND

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 §1312(b), Chapter 13, Title 7, Delaware Code, by striking the figure "$100" as the same appears at the end of paragraph (1) and substituting in lieu thereof the figure "$1,000".

Approved July 10, 1990.

CHAPTER 308

FORMERLY

SENATE BILL NO. 349
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 302, VOLUME 49, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF FENWICK ISLAND, DELAWARE" RELATING TO SIGNING OF CHECKS AND MAKING BANK DEPOSITS.

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 16, Chapter 302, Volume 49, Laws of Delaware by rewording the section to read as follows:

"Section 16. Duties of President

The President shall preside at the meetings of the Town Council. He shall have general supervision of the affairs of the Town, and shall perform such other duties as may be prescribed by ordinance or by-laws adopted by the Council."

Section 2. Amend Section 19, Chapter 302, Volume 49, Laws of Delaware by rewording the section to read as follows:

"Section 19. Duties of the Treasurer

The Treasurer shall be the custodian of all the Town funds and shall deposit them or cause them to be deposited in such banking institutions as may be designated by the Council; he shall pay out no money except upon check or warrant bearing signatures as set forth by ordinance and authorized by the Council; he shall keep a true, accurate and detailed account of all moneys received and of all monies paid by him; he shall preserve all vouchers for monies paid by him and his books and accounts shall at all times be open to the inspection of the Council; he shall make such reports with respect thereto as the Council may request and at such times as the Council may direct. If the Council by ordinance so provides he shall file a bond with corporate surety for the faithful performance of his duties, in such form and for such amount as the Council shall direct. He shall perform such other duties and have such other powers as prescribed by this Charter and any ordinances."

Approved July 10, 1990.

CHAPTER 309

FORMERLY

SENATE BILL NO. 354

AN ACT TO AMEND CHAPTER 9, TITLE 7, DELAWARE CODE, RELATING TO THE MARKING OF NETS IN TRIBUTARIES.

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

Section 1. Amend §920(a)(1), Title 7, Delaware Code, by deleting the phrase "may be substituted for the required flags" as it appears in the last sentence of said paragraph and substituting in lieu thereof the phrase "or a red or international orange flag that measures at least 12 inches x 12 inches on a staff 4 feet, measured from the surface of the water to the bottom of the flag, is required."

Approved July 10, 1990.

CHAPTER 310

FORMERLY

SENATE BILL NO. 355

AN ACT TO AMEND CHAPTER 9, TITLE 7, DELAWARE CODE, RELATING TO VIOLATIONS AND FINES FOR ILLEGALLY TAKING STRIPED BASS.

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 §936(b)(2), Chapter 9, Part I, Title 7, Delaware Code by inserting a period after the words "all costs" and before the "j" the following:

"For each violation of any section of this Chapter, any regulation promulgated by the Department pursuant thereto, or any permit issued by the Division which involves the illegal taking of a striped bass in the tidal waters of this State there shall be imposed a fine of not less than $100 or more than $500. Each striped bass illegally taken shall constitute a separate violation."

Approved July 11, 1990.

CHAPTER 311

FORMERLY

SENATE BILL NO. 367

AN ACT TO AMEND CHAPTER 12, TITLE 3 OF THE DELAWARE CODE RELATING TO PESTICIDES AND CERTIFIED APPLICATORS THEREOF.

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

Section 1. Amend Section 1216, Chapter 12, Title 3 of the Delaware Code by adding a new sentence at the end of said section to read as follows:

"An applicant for certification must be at least 18 years of age."

Approved July 11, 1990.

CHAPTER 312

FORMERLY

SENATE BILL NO. 414

AN ACT TO AMEND CHAPTER 42, VOLUME 53, LAWS OF DELAWARE, AS AMENDED BEING THE CHARTER OF THE CITY OF SEAFORD, RELATING TO THE ISSUANCE OF REVENUE BONDS.

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

Section 1. Amend Chapter 42, Volume 53, Laws of Delaware, as amended by Chapter 367, Volume 62, Laws of Delaware, by deleting Paragraph (6) of Subsection (b) of Section 35A in its entirety and substituting in lieu thereof a new Paragraph (6) to read as follows:

"(6) For the acquisition, construction, reconstruction, repair, alteration, improvement, extension, financing or refinancing of any facility, activity or enterprise, whether conducted on a for-profit or not-for-profit basis, and including working capital for any such facility, activity or enterprise provided that the project requires a minimum capital investment of Five Hundred Thousand Dollars ($500,000), that the issuance of such bonds pursuant to the provisions of this paragraph shall not constitute a debt of the City of Seaford nor a pledge of its credit or taxing power, and that the said bonds shall contain on the face thereof a statement to the following effect:

'Neither the faith and credit nor the taxing power of the City of Seaford is pledged to the payment of the principal, premium, if any, or interest on this Bond, nor is the City of Seaford in any manner obligated to make any appropriation for payment thereof.'"

Approved July 10, 1990.

CHAPTER 313

FORMERLY

SENATE BILL NO. 429

AN ACT TO AMEND CHAPTER 84, TITLE 11, DELAWARE CODE, RELATING TO THE POWERS AND DUTIES OF THE COUNCIL ON POLICE TRAINING UNDER THE DELAWARE POLICE TRAINING PROGRAM.

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

Section 1. Amend §8404, Chapter 84, Title 11, Delaware Code, by striking therefrom subsection (a)(4) in its entirety and substituting in lieu thereof a new subsection (a)(4) to read as follows:

"§8404(a)(4). Suspend or revoke certification in the event that an individual:

a. Obtained a certificate by fraud or deceit;

b. Has failed to successfully complete any in-service or advanced training required by the Council;

c. Has been convicted of a felony, or of a misdemeanor involving moral turpitude, or of any local, state or federal criminal offense involving, but not limited to, theft, fraud, or violation of the public trust, or of any drug law;

d. Has been found, after examination by a licensed psychologist or psychiatrist, to be psychologically or emotionally unfit to perform the duties or exercise the powers and authority of a police officer;

e. Has been discharged from employment with a law enforcement agency for a breach of internal discipline; or has tendered his resignation prior to the entry of findings of fact concerning an alleged breach of internal discipline and who is found by the Council to have engaged in conduct constituting a breach of internal discipline for which the individual could have been legitimately discharged had he not resigned his position prior to an adverse finding of fact being entered on the issue by the employing agency."

Section 2. Amend Chapter 84, Title 11, Delaware Code, by adding thereto a new §8404A to read as follows:

"§8404A. Hearings.

In all situations where the provisions of Section 8404(a)(4) or Section 8410(b) of this Chapter are to be applied to or invoked against any agency or individual, that agency or individual shall be entitled to a hearing in the manner prescribed herein:

(a) The Chairman shall select three (3) members of the Council to comprise a Board which will hear evidence on the allegation (hereinafter "Board").

(b) Upon conclusion of the hearing provided for in this Section, the board shall submit its findings and recommendation to the full Council in writing for consideration and vote.

(c) The ultimate findings of the Council shall be final, except that any ruling adverse to any party participating in the hearing may be appealed to the Superior Court within 15 days of receipt of written notification of said finding. Absent an appeal, all findings of the Council shall become final upon expiration of said appeal deadline.

(d) All hearings shall be conducted in accordance with the Administrative Procedures Act of the Delaware Code."

Approved July 10, 1990.

CHAPTER 314

FORMERLY

SENATE BILL NO. 454

AN ACT TO AMEND DELAWARE CODE, TITLE 29, CHAPTER 58, REGARDING THE CONDUCT OF OFFICERS AND EMPLOYEES OF THE STATE.

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

Section 1. Amend Delaware Code, Title 29, Section 5804 by redesignating the existing Subsection (h) as Subsection (i) and by inserting a new Subsection (h) to read as follows:

"(h) Nothing in this Section shall prohibit an employee or his or her spouse or children (natural or adopted) from contracting for the transportation of school children. Such transportation contracts may be entered into by an employee or his or her spouse or children without public notice and competitive bidding as is provided in Section 6916 of this Title."

Approved July 10, 1990.

CHAPTER 315

FORMERLY

HOUSE BILL NO. 362

AN ACT TO AMEND CHAPTER 43, TITLE 11 OF THE DELAWARE CODE RELATING TO MENTAL HEALTH EXAMINATIONS OF CERTAIN OFFENDERS PRIOR TO BEING RELEASED ON PAROLE.

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

Section 1. Amend Chapter 43, Title 11, Section 4353 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§4353. Mental health evaluations required prior to parole.

(a) No person who has been convicted of and imprisoned for: adulteration, aggravated intimidation, arson 1st degree, arson 2nd degree, assault 1st degree, assault 2nd degree, assault 3rd degree, assault in detention facility, burglary 1st degree, burglary 2nd degree, criminally negligent homicide, escape after conviction, explosive devices, extortion, kidnapping 1st degree, kidnapping 2nd degree, manslaughter, murder 1st degree, murder 2nd degree, possession of a deadly weapon during commission of felony, promoting prostitution 1st degree, promoting suicide, rape 1st degree, rape 2nd degree, reckless endangering 1st degree, riot, robbery 1st degree, robbery 2nd degree, sexual misconduct, sodomy 1st degree, sodomy 2nd degree, terroristic threatening, unlawful imprisonment 1st degree, unlawful sexual contact 1st degree, unlawful sexual contact 2nd degree, unlawful sexual contact 3rd degree, unlawful sexual intercourse 1st degree, unlawful sexual intercourse 2nd degree, unlawful sexual intercourse 3rd degree, unlawful sexual penetration 1st degree, unlawful sexual penetration 2nd degree, unlawful sexual penetration 3rd degree, vehicular assault 1st degree, vehicular assault 2nd degree, vehicular homicide 1st degree, vehicular homicide 2nd degree, delivery of narcotic drug, delivery of non-narcotic drug, delivery of noncontrolled substance, distribution of drugs to minors, or trafficking in drugs shall be released from incarceration by the Parole Board until the Parole Board has considered a mental health evaluation of such person.

(b) All mental health evaluations required by subsection (a) of this section shall be conducted after a determination has been made by the Parole Board that the person is otherwise suitable for release on parole.

(c) The Parole Board may consider any mental health evaluation conducted within 12 months prior to the person's parole hearing in lieu of requesting a new mental health evaluation. However, for persons convicted and imprisoned for any of the offenses listed in subsection (a), the Parole Board may determine that it requires additional information. In such case as additional information is required, no person shall be released from incarceration until such additional information has been considered by the Parole Board.

(d) Mental health evaluations conducted pursuant to this statute will be administered by a person with professional education and training. The mental health evaluation to the Parole Board shall consist of: (1) background information or historical information about the person's mental health; (2) information about the person's functioning in the prison or institutional setting; (3) a description of the person's current mental health; and (4) a summary with a prognosis of expected behavior if the person were paroled, including any specific recommendations for mental health care.

(e) Any mental health evaluations prepared pursuant to this statute will be provided to each member of the Parole Board for their consideration in determining whether the person should be released from prison.

(f) Nothing in this section shall preclude the parole of a person for treatment to another institution because of a physical or mental condition, as provided in Section 4346 of this title."

Approved July 10, 1990.

CHAPTER 316

FORMERLY

HOUSE BILL NO. 592

AN ACT TO AMEND CHAPTER 43, TITLE 11 OF THE DELAWARE CODE RELATING TO THE IMPOSITION BY A COURT OF A SENTENCE INVOLVING COMMUNITY SERVICE.

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

Section 1. Amend §4302, Subchapter I, Chapter 43, Title 11 of the Delaware Code by adding a new paragraph (4) which shall read as follows:

"(4) 'Community service' means the performance of work or service for a non-profit or other tax-supported entity by an offender without pay for a specified period of time. Such service is intended as a symbolic form of restitution meant to serve as an appropriate means of punishment and rehabilitation of the offender and as a means of addressing the community's need to be made whole."

and by redesignating the numbered paragraphs contained in said section accordingly.

Section 2. Amend Subchapter III, Chapter 43, Title 11 of the Delaware Code by adding thereto a new section to be designated as "§4332A" which shall read as follows:

"§4332A. Imposition of Community Service.

(a) A court may impose a period of Community Service, as defined in this Chapter, either as a condition of probation or as the sole sanction imposed at sentencing.

(b) The specified number of hours of Community Service shall be fixed by the court, but in no case shall the total number of hours imposed exceed the maximum term of incarceration provided by law for the instant offense. In cases where no incarceration is provided by law, the number of hours of Community Service fixed by the court shall not exceed 100.

(c) In the event that Community Service is imposed by the court as a condition of probation, non-compliance with the Community Service Order shall constitute a violation of the conditions of probation.

(d) In the event that Community Service is imposed as the sole sanction by the court, non-compliance with the Community Service Order shall constitute criminal contempt.

(e) The Department shall, by the promulgation of regulations or other appropriate standards, administer and enforce the terms of all court orders involving the imposition of Community Service."

Approved July 10, 1990.

CHAPTER 317

FORMERLY

HOUSE BILL NO. 11

AN ACT TO AMEND CHAPTER 51, PART III, TITLE 11 OF THE DELAWARE CODE RELATING TO PROCEDURE IN THE SUPERIOR COURT.

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

Section 1. Amend Chapter 51, Part III, Title 11 of the Delaware Code by adding thereto a new Section designated as Section 5106, which new Section shall read as follows:

"§5106. Plea negotiations by the State.

(a) In every criminal case in the Superior Court involving a felony wherein the Department of Justice agrees to accept a plea of guilty to less than the original most serious charge indicted by the County Grand Jury or originally filed by information, the prosecuting attorney shall state on the record that he:

(1) Notified and discussed the plea agreement with the victim prior to its entry; or

(2) If notification was not reasonably possible, state on the record what steps were taken to give such information to the victim.

(b) In any case where the victim is deceased, the information required by Subsection (a) shall be given to any known next of kin. If the victim is a corporation, such information shall be given to a responsible officer. If the victim is a minor child, such information shall be given to the parent or guardian of said child.

(c) For purposes of this Section, 'victim' is one who was injured or killed as the result of a criminal offense or who suffered monetary loss as a result of such an offense.

(d) No violation of this Section shall be considered as a basis for setting aside a guilty plea entered by a defendant or for any other relief."

Approved July 10, 1990.

CHAPTER 318

FORMERLY

HOUSE BILL NO. 22

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION AND CRITERIA FOR 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 of the Delaware Code by inserting after the words "upon separation from a subsequent employer." as they appear therein, a new last sentence to read as follows:

"An individual who becomes unemployed solely as the result of completing a period of employment that was of a seasonal, durational, temporary, or casual duration and the Department determines there is evidence that it was the intent of the individual and the employer prior to the undertaking of such employment for the individual to work for a period of specific, limited duration of less than 130 days, and the individual works less than 130 days, will be considered to have left work voluntarily without good cause attributable to such work and will be subject to the provisions of this subsection. No individual, however, collecting benefits immediately preceding the acceptance of seasonal, durational, temporary, or casual employment shall lose the right to benefits upon the completion of such employment, regardless of duration, if otherwise qualified."

Approved July 10, 1990.

CHAPTER 319

FORMERLY

HOUSE BILL NO. 649

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO RECORDATION OF DOCUMENTS.

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

Section 1. Amend Section 9605, Chapter 96, Title 9 of the Delaware Code by deleting that section in its entirety and substituting therein the following:
"§9605. Recordation of Instruments.

(a) Each Recorder shall record within a reasonable time, deeds, indentures, letters of attorney relating to land, mortgages, releases of lien of mortgages, leases, releases, assignments, certificates of incorporation and amendments thereof, conditional sales and leases of railroad and railway equipment and rolling stock, oaths of office, plots and descriptions, returns and plots of the board of Port Wardens of the City of Wilmington of new wharf lines, appointments of deputy registers of wills, certificates of commissioners and agreements of owners bounding and marking lands, petitions and orders for sheriffs' deeds, all instruments authorized or directed by law, to be recorded or lodged by the Recorder of Deeds, including certificates of discharge regularly issued by the United States Army, Air Force, Navy, Coast Guard or Marine Corps. The Recorder shall forthwith make a proper note of the same in the indices. No fee shall be charged for recording any certificate of discharge as mentioned in this subsection.

(b) No Recorder shall knowingly record or receive for filing any contract, mortgage, lease, deed or conveyance or any other indenture or agreement affecting real property, which contains any promise, covenant or restriction which limits, restrains, prohibits or otherwise provides against the sale, gift, transfer, assignment, conveyance, ownership, lease, rental, use or occupancy of real property to or by any person because of race, color, creed, sex, national origin or ancestry.

(c) For the purpose of this Chapter, and this section, any reference in any section of this chapter to the recordation of any document or instrument in books or volumes shall not prohibit the Recorder from causing the instrument to be preserved for examination or reproduction by means of any archival filming or storage process approved by the Delaware State Archivist. The Recorder shall be authorized to determine which records shall be available in book form or only in photographic or electronic form.

(d) No Recorder shall accept for recording any deed or other instrument purporting to convey title to real estate unless and until he/she has first received an affidavit of residence and gain in the form in subsection (e) hereinafter; provided, however, that he/she may accept for recording any such deed or other such instrument purporting to convey title to real estate without first receiving such an affidavit of residence and gain if the transaction or instrument is one of those transactions or instruments exempted from the definition of "document" for the purposes of imposition of the realty transfer tax in §5401(1) of Title 30. The Recorder of New Castle County may delegate this duty to another county department with the consent of the County Executive.

(e) The form to be used in making such affidavit of residence and gain shall be separately made available by each Recorder and such form shall require information and authorization from, by or on behalf of the seller, to the extent such information is known to the person making the affidavit; provided, however, that if the seller is a Delaware resident or a corporation domiciled in Delaware, it shall be necessary only to so state on the affidavit of residence and gain or any other affidavit provided by the Recorder for this purpose:

(1) An adequate description of the seller, including name, residence, address, taxpayer identification number and principal place of business as appropriate.

(2) Whether or not the seller is a nonresident individual, nonresident estate, nonresident trust or nonresident partner, as such terms are defined in Chapter 11 of Title 30, or, if the seller is a corporation, whether or not it is a foreign corporation.

(3) The actual consideration received by the seller and whether or not he had a gain on the sale of real estate to which title is purporting to be conveyed.

(4) Within such affidavit the seller shall also authorize the Division of Revenue or such other appropriate state agency as may be designated to obtain any appropriate or necessary federal income tax forms, including their attached schedules or other

attachments, and any other related papers filed by such seller which relate solely to the said real estate to which title is purported to be conveyed by the deed or instrument being recorded.

(f) The Recorder shall not accept for recordation any deed or other instrument affecting real property unless the deed or other instrument contains thereon in a conspicuous place the County Tax Assessment parcel identification number of the parcel or parcels affected. In all cases where the affected parcel was just created by subdivision, the number of the parcel which was subdivided shall be identified and the number of the newly created parcel or parcels shall be listed, if available. In cases where the affected parcel was just created by the combining of separate parcels, the number of the parcels that were combined shall be identified. The number or numbers of the newly created parcel or parcels shall be listed, if available.

(g) The Recorder shall be authorized to issue regulations concerning the format and size of instruments to be accepted for recordation including, but not limited to the map scale, type size, paper size, margins and requirements for open areas within an instrument to assure that the documents is in a form proper for micrographic or electronic reproduction. The Recorder may require that, for any instrument presented that does not comply with the regulations or that is not otherwise in a form acceptable for micrographic reproduction, a typed statement be attached and made a part of the document stating the kind of instrument, the date, the parties to the instrument, a description of the property and any other pertinent data necessary to allow the instrument to be microfilmed.

(h) The Recorder of Deeds shall not accept for recordation any deed or other instrument affecting real property unless the deed or other instrument contains the words "prepared by" followed by the name and address of the person who drafted or prepared the deed or other instrument for recording. The information required by this subsection shall appear on the first page of the instrument to be recorded.

(i) The Recorder of Deeds for Kent County shall not accept for recording any deed or other instrument purporting to convey title to real estate until he has received payment of all State and municipal realty transfer tax due on the transfer, with the exception of the City of Dover realty transfer tax; provided, however, that any municipality which has imposed a realty transfer tax may continue to collect such tax upon written notification to the Recorder of such election."

Approved July 10, 1990.

CHAPTER 320

FORMERLY

HOUSE BILL NO. 651

AN ACT TO AMEND SECTION 9611, CHAPTER 96, TITLE 9 OF THE DELAWARE CODE RELATING TO RECORDATION OF DOCUMENTS BEARING CERTIFICATES OF NOTARIAL ACTS.

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

Section 1 Amend Section 9611, Chapter 96, Title 9 of the Delaware Code by deleting it in its entirety and substituting therein the following:

"§9611. Recordation of Instruments Containing Certificate of Notarial Act.

(a) Any document presented to the Recorder for recording which contains a certificate of a notarial act as defined by 29 Del.C. §4321(3) and §4327 (existing or as amended), shall, in addition to other matters which may be required by law, identify the name and title of the Notarial Officer who executed the certificate in a legible manner which is suitable for micrographic or electronic reproduction.

(b) The use of a typewriter, printer or rubber stamp which when applied to the instrument produces the printed information required by Subsection (a) shall also be authorized.

(c) The Recorder may refuse to record any document that contains a certificate of a notarial act which does not comply with Subsection (a) unless the person recording the instrument pays a penalty equal to the authorized recording fee for said document.

(d) The recording of any instrument which does not comply with Subsection (a) shall not affect its validity or admissibility as a public record."

Section 2. This Act shall be effective 60 days after its enactment.

Approved July 10, 1990.

CHAPTER 321

FORMERLY

HOUSE BILL NO. 601

AN ACT TO AMEND CHAPTER 216, VOLUME 27 OF THE LAWS OF DELAWARE, AS AMENDED, RELATING TO 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 Paragraph 1, Section 4, Chapter 216, Volume 27 of the Laws of Delaware, as amended, by striking the word "wards" as the same appears in the first sentence of said paragraph and by substituting in lieu thereof the word "districts".

Section 2. Amend Section 5, Chapter 216, Volume 27 of the Laws of Delaware, as amended, by striking the said section in its entirety and substituting in lieu thereof the following:

"Section 5. The responsibility for conducting all municipal elections in the City of New Castle shall be vested with the Board of Elections for the City of New Castle. The Mayor and each member of City Council shall appoint one (1) qualified elector, who is also a resident of the City of New Castle, to serve as a member of the said Board. The term of all individuals so appointed shall be four (4) years, commencing the day on which the appointment is made.

Should any member of the Board of Elections die or become unable to perform the required duties, at any time, a successor shall be appointed to complete the remainder of the term in open meeting of the City Council, by either the Mayor or Council Member, or their successor, who made the original appointment.

The Board of Elections for the City of New Castle shall have, subject to the formal approval by Ordinance, by majority vote, of the City Council, the power, authority and responsibility to establish or to amend all rules or regulations designed to:

a. Register Voters

b. Conduct Elections

c. Annually, in the month of July, meet and elect from the members of the Board, a President and a Secretary.

d. To provide for all such other matters related to the municipal election processes of the City of New Castle.

Any member of the Board of Elections or any election officer appointed by them who is found guilty, by majority vote of City Council, or either (a) or (b) of the following shall immediately forfeit their position or employment:

a. Directly or indirectly seek to use their authority or official influence to control or modify the political action of another person.

b. Actively participate in the political activities of any individual or campaign.

The pay for all members of the Board of Elections, all election officers and all election related materials, including polling place rental, shall be fixed by City Council and paid out of City funds.

For the purpose of holding such election(s) the City of New Castle shall be divided into four districts, corresponding within the City to the election districts as laid out under the General Election Laws of the State of Delaware, (15 Del. Ch., 1-79), with voting places provided for by said General Election Laws.

Any person desiring to become a candidate for the office of Mayor, the President of Council, a member of Council, the Treasurer or City Clerk, shall file with City Council his name, place of residence, and date, designating the office for which he seeks to become a candidate, no later than 5:00 P.M. local time, of the last Friday in the month of February in the year of the election, and shall at the same time, deposit with City Council a filing fee in the total amount equal to 1% of the total salary, as set by City Council pursuant to the City Charter, and would be in force on the first day of January in the year of the election, for the full term of the office for which he person files.

At any municipal election of the City of New Castle all individuals who shall have been a resident of the City of New Castle for one (1) year preceding said election shall be entitled to vote in the district in which hey reside at the time of said election; provided, however, that said person is otherwise qualified to register to vote and has registered to vote as required by the Election Laws of the State of Delaware (15 Del. C.), five (5) days prior to said election.

The Board of Elections shall determine the places for holding said election, subject to the approval of City Council, in the several districts and shall give notice of the time and places of holding said election by posting notice thereof in at least three of the most public places in each of the districts of the City at least a week before the day on which said election is to be held, and by publishing notice thereof one (1) time at least one (1) week in advance of said day in a newspaper having general circulation in the City of New Castle.

On the day of the election, all polling places will open at 8:00 A.M., local time and close at 6:00 P.M., local time, for the purpose of voting.

Upon the closing of the polls as aforesaid, the election officers at each district polling place shall count all the votes cast, publicly read the results and certify said results to the Board of Elections.

For the purpose of certifying the results to the Board of Elections the election officers shall fill out four (4) certificates of election, all of which are to be verified and signed by all of the election officers present at the closing of the polls. The Inspector and one (1) Judge shall each retain, for thirty (30) days following the day of election, one (1) copy of the certificate of election. The third (3rd) copy shall be given to the President or the designee of the Board of Elections at the closing of the polling place and the fourth (4th) copy shall be given to the President of City Council, at the closing of the polling place.

On the Monday evening following any such election, the City Council shall meet at 8:00 P.M., local time, for the purpose of canvassing said election. All members of the Board of Elections shall appear before City Council at that time and present the certificate of election retained by them. The City Council shall canvass the vote in all districts and after ascertaining which candidates have received the greatest number of votes and have been thereby elected to the various offices, shall fill out, sign and deliver certificates of election to all of the successful candidates.

In the event of a tie vote for election to any office, the outgoing City Council by a majority vote of the members present shall resolve the tie. In the event of a tie vote of the members of Council present, the Mayor shall cast the deciding vote."

Section 3. Amend Section 6, Chapter 216, Volume 27 of the Laws of Delaware, as amended, by striking the word "Inspectors" as it appears in the first sentence of said section, and by substituting in lieu thereof the words "City Council" and by striking the word "Assessor" as it appears in the second sentence of said section and by substituting in lieu thereof the words "City Clerk".

Section 4. Amend Section 7, Chapter 216, Volume 27 of the Laws of Delaware, as amended, by striking the word "Assessor" as it appears in the first sentence of said section and by substituting in lieu thereof the words "City Clerk".

Section 5. Amend Section 8, Chapter 216, Volume 27 of the Laws of Delaware, as amended, by striking the word "Assessor" as it appears in the first sentence of said section and by substituting in lieu thereof the words "City Clerk".

Section 6. Amend Section 9, Chapter 216, Volume 27 of the Laws of Delaware, as amended, by

(a) striking the words "or Assistant Inspector" as they appear in the first sentence of said section and inserting in lieu thereof the words "Judge and Clerk";

(b) striking the words "Court of General Sessions" as they appear in the first sentence of said section and by substituting in lieu thereof the words "Superior Court, State of Delaware";

(c) striking the words "Two Hundred Dollars" as they appear in the first sentence of said section and by substituting in lieu thereof the words "Five Hundred Dollars"; and

(d) striking the words "Fifty Dollars" as they appear in the first sentence of said section and by substituting in lieu thereof the words "Five Hundred Dollars".

Section 7. Amend Section 10, Chapter 216, Volume 27 of the Laws of Delaware, as amended, by striking the words "New Castle County Workhouse" as they appear in the first sentence of said section by substituting in lieu thereof the words "appropriate correctional facility".

Approved July 10, 1990.

CHAPTER 322

FORMERLY

HOUSE BILL NO. 131

AN ACT TO AMEND CHAPTER 65, TITLE 29 OF THE DELAWARE CODE RELATING TO ADVANCES TO STATE AGENCIES.

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

Section 1. Amend Subsection (a), §6520, Chapter 65, Title 29 of the Delaware Code, by striking in its entirety the portion of said subsection occurring after the word "determine" as it appears therein and by substituting in lieu thereof the phrase "provided, however, that the amount advanced from the General Fund to any agency at any one time shall not exceed $5,000."

Section 2. This bill shall be effective sixty days from its enactment into law.

Approved July 10, 1990.

CHAPTER 323

FORMERLY

HOUSE BILL NO. 34

AN ACT TO AMEND CHAPTER 32, TITLE 29, OF THE DELAWARE CODE RELATING TO THE DELAWARE HERITAGE COMMISSION.

WHEREAS, the Delaware Heritage Commission has diligently and capably planned, developed and executed a highly successful commemoration of the 200th anniversary of the ratification of the United States Constitution by Delaware, the First State to do so; and

WHEREAS, there are other significant commemorations which should be observed in the future, including the 200th anniversary of the ratification of the Bill of Rights in 1791 and the 500th anniversary of the voyage of Columbus to the New World in 1492; and

WHEREAS, there is even more important work of the Commission to be done, which is of a continuing nature, including the coordination of efforts among historical societies and heritage groups and the raising of citizen awareness in heritage in order to promote the goals of liberty and independence, freedom and justice according to the purpose of the founding of the Nation; and

WHEREAS, the Commission should have continuing status to accomplish these ends; and

WHEREAS, under 29 Del. C.§3201 (d), the Commission will cease to exist on December 31, 1990.

NOW, THEREFORE

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

Section 1. Amend Section 3201, Chapter 32, Title 29, of the Delaware Code by striking subsection (d) in its entirety.

Approved July 10, 1990.

CHAPTER 324

FORMERLY

HOUSE BILL NO. 529

AN ACT TO AMEND CHAPTER 52, TITLE 29 OF THE DELAWARE CODE RELATING TO HEALTH CARE INSURANCE.

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

Section 1. Amend §5202(c)(2), Chapter 52, Title 29 of the Delaware Code by adding a sentence to said paragraph to read as follows:

"The provisions of this paragraph shall continue to apply to a surviving spouse after the death of one of the spouses covered pursuant to this paragraph has occurred as long as the surviving spouse is entitled to a survivor's pension pursuant to §5528 of this Title."

Approved July 10, 1990.

CHAPTER 325

FORMERLY

HOUSE BILL NO. 647

AN ACT TO AMEND AN ACT, BEING CHAPTER 63, VOLUME 12, LAWS OF DELAWARE, ENTITLED "AN ACT TO CORPORATE THE ARTISANS' SAVINGS BANK", AS AMENDED, BY ADDING THERETO A NEW SECTION 7 TO PROVIDE FOR INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS; AND BEING AN ACT TO AMEND CHAPTER 42, VOLUME 61, LAWS OF DELAWARE, ENTITLED "AN ACT TO AMEND AN ACT, BEING CHAPTER 63, VOLUME 12, LAWS OF DELAWARE, ENTITLED 'AN ACT TO INCORPORATE THE ARTISANS' SAVINGS BANK', BY AMENDING SECTION 2 THEREOF TO PROVIDE FOR THE ELECTION OF NOT LESS THAN 13 NOR MORE THAN 20 DIRECTORS", BY AMENDING SECTION 1 THEREOF TO PROVIDE FOR THE ELECTION OF NOT LESS THAN NINE NOR MORE THAN NINETEEN DIRECTORS.

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 63, Volume 12, Laws of Delaware by adding a new Section 7 thereto, to provide as follows:

"Section 7. And be it further enacted, that Artisans' Savings Bank shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of Artisans' Savings Bank, or is or was serving at the request of Artisans' Savings Bank as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith in a manner he reasonably believed to be in or not opposed to the best interests of Artisans' Savings Bank and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order settlement, conviction upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of Artisans' Savings Bank, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

To the extent that a director, officer, employee or agent of Artisans' Savings Bank has been successful on the merits or otherwise in defense of any action, suit or proceeding, referred to in this Section, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Artisans' Savings Bank shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of Artisans' Savings Bank, or is or was serving at the request of Artisan's Savings Bank as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, arising out of his status as such, whether or not Artisans' Savings Bank would have the power to indemnify him against such liability under this section. For purposes of this Section, references to 'other enterprises' shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to 'serving at the request of Artisans' Savings Bank' shall include any service as director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to any employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner 'not opposed to the best interests of Artisans' Savings Bank' as referred to in this section.

The indemnification and advancement of expenses provided by, or granted pursuant to, this section shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person '

Section 2. Amend Chapter 42, Volume 61, Laws of Delaware, Section 2, by striking the words "not less than thirteen nor more than twenty Directors" in their entirety, and substituting in lieu thereof the following:"

"not less than nine nor more than nineteen Directors".

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

Approved July 10, 1990.

CHAPTER 326

FORMERLY

HOUSE BILL NO. 708
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2
AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 21 AND 29 OF TITLE 30 AND CREATING A NEW CHAPTER 91 OF TITLE 7 OF THE DELAWARE CODE RELATING TO THE CLEANUP OF HAZARDOUS SUBSTANCE SITES IN THE STATE OF DELAWARE.

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 the addition of a new Chapter 91 to read as follows:

CHAPTER 91. DELAWARE HAZARDOUS SUBSTANCE CLEANUP ACT

§9101. Short title.

This Chapter shall be known and may be cited as the "Delaware Hazardous Substance Cleanup Act".

§9102. Declaration of Purpose.

The General Assembly recognizes that large quantities of hazardous substances are and have been generated, transported, treated, and stored within the State. The General Assembly also recognizes that some hazardous substances have been stored or disposed of at facilities in the State in a manner insufficient to protect public health or welfare or the environment. The General Assembly finds that the release of a hazardous substance constitutes an imminent threat to public health or welfare or the environment of the State. The General Assembly intends by the passage of this Act to exercise the powers of the State to require prompt containment and removal of such hazardous substances, to eliminate or minimize the risk to public health or welfare or the environment, and to provide a fund for the cleanup of the facilities affected by the release of hazardous substances.

The General Assembly finds that private parties should be provided with encouragement to exercise their responsibility to clean up the facilities for which they are responsible,

but that if they refuse to do so, then the State should conduct the cleanup and recover the costs thereof from the private parties.

The General Assembly finds that in order to effectuate the purposes of this Act to remedy contamination resulting from past acts and to address more equitably the issue of who should bear the costs of remediation, Section 9105 of this Chapter shall apply to all responsible parties without regard to the date of enactment of this Act or any amendments thereto.

§9103. Definitions.

As used in this Chapter:

"Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

"Allowable Interest Rate" means a rate of interest 5% over the federal reserve discount rate.

"CERCLA" means the Comprehensive Environmental, Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq, as amended.

"Commercial Lending Institution" means a person that is a commercial or savings bank, industrial savings bank savings and loan association or trust company.

"Department" means the Department of Natural Resources & Environmental Control.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous substance into or on any land, water or into the air so that such

hazardous substance or any constituent thereof may enter the environment to be emitted into the air, or discharged into any waters including groundwaters.

"Environment" means the navigable waters, the waters of the contiguous zone, ocean waters, and any other surface water, ground water, drinking water supply, land surface or subsurface strata or ambient air within the state.

"Facility" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, aircraft, or any site or area where a hazardous substance has been generated, manufactured, refined, transported, stored, treated, handled, recycled, disposed of, placed or otherwise come to be located.

"Fund" means the Hazardous Substance Cleanup Fund created pursuant to Section 9113 of this Chapter.

"Hazardous Substance" means:

(a) Any hazardous waste as defined in 7 Del. C. Ch. 63 or any hazardous waste designated by regulation promulgated pursuant to 7 Del. C. Ch. 63;

(b) Any hazardous substance as defined in CERCLA; or

(c) Any substance determined by the Secretary through regulation to present a risk to public health or welfare or the environment if released into the environment.

"Imminent Threat of Release" means potential for a release which requires action to prevent or mitigate damage to the environment or endangerment to public health or welfare which may result from such a release.

"Natural Resources" means land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by Delaware, the United States, any foreign government, any local government, or any Indian tribe.

"Owner or Operator" means:

(a) Any person owning or operating a facility.

(b) Any person who owned, operated, or otherwise controlled activities at a facility.

(c) The term "owner or operator" does not include an agency of the State or unit of local government that acquired title or control involuntarily through bankruptcy, tax delinquency, abandonment or other circumstances.

(d) The term "control" does not include regulation of the activity by a state or local government agency.

(e) The term "owner or operator" does not include a person, who, without participating in the management of a facility, holds indicia of ownership primarily to protect his security interest in the facility.

"Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, school district, conservation district, federal government agency, Indian tribe or interstate body.

"Plan of Remedial Action" means a detailed plan describing cleanup actions and related information for the containment or permanent removal and disposal of hazardous substances from a facility.

"Potentially Responsible Party" means any person identified pursuant to Section 9105 (a) (1) through (6) as a person liable with respect to a facility.

"Property" means any real estate upon which a commercial or industrial activity was conducted, where a hazardous substance was managed or disposed of. This specifically excludes real estate which has been solely used for residential purposes.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes:

(a) any release which results in exposure to a person solely within his or her workplace, with respect to a claim which such person may assert against his or her employer;

(b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel or pipeline pumping station engine;

(c) the appropriate application of fertilizer and pesticide.

(d) Any discharges in compliance with State permits issued in conformance with Title 7 of the Delaware Code and Federally permitted releases under CERCLA.

"Remedial Decision Record" means the written determination by the Secretary of appropriate action for remediation of a release at or from a facility to protect public health or welfare or the environment.

"Remedy" means any action, response or expenditure consistent with the purposes of this Chapter to identify, minimize or eliminate any imminent threat posed by any hazardous substances to public health or welfare or the environment including preparation of any plans, conducting of any studies and any investigative or monitoring activities with respect to any release or imminent threat of release of a hazardous substance and any health assessments, risk assessments or health effect studies or natural resource damage assessments conducted in order to determine the risk or potential risk to human health.

"Secretary" means Secretary of the Department or his or her designee.

"Site Assessment" means the assessment of a facility and/or property to determine whether hazardous substances have entered the environment.

§9104. Secretary's Powers and Duties.

(a) The Secretary may exercise the following powers in addition to any other powers granted by law:

(1) The Secretary shall take any actions necessary to carry out the provisions of this Chapter, including but not limited to adoption of emergency or interim regulations, when immediate promulgation of regulations is necessary to implement this Chapter prior to the adoption of final regulations.

(2) The Secretary shall, after notice and public hearing, promulgate and revise such regulations as deemed necessary for the implementation, administration and enforcement of this Chapter. Such regulations may include provisions waiving or limiting the applicability of this Chapter which the Secretary determines to be adequately regulated by State or Federal statute or regulation.

(3) The Secretary may, after notice and public hearing, exempt certain facilities or properties or classes of facilities or properties from the provisions of this Chapter upon finding that these facilities or properties do not pose an imminent threat to public health or welfare or the environment.

(4) The Secretary shall plan, study, conduct or order a potentially responsible party to plan, study or conduct appropriate actions to remedy a release or imminent threat of release.

(b) The Secretary shall implement all provisions of this Chapter to the maximum extent practicable, including conducting investigations and remedies when appropriate. The Secretary shall, after notice and public hearing, promulgate and revise as appropriate, regulations to:

(1) Establish criteria for determining a Priority List among facilities. These criteria shall assure that facilities are ranked by a system that objectively assesses the relative degree of risk to public health or welfare or the environment caused by releases from such facilities.

(2) Establish procedures:

a. for identifying facilities with a release or imminent threat of release;

b. for conducting site assessments, preliminary site evaluations and comprehensive site investigations;

c. for notifying a person of his or her liability as a potentially responsible party;

d. for providing potentially responsible parties with a reasonable opportunity to enter into a settlement agreement for a remedy by which potentially responsible parties may propose one or more remedial alternatives;

e. for identifying cleanup levels based on site specific risks;

f. for public notice and an opportunity for public comment on proposed settlement agreements and proposed consent decrees;

g. for conducting a remedy;

h. for public participation in the decision for a remedy at a facility;

i. for granting or denying a Certificate of Completion of Remedy;

j. for placing a notice in the records of the real property pursuant to Section 9115 of this Chapter;

k. for managing the Fund established pursuant to Section 9113;

l. for assessing natural resource damages;

m. for providing criteria governing public funding of remedial costs when the Secretary enters into a settlement agreement that requires the Secretary to provide a specified amount of money from the Fund.

(3) Establish deadlines for negotiation processes with potentially responsible parties for an agreement providing for a voluntary remedy pursuant to Section 9107 of this Chapter, and for initiating an investigation and remedying releases at or from a facility by potentially responsible parties.

(c) (1) The Secretary shall , as part of the budget submittal, submit an annual report to the Governor and the General Assembly of the State, setting forth in detail progress on remedies and may submit such additional reports from time to time to the Governor and General Assembly as deemed desirable by the Secretary.

(2) The Secretary shall prepare an annual budget for the proposed use of the Fund and cause an audit of the fiscal affairs to be made annually and shall, as part of the budget submittal, furnish a copy of such audit report together with such additional information or data with respect to the affairs as he or she may deem desirable to the Governor and General Assembly of the State.

(3) The Secretary shall, as part of the budget submittal, provide five year projections of costs and revenues associated with the Fund, and the amount of the obligated and unobligated balance in the Fund.

§9105. Standard of Liability.

(a) The following persons are liable with respect to a facility from which there is or has been a release or imminent threat of release, except as provided in Subsection (c) of this Section.

(1) Any person who owned or operated the facility at any time.

(2) Any person who owned or possessed a hazardous substance and who by contract, agreement or otherwise arranged for disposal or treatment of a hazardous substance at the facility.

(3) Any person who arranged with a transporter for transport, disposal or treatment of a hazardous substance to the facility.

(4) Any person who generated, disposed of or treated a hazardous substance at the facility.

(5) Any person who accepted any hazardous substance for transport to the facility, when the facility was selected by the transporter.

(6) Any person who is responsible in any other manner for a release or imminent threat of release.

(b) Each person who is liable under this Section is strictly liable, jointly and severally, for all costs associated with a release from a facility and for all natural resource damages resulting from the release. The Secretary may recover all costs and damages from all responsible parties. The amounts recoverable in an action under this Chapter shall include interest on the amounts recoverable through regulations developed pursuant to Sections 9104 and 9109 of this Chapter. Such interest shall accrue from the date the expenditure was incurred. The rate of interest on the outstanding unpaid balance of the amounts recoverable under this Section shall be at the established allowable interest rate.

(c) The following persons are not liable under this section:

(1) Any person who can establish that the release or imminent threat of release for which the person would be otherwise liable was caused solely by:

a. an act of God;

b. an act of war; or

c. an act or omission of a third party other than:

1. an employee or agent of the person asserting the defense; or

2. any person whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly with the person asserting this defense to liability. This defense applies only when the person asserting the defense has exercised due care with respect to the hazardous substance, the foreseeable acts or omissions of the third party, and the foreseeable consequences of those acts or omissions.

(2) Any person who is an operator, past operator, owner, or past owner of a facility and who can establish that at the time the facility was acquired or operated by the person, the person had no knowledge or reason to know of any release or imminent threat of release. Section 9105(c)(2) is limited as follows:

a. To establish that a person had no knowledge or reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous uses of the property, consistent with good commercial or customary practice, in an effort to minimize liability. In determining what constitutes an appropriate inquiry the Secretary shall take into account any specialized knowledge or experience on the part of the person, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection. The standard for determining knowledge or reason for knowledge hereunder shall be based on standard engineering practices at the time of operation or ownership of the facility;

b. The defense contained in Section 9105(c)(2) is not available to any person who had actual knowledge of the release or imminent threat of release when the person owned the real property and subsequently transferred ownership of the facility without first disclosing such knowledge to the buyer;

c. The defense contained in Section 9105(c)(2) is not available to any person who, by any act or omission, caused or contributed to the release or imminent threat of release at or from the facility.

(3) A commercial lending institution which acquires ownership or control of a property to realize on a security interest held by the person in that property or a fiduciary which has a legal title to or manages any property for purposes of administering an estate or trust of which such property is part.

(d) A person who expends monies performing a remedy or any remedial action under this chapter or reimbursing the State for any remedial action may bring an action against any responsible party as defined in Section 9105(a) who has not entered into a settlement agreement with the Secretary. In an action authorized by this Section, the person bringing the action shall be entitled to reimbursement for the costs incurred which are consistent with this Chapter and contribution for monies expended to reimburse the State for its expenses.

§9106. Investigation and Access.

(a) (1) If there is a reasonable basis to believe there was a release or is an imminent threat of release, the Secretary may require information or documents relevant to the release or imminent threat of release from any person who may have information pertinent to:

a. the identification, nature, and volume of materials generated, treated, stored, transported to or disposed of at a facility, and the dates thereof;

b. the extent of a release or imminent threat of release from a facility;

c. the identity of potentially responsible parties.

(2) The Secretary or his or her authorized employees or agents may enter, at reasonable times, upon any real property, public or private, to conduct sampling, inspection, examination, and investigation evaluating the release or imminent threat of release to determine the need for a remedy or to execute the remedy upon given verbal notice, and after presenting official identification to the owner or operator. The Secretary or other authorized person gaining access under this Section, if requested in advance, shall split a sample with the operator, or person in charge of the facility. If any analysis is made of the samples, a copy of the results of the analysis may be furnished to the owner, operator, or person in charge.

(b) If the Secretary determines that:

(1) An emergency exists that requires immediate action to protect public health or welfare or the environment, and

(2) the operator is unwilling or unable to take such immediate action, the Secretary, or his or her authorized employees or agents, without court order, may enter upon a facility and take any immediate action necessary to abate the emergency notwithstanding the provisions of §9107(e).

§9107. Remedies.

(a) When the Secretary has reason to believe that a release or imminent threat of release will require a remedy, he or she shall notify the potentially responsible party with respect to the release or imminent threat of release, and provide him or her with an opportunity to propose a settlement agreement providing for a remedy consistent with regulations developed pursuant to Section 9104 of this Chapter.

(b) When the Secretary and potentially responsible parties reach a settlement agreement providing for a voluntary remedy, it shall be filed with the Superior Court as a consent decree. The Secretary shall allow at least twenty days for public comment before the proposed consent decree is entered.

(c) A person who has resolved his or her liability to the State under this Section is not liable for claims for contribution regarding matters addressed in the settlement. The settlement does not discharge any of the other potentially responsible parties, but it reduces the total potential liability of others to the State by the amount of the settlement exclusive of Section 9109 of this Chapter.

(d) The Secretary may enter into a settlement agreement that requires the Secretary to provide a specified amount of money from the Fund to help defray the costs of implementing the remedy. These funds may be provided only in circumstances where the Secretary finds it would expedite or enhance remediation or achieve equity with respect to the payment of remedial costs. The Secretary may recover the amount of public funding provided under this Section from a potentially responsible party who has not entered into a settlement agreement under this Section or fulfilled all obligations under the agreement. For purposes of such a cost recovery, the public funding shall be considered as remedial costs paid by the Secretary.

(e) Before conducting a remedy, the Secretary shall:

(1) Propose a plan of remedial action based on any investigation or study conducted by or for the Secretary, the potentially responsible party, or others;

(2) Provide public notice of the proposed plan of remedial action and an opportunity to comment on the plan;

(3) Prepare a final plan of remedial action based on the comments received and any other study or investigation conducted by or for the Secretary.

(f) The proposed and final plan of remedial action and the basis for it, as well as all comments received by the Secretary, constitute the remedial decision record of the Secretary.

(g) Where the Secretary has developed a remedial decision record for a remedy and the Secretary has conducted the remedy in accordance with the record, in any action brought to recover costs, the plan of remedial action shall be presumed reasonable and necessary unless demonstrated to be arbitrary and capricious by clear and convincing evidence.

§9108. Certification of Completion of Remedy.

(a) Upon completion of all remedies identified in a consent decree, the parties to the consent decree may apply for a Certification of Completion of Remedy from the Secretary pursuant to regulations promulgated under Section 9104 of this Chapter.

(b) The Secretary shall grant or deny an application for a Certification of Completion of Remedy within one hundred and eighty days of the application with stated reasons.

§9109. Enforcement.

(a) Whenever, in the opinion of the Secretary, a person

(1) is a potentially responsible party, and

(2) has been notified of his potential liability pursuant to Sections 9104 and 9105 of this Chapter, and

(3) has not submitted a proposed settlement or has submitted a proposed settlement and the Secretary has rejected the proposal, the Secretary may, after conducting a hearing pursuant to Sections 6004 and 6006 of this Title, issue such order as he or she deems appropriate.

(b) Whenever the Secretary determines that there exists an imminent danger that requires immediate remedy to protect public health or welfare or the environment, the Secretary may seek such injunctive relief or issue an order without prior notice or opportunity to submit a proposed settlement agreement.

(c) To enforce the order, the Secretary may bring an action in the Court of Chancery against any potentially responsible party who without sufficient cause, fails to comply with an order issued under subsection (a) or (b) of this Section.

(d) The Secretary may bring an action in the Superior Court against any potentially responsible party to collect remedial costs incurred by the Secretary as a result of the party's refusal to comply, without sufficient cause, with an order issued under Subsection (a) or (b) of this Section.

(e) In any action brought under Subsection (d) of this Section, the person found responsible shall be liable for payment of:

(1) An amount at least equal to, but not greater than three times the amount of, any remedial costs incurred by the State as a result of the person's refusal to comply; and

(2) A civil penalty of up to ten thousand dollars per day for each day the person refuses to comply. For purposes of determining a civil penalty, the period of non-compliance shall be deemed to commence on the day of the Secretary decision and continue until full compliance with the terms of the order is achieved.

§9110. Public Hearings -- Violations.

(a) Any hearing involving allegations of violations of this Chapter held by the Secretary shall be conducted as follows:

(1) For any hearing on an alleged violation, notification shall be served upon the alleged violator as summonses are served or by registered or certified mail not less than 20 days before the time of said hearing. Not less than 20 days notice of the hearing shall also be published in a newspaper of general circulation in the county in which the activity is proposed or the alleged violation has occurred and in a daily newspaper of general circulation throughout the State.

(2) The alleged violator may appear personally or by counsel at the hearing and produce any competent evidence in his behalf. The Secretary or the Environmental Appeals Board or its duly authorized designee may administer oaths, examine witnesses and issue, in the name of the Department or the Environmental Appeals Board, notices of hearings or subpoenae requiring the testimony of witnesses and production of books, records or other documents relevant to any matter involved in such hearing; and subpoenae shall also be issued at the request of the alleged violator. In case of contumacy or 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 Environmental Appeals Board to issue an order requiring such person to appear and testify or produce evidence as the case may require.

(3) 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 Environmental Appeals Board or its duly authorized designee shall make findings of fact based on the record. The Secretary or the Environmental Appeals 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.

(4) The Secretary may collect from a violator finally adjudged liable the necessary expenses of the Department for conducting the hearing. Any monies collected under this section shall be deposited in the Fund pursuant to Section 9113 of this chapter.

(b) (1) Any person or persons, aggrieved by any decision of the Secretary rendered pursuant to this Chapter, may appeal the decision to the Environmental Appeals Board in accordance with Section 6008 of this Title.

(2) Any person who is substantially affected by a decision of the Environmental Appeals Board may appeal to the Superior Court in accordance with Section 6008 of this Title.

(3) No appeal shall operate to stay automatically any action of the Secretary, but upon application, and for good cause, the Secretary or the Superior Court may stay the action pending disposition of the appeal.

(c) The decisions of the Secretary issued pursuant to the provisions of this Section are reviewable only as provided in Subsection (b).

§9111. Fraud.

(a) If a potentially responsible party commits fraud on the Secretary or another potentially responsible party in a proposed settlement agreement, consent decree or in an application for a Certification of Completion of Remedy, then any limitation on liability otherwise provided herein shall be void, and any injured person, including the Secretary, may recover actual damages sustained as well as a civil penalty of up to ten thousand dollars for each fraudulant act.

(b) The Secretary may bring an action in the Superior Court to establish and collect a civil penalty for which a person is liable for fraud under this Chapter.

§9112. Public Hearings - Rule Making, Settlement Agreements and Remedial Actions.

Public hearings shall be held on regulations developed pursuant to this Chapter, the proposed settlement agreement and the proposed plan of remedial action in accordance with Sections 6004 and 6006 of this Title, as well as any additional notice and hearing requirements the Secretary has adopted by regulation.

§9113. Hazardous Substance Cleanup Fund.

(a) There shall be established in the State Treasury and in the accounting system of the State a special fund to be known as the Hazardous Substance Cleanup Fund ("The Fund").

(b) The following monies shall be deposited into the fund:

(1) All the taxes assessed pursuant to Section 9114 of this Chapter;

(2) All remedial costs recovered pursuant to this Chapter;

(3) Penalties collected or recovered pursuant to this Chapter;

(4) Penalties collected or recovered pursuant to this Chapter, not to include penalties assessed on any gross receipts tax surcharge provided by this Chapter.

(5) The State Treasurer shall credit to the Hazardous Substance Cleanup Fund such amount of interest as determined by this paragraph upon such fund. On or before the last day of each month, the State Treasurer shall credit the Fund with interest on the average balance in the Fund for the preceding month. The interest to be paid to the Fund shall be that proportionate share, during such preceding month, of interest to the State as the Fund's and the State's average balance is to the total State's average balance. The Fund's average balance shall be determined by averaging, in each instance, the balances at the beginning of each month and the balances at the end of that month; and

(6) Any other money appropriated or transferred to the account by the General Assembly.

(c) Money in the fund may be used by the Secretary only to carry out the purposes of this Chapter, including but not limited to the following activities:

(1) Implementing the hazardous substance cleanup program required under this Chapter.

(2) Providing a remedy with respect to releases or imminent threats of release of a hazardous substance at or from facilities.

(3) Providing for state matching funds required under the CERCLA, as well as future operations and maintenance costs for facilities at which a state match is required.

(4) Reimbursing any person for reasonable remedial costs incurred with the prior authorization of the Secretary in responding to a hazardous substance remedy, including remedies of releases from underground storage tanks, pursuant to authorization of the Secretary.

(5) Conducting emergency response actions pursuant to Sections 9106, 6308 and 7406 of this Title.

(6) Through the Delaware Development Office, providing low interest loans to nonprofit organizations and small businesses who are potential responsible parties with an entered consent decree with the Department.

(7) Payment to the Division of Revenue for the costs of administering Section 9114 to this Chapter.

(d) No greater than fifteen percent of the monies deposited into the Fund shall be used for administering this Act without approval of the Joint Finance Committee.

(e) Any expenditures of monies from the Fund on sites not budgeted for under Section 9104(c)(2) must be approved by the Speaker of the House and the President Pro Tempore of the Senate.

§9114. Tax Assessment.

(a) With regard to gross receipts received after December 31, 1990 and before January 1, 2001, there shall be added to the tax provided in Section 2902(c)(3) and Section 2905(b)(1) of Title 30 an additional tax of .6% on all taxable gross receipts determined under Section 2902 and Section 2905 derived from the sale of petroleum or petroleum products. For purposes of this section and Chapter 29 of Title 30, exclusions from the gross receipts tax shall first be computed by including in said exclusions to the extent possible receipts deriving from sales not subject to the tax provided in this section.

(b) The surcharge provided by this Section shall be remitted to the Division of Revenue on forms issued by the Director of Revenue and subject to such regulations and requirements as shall be prescribed by the Director of Revenue. The Director of Revenue shall deposit the additional tax provided in this section to the credit of the special fund described in Section 9113 of this Chapter.

(c) Each wholesaler or importer may list, as a separate line item on an invoice, the amount of the fees due under this section.

§9115. Notice in Property Records.

(a) Pursuant to Section 9104(b)(2), when a release of a hazardous substance that has been determined by the Secretary to be a threat to public health or the environment has

occurred at a facility or property on which the facility is located, the owner of the property shall place a notice in the records of real property kept by the Recorder of Deeds of the county in which the property is located. The notice shall:

(1) identify the facility;

(2) identify the owner of the facility and the person causing the notice to appear;

(3) state that a release occurred at or from the facility;

(4) state the date the release occurred; and

(5) direct further inquiries to the Secretary.

The Secretary shall maintain records that identify the hazardous substance or substances released and the remedial decision record approved by the Secretary.

(b) Any Certification of Completion of Remedy issued in accordance with Section 9107 shall be promptly filed by the owner with the records of real property kept by the Recorder of Deeds of the county in which the facility is located and shall identify the facility, the owner of the facility, and the date of issuance of the Certification of Completion.

§9116. Confidentiality of Trade Secrets.

Information obtained by the Secretary under this Chapter shall be available to the public as provided in Chapter 100 of Title 29, unless the Secretary certifies such information to be proprietary. The Secretary may make such certification where any person shows to the satisfaction of the Secretary that the information, or parts thereof, if made public, would divulge methods, processes or activities entitled to protection as trade secrets. Nothing in this Section shall be construed as limiting the disclosure of information by the Secretary to any officer, employee or authorized representative of the State or Federal Government effecting this Chapter. Prior to disclosure of proprietary information to an authorized representative who is not an officer or employee of the State or Federal Government, the person providing the proprietary information may require the representative to sign an agreement prohibiting disclosure of such information to anyone not authorized by this Chapter or the terms of the agreement. Such agreement shall not preclude disclosure by the representative to any State or Federal Government officer or employee concerned with effecting this Chapter.

§9117. Obligations Under Bankruptcy.

No obligations imposed by this Chapter shall constitute a lien or claim which may be limited or discharged in a bankruptcy proceeding. All obligations imposed by this Chapter shall constitute continuing regulatory obligations imposed by the State.

§9118. Cease and Desist Orders.

The Secretary shall have the power to issue a cease and desist order to any person violating any provision of this Chapter ordering such person to cease and desist from such violation, provided that any cease and desist order issued pursuant to this section shall expire:

(1) after 30 days of its issuance; or

(2) upon withdrawal of said order by the Secretary; or

(3) when the order is superseded by an injunction.

§9119. Injunctions.

The Court of Chancery shall have jurisdiction to enjoin violations of this Chapter.

§9120. Inconsistent Laws or Ordinances Superseded.

All laws or ordinances inconsistent with any provisions of this Chapter are hereby superseded to the extent of the inconsistency.

Section 2. The Department of Natural Resources and Environmental Control and the Department of Finance shall agree to an amount to be charged by the Department of Finance to the Fund described in Section 9113 of Title 7 reflect the actual costs, direct and indirect, of administering and collecting the taxes dedicated to the Fund. When received

by the Department of Finance, such charges shall be considered General Fund "expenditure reducing" items.

Section 3. Amend Section 2902(c), Chapter 29, Title 30 of the Delaware Code by adding thereto a new paragraph (4) to read as follows:

"(4) There shall be added to the taxes provided in paragraphs (1) and (3) of this subsection an additional tax as provided in Section 9114 of Title 7."

Section 4. Amend Section 2110, Chapter 21, Title 30 of the Delaware Code by adding at the end thereof a new sentence to read as follows: "This Section shall not apply to the surcharge described in Section 2902(c)(4) of this Part."

Section 5. 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.1

Section 6. Section 1 of this Act shall be effective upon enactment into law and until December 31, 2001 unless re-enacted.

Section 2 of this act shall be effective upon its enactment into law.

Sections 3,4 and 7 of this Act shall be effective with respect to all receipts occurring after December 31, 1990 and before January 1, 2001.

Section 7. Amend Section 2905, Chapter 29, Title 30 of the Delaware Code by adding thereto a new subsection (h) to read as follows:

"(h) There shall be added to the tax provided in subsection (b) of this section an additional tax as provided in Section 9114 of Title 7."

Approved July 10, 1990.

CHAPTER 327

FORMERLY

HOUSE BILL NO. 640
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 88, TITLE 11, DELAWARE CODE AND CHAPTER 7, TITLE 18, DELAWARE CODE RELATING TO THE DISTRIBUTION OF INSURANCE PREMIUM TAXES AND FEES.

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

Section 1. Amend Chapter 88, Title 11, Delaware Code by striking the Chapter Title in its entirety and substituting in lieu thereof the following:

"DELAWARE COUNTY AND MUNICIPAL POLICE/FIREFIGHTER PENSION PLAN"

Section 2. Amend Chapter §8801(5), Chapter 88, Title 11, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(5) Employee shall mean:

a. An individual who is employed on a full time basis as a police officer by a county or municipality in Delaware which has affiliated with the Fund established by this chapter, or

b. An individual who is employed on a full time basis as a uniformed firefighter by the City of Wilmington after affiliation by the City of Wilmington with the Fund established by this chapter."

Section 3. Amend §8805, Chapter 88, Title 11, Delaware Code by inserting immediately after the word "Police" in the second line of said section,. the phrase "/Firefighter".

Section 4. Amend §8815(a), Chapter 88, Title 11, Delaware Code by inserting immediately after the phrase "police officer" as it appears in the third line of said subsection, the phrase "/firefighter".

Section 5. Amend §8843, Chapter 88, Title 11, Delaware Code by inserting immediately after the word "Police" as it appears in the first line of said section, the phrase "/Firefighter".

Section 6. Amend §706(1), Chapter 7, Title 18, Delaware Code by deleting the phrase "State Highway Department" as it appears therein and substituting in lieu thereof the phrase "State Department of Public Safety."

Section 7. Amend §708(b), Chapter 7, Title 18, Delaware Code by deleting said subsection in its entirety and substituting a new subsection "b" to read as follows:

"(b) The money received by the Insurance Commissioner in accordance with the provisions of §707 of this title shall be paid to the State Treasurer and shall be set aside as a special fund and shall be paid out by the State Treasurer, subject to the provisions of subsection (c) of this section, to the proper officers in charge of any state, county or municipal police department or bureau having a pension fund, or which shall hereafter by law have a police pension fund. The State Treasurer shall determine the total number of state, county and municipal police entitled to benefits under the provisions of this section and §707 of this title from an annual registry in accordance with §709(a) of this title, and shall make distribution proportionately and on a per capita basis, subject to the provisions of subsection (c) of this section, to the proper officers of any state, county or municipal police department or bureau complying with the provisions of the section and §707 of this title. Distribution under this section shall take place twice annually, on or before June 30 and December 31."

Section 8. Amend §708, Chapter 7, Title 18, Delaware Code by adding a new subsection "c" to read as follows:

"(c) The payments to the state referred to in this section for "State Police," as defined in §706(1) of this chapter, shall be deposited into a special fund, to be managed by the State Board of Pension Trustees, to provide post-retirement increases for retired county and municipal police and firefighter. The State Board of Pension Trustees shall allocate the funds deposited in this special fund on a per capita basis to the account of each eligible county or municipality based upon the annual registry in accordance with 709(b) of this chapter, provided that the eligible county

municipality has elected to participate in the State administered County and Municipal Police/Firefighter Pension Plan for all new hires after the effective date of this Act in accordance with Chapter 88 of Title 11. No funds shall be disbursed from this special fund without the prior approval of the Board of Pension Trustees.

Any county or municipality wishing to grant a post-retirement increase from this fund shall submit a proposal to the State Board of Pension Trustees outlining the proposal in such detail as the State Board of Pension Trustees may require. The State Board of Pension Trustees shall not approve any proposal for a post-retirement increase unless the county or municipality requesting such increase agrees to deposit into this special fund, prior to the implementation of such increase, sufficient funds to cover 50% of the total actuarial cost of such increase.

Any funds on deposit in this special fund, including accumulated income, shall revert to the General Fund, if such funds are not utilized for a post-retirement increase by the eligible counties or municipalities within five years from the date of deposit into the special fund."

Section 9. Amend §709, Chapter 7, Title 18, Delaware Code by designating the current section as subsection "(a)".

Section 10. Amend §709, Chapter 7, Title 18, Delaware Code by adding a new subsection "b" to read as follows:

"(b) It shall be the duty of the officer in charge of any county or municipal police/fire department or bureau participating in the provisions of §707 and §708 of this chapter to register with the State Board of Pension Trustees on or before the first day of April in each year, and to provide the State Board of Pension Trustees with a listing of the number of retired policemen or firefighters receiving benefits as of December 31 of the preceding year excluding those covered by the County and Municipal Police/Firefighter Pension Plan as contained in Chapter 88, Title 11, Delaware Code."

Section 11. In the evnt that no county or municipality submits a proposal to the State Board of Pension Trustees requesting post-retirement increase monies from the special fund within 5 years from the effective date of this Act, the special fund shall terminate, any funds on deposit in the special fund, including accumulated income, shall revert to the General Fund and this Act shall be automatically repealed in its entirety, with the provisions of the Delaware Code amended by this Act restored as if this Act had not been adopted.

Approved July 10, 1990.

CHAPTER 328

FORMERLY

HOUSE BILL NO. 564

AN ACT TO AMEND §8-200 OF THE CHARTER OF THE CITY OF WILMINGTON, PURSUANT TO 22 DEL. C. §811, RELATING TO COMPETITIVE BIDDING

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

Section 1. Amend Section 8-200 of 1 Wilm. C. by striking subparagraph (1) thereof and substituting in lieu thereof the following:

(1) Except in the purchase of unique articles or articles which for any other reason cannot be obtained in the open market, or material that is computer hardware and/or software as hereinafter provided, or used equipment or buildings as hereinafter provided, competitive bids shall be secured before any purchase, by contract or otherwise, is made or before any contract is awarded for construction, alterations, repairs or maintenance or for rendering any services to the City other than professional services and the purchase shall be made from or the contract shall be awarded to the lowest responsible bidder.

(a) If the material to be purchased is computer hardware and/or software, the primary purpose of which is to process information in the form of data, words, images, graphics, or voice, the purchase shall be an exception, as aforesaid, and the following conditions shall apply:

1. Materials that contain computers or computer components but do not have a primary purpose of processing information, such as a microwave oven, are specifically excluded from this exception.

2. Nothing in this section shall be construed to permit any department, board, commission, or other agency of the City to procure computer hardware and/or software without the approval of the procurement and records division.

3. In lieu of competitive bidding, the procurement and records division shall establish policies and procedures under which procurement of these materials may take place. Such policies and procedures shall be subject to the approval of the administrative board.

(b) A department may purchase used equipment or buildings by negotiations rather than by competitive bidding, as an exception as aforesaid, if it is demonstrated to the satisfaction of both the procurement and records division and the administrative board that the negotiated price is reasonable for the intended use.

Section 2. Amend Section 8-200 of 1 Wilm. C. by striking the phrase "less than five thousand dollars ($5,000.00)," in subparagraph (2) thereto and substituting in lieu thereof the phrase, "more than one thousand dollars ($1,000.00) but less than ten thousand dollars ($10,000.00),."

Section 3. Amend Section 8-200 of 1 Wilm. C. by striking the phrase "more than five thousand dollars ($5,000.00) but less than fifteen thousand dollars ($15,000.00)," in subparagraph (3) thereto and substituting in lieu thereof the phrase "more than ten thousand dollars ($10,000.00) but less than sixty thousand dollars ($60,000.00),."

Section 4. Amend Section 8-200 of 1 Wilm. C. by striking the phrase "more than fifteen thousand dollars ($15,000.00)," of subparagraph (4) thereto and substituting in lieu thereof the phrase "more than sixty thousand dollars ($60,000.00),."

Approved July 10, 1990.

CHAPTER 329

FORMERLY

HOUSE BILL NO. 606

AN ACT TO AMEND TITLE 14, DELAWARE CODE, RELATING TO THE DISSEMINATION OF CRIME STATISTICS AND OTHER INFORMATION TO STUDENTS, PROSPECTIVE STUDENTS AND EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION.

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

Section 1. Amend Part V, Title 14, Delaware Code, by adding thereto a new Chapter 89, follows:

"CHAPTER 89. COLLEGE AND UNIVERSITY SECURITY INFORMATION ACT

§8901. Short Title.

This Act shall be known and may be cited as the College and University Security Information Act.

§8902. Definitions.

The following words and phrases as used in this Act shall have the meanings given to them in this section, unless the context clearly indicates otherwise:

(1) "Branch campus" means a unit of an institution of higher education which is distinguished by all of the following characteristics:

(a) An academic degree-granting program or organized parts thereof offered on a continuing basis;

(b) A location separately identifiable from the main campus of a parent institution and providing services adjunct to or normally associated with the main campus;

(c) Legal authority for governance, administration and general operation derived from the charter or enabling documents or statutes of the parent institution.

(2) "Institution for higher education" means any public, private or nonprofit vocational, technical or educational institution with student housing facilities on a main campus or branch campus, located in the state, incorporated or chartered by the State, State-owned or State-related, and which is entitled to confer degrees as set forth in §125 of Title 8 of the Delaware Code for a program of not less than 2 years, which is acceptable for full credit toward an associate or bachelor's degree.

(3) "Student Housing" means all residence halls and sorority and fraternity residences owned or leased by the institution of higher education.

§8903. Crime Statistics and Security Policies and Procedures.

(a) Each institution of higher education shall prepare , begininng January 1, 1991, a report, on at least a monthly basis, of the numbers and types of reported criminal offenses occurring on property owned or leased by the institution. Such report shall be made to the President or Chief Administrative Officer of each institution and shall be a public record. The report provided for by this subsection shall be consistent with the FBI Uniform Crime Reporting format and include a minimum of those offenses included in Part I of the most recently published edition of the Uniform Crime Reports for the United States as printed by the Federal Bureau of Investigation and the United States Department of Justice.

(b) Each institution of higher education shall publish a report which shall be updated annually and which shall include the crime statistics as reported under subsection (a) for the most recent three-year period where available. Crime rates shall also be included in the report. The crime rates reported shall be based on the numbers and categories of crimes reported under subsection (a) and the number of full-time equivalent undergraduate and graduate students (FTES) and full-time equivalent employees at the institution of higher education on 10/31 of the current year and shall be expressed in crimes per hundred. The institution shall provide the report to any person upon request. The crime statistics and crime rates shall also be published on an annual

basis in a campus newspaper or other suitable way prescribed by the President for the information of all students and employees. Institutions with more than one campus shall provide the required information on a campus-by-campus basis.

(c) Each institution shall publish in its college or university catalog basic information about the institution's security procedures and practices. Such information, to the extent not otherwise exempt by law from disclosure, shall include but need not be limited to the following:

(1) The enforcement authority and training requirements for campus police and other security personnel.

(2) The number of public safety personnel employed by type, including full-time, part-time, and supplemental personnel.

(3) Basic procedures for responding to emergencies or criminal actions and special services for the reporting of emergencies and criminal actions, such as the provision of an emergency telephone number for student and employee use.

(4) The administrative office responsible for police or campus security services.

(d) Each institution shall also develop and adopt written security rules, regulations, and procedures. Such rules, regulations, and procedures shall include, but need not be limited to, the following information:

(1) Procedures for responding to emergencies or criminal actions.

(2) Procedures for securing campus buildings and residence halls.

(3) Procedures for investigating violations of criminal statutes and university regulations.

(4) Procedures related to campus police and other security personnel activity within student housing.

(5) Rules and regulations governing the possession and use of firearms by campus police and other security personnel.

(6) Rules and regulations governing the possession and use of firearms on campus by employees, students, and visitors.

(7) Security considerations used in the construction, maintenance, groundskeeping, and lighting of campus buildings and grounds.

(8) Methods used to inform the campus community about public safety matters.

§8904. Rules and Regulations.

The Office of the Attorney General shall be responsible for oversight and implementation of this Act.

§8905. Enforcement.

(a) Whenever the Attorney General has reason to believe that an institution of higher education is violating or has violated the provisions of this Act, the Attorney General may bring an action in the name of the State against the institution to compel compliance.

(b) In any action brought by the Attorney General to compel compliance with this Act, if the court finds that an institution of higher education is willfully violating this Act, or if any institution of higher education fails to promptly comply with an order of the court to comply with this act, the Attorney General, acting in the name of the State, may recover on behalf of the State a civil penalty not to exceed $10,000."

Approved July 11, 1990.

CHAPTER 330

FORMERLY

HOUSE BILL NO. 735
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE UNIFORM COMMERCIAL CODE.

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 3-106(1), Part 1, Article 3, Title 6 of the Delaware Code by deleting the "." at the end of paragraph (e) and substituting in lieu thereof "; or", and adding the following paragraph (f):

"(f) with a variable rate of interest, even though determinable with reference to a source other than the instrument."

Section 2. Amend Subsection 4-108(1), Part 1, Article 4, Title 6 of the Delaware Code by inserting in said subsection, after the words "for a period" and before the words "in excess of", the word "not".

Section 3. Amend Paragraph 8-102(1)(c), Part 1, Article 8, Title 6 of the Delaware Code by inserting in the last sentence thereof, after the word and comma "issuer," and before the word "that", the following: "or security for payment,".

Section 4. Amend Section 9-105, Part 1, Article 9, Title 6 of the Delaware Code by redesignating paragraphs (1)(d) through (1)(n) thereof as paragraphs (1)(e) through (1)(o) and by inserting a new paragraph (1)(d) to said section to read as follows:

"(d) 'Credit device account' means any right to payment for money due or to become due under any agreement or plan relating to a credit card, charge card or other similar system, pursuant to which access is provided by a card, check, identification code or other means of identification or access contemplated by such agreement or plan;".

Section 5. Amend Section 9-106, Part 1, Article 9, Title 6 of the Delaware Code by deleting the first sentence of such section and inserting in lieu thereof the following:

"'Account' means (i) any right to payment for goods sold or leased or for services rendered, and (ii) any credit device account, which, in either case, is not evidenced by an instrument or chattel paper and, in either case, whether or not it has been earned by performance."

Section 6. Amend Section 9-407, Part 4, Article 9, Title 6 of the Delaware Code by adding the following Subsection (3) thereto as follows:

"(3) For each service described in subsection (2) of this section that is requested to be completed within a 24-hour period from the time of the request, the Secretary of State shall charge the additional sum of up to $75."

Approved July 10, 1990.

CHAPTER 331

FORMERLY

HOUSE BILL NO. 587
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 16 OF THE DELAWARE CODE RELATING TO SANATORIA, REST HOMES, NURSING HOMES, BOARDING HOMES AND RELATED INSTITUTIONS.

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

Section 1. Amend §1101, Chapter 11, Title 16 of the Delaware Code by inserting between the words "chronically ill" and the words "or convalescent" as they appear in the first sentence of said section the phrase ", adult psychiatrically disabled,".

Approved July 11, 1990.

CHAPTER 332

FORMERLY

HOUSE BILL NO. 261

AN ACT TO AMEND CHAPTER 5, TITLE 19 OF THE DELAWARE CODE RELATING TO EMPLOYMENT CERTIFICATES FOR MINORS.

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

Section 1. Amend Section 542 (c), Subchapter IV, Title 19, Delaware Code, by striking "the boy, 12 years of age or upwards, and the girl, 14 years of age or upwards," as it appears on line 1 and line 2 of the section, and inserting in lieu thereof the following:

"The child, 14 years of age or upwards."

Section 2. Amend Section 546 (2), Subchapter IV, Title 19, Delaware Code, by striking the section in its entirety and inserting in lieu thereof the following:

"(2) Evidence showing that such child is 14 years of age or upwards and such evidence shall be of a character similar to the proofs of age required by §545 of this title for the issuance of a general employment certificate."

Approved July 10, 1990.

CHAPTER 333

FORMERLY

SENATE BILL NO. 366
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 12, TITLE 3 OF THE DELAWARE CODE RELATING TO PESTICIDES AND CIVIL PENALTIES THEREUNDER.

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

Section 1. Amend Subsection (a)(1), Section 1225, Chapter 12, Title 3, of the Delaware Code by striking the words "$1,000" where they appear therein and substituting in lieu thereof the words "$2,500".

Section 2. Amend Subsection (a)(1), Section 1225, Chapter 12, Title 3 of the Delaware Code by adding a new sentence at the end of said subsection which shall read as follows:

"In the case of a private applicator, the Secretary may assess a civil penalty not to exceed $500 for each offense involving a violation of this chapter or a rule or regulation adopted thereunder, or any order issued pursuant thereto."

Section 3. Amend Section 1220, Chapter 12, Title 3 of the Delaware Code by adding a new subsection to said section to be designated as "(c)" to read as follows:

"(c) The Department shall deny the issuance of a certification to any person working under the direction or employment of an applicator whose certification has been suspended, revoked or modified. Such denial shall continue in effect until the term of the Department's final order has expired."

Approved July 11, 1990.

CHAPTER 334

FORMERLY

HOUSE BILL NO. 745

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT OF THE DELAWARE HEALTH CARE COMMISSION.

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

Section 1. Amend Title 16 of the Delaware Code by adding thereto Part XI to read as follows:

"PART XI. DELAWARE HEALTH CARE COMMISSION

CHAPTER 98. DELAWARE HEALTH CARE COMMISSION

§9801. Findings.

The General Assembly finds and declares that substantial numbers of Delawareans have no health care coverage and that most of these residents are wage earners and their dependents. One-third of these individuals are children.

The General Assembly further finds and declares that when these individuals enter the health care system they have often foregone preventative care and are in need of more expensive treatment that often exceeds their financial resources. Much of the cost for these uncompensated services to the uninsured are already included in health care systems costs in the form of increased insurance and provider rates.

The General Assembly further finds and declares that spreading these costs among the already insured represents an extremely inefficient method for providing basic preventive and acute care for the uninsured and represents an added cost to employers now providing health insurance to their employees.

The General Assembly further finds and declares that it is necessary to ensure basic and affordable health care to all Delawareans while addressing the economic pressures on the health care system as a whole in Delaware.

§9802. Delaware Health Care Commission.

(a) There is hereby established the Delaware Health Care Commission, hereinafter in this Chapter referred to as the Commission. Said Commission shall consist of 9 members, 4 of whom shall be appointed by the Governor, 1 of whom shall be appointed by the President Pro Tempore of the Senate and 1 of whom shall be appointed by the Speaker of the House of Representatives. Of the 6 appointed members, at least 1 shall be a resident of each county. The Insurance Commissioner, the Secretary of Health and Social Services and the Secretary of Finance shall serve as ex-officio members of the Commission.

The Governor shall designate 1 member of the Commission to be chairman who shall serve at the pleasure of the Governor. The terms of the remaining 5 appointed members shall be for 4 years except that the initial term of each may be for a lesser period. Any vacancy shall be filled by the Governor for the balance of the unexpired term. A member of the Commission shall be eligible for reappointment. No more than 5 of the Commission members shall be of the same political party.

(b) The Commission is constituted an independent public instrumentality and may call upon the Department of Health and Social Services, the Insurance Department and/or the Department of Finance for any assistance, information or data that may be necessary to carry out the purposes for which it has been established. For administrative and budgetary purposes only, the Commission shall be located within the Department of Health and Social Services.

§9803. Duties and Authority of the Commission.

(a) The Commission shall have the authority to hire staff, contract for consulting services, conduct any technical and/or actuarial studies which it deems to be necessary to support its work, and to publish reports as required in order to accomplish its purposes in accordance with the provisions of this Chapter.

(b) The Commission shall be responsible for overseeing the implementation of the Governor's Indigent Health Care Task Force Report issued May 31, 1990. The Task Force Report specifically identifies programs and initiatives which address the access and affordability problems recognized as the primary barriers to provision of appropriate health care to the uninsured. The Task Force further recognized that the initial report would address only a portion of the problems of indigent/uncompensated health care.

(c) As relates to the pilot health access projects, the Commission is expressly authorized to develop such programs in consultation with the appropriate public and private entities; to assign implementation to the appropriate State agency; to monitor and oversee program progress and to ensure that each pilot program is evaluted by an outside, independent evaluator after no more than 2 years of operations.

(d) Other functions which the Commission should undertake include:

1. Determining, in conjunction with the State's Health Statistics Center, the additional data needed to carry out its mission and evaluting the effectiveness of pilot programs; preparing appropriate legislation to obtain such data and ensuring that data to support the goals of health access is available and accessible;

2. Recommending methods to reduce and control health care costs, in conjunction with the private sector;

3. Coordinating efforts with the Health Resources Management Council, which is responsible for overall health planning and the State's Certificate of Need Program, to ensure that Delaware has a balanced approach to access, quality and costs of health care;

4. Reviewing and recommending changes to State medical insurance regulations (in conjunction with the insurance commissioner) to promote efficiency, equity and affordability in health care insurance premiums;

5. Exploring all potential insurance options including size and makeup of risk groups;

6. Studying and making recommendations as to incentives to ensure that employers continue to provide health insurance coverage;

7. Studying and making recommendations regarding benefits to be covered by health plans that would be available through the health care access programs, including prevention, well-child care, and prenatal care;

8. Identifying cost savings to public programs that would result from implementation of health care access programs;

9. Studying alternative financing plans for the State share of premium costs for those who cannot afford health insurance or who are unemployed;

10. Examining and making recommendations as to gatekeeping mechanisms for access to health care services and various benefit and service packages for a minimum care coverage plan;

11. Examining and studying actuarial analyses, sliding fee scale analyses, co-payment levels and limits on provider reimbursements and covered services in developing proposals for core benefit packages;

12. Developing a methodology to coordinate the health care access program with other government-subsidized programs, and;

13. Conducting other activities it considers necessary to carry out the intent of the General Assembly as expressed in this Chapter.

§9804. Reporting Requirements.

(a) On or before January 15, 1991, the Commission shall report to the Governor and the General Assembly on the status of the recommendations contained in the May 31, 1990 Task Force Report. On or before March 15, 1991, the Commission shall submit to the Governor and the General Assembly its recommendations for legislative action on insurance reform. On or before May 15, 1991, the Commission shall report to the Governor and the General Assembly on the status of specific initiatives in Medicaid, Education, Outreach and Case Management, and the Pilot Model Projects.

(b) On or before January 15, 1991, and on or before every January 15 thereafter, the Commission shall report to the Governor and the General Assembly on the status of all of the Task Force recommendations. The comprehensive report shall identify any segments of the population which remain without access to health care and any further recommendations deemed necessary to meet the Commission's charge."

Section 2. This Act shall take effect immediately upon its adoption.

Approved July 11, 1990.

(b) The Commission shall be responsible for overseeing the implementation of the Governor's Indigent Health Care Task Force Report issued May 31, 1990. The Task Force Report specifically identifies programs and initiatives which address the access and affordability problems recognized as the primary barriers to provision of appropriate health care to the uninsured. The Task Force further recognized that the initial report would address only a portion of the problems of indigent/uncompensated health care.

(c) As relates to the pilot health access projects, the Commission is expressly authorized to develop such programs in consultation with the appropriate public and private entities; to assign implementation to the appropriate State agency; to monitor and oversee program progress and to ensure that each pilot program is evaluted by an outside, independent evaluator after no more than 2 years of operations.

(d) Other functions which the Commission should undertake include:

1. Determining, in conjunction with the State's Health Statistics Center, the additional data needed to carry out its mission and evaluting the effectiveness of pilot programs; preparing appropriate legislation to obtain such data and ensuring that data to support the goals of health access is available and accessible;

2. Recommending methods to reduce and control health care costs, in conjunction with the private sector;

3. Coordinating efforts with the Health Resources Management Council, which is responsible for overall health planning and the State's Certificate of Need Program, to ensure that Delaware has a balanced approach to access, quality and costs of health care;

4. Reviewing and recommending changes to State medical insurance regulations (in conjunction with the insurance commissioner) to promote efficiency, equity and affordability in health care insurance premiums;

5. Exploring all potential insurance options including size and makeup of risk groups;

6. Studying and making recommendations as to incentives to ensure that employers continue to provide health insurance coverage;

7. Studying and making recommendations regarding benefits to be covered by health plans that would be available through the health care access programs, including prevention, well-child care, and prenatal care;

8. Identifying cost savings to public programs that would result from implementation of health care access programs;

9. Studying alternative financing plans for the State share of premium costs for those who cannot afford health insurance or who are unemployed;

10. Examining and making recommendations as to gatekeeping mechanisms for access to health care services and various benefit and service packages for a minimum care coverage plan;

11. Examining and studying actuarial analyses, sliding fee scale analyses, co-payment levels and limits on provider reimbursements and covered services in developing proposals for core benefit packages;

12. Developing a methodology to coordinate the health care access program with other government-subsidized programs, and;

13. Conducting other activities it considers necessary to carry out the intent of the General Assembly as expressed in this Chapter.

§9804. Reporting Requirements.

(a) On or before January 15, 1991, the Commission shall report to the Governor and the General Assembly on the status of the recommendations contained in the May 31, 1990 Task Force Report. On or before March 15, 1991, the Commission shall submit to the Governor and the General Assembly its recommendations for legislative action on insurance reform. On or before May 15, 1991, the Commission shall report to the Governor and the General Assembly on the status of specific initiatives in Medicaid, Education, Outreach and Case Management, and the Pilot Model Projects.

(b) On or before January 15, 1991, and on or before every January 15 thereafter, the Commission shall report to the Governor and the General Assembly on the status of all of the Task Force recommendations. The comprehensive report shall identify any segments of the population which remain without access to health care and any further recommendations deemed necessary to meet the Commission's charge."

Section 2. This Act shall take effect immediately upon its adoption.

Approved July 11, 1990.

CHAPTER 335

FORMERLY

SENATE BILL NO. 482
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO MAKE AN APPROPRIATION AND AUTHORIZE POSITIONS FOR THE DELAWARE HEALTH CARE COMMISSION AND RELATED PROGRAMS OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES FOR THE FISCAL YEAR ENDING JUNE 30, 1991; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT AND STATUTORY PROVISIONS.

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

Section 1. Sums are hereby appropriated to the Department of Health and Social Services (35-00-00); Administration (35-01-00); Delaware Health Care Commission (35-01-50); Social Services (35-07-00) as follows:

Accounting Code	Organization/Description	Amount
35-00-00	Department of Health and Social Services	
35-01-00	Administration	
35-01-50	Delaware Health Care Commission	
	Personnel Costs (2.0)	$ 78,000
	Travel	2,000
	Contractual Services	200,000
	Supplies/Materials	5,000
	Capital/Equipment	15,000
	Other	
	Service Delivery Pilot Projects	1,213,400
	Education/Outreach/Case Mgt.	400,000
	Data and Program Evaluation	400,000
	Subtotal Delaware Health Care Commission	$ 2,313,400

Accounting Code	Organization/Description	Amount
35-07-00	Social Services	
35-07-01	Social Services	
(8.0) NSF	Personnel Costs (18.0)	360,000
	Contractual Services	60,000
	Capital	10,000
	Medicaid Non-State	2,456,600
Subtotal Social Services		$ 2,886,600
Total Section 1		$ 5,200,000

Section 2. A total of two (2.0) full time equivalent positions are authorized to the Department of Health and Social Services (35-00-00); Administration (35-01-00); Delaware Health Care Commission (35-01-50).

Section 3. A total of eighteen (18.0) full time equivalent positions are authorized to the Department of Health and Social Services (35-00-00); Social Services (35-07-00); Social Services (35-07-01). These positions shall be used to implement the Medicaid program expansions and the Health Care Coverage Program for General Assistance Clients.

Section 4. The sums appropriated in Section 1 of this Act to the Department of Health and Social Services (35-00-00); Administration (35-01-00); Delaware Health Care Commission (35-01-50) shall be used to establish the Delaware Health Care Commission (35-01-50) pursuant to the provisions of the Delaware Health Care Commission Act ("The Act"), Title 16, Del. C., Chapter 98. The Commission shall employ a Director and one additional staff person selected by the Commission to aid in performing the Commission's duties and responsibilities.

Section 5. The amount appropriated to the Department of Health and Social Services (35-00-00); Administration (35-01-00); Delaware Health Care Commission (35-01-50) in Section 1 of this Act for Service Delivery Pilot Projects shall be used to provide for the cost of increasing the availability and accessibility of efficient health care delivery sites to the currently uninsured population, by contracting, on a pilot basis, with new or existing managed care delivery systems for the provision of care and other costs associated with the development of Service Delivery Pilot Projects.

Section 6. The amount appropriated to the Department of Health and Social Services (35-00-00); Administration (35-01-00); Delaware Health Care Commission (35-01-50) in Section 1 of this Act for Education, Outreach and Case Management shall be used for the cost of improving the coordination of services by providing supportive services for the medical assistance services; and by developing additional case management and managed care programs. In addition, sums appropriated for Education Outreach and Case Management shall be used to implement the Infant Mortality Task Force recommendations.

Section 7. The amount appropriated to the Department of Health and Social Services (35-00-00); Administration (35-01-00); Delaware Health Care Commission (35-01-50) in Section 1 of the Act for Data and Program Evaluation shall be used for the cost of developing a data and management information system to develop, administer, and evaluate the Service Delivery Pilot Projects and other data and management information needs as determined by the Commission.

Section 8. The amount appropriated to the Department of Health and Social Services (35-00-00), Social Services (35-07-00), Social Services (35-07-01) in Section 1 shall be used for the cost of expanding Medicaid eligibility for pregnant women and infants up to age 1 from 133% to 185% of the federal poverty level; providing enhanced Medicaid services to additional high-risk pregnant women; extending Medicaid coverage to children aged 6 and 7 in families with income up to 100% of the Federal poverty level; and extend health care coverage as defined by the State to adults receiving support under the State's General Assistance program.

Section 9. The monies appropriated herein shall be paid from the General Fund of the State Treasury from monies not otherwise appropriated provided that legislation is enacted that increases the tax rate on cigarettes by an amount that is forecasted to be at least equal to the amounts appropriated by this Act. Any funds remaining unexpended and unencumbered on June 30, 1991 shall revert to the General Fund.

Section 10. This Act shall become effective July 1, 1990.

Approved July 11, 1990.

CHAPTER 336

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 110

AN ACT TO AMEND CHAPTER 54, TITLE 30, DELAWARE CODE RELATING TO THE REALTY TRANSFER TAX AND THE ESTABLISHMENT OF A CONSERVATION TRUST FUND THEREUNDER.

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

Section 1. Sections 5401-5415 of Title 30, Delaware Code, shall be referred to as "Subchapter I, Realty Transfer Tax".

Section 2. Amend Chapter 54, Title 30, Delaware Code by adding thereto a new Subchapter to read as follows:

"SUBCHAPTER II. Conservation Trust Fund, Assignment of Tax Revenue

§5421. Definitions

The following words, terms and phrases, when used in this Subchapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) 'Authorization Act' means an act of the General Assembly approved by a majority of all the members of each House, approving the issuance of revenue bonds pursuant to this Subchapter.

(2) 'Base Amount' means the total amount of realty transfer taxes collected by the State under Section 5402 of Title 30 during the fiscal year ending June 30, 1991, net of any refunds and any commission paid to collection agents.

(3) 'Bonds' or 'revenue bonds' means revenue bonds which may be issued by the State pursuant to this Subchapter and, where appropriate, shall also refer to notes and other forms of obligations of the State incurred pursuant to this Chapter.

(4) 'Conservation Trust Fund' means the Delaware Land and Water Conservation Trust Fund established and maintained pursuant to this Subchapter.

(5) 'Department' means the Department of Natural Resources and Environmental Control.

(6) 'Earnings Account' means the account by that name created within the Conservation Trust Fund pursuant to Section 5423 of this Chapter.

(7) 'Endowment Account' means the account by that name created within the Conservation Trust Fund pursuant to Section 5423 of this Chapter.

(8) 'Issuing Officers' means the State's issuing officers as defined for the purposes of Chapter 74 of Title 29.

(9) 'Project' means the planning for, and the acquisition and development of property, undertaken to achieve the purposes of this Chapter.

(10) 'Revenue Account' means the account by that name created within the Conservation Trust Fund pursuant to Section 5423 of this Chapter.

(11) 'State Agency' means the following units of State government which manage natural and cultural resources: Department of Natural Resources and Environmental Control (Division of Parks and Recreation and Fish and Wildlife), Department of State (Division of Historical and Cultural Affairs) and the Department of Agriculture (Division of Resource Management).

(12) 'Secretary' means the Secretary of the Department.

§5422. General

The purpose of this Subchapter is to provide funding to implement the conservation program described in Volume 65, Chapter 212 of the Laws of Delaware. Funding to achieve the purposes of this Subchapter shall be provided from appropriations by the State, grants from the federal government, funds in the Conservation Trust Fund and the earnings thereon, proceeds from the sale of revenue bonds, private donations and any other sources which may be available from time to time. The Department is authorized and directed to encourage and seek funding from any available private and public sources.

§5423. Delaware Land and Water Conservation Trust Fund

(a) There is created and established under the jurisdiction and control of the Department a trust fund to be known as the Delaware Land and Water Conservation Trust Fund to implement the conservation program described in Volume 65, Chapter 212 of the Laws of Delaware. Within the Conservation Trust Fund there is established an 'Endowment Account', a 'Project Account', an 'Earnings Account' and a 'Revenue Account'. Funds in the Conservation Trust Fund shall be applied for the purposes of this Subchapter as hereinafter provided.

(b) The corpus of funds remaining on deposit in the Delaware Land and Water Conservation Trust Fund maintained under Section 4733 of Title 7 on the date of enactment of this Subchapter shall be deposited in the Endowment Account. Any earnings on said corpus still on deposit in said Fund on the date of enactment of this Subchapter, and all earnings on the funds in the Endowment Account, shall be deposited in the Earnings Account, provided that all earnings on the funds in the Endowment Account in excess of $1 million in any fiscal year shall be deposited in the Project Account. Additional deposits shall be made to the Endowment Account from realty transfer taxes as hereinafter provided, from other State funds as the General Assembly may from time to time determine, and from any other public and private sources which may from time to time be made available. The Endowment Account is intended to provide a permanent endowment to accomplish the purposes of this Subchapter. The corpus of the Endowment Account shall not be invaded except that after $50 million of proceeds of bonds issued under this Subchapter have been expended for the purposes hereof, the Secretary may withdraw up to $20 million from the Endowment Account to deposit into the Project Account to be applied for the purposes of this Subchapter.

(c) Funds in the Project Account, and the earnings thereon to be retained therein, shall be applied by the Department to pay the costs of planning, and acquisition and development of property, to achieve the purposes of this Subchapter. The Project Account shall be funded from certain realty transfer taxes as hereinafter provided, from other State funds as the General Assembly may from time to time determine, and from any other public and private sources which may from time to time be made available. The Project Account is intended to provide funds for current expenditure to achieve the purposes of this Subchapter although the Department may, in its discretion, accumulate funds in the Project Account for particular Project purposes.

(d)(1) Funds in the Earnings Account, and the earnings thereon, which are to be retained therein, shall be disbursed, upon application, to State Agencies, counties, municipal governments and local park districts, to pay the costs of planning, and acquisition and development of property, to achieve the purposes of this Subchapter. Not more than 50% of a total Project cost may be paid from the Conservation Trust Fund; except that up to 75% of a Project cost may be paid where the applicant is a local park district and up to 100% of a total Project cost may be paid where the applicant is a State Agency, if the park district or State Agency, as applicable, provides evidence satisfactory to the Department that no other matching funds or in-kind contributions are available. In any given year, State Agencies shall only be eligible to receive funds as defined in this section where the Secretary determines that available funds exceed the eligible project requests from non-State applicants. Private entities, including non-profit entities, and school districts shall not be eligible for a grant from the Earnings Account. At the end of each fiscal year the Secretary may transfer from the Earnings Account to the Project Account all funds in the Earnings Account which have not been reserved for grants under this subsection.

(11) The applicant requesting funds from the Earnings Account must provide evidence satisfactory to the Department that the required matching funds have been committed or will be expended for the proposed Project. Any property already held or expenditures already made by the applicant may not be counted as part of an applicant's matching contribution. In-kind contributions of land, services and/or materials provided by the applicant or received by the applicant from other sources may be used by the applicant to satisfy its matching requirement.

(iii) All expenses of operation and maintenance for property acquired with funds from the Earnings Account shall be borne perpetually by the applicant.

(iv) It is intended that property acquired or improved with funds from the Earnings Account shall remain in public outdoor recreation and conservation use in perpetuity. Said property may not be converted to other uses without a subsequent act of the General Assembly. If the General Assembly approved the sale or lease of any project or a portion thereof, the State shall receive its pro rata share of net sale and/or lease income. Said funds shall be deposited in the Earnings Account to be immediately available for other Projects.

(e)(i) The Revenue Account shall be funded with realty transfer tax revenues as provided in Section 5415 of Title 30, and other State funds as the General Assembly may determine from time to time. The State hereby irrevocably pledges and assigns and continuously appropriates the realty transfer taxes imposed by the State pursuant to Section 5402 of this Title, as amended from time to time, to the Revenue Account to be applied as hereinafter provided, exclusively for the benefit of the holders of revenue bonds issued pursuant to this Subchapter, and as otherwise provided herein.

(ii) All realty transfer tax revenues deposited in the Revenue Account in each fiscal year shall be applied in the following amounts and in the following order of priority:

(A) From the Base Amount:

(I) Set aside an amount sufficient to pay debt service on revenue bonds issued pursuant to this Subchapter for a period of up to one year as may be required by the terms of such bonds;

(II) Set aside the amount that may be required to satisfy any debt service reserve fund requirement with respect to any such bonds (up to one year's maximum annual debt service);

(III) The excess, if any, shall be paid to the General Fund of the State.

(B) The amount over the Base Amount, if any, in any fiscal year shall then be applied as follows:

(I) Deposit into the Earnings Account such amount as is necessary, when added to the interest earnings from the Endowment Account deposited in the Earnings Account during such fiscal year, to bring the total such deposits into the Earnings Account for such fiscal year to $1 million, and

(II) Deposit the remainder, if any, into the Endowment Account provided that, in any fiscal year when the earnings on the Endowment Account equal at least $1 million, said remainder shall be deposited 50% into the Endowment Account, 25% into the Project Account and the balance shall be transferred to the General Fund.

(iii) It is the intent of the General Assembly that the amount of realty transfer tax revenues applied in any fiscal year for the purposes of conservation under this Subchapter pursuant to clause (ii)(A)(I) of this subsection (e) shall not decline as the total debt service on revenue bonds decreases. Accordingly, in any fiscal year when the debt service required to be set aside under said clause (ii)(A)(I) is less than the debt service required to be set aside under said clause in any prior fiscal year, an amount equal to the decline in such debt service shall be deposited in the Endowment Account before any funds are applied pursuant to clauses (ii)(A)(II) or (III).

(iv) After the amount in the Endowment Account equals $50 million or on July 1, 2005, which ever occurs sooner, no further deposits shall be made into the Endowment Account or the Project Account under this subsection (e).

§5424. Revenue Bonds

(a) The issuing officers may issue revenue bonds of the State to provide funds to achieve the purposes of this Subchapter, including funds necessary to provide for reserves, credit enhancement and transaction costs. Such revenue bonds may be issued only in amount as shall be approved by an Authorization Act of the General Assembly.

Such revenue bonds may be paid from, and secured by, as shall be determined by the issuing officers, only the realty transfer tax revenues set aside pursuant to this Subchapter to pay debt service and to provide reserves, by the proceeds of such revenue bonds, by any reserve fund established for such revenue bonds, by the earnings on such funds and by any credit enhancement obtained by the issuing officers. Such revenue bonds shall not be general obligations of the State and they shall not pledge the full faith and credit of the State. Other than as provided in this Subchapter, such revenue bonds shall not be considered as debt of the State and shall not count against any limitation on the issuance of debt by the State.

(b) Revenue bonds issued pursuant to this Subchapter shall be issued pursuant to a resolution adopted unanimously by 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 on his behalf.

(c) The resolution of the issuing officers authorizing the issuance of bonds may include provisions for the payment and security therefor including from the proceeds of any credit enhancement which the issuing officers may obtain, provisions for entering into a trust agreement or other contractual arrangements with agents in connection with the issuance, sale, security and repayment of the bonds, provisions for the date or dates of such bonds the maturity of such bonds (which shall not extend beyond July 1, 2011), provisions for either serial or term bonds, zero fund requirements, if any, due dates of the interest thereon, provisions for the place or places for payment (which may be within or outside the State), 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 at a public or private negotiated sale, provisions for the consolidation of bonds authorized to finance all or a portion of the costs of projects authorized in 1 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 or the issuance and sale thereof as the issuing officers may determine to be in the best interests of the State.

(d) All bonds issued pursuant to this Subchapter shall recite that they are issued for a purpose or purposes set forth in an Authorization Act and that they are issued pursuant to the Constitution and laws of the State. Upon the sale and delivery of any such bonds against payments, such recitals shall be conclusive as to the right, power and authority of the State to issue such bonds and of the legality, validity and enforceability of the obligation of the State to any principal of and interest on such bonds from the revenues and other sources pledged therefor. The legality, validity and enforceability of such bonds from the revenues and other sources pledged therefor. The legality, validity and enforceability of such bonds containing such recitals shall never be questioned in any court of law or equity by the State or any person after issuance, execution and delivery against payment of such bonds. All such bonds are hereby declared to have all the qualities and incidents of negotiable instruments under the commercial code of the State.

(e) All bonds issued pursuant to this Subchapter, other than uncertificated obligations, shall be executed on behalf of the State by the issuing officers and shall bear the impression, or a facsimile, of the Great Seal of the State. All the signatures of the issuing officers may be engraved, printed or stamped on such bonds notwithstanding any other law to the contrary but no such signatures nor the impression or a facsimile of the Great Seal need appear on an uncertificated obligation. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be such officer before the delivery of such obligations, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery.

(f) All bonds issued pursuant to this Subchapter and the interest thereon shall be exempt from income taxation by the State or any political subdivision thereof.

(g) The issuing officers may, by resolution, direct the State Treasure to contract, in such manner as the issuing officers shall prescribe, with a banking or other institution to act as: (1) Registration agent for bonds issued pursuant to this Subchapter; (2) recording agent to provide a permanent record of all such bonds which shall have been paid or redeemed; and (3) cancellation agent to cancel all such bonds which shall have been paid or redeemed. The State Treasurer may, at the direction of the issuing officers, contract with such institution for related services. Any such contract shall provide that the agent shall be responsible to the State for the faithful and safe conduct of the services to be performed by it as registration agent, recording

agent or cancellation agent, or services related thereto, for the fidelity and integrity of the officers and agents of such contracting institution performing the duties of a registration agent, recording agent or cancellation agent, or services related thereto, and for all loss or damage which may result from any failure of such officers or agents to discharge their duties and for any improper or incorrect discharge of their duties, and shall save the State free and harmless from any and all loss or damage occasioned by or incurred in the performance of such services. Such contract may be terminated by the State Treasurer at any time, if so directed by the issuing officers. Any such contract shall be filed in the office of the State Treasurer as a public record.

(h) The State Treasurer may issue a replacement bond to replace unmatured bonds issued pursuant to this section, which have been lost, stolen, mutilated or destroyed upon receipt of: (a) Satisfactory proof (1) of ownership and (2) of loss or destruction, or, in the case of a mutilated or destroyed bond, the mutilated or destroyed bond; (b) adequate security to indemnify the State and the bank or banks at which the bond is payable against any loss that may be suffered by them on account of the issuance of such replaced obligation; and (c) payment of the cost of preparation of the replacement obligation. Any replacement bond shall be of the same form and tenor as that originally issued, shall be executed by the manual or facsimile signature of the officers in office at the time of the replacement and shall bear an impression or reproduction of the Great Seal of the State or a facsimile thereof. A replacement bond shall be signed by the manual signature of the State Treasurer. There shall be endorsed on the replacement bond a statement in substantially the following form:

'This bond has been reissued to replace a (lost, stolen,

mutilated or destroyed) bond.'

(i) Bonds issued pursuant to this Subchapter are securities in which any officer of the State any officers of the political subdivisions, administrative departments, boards and commissions of the State, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who may be authorized to invest in bonds of the State, may properly and legally invest any funds, including capital belonging to them or within their control. Such bonds are securities which may properly and legally be deposited with and received by any officer of the State, or an officer of any political subdivision or agency of the State, for any purpose for which the deposit of bonds of the State may be authorized by law.

(j) It is the intent of the General Assembly that $50 million of revenue bonds shall be issued for the purposes of this Subchapter provided that the total aggregate principal amount of bonds which may be issued pursuant to this Subchapter may not exceed $50 million and the total aggregate principal amount of such bonds which may be issued in any two consecutive fiscal years of the State may not exceed $14 million. In addition the total amount of debt service payments in any fiscal year with respect to all bonds issued pursuant to this Subchapter and outstanding at any one time may not exceed 20% of the Base Amount.

(k) The issuing officers may authorize and issue bonds under this Subchapter to refund bonds issued under this Subchapter and to provide for the transaction costs related thereto. Such refunding bonds shall be issued pursuant to the procedures set forth in this Subchapter and shall be subject to the terms hereof except that

(i) the approval of the General Assembly shall not be required if the present value of the aggregate principal and interest payments on the refunding bonds are less than the present value of the aggregate principal and interest payments on the bonds to be refunded determined by discounting at the effective interest rate on the refunding bonds using the internal rate of return,

(ii) refunding bonds may be issued in the principal amount which exceeds the principal amount of the bonds to be refunded, so long as the present value of the aggregate principal and interest payments of the refunding bonds is less than the present value of the aggregate principal and interest payments on the bonds to be refunded,

(iii) refunding bonds shall not be subject to or counted against the $50 million or the $14 million limits in subsection (j) of this section; and

(iv) no refunding bonds may be issued unless all or a portion of the proceeds of the refunding bonds are deposited irrevocably in an escrow account pledged to pay, and are sufficient together with any other available assets in such account to meet, the payment when due of the principal, premium (if any) and interest on the bonds to be refunded and the funds in said escrow account must be invested in obligations described in Section 7423 (b) of Title 29.

(l) This Chapter provides authorization and procedures for the issuance of bonds for the purposes of this Subchapter, in addition to and not in limitation of, issuing authority contained in any other provision of law. Bonds may be authorized and issued pursuant to this Subchapter without regard to limitations or procedures provided in any other provision of law.

§5425. Payment of Tax Receipts to Conservation Trust Fund

All taxes received under this Chapter, net of any commission and expenses paid pursuant to Section 5406, and net of any refunds and interest paid under Section 5413, shall be any refunds and interest paid under Section 5413, shall be deposited in the Revenue Account of the Conservation Trust Fund established under this Subchapter and applied for the purposes specified herein. The State shall not reduce the rate of tax imposed under Section 5402 nor shall it expand any exemptions from such tax so long as there are outstanding any revenue bonds issued pursuant to this Subchapter, except as may otherwise be provided by agreement with the holders of such bonds."

Section 3. Effective Date. This Act shall become effective on July 1, 1990 or upon the enactment of Delaware Land Protection Act into law, whichever shall occur later.

Approved July 13, 1990.

CHAPTER 337

FORMERLY

HOUSE BILL NO. 638

AN ACT AWARDING SPECIAL PENSION BENEFITS TO INA W. HOPKINS, TRANSFERRING 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 PURSUANT TO CHAPTER 55, TITLE 29, DELAWARE CODE.

WHEREAS, Ina Hopkins was employed with the Department of Public Instruction for 19 years; and

WHEREAS, under the statutes and the rules and regulations of the Board of Pension Trustees, Ina W. Hopkins will not receive a State pension for her many years of service for 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 Ina W. Hopkins a pension, effective July 1, 1990, in the amount of $108.72 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 $13,838.00 from the Budget Office Contingency Appropriation in House Bill No. 450 of the 135th General Assembly for Budget Office Contingency Energy (10-02-04), 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 13, 1990.

CHAPTER 338

FORMERLY

HOUSE BILL NO. 239

AN ACT TO AMEND PART VI, TITLE 3, CHAPTER 82 RELATING TO RABIES CONTROL.

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

AMEND Chapter 82, Title 3, by adding a new section §8213 to read as follows:

"§8213. Court Jurisdiction.

Justices of the Peace shall have jurisdiction of all offenses under this Chapter."

Approved July 13, 1990.

CHAPTER 339

FORMERLY

HOUSE BILL NO. 469
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND SUBCHAPTER I, CHAPTER 59, TITLE 29, DELAWARE CODE RELATING TO CLASSIFIED SERVICE AND EXEMPTIONS.

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

Section 1. Amend §5903(16), Subchapter I, Chapter 59, Title 29, Delaware Code by striking the first sentence of subsection 16 in its entirety commencing with the words "All judges" and ending with the words "Court Administrator." and substituting in lieu thereof the following new sentence which shall read as follows:

"All judges or other members of the state judiciary, referees, jurors and others appointed by the judiciary, but excluding all other employees of the Court of Common Pleas, with the exception of one judicial secretary for each judge and the Justice of the Peace Court system with the exception of the Court Administrator."

Section 2. Such personnel exempted by the provisions of this Act, being Court of Common Pleas personnel, with the exception of one judicial secretary for each judge, shall on the effective date of this Act be covered by the provisions of Chapter 59, Title 29 of the Delaware Code, being the merit system of administration statutes.

Approved July 13, 1990.

CHAPTER 340

FORMERLY

HOUSE BILL NO. 562

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

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

Section 1. Amend §5113(d), Chapter 51, Title 30, Delaware Code by adding a second paragraph as follows:

"In lieu of depositing tax payments in the United States mail, a licensed motor fuel distributor may hand deliver said payment to the Department of Public Safety or the Department may require licensed motor fuel distributors to make electronic transfers of such funds to the appropriate state account."

Section 2. Amend §5136(b), Chapter 51, Title 30, Delaware Code by adding a second paragraph as follows:

"In lieu of depositing tax payments in the United States mail, a licensed special fuel dealer, user or supplier may hand deliver said payment to the Department of Public Safety or the Department may require licensed special fuel dealers, users or suppliers to make electronic transfers of such funds to the appropriate state account."

Approved July 13, 1990.

CHAPTER 341

FORMERLY

HOUSE BILL NO. 602

AN ACT TO AMEND TITLE 7 RELATING TO BEVERAGE CONTAINERS.

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

Section 1. Amend §6052, Title 7 of the Delaware Code by redesignating subsections (k) through (n), inclusive, as subsections (l) through (m) and inserting a new subsection (k) as follows:

"'Recyclable' means substances or products that can be recovered from the waste stream and reused in total or in part for the same or other uses.".

Section 2. Amend §6059, Title 7 of the Delaware Code by deleting subsection (2) in its entirety and substituting therein the following:

"(2) In containers connected to each other with plastic rings or similar devices which are not classified by the Department as biodegradable, photo degradable, or recyclable.

Approved July 13, 1990.

CHAPTER 342

FORMERLY

HOUSE BILL NO. 622
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO MOVING VIOLATIONS COMMITTED IN CONSTRUCTION AND MAINTENANCE AREAS.

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

Section 1. Amend Section 4105, Title 21, Delaware Code by adding a new subsection (f), to read as follows:

"(f) The driver of a vehicle who violates any of the following sections of this title shall be fined not less than double the enumerated amount for a first offense when the violations occurs within any highway construction or maintenance area indicated by traffic-control devices:

§4102 relating to obedience to traffic laws;

§4103 relating to obedience to authorized persons directing traffic;

§4107 relating to obedience to traffic control devices;

§4110 relating to flashing signals;

§4114 relating to driving on the right side of roadway;

§4115 relating to passing vehicles proceeding in opposite directions;

§4116 relating to overtaking a vehicle on left;

§4117 relating to when overtaking on the right is permitted;

§4118 relating to limitations on overtaking on the left;

§4119 relating to further limitations on driving to the left of center of roadway;

§4120 relating to no-passing zones;

§4122 relating to driving on roadways laned for traffic;

§4123 relating to following too closely;

§4164 relating to stop signs and yield signs;

§4168 relating to general speed restrictions;

§4169 relating to specific speed limits;

§4175 relating to reckless driving;

§4176 relating to careless or inattentive driving;

§4177 relating to operation of vehicle while under the influence of alcohol and/or drugs;

§4178 relating to stopping, standing or parking; and

§4184 relating to limitations on backing.

As used in this subsection, the phrase 'within any highway construction or maintenance area indicated by traffic-control devices' shall mean that area between the first traffic control device informing road users of their approach toward a work zone area until the last traffic control device indicating all restrictions are removed and normal vehicle operations can resume. The phrase shall also include detour routes for highway construction or maintenance marked by traffic control devices. 'Traffic control devices' and 'work zone' shall have the same meaning as adopted pursuant to 17 Del C. Section 147.

as amended. "Highway construction and maintenance area" shall also include construction and maintenance for utilities or railroads within or adjacent to the highway rights of way.

Whenever practical, signs designed in compliance with regulations of the Department shall be appropriately placed to notify motorists that increased penalties apply for moving violations in construction or maintenance areas. However, the failure to post or an improper posting of such signs shall not be a defense to a violation of this section."

Approved July 13, 1990.

CHAPTER 343

FORMERLY

HOUSE BILL NO. 629

AN ACT TO AMEND CHAPTER 7, TITLE 18, DELAWARE CODE INCREASING CERTAIN FEES CHARGED BY THE INSURANCE COMMISSIONER.

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, Chapter 7, Section 701 by amending the present subsection (25) and subsection (26) to delete "$15" where it appears in those sections and substitute "$25".

Section 2. This act shall become effective 60 days after adoption.

Approved July 13, 1990.

CHAPTER 344

FORMERLY

HOUSE BILL NO. 676

AN ACT TO AMEND TITLES 3, 4, 5, 7, 14, 16, 21, 29, 30, 31 DELAWARE CODE RELATING TO REGULATORY POWERS.

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

Section 1. Amend Title 3, §101(4) by inserting after the word "wish" and prior to the semi-colon (;) appearing at the end of said subsection the following:

"provided, however, that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof"

Section 2. Amend Title 4, §304(a)(1) by striking the semicolon (;) at the end of that subsection and substituting in lieu thereof the following:

"provided, however, that no such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof;"

Section 3. Amend Title 5, §121(b) by adding a new sentence to the end of subsection (b), as follows:

"No such regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof."

Section 4. Amend Title 7, §6010(a) by adding a new sentence to the end of subsection (a), as follows:

"No such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof."

Section 5. Amend Title 14, §122(a), Delaware Code by inserting between the words "published," and "shall" as those words appear in that subsection, the following:

"shall not extend, modify or conflict with any law of this State or the reasonable implications thereof and"

Section 6. Amend Title 16, §122(3), Delaware Code by inserting after the words "with law" and before the words "which shall" the following:

", which regulations shall not extend, modify or conflict with any law of this State or the reasonable implications thereof and"

Section 7. Amend Title 21, §302 by adding to the end thereof the following:

"No rule or regulation adopted pursuant to the authority granted by this section shall extend, modify or conflict with any law of this State, or the reasonable implications thereof."

Section 8. Amend Title 29, §8404(8) by striking the semicolon (;) at the end of that subsection and substituting in lieu thereof the following:

". No such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof."

Section 9. Amend Title 30, §354 by adding to the end thereof a new sentence, as follows:

"No rule or regulation adopted pursuant to the authority granted by this section shall extend, modify or conflict with any law of this State, or the reasonable implications thereof."

Section 10. Amend Title 31, §107 by adding to the end thereof the following:

"No rule or regulation adopted pursuant to the authority granted by this section shall extend, modify or conflict with any law of this State, or the reasonable implications thereof."

Section 11. Amend Title 31, §4007(4), by inserting between the word "chapter" and the semicolon (";") appearing in that subsection, the following:

"provided, however, that no such regulation shall extend, modify or conflict with any laws of this State, or the reasonable implications thereof."

Approved July 13, 1990.

CHAPTER 345

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 688

AN ACT TO AMEND CHAPTER 45, TITLE 21 OF THE DELAWARE CODE RELATING TO THE WEIGHTS OF VEHICLES AND LOADS, IMPOSING FEES FOR PERMITS FOR EXCESSIVE SIZE AND WEIGHTS OF VEHICLES, AND DEDICATING THE REVENUE FROM SUCH FEES.

WHEREAS, Section 127, Title 23 of the United States Code, as amended, establishes weight allowances for vehicles permitted to use the National System of Interstate and Defense Highways, with the proviso that vehicles which lawfully could have been operated within a state on July 1, 1956, will continue to be permitted to operate on interstate highways in that state; and

WHEREAS, the same provision of federal law leaves to the individual states the determination of which vehicles "could be lawfully operated within such State on July 1, 1956"; and

WHEREAS, in view of the requirements of federal law, it is necessary and proper for the State of Delaware (1) to clarify which vehicles lawfully can be operated on the interstate highways within the boundaries of this State, (2) to make existing special permitting procedures consistent for all highways in the State, (3) to impose fees for vehicles of excessive size and weights, (4) to dedicate the revenue from such fees to an appropriate State fund, and (5) to provide for legislative review of the fees imposed for oversize and overweight vehicles based upon a cost allocation study being conducted by the Department of Transportation.

NOW, THEREFORE:

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

Section 1. Amend Chapter 45, Title 21 of the Delaware Code by striking the first sentence from subparagraph b. of §4502(c)(4) and substituting in lieu thereof the following:

"b. The maximum gross weight of any vehicle or combination of vehicles on a group of 2 or more consecutive axles shall not exceed the weight as calculated by this formula:

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)"$$

Section 2. Further amend Chapter 45, Title 21 of the Delaware Code by striking the phrase "pounds, each whenever" from the second sentence of subparagraph b. of §4502(c)(4) and substituting in lieu thereof the phrase "pounds each, whenever".

Section 3. Further amend Chapter 45, Title 21 of the Delaware Code by adding a second sentence to subsection (a) of §4504, as follows:

"The fee for permits issued pursuant to subsection (c)(1) of this section for vehicles operating on any interstate highway within this State shall be $1.00 per single trip permit."

Section 4. Further amend Chapter 45, Title 21 of the Delaware Code by adding to §4510 a new subsection "(b)" as follows:

"(b) Any other provision of this chapter to the contrary notwithstanding, a vehicle or combination of vehicles having a weight in excess of that permitted by §4502 of this chapter lawfully may be operated on any interstate highway or United States numbered route if such vehicle or combination of vehicles has been issued a permit for that purpose pursuant to §4504 of this chapter. Regarding such permits issued pursuant to §4504(c)(1) of this chapter, the State has determined that vehicles bearing such permits could be lawfully operated within this State on July 1, 1956."

Section 5. In accordance with the provisions of §127(a), Title 23 of the United States Code, the State of Delaware hereby determines that any vehicles [illegible] nations thereof,

which have been issued permits pursuant to §4504(c)(1) of Title 21 of the Delaware Code, could have been lawfully operated within this State on July 1, 1956.

Section 6. The revenue from the fees imposed pursuant to Section 3 of this Act shall not be deposited in the General Fund but shall be deposited, not later than the close of the business day next following such receipt, to the credit of the Transportation Trust Fund, as established pursuant to Chapter 14, Title 2 of the Delaware Code, as amended, 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 7. Sunset Provision. The Department of Transportation is undertaking a cost allocation study relating to the effects of oversize and overweight vehicles on the State's transportation network. Based upon the results of this study, to be completed within one year from this Act's enactment into law, the Department of Transportation shall devise a proposed fee schedule for oversize and overweight vehicles. Since the proposed fee schedule must be imposed by enactment of the General Assembly, the provisions of this Act shall expire on September 30, 1991, unless prior to that time the General Assembly, by further enactment taking into account the results of the cost allocation study, either continues in effect the fee imposed under Section 3 of this Act or adopts a new fee schedule.

Section 8. Non-Severability. The provisions of §§301 and 308, Title 1 of the Delaware Code, to the contrary notwithstanding, the provisions of this Act are declared to be non-severable.

Approved July 13, 1990.

CHAPTER 346

FORMERLY

HOUSE BILL NO. 692

AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE RELATING TO APPLICATION FOR AN OPERATOR'S LICENSE BY A MINOR.

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

Section 1. Amend Section 2712, Chapter 27, Title 21 of the Delaware Code by striking the words "Father and mother" as they appear in paragraph (1) and insert in lieu thereof the words "Father or mother".

Approved July 13, 1990.

CHAPTER 347

FORMERLY

SENATE BILL NO. 446
AS AMENDED BY
SENATE AMENDMENT NOS. 1 AND 2 AND HOUSE AMENDMENT NO.1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE BY DELETING IN ITS ENTIRETY PRESENT SECTION 64 RELATING TO CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST OFFENSE AND ESTABLISHING IN LIEU THEREOF A NEW SECTION 4764 RELATING TO FIRST OFFENDERS CONTROLLED SUBSTANCES DIVERSION PROGRAM.

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

Section 1. Amend Chapter 47, Title 16, Delaware Code, by striking §4764 in its entirety, and substituting in lieu thereof a new §4764 which shall read as follows:

"§4764. First Offenders Controlled Substances Diversion Program

(a) Any person who: (1) Has not previously been convicted of any offense under this Chapter or under any statute of the United States or of any State thereof relating to narcotic drugs, marijuana, or stimulant, depressant, hallucinogenic drug or other substance who is charged through information or indictment with possession or consumption of a controlled substance under Sections 4753 or 4754 of this Title; and (2) has not previously been afforded first offender treatment under this section or its predecessor, may qualify for the first offense election at the time of his arraignment, except that no person shall qualify for such first offense election where the offense charged under Sections 4753 or 4754 arises from the same transaction, factual setting or circumstances as those contained in any indictment returned against the defendant alleging violation of any provisions contained within Sections 4751, 4752, or 4753A of this Title.

(b) At time of arraignment any person qualifying under subsection (a) hereof as a First Offender and who elects treatment under this section shall admit possession or consumption of a controlled substance by entering a plea of Guilty, as a First Offender. The court, without entering a judgement of guilt and with the consent of the accused, may defer further proceedings and place him on probation for a period of not less than three (3) years the terms and conditions of which shall include but not be limited to:

(1) Revocation of the person's drivers license and/or privileges within this State for a period of not less than one (1) year, restoration of which shall be contingent upon successful completion of all mandatory terms and conditions required of probation to be completed during the term of revocation. Upon entry of a plea of Guilty, as First Offender under this section, the Clerk of the Court or other person designated by the Court shall forthwith report that fact to the Department of Motor Vehicles for action consistent with the provisions of this subsection. The Department of Motor Vehicles may issue a conditional license during this period of revocation upon written certification by the person's probation officer that a narrowly drawn conditional license is necessary for the limited purpose of preforming the terms and conditions of probation;

(2) Performance of a minimum of twenty (20) hours of community service work monitored by the court or probation office, performance of which shall be accomplished on at least three (3) separate days and shall not, in any event consist of segments lasting more than eight (8) hours in succession. Community service performed pursuant to the terms of this paragraph of this subsection shall be in addition to all other community service ordered and no community service ordered or performed pursuant to the terms of this section shall be performed or served concurrently with any other court ordered or approved community service.

(3) Completion of a 16-hour first offender drug rehabilitation program, licensed by the Secretary of the Department of Health and Social Services and paid for by the first offender.

(4) Other such terms and conditions as the Court may impose.

(c) If a term or condition of probation is violated, or if the defendant is found to have illegally possessed or consumed any controlled substance listed in Schedules I through V within three (3) years of the entry of a plea under this Section, a written report of same shall immediately be filed with the court, and he shall be brought before

the court and upon determination by the court that the terms have been violated or that he has possessed or consumed any such controlled substance, the court shall enter an adjudication of guilt upon the record and proceed as otherwise provided under this Title.

(d) Upon fulfillment of the terms and conditions of probation, including, but not limited to, paying of all costs and fees, and performance of all required community service, the court shall discharge the person and dismiss the proceedings against him and shall simultaneously therewith submit to the Attorney General a report thereof which shall be retained by him for use in future proceedings, if required. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, except the additional penalties imposed for second or subsequent offenses under Section 4763 of this Title. Any person who elects to be treated as a First Offender under this Section shall, by so doing, agree to pay the costs of his prosecution as a condition. There may be only one (1) discharge and dismissal under this Section with respect to any person."

Section 2. This Act shall take effect 90 days after being signed by the Governor.

Approved July 13, 1990.

CHAPTER 348

FORMERLY

SENATE BILL NO. 469
AS AMENDED BY SENATE AMENDMENT NO. 1

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(6), Chapter 17, Title 6 of the Delaware Code by deleting the language "and §17-306" as it appears therein.

Section 2. Amend §17-101 (10), Chapter 17, Title 6 of the Delaware Code by adding the words "or another written agreement or writing" in the second sentence of said subsection after the words "A written partnership agreement".

Section 3. Amend §17-104(b), Chapter 17, Title 6 of the Delaware Code by adding immediately before the next to the last sentence of said subsection the following language:

"In the event of a change of name of any person acting as a registered agent of a limited partnership, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the limited partnerships represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such limited partnerships, and shall pay a fee as set forth in §17-1107(a)(2) of this title. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under his hand and seal of office."

Section 4. Amend §17-104 (b), Chapter 17, Title 6 of the Delaware Code by deleting the words "of such certificate" as they appear after the word "filing" in the next to the last sentence of said subsection, and by substituting in lieu thereof the words "a certificate under this section".

Section 5. Amend §17-104(d), Chapter 17, Title 6 of the Delaware Code by deleting therefrom the first two sentences of said subsection in their entirety and by substituting in lieu thereof the following language:

"The registered agent of a limited partnership may resign without appointing a successor registered agent by paying a fee as set forth in §17-1107 (a)(2) of this title and filing a certificate with the Secretary of State stating that it resigns as registered agent for the limited partnership identified in the certificate, but such resignation shall not become effective until 120 days after the certificate is filed. There shall be attached to such certificate an affidavit of such registered agent, if an individual, or the president, a vice-president or the secretary thereof if a corporation, that at least 30 days prior to and on or about the date of the filing of said certificate, notices were sent by certified or registered mail to the limited partnership for which such registered agent is resigning as registered agent, at the principal office thereof within or outside the State of Delaware, if known to such registered agent or, if not, to the last known address of the attorney or other individual at whose request such registered agent was appointed for such limited partnership, of the resignation of such registered agent."

Section 6. Amend §17-109, Chapter 17, Title 6 of the Delaware Code by deleting from the heading of said section the word general, by designating subsections "(d)" and "(e)" of said section as subsections "(e)" and "(f)", respectively, and by adding a new subsection "(d)" to said section to read as follows:

"(d) In a written partnership agreement or other writing, a partner may consent to be subject to the nonexclusive jurisdiction of the courts of, or arbitration in, a specified jurisdiction, or the exclusive jurisdiction of the courts of, or the exclusivity of arbitration in, the State of Delaware, and to be served with legal process in the manner prescribed in such partnership agreement or other writing."

Section 7. Amend §17-201(b), Chapter 17, Title 6 of the Delaware Code by adding the following sentence to the end of said subsection:

"A limited partnership formed under this chapter shall be a separate legal entity, the existence of which as a separate legal entity shall continue until cancellation of the limited partnership's certificate of limited partnership."

Section 8. Amend §17-202 (f)(2), Chapter 17, Title 6 of the Delaware Code by adding the following sentence to the end of said subsection:

"A person shown on a certificate of limited partnership as a general partner who is not winding up a limited partnership's affairs need not execute a certificate of amendment which is being executed and filed as required under this subsection."

Section 9. Amend §17-204(a)(3), Chapter 17, Title 6 of the Delaware Code by deleting the words "need be signed only by a majority of the limited partners" as they appear after the words "provided, however, that if the limited partners are winding up the limited partnership's affairs, a certificate of cancellation" in said paragraph and by substituting in lieu thereof the words "shall be signed 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 10. Amend §17-211(b), Chapter 17, Title 6 of the Delaware Code by adding immediately before the last sentence of said subsection the following sentence:

"In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a limited partnership or other business entity which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting limited partnership or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a limited partnership or other business entity which is not the surviving or resulting limited partnership or other business entity in the merger or consolidation."

Section 11. Amend §17-211, Chapter 17, Title 6 of the Delaware Code by redesignating subsection "(g)" of said section as subsection "(h)", and by adding a new subsection to be designated as "(g)" to read as follows:

"(g) Notwithstanding anything to the contrary contained in a partnership agreement, a partnership agreement containing a specific reference to this subsection may provide that an agreement of merger or consolidation approved in accordance with subsection (b) of this section may (1) effect any amendment to the partnership agreement or (2) effect the adoption of a new partnership agreement for a limited partnership if it is the surviving or resulting limited partnership in the merger or consolidation. Any amendment to a partnership agreement or adoption of a new partnership agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in a partnership agreement or other agreement or as otherwise permitted by law, including that the partnership agreement of any constituent limited partnership to the merger or consolidation (including a limited partnership formed for the purpose of consummating a merger or consolidation) shall be the partnership agreement of the surviving or resulting limited partnership."

Section 12. Amend §17-301, Chapter 17, Title 6 of the Delaware Code by adding a new subsection to said section to be designated as "(c)" to read as follows:

"(c) A person may be admitted to a limited partnership as a limited partner of the limited partnership and may receive a partnership interest in the limited partnership without making a contribution or being obligated to make a contribution to the limited partnership."

Section 13. Amend §17-303(a), Chapter 17, Title 6 of the Delaware Code by deleting the phrase "Except as provided in subsection (d) of this section," as they appear at the beginning of said subsection and by capitalizing the word "a" which follows the deleted words to read as "A".

Section 14. Amend §17-303(b), Chapter 17, Title 6 of the Delaware Code by deleting the introductory paragraph in said subsection in its entirety and by substituting in lieu thereof the following:

"(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section by virtue of his possessing or, regardless of

whether or not the limited partner has the rights or powers, exercising or attempting to exercise 1 or more of the following rights or powers or having or, regardless of whether or not the limited partner has the rights or powers, acting or attempting to act in 1 or more of the following capacities:".

Section 15. Amend §17-303(b)(1), Chapter 17, Title 6 of the Delaware Code by deleting said paragraph in its entirety and by 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 limited partner of a partnership that is a general partner of the limited partnership, or to be a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust which is a general partner, or to be a trustee, officer, advisor, stockholder or beneficiary of a business trust which is a general partner;".

Section 16. Amend §17-303(b), Chapter 17, Title 6 of the Delaware Code by redesignating paragraph "(9)" of said subsection as paragraph "(10)"; by amending paragraph (8) of said subsection by deleting the word "or" as it appears at the end of said paragraph; and by adding a new paragraph to said subsection to be designated as paragraph "(9)" to read as follows:

"(9) To serve on the board of directors or a committee of, to consult with or advise, to be an officer, director, stockholder, partner, agent or employee of, or to be a fiduciary for, any person in which the limited partnership has an interest; or".

Section 17. Amend §17-303, Chapter 17, Title 6 of the Delaware Code by adding a new subsection to said section to be designated as subsection "(f)" to read as follows:

"(f) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section regardless of the nature, extent, scope, number or frequency of the limited partner's possessing or, regardless of whether or not the limited partner has the rights or powers, exercising or attempting to exercise 1 or more of the rights or powers or having or, regardless of whether or not the limited partner has the rights or powers, acting or attempting to act in 1 or more of the capacities which are permitted under this section."

Section 18. Amend Subchapter III, Chapter 17, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§17-306" to read as follows:

"§17-306. Remedies for breach of partnership agreement by limited partner.

A partnership agreement may provide that (1) a limited partner who fails to perform in accordance with, or to comply with the terms and conditions of, the partnership agreement shall be subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the partnership agreement, a limited partner shall be subject to specified penalties or specified consequences."

Section 19. Amend §17-401, Chapter 17, Title 6 of the Delaware Code by deleting the word "additional" from the heading of said section; by adding a subsection designation "(b)" immediately before the current text of said section; and by adding a new subsection to said section to be designated as "(a)" immediately before the current text of §17-401 to read as follows:

"(a) A person may be admitted to a limited partnership as a general partner of the limited partnership and may receive a partnership interest in the limited partnership without making a contribution or being obligated to make a contribution to the limited partnership. Nothing contained in this subsection shall affect the first sentence of §17-403(b) of this chapter."

Section 20. Amend Subchapter IV, Chapter 17, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§17-406" to read as follows:

"§17-406. Remedies for breach of partnership agreement by general partner.

A partnership agreement may provide that (1) a general partner who fails to perform in accordance with, or to comply with the terms and conditions of, the partnership agreement shall be subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the partnership agreement, a general partner shall be subject to specified penalties or specified consequences."

Section 21. Amend §17-602, Chapter 17, Title 6 of the Delaware Code by deleting the heading of said section in its entirety and by substituting in lieu thereof a new heading to read as "Withdrawal of general partner and assignment of general partner's partnership interest."; by adding a subsection designation "(a)" and language to read as "(a) A general partner may withdraw from a limited partnership at the time or upon the happening of events specified in the partnership agreement and in accordance with the partnership agreement." immediately before the current text of said section; and by adding a new subsection to said section to be designated as "(b)" to read as follows:

"(b) Notwithstanding anything to the contrary set forth in this chapter, a partnership agreement may provide that a general partner may not assign a partnership interest in a limited partnership prior to the dissolution and winding up of the limited partnership."

Section 22. Amend §17-702(a)(4), Chapter 17, Title 6 of the Delaware Code by adding a new sentence to the end of said paragraph to read as follows:

"Unless otherwise provided in a partnership agreement, the pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the partnership interest of a partner shall not cause the partner to cease to be a partner or to have the power to exercise any rights or powers of a partner."

Section 23. Amend §17-904(b)(2), Chapter 17, Title 6 of the Delaware Code by deleting the words "or the limited partnership itself" as they appear at the end of said paragraph.

Section 24. Amend §17-904(c), Chapter 17, Title 6 of the Delaware Code by adding 2 sentences immediately before the next to the last sentence of the subsection to read as follows:

"In the event of a change of name of any person acting as a registered agent of a foreign limited partnership, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the foreign limited partnerships represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such foreign limited partnerships, and shall pay a fee as set forth in §17-1107(a)(7) of this title. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under his hand and seal of office."

Section 25. Amend §17-904(c), Chapter 17, Title 6 of the Delaware Code by deleting the words "of such certificate" as they appear after the word "Filing" in the next to the last sentence said subsection and by substituting in lieu thereof the words "a certificate under this section".

Section 26. Amend §17-904(e), Chapter 17, Title 6 of the Delaware Code by deleting therefrom the first two sentences of said subsection in their entirety and by substituting in lieu thereof the following:

"The registered agent of a foreign limited partnership may resign without appointing a successor registered agent by paying a fee as set forth in §17-1107(a)(7) of this title and filing a certificate with the Secretary of State stating that it resigns as registered agent for the foreign limited partnership identified in the certificate, but such resignation shall not become effective until 120 days after the certificate is filed. There shall be attached to such certificate an affidavit of such registered agent, if an individual, or of the president, a vice-president or the secretary thereof if a corporation, that at least 30 days prior to and on or about the date of the filing of said certificate, notices were sent by certified or registered mail to the foreign limited partnership for which such registered agent is resigning as registered agent, at the principal office thereof within or outside the State of Delaware, if known to such registered agent or, if not, to the last known address of the attorney or other individual at whose request such registered agent was appointed for such foreign limited partnership, of the resignation of such registered agent."

Section 27. Amend §17-1101, Chapter 17, Title 6 of the Delaware Code by adding at the end of the heading of said section and before the "." the words "and partnership agreement", and by adding at the end of said section the following new subsections to be designated as "(c)" and "(d)":

"(c) It is the policy of this chapter to give maximum effect to the principle of freedom of contract and to the enforceability of partnership agreements.

(d) To the extent that, at law or in equity, a partner has duties (including fiduciary duties) and liabilities relating thereto to a limited partnership or to another partner,

(1) any such partner acting under a partnership agreement shall not be liable to the limited partnership or to any such other partner for the partner's good faith reliance on the provisions of such partnership agreement, and (2) the partner's duties and liabilities may be expanded or restricted by provisions in a partnership agreement."

Section 28. Amend §17-1107(a)(2), Chapter 17, Title 6 of the Delaware Code by deleting said paragraph in its entirety and by substituting in lieu thereof the following:

"(2) Upon the receipt for filing of a certificate under §17-104(b) of this title, a fee in the amount of $50, upon the receipt for filing of a certificate under §17-104(c) of this title, a fee in the amount of $50 and a further fee of $2 for each limited partnership affected by such certificate, and upon the receipt for filing of a certificate under §17-104(d) of this title, a fee in the amount of $10."

Section 29. Amend §17-1107(a)(7), Chapter 17, Title 6 of the Delaware Code by deleting said paragraph in its entirety and substituting in lieu thereof the following:

"(7) Upon the receipt for filing of a certificate under §17-904(c) of this title, a fee in the amount of $50, upon the receipt for filing of a certificate under §17-904(d) of this title, a fee in the amount of $50 and a further fee of $2 for each foreign limited partnership affected by such certificate, and upon the receipt for filing of a certificate under §17-904(e) of this title, a fee in the amount of $10."

Section 30. Amend §17-1107(a)(8), Chapter 17, Title 6 of the Delaware Code by deleting the amount of money "$50" as it appears in said paragraph and by substituting in lieu thereof the amount of money "$250".

Section 31. Amend §17-1107(a)(10), Chapter 17, Title 6 of the Delaware Code by adding at the end of said paragraph before the ".", the words ", except that for issuing any certificate of the Secretary of State that recites all of a limited partnership's filings with the Secretary of State, a fee of $100 shall be paid for each such certificate".

Section 32. Amend §17-1109(h), Chapter 17, Title 6 of the Delaware Code by adding at the end of said subsection after the word "tax", the words ", accompanied by a certificate of the limited partnership executed by a general partner or a liquidating trustee stating that it is paying all sums due hereunder".

Section 33. Amend §17-1109(j), Chapter 17, Title 6 of the Delaware Code by adding in the second sentence of the subsection after the words "The Secretary of State shall not accept for filing any certificate" the words "(except a certificate of resignation of a registered agent when a successor registered agent is not being appointed)".

Section 34. This bill shall become effective on August 1, 1990.

Approved July 13, 1990.

CHAPTER 349

FORMERLY

SENATE BILL NO. 385
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 43, TITLE 29, DELAWARE CODE, RELATING TO THE APPOINTMENT OF NOTARIES FOR CERTAIN SERVICE ORGANIZATIONS.

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

Section 1. Amend §4305, Chapter 43, Title 29 Delaware Code by adding thereto a new subsection (c) to read as follows:

"(c) The Governor may, upon the request of any administrative head of any volunteer fire company or volunteer ambulance and rescue company, appoint one notary public for each requesting organization for a term of 4 years, without charge to any appointee, chief or organization. Any such notary, so appointed, shall have no authority to perform any duties with respect to such office or to take affidavits or acknowledgements, except on documents and papers in connection with and for the benefit of any members of the organizations listed herein to include their families or dependents. The notaries public, so appointed, shall make no charge to any service rendered."

Approved July 13, 1990.

CHAPTER 350

FORMERLY

SENATE BILL NO. 397
AS AMENDED BY SENATE AMENDMENT NO. 1

AN OMNIBUS ACT TO AMEND TITLE 11 AND TITLE 16 TO PROVIDE CLARIFICATION AND CONSISTENT APPLICATION OF THE INTENT OF THE TRUTH IN SENTENCING ACT OF 1989.

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

Section 1. Amend Title 11, Section 4204(m) by striking said section in its entirety and substituting the following:

"(m) Whenever a court imposes a sentence inconsistent with the presumptive sentences adopted by the Sentencing Accountability Commission, such court shall set forth on the record its reasons for imposing such penalty."

Section 2. Amend Title 11, Section 4206(c) by striking said section in its entirety and substituting the following:

"(c) the sentence for an unclassified misdemeanor shall be a definite sentence fixed by the court in accordance with the sentence specified in the law defining the offense. If no sentence is specified in such law, the sentence may include up to 30 days incarceration at Level V and such fine up to $500, restitution or other conditions as the court deems appropriate."

Section 3. Amend Title 11, Section 4216(d) by striking the words "to that date" and substituting therefore the words "June 30, 1990".

Section 4. Amend Title 11, Section 4217 by striking subsections (a) and (b) in their entirety and substituting therefor the following:

"(a) In any case where the trial court has imposed an aggregate sentence of incarceration at Level V in excess of one year, the court shall retain jurisdiction to modify the sentence to reduce the level of custody or time to be served under the provisions of this section.

(b) The court may modify the sentence solely on the basis of an application filed by the Department of Correction for good cause shown which certifies that the release of the defendant shall not constitute a substantial risk to the community or himself."

Section 5. Amend Title 11, Section 4217(c) by striking the words "exception of" and substituting therefor the word "exceptional".

Section 6. Amend Title 11, Section 4217 by adding thereto a new subsection (f) to read as follows:

"(f) Nothing contained in this section shall be construed to limit the court's ability to modify a sentence within the scope of the trial court's duly promulgated rules."

Section 7. Amend Title 11, Section 859(a) by deleting all words after "Class G felony".

Section 8. Amend Title 11, Section 1336(b) by deleting all words after "Class G felony".

Section 9. Amend Title 11, Section 1336(d) by deleting all words after "Class G felony".

Section 10. Amend Title 11, Section 1336(r) by deleting all words after "Class A misdemeanor".

Section 11. Amend Title 11, Section 1361(b) by deleting subsection (b) in its entirety and substituting the following:

"(b) Obscenity is a Class E felony if a person sells, delivers or provides any obscene picture, writing, record or other representation or embodiment of the obscene to a person under the age of 18. In all other cases, obscenity is a Class G felony. In addition to the above penalties, upon conviction of obscenity involving live conduct as defined in Section 1364 of this Title, the court shall order the business or establishment which presented, displayed or exhibited such conduct closed for a period of 6 months."

Section 12. Amend Title 11, Section 1361(c) by deleting the words "for Class G felony obscenity".

Section 13. Amend Title 11, Section 1504(a) by deleting all words following "punished by imprisonment" and inserting thereafter the words "and pay a fine of not less than $25,000."

Section 14. Amend Title 16, Section 4752 by deleting the words "10 years" and substituting therefor the words "5 years".

Section 15. Amend Title 16, Section 4753 by deleting everything after the words "Class A misdemeanor".

Section 16. Amend Title 16, Section 4754(a) by deleting everything after the words "Class B misdemeanor".

Section 17. Amend Title 16, Section 4754(b) by deleting everything after the words "Class B misdemeanor".

Section 18. Amend Title 16, Section 4755(b) by deleting said section in its entirety and substituting therefor the following:

"(b) Any person who violates paragraph (a)(1), (a)(2), (a)(4) or (a)(5) of this section shall be guilty of a Class F felony. Any person who violates paragraph (a)(3) of this section shall be guilty of a Class A misdemeanor."

Section 19. Amend Title 16, Section 4756(b) by deleting everything after the words "Class F felony".

Section 20. Amend Title 16, Section 4757(c) by deleting the words "More than 1 year" and substituting therefor the words "more than 30 days".

Section 21. Amend Title 16, Section 4757(d) by deleting everything following the words "Class G felony".

Section 22. Amend Title 16, Section 4761(1) by deleting everything after the words "Class C felony".

Section 23. Amend Title 16, Section 4761(2) by deleting everything after the words "Class E felony".

Section 24. Amend Title 16, Section 4771 by deleting everything after the words "Class A misdemeanor".

Section 25. Amend Title 16, Section 4772 by deleting everything after the words "Class G felony".

Section 26. Amend Title 16, Section 4773 by deleting everything after the words "Class E felony".

Section 27. Amend Title 16, Section 4774 by deleting everything after the words "unclassified misdemeanor".

Section 28. Amend Title 11, Section 4216(c) by striking said section in its entirety and substituting the following:

"(c) Where an inmate is serving Level V (incarceration) sentence(s) imposed not under the Truth in Sentencing Act of 1989, and is subsequently sentenced to Level V under the provisions of the Truth in Sentencing Act and had less than an aggregate 3 years remaining on his prior sentence(s), the Court at the time of sentencing under the Truth in Sentencing Act may in its discretion suspend the remainder of the prior non-Truth in Sentencing Level V sentence(s), unless such sentence was a statutory mandatory term."

Section 29. Amend Title 11, Section 635 by adding, after the words "B Felony.", the following: "Notwithstanding any provision of this Title to the contrary, the minimum sentence for a person convicted of Murder Second Degree in violation of this section shall be ten (10) years at Level V."

Section 30. Amend Title 11, Section 774 by adding, after the words "B Felony.", the following: "Notwithstanding any provision of this Title to the contrary, the minimum

sentence for a person convicted of Unlawful Sexual Intercourse in the Second Degree in violation of this section shall be ten (10) years at Level V."

Section 31. Amend Title 11, Section 6532(d) by striking the words "Class B felony" and substituting in their place the words "Class B felony or Class C felony".

Section 32. Amend Title 11, Section 6537(b) as follows:

a). By deleting the words "Notwithstanding any other provision of this section or title to the contrary" and inserting in their place the words "With the exception of the authority granted under Section 4205(h) and 4205(l) of this Title".

b). By adding after the words "B felony sex offense" the words "or C felony sex offense".

Section 33. Amend Title 11, Section 4204(l) by adding the following at the end of said section:

"The 6-month transition period required by this subsection may, at the discretion of the Court, be in addition to the maximum sentence of imprisonment established by the statute."

Section 34. Amend Title 11, Section 1326(a) by deleting all the words following "shall be guilty of" and inserting thereafter the words "a Class A misdemeanor."

Section 35. Amend Title 11, Section 1326(b) by deleting all words following "is guilty of" and inserting thereafter the words "a Class B misdemeanor."

Section 36. Amend Title 11, Section 1253 by deleting the second paragraph in its entirety, replacing with the following:

"Escape after conviction shall be a Class D felony; provided however, that if the defendant uses force or the threat of force against another person or has a deadly weapon in his possession at the time of escape, it shall be a Class C felony. If the defendant inflicts injury upon another person during the escape or from the time of escape until such person is again in custody, it shall be a Class B felony. Any sentence imposed upon conviction of escape after conviction shall not run concurrenty with any other sentence."

Section 37. Amend Title 11, Section 4214 as follows:

a) Amend subsection (a) by deleting the words "may, in its discretion, impose a life sentence upon the person so convicted." and substituting in lieu thereof the following:

"may in its discretion, impose a sentence of up to life imprisonment upon the person so convicted. Notwithstanding any provision of this Title to the contrary, any sentence so imposed pursuant to this subsection shall not be subject to suspension by the Court, and shall be served in its entirety at a full custodial Level V institutional setting without benefit of probation or parole, except that any such sentence shall be subject to the provisions of Sections 4205(h), 4217, 4381, and 4382 of this Title."

b) Amend Subsection (b) by adding the following language at the end thereof:

"Notwithstanding any provision of this Title to the contrary, any sentence imposed pursuant to this subsection shall not be subject to suspension by the Court, and shall be served in its entirety at a full custodial Level V institutional setting without benefit of probation, parole, earned good time or any other reduction."

Section 38. Except for Section 3 of this Act, which Section shall be effective immediately, the provisions of this Act shall be effective at the same time and in the same manner as the provisions of 67 Delaware Laws, Chapter 130.

Approved July 13, 1990.

CHAPTER 351

FORMERLY

SENATE BILL NO. 412
AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 10 OF THE DELAWARE CODE RELATING TO THE APPOINTMENT AND COMMISSIONING OF CONSTABLES.

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

Section 1. Amend §2701, Title 10, Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§2701. Appointment.

(a) The Board of Examiners of Constables shall appoint and commission such numbers of constables as it deems necessary, from among those persons who have made application, to preserve the peace and good order of the state.

(b) Upon expiration of a constable's term of office, he may request to the Board of Examiners that his commission as a constable be renewed. Approval for renewal shall be within the discretion of the Board of Examiners, and may be approved by it following such review."

Section 2. Amend §2702(e), Title 10 of the Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

(e) After the review process is completed, the Board of Examiners shall appoint and commission those applicants who have, as determined by the Board of Examiners, satisfied the requirements of this chapter and who are otherwise qualified to serve as constables."

Section 3. Amend §2703(e), Title 10, Delaware Code by deleting the words "by the Governor" as they appear in the first sentence of said subsection.

Section 4. Amend §2703, Title 10, Delaware Code by adding a new subsection to read as follows:

"(f) No constable shall be appointed for the benefit of any person, firm, corporation, civic association or governmental entity except upon a showing to the Board of Examiners that the proposed appointment will be in aid and relief of public law enforcement or police agencies and is necessary to protect life and property in circumstances where public law enforcement or police agencies are unable to assist."

Section 5. Amend §2704(a), Title 10, Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(a) The term of office for constables shall be one (1) year. Those constables appointed prior to the effective date of this law shall have their commissions reviewed by the Board of Examiners within one (1) year of the effective date of this law, and after review may be discharged by the Board for cause prior to the expiration of their term. A constable, including one appointed before the effective date of this law, may be discharged by the Board for cause prior to the expiration of his term. The Board of Examiners shall establish procedures for notification to the appropriate persons and authorities of its discharge of a constable. For the purposes of this section, 'cause' shall mean: (1) Conviction of a crime involving moral turpitude; (2) Conviction of a felony; (3) A finding by the Board that an individual used fraud or deceit in obtaining a constable's commission; or (4) Gross negligence or incompetence in performing a constable's duties."

Section 6. Amend §2705, Title 10, Delaware Code by adding a new paragraph thereto which shall read as follows:

"(4) As part of his duty, and in the exercise of his lawful authority, notify the full service police agency which has primary law enforcement jurisdiction in every instance in which he makes a custodial detention, an arrest, a search of a person or place, or when the occurrence of a criminal act is reported to him. It shall be the responsibility of the full service police agency to undertake any necessary investigation and to comply with the reporting demands of the State Bureau of Identification.

For purposes of this paragraph, 'full service police agency' shall mean a police force or other law enforcement agency of the state, county or municipality which is responsible for the prevention and detection of crime and the enforcement of the laws of this state and its governmental units."

Section 7. Amend §2707, Title 10, Delaware Code by deleting the word "Governor" as it appears in said section and substituting in lieu thereof the words "Board of Examiners".

Approved July 13, 1990.

CHAPTER 352

FORMERLY

HOUSE BILL NO. 714

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE PROVIDING FOR THE CONSERVATION OF LAND, WATER AND OTHER NATURAL AND HISTORIC RESOURCES WITHIN THE STATE AND ESTABLISHING ORGANIZATIONAL, REGULATORY AND FINANCIAL MEANS THEREFORE AND TO AMEND CHAPTER 34, TITLE 29 AND CHAPTER 47, TITLE 7 OF THE DELAWARE CODE TO CONFORM THEREWITH.

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

Section 1. Amend Title 7 of the Delaware Code to add a new Chapter to be designated as "Chapter 75" to read as follows:

"CHAPTER 75. DELAWARE LAND PROTECTION ACT

Subchapter I. Policy, Purposes, Creation of Delaware Open Space Council.

§7501. Short Title.

This chapter shall be known and may be cited as the "Delaware Land Protection Act."

§7502. Declaration of Policy.

The General Assembly finds that:

(a) The provision of lands for public recreation and conservation of natural resources promotes biological diversity, public health, prosperity, and general welfare and is a proper responsibility of government.

(b) Lands now provided for such purposes will not be adequate to meet the needs of an expanding population in years to come.

(c) The expansion of population, while increasing the need for such lands, will continually diminish the supply and tend to increase the cost of public acquisition of lands available and appropriate for such purposes.

(d) Rapid growth and spread of urban development is encroaching upon, or eliminating, many open areas and spaces of varied size and character. These areas and spaces, if preserved and maintained in their present open state, constitute important physical, biological, social, aesthetic or economic assets.

(e) The State must act now to protect and to help local governments to protect substantial quantities of such lands as are now available and appropriate so that they may be preserved and developed for the purposes enumerated herein.

(f) It is the public policy of the State of Delaware and its political subdivisions that the preservation of open spaces shall be accomplished through the acquisition of interests or rights in real property, or donation of said lands, and that said acquisition constitutes a public purpose for which public funds have been expended or advanced and should be continued.

§7503. Purpose.

(a) State Agencies may acquire any interest in real property for the following purposes, to carry out and expand on the intent of the conservation program described in Volume 65, Chapter 212 of the Laws of Delaware:

(1) To protect and conserve all forms of natural and cultural resources;

(2) To protect and conserve the biological diversity of plants and animals and their habitat;

(3) To protect existing or planned parks, forests, wildlife areas, nature preserves, or other recreation, conservation, or cultural sites by controlling the use of contiguous or nearby lands;

(4) To preserve sites of special natural, cultural, or geological interest;

(5) To connect existing open spaces into a cohesive system of greenways and resource areas;

(6) To provide for public outdoor recreation; and

(7) To allow for water resource conservation.

(b) State Agencies may acquire property or rights in real property pursuant to this chapter by the use of direct acquisition for cash, by purchase money mortgage, by installment sale, or by other methods or incentives as determined by the Secretary after consultation with the Secretary of Finance. State Agencies shall not exercise the "right of eminent domain" to carry out the provisions of this Chapter.

§7504. 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 shows a different meaning:

(1) "Conservation Trust Fund" means the Delaware Land and Water Conservation Trust Fund established and maintained pursuant to this Chapter 47 of this Title, as it may be amended or superseded.

(2) "Council" means the Delaware Open Space Council established pursuant to this chapter.

(3) "Department" means the Department of Natural Resources and Environmental Control.

(4) "Interest in real property" means any right in real property, improvements thereto, or water including but not limited to a fee simple, easement, remainder, future interest, lease, license, or covenant of any sort, option, or contractual interest or right concerning the use of or power to transfer property.

(5) "Land" or "lands" means real property, including improvements thereon; rights of way; water and riparian rights; easements, privileges and all other rights or interests of any kind or description in, relating to or connected with real property.

(6) "Open space" means any open lands characterized by (1) great natural scenic beauty, or (2) whose existing openness, natural condition, or present state of use, if retained, would maintain important recreational areas and wildlife habitat, and enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources. For the purposes of this chapter open space shall include significant cultural, historical or archaeological sites as determined by state plans and policies adopted by the Bureau of Historic and Cultural Affairs.

(7) "Overlay zone" means a local zoning district and its associated use, design, and environmental performance standards that is superimposed on the underlying zone for the purpose of providing additional protection.

(8) "Permanent protection" means the acquisition by purchase, gift, grant, bequest, devise, or otherwise the fee or any lesser interest, development right, easement, covenant, or other contractual right in real property in perpetuity necessary to achieve the purposes of this chapter.

(9) "Project" means the planning for, and the acquisition and development of property, undertaken to achieve the purposes of this chapter.

(10) "State Agency" means, and shall apply exclusively to, the following units of State government which manage natural and cultural resources:

Department of Natural Resources and Environmental Control (Division of Parks and Recreation and Fish and Wildlife), Department of State (Division of Historical and Cultural Affairs) and The Department of Agriculture (Division of Resource Management).

(11) "State Resource Area" means those open space lands duly identified by the Council and adopted by the Department for protection.

(12) "Secretary" means the Secretary of the Department of Natural Resources and Environmental Control.

§7505. Delaware Open Space Council.

(a) There is created a Delaware Open Space Council to advise the Secretary on all matters relating to the administration, implementation, and financing of this protection program; site selection; methods of protection; and interagency and intergovernmental coordination among public and private land preservation agencies.

(b) The Council shall have 9 members. The Council shall consist of:

1. One member of the Senate appointed by the President Pro Tempore to serve at the pleasure of the President Pro Tempore;

2. One member of the House of Representatives appointed by the Speaker of the House to serve at the pleasure of the Speaker of the House;

3. Seven members appointed by the Governor, at least four of whom shall be persons who have been active or have shown an interest in preserving open space. Of the seven members appointed by the Governor, three shall be persons who reside in New Castle County, two shall be persons who reside in Kent County, and two shall be persons who reside in Sussex County. Initially, two members shall be appointed for two years; two members for three years; and three members for four years. Thereafter members shall serve four-year terms, provided that at the end of a member's term such member shall continue to serve until his successor is duly appointed.

4. No more than five Council members shall be of one political party; provided, however, that failing or declining to announce one's political affiliation shall not make such person ineligible for appointment.

5. The Secretaries of Agriculture and State, the Director of the Delaware Development Office, and the State Liaison Officer for the federal Land and Water Conservation Fund or their duly authorized designees shall be ex officio members of the Council without voting powers.

(c) The Governor shall appoint the chairperson of the Council.

(d) The Department of Natural Resources and Environmental Control shall furnish clerical, technical, legal, and other services required by the Council in the performance of its official duties.

(e) Members of the Council shall receive no compensation but may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. The Council shall hold at least one regular meeting in each quarter of each calendar year and shall keep a record of its proceedings. All proceedings of the Council shall be conducted in accordance with chapter 100 of Title 29.

(f) For purposes of conducting business of the Council, five voting members shall constitute a quorum. A majority vote of the members present at a meeting at which a quorum is present shall be required on any action or matter before the Council.

(g) The Council may adopt procedural rules and regulations to carry out the provisions of this chapter.

§7506. Powers and Duties of the Council.

The Council shall:

(1) Review and recommend to the Department for adoption, after a public hearing, criteria for delineation, and dedication of open space;

(2) Review and recommend to the Department for adoption, after public hearing, State Resource Area maps;

(3) Review and recommend to the Department for approval lands for permanent protection according to the adopted State Resource Area maps;

(4) Review and recommend to the Department for adoption, a ranking system to establish land acquisition or permanent protection priorities;

(5) Advise and consult with the Secretary of the Department of Natural Resources and Environmental Control and with other state land preservation agencies and staff on preservation matters;

(6) Advise and consult regarding any change from permanently protected status of open space lands acquired or otherwise protected;

(7) Use the "Greenspaces for Delaware's Future" report prepared by the Department in 1990 as a starting point for carrying out the duties, and purposes of this act;

(8) Promote and assist, in conjunction with State agencies, in the development and establishment of creative and innovative methods to secure the permanent protection of open space including but not limited to:

(a) local and regional land trusts;

(b) conservation and preservation easements on a statewide basis;

(c) purchase of less than fee simple property rights;

(d) program(s) to create financial incentives for private sector contributions to establish operations and maintenance funds at State Resource Areas;

(9) Analyze, in conjunction with the Department of Finance, the state and local tax codes and formulate incentives to encourage landowners and developers to donate or retain ownership of their lands in an undeveloped state.

(10) Coordinate with an Interagency Working Group to be appointed by the Secretary that shall provide technical advice on all matters relevant to this chapter. At a minimum the working group shall consist of state agency technical staff from the Department of Agriculture, the Delaware Development Office, and the Divisions of Historical and Cultural Affairs, Fish and Wildlife, and Parks and Recreation. Non-state agency membership shall be comprised of representatives from each county government, which may include up to one member each from the Planning Department, Parks and Recreation, and or Executive Office, as determined by the County Executive or Levy Court President. The Secretary shall select a chairperson from among the members. The Group will work to maximize the use of funds, and use of protection methods other than fee simple acquisition to permanently protect statewide priority projects through utilization of open space criteria and the ranking system adopted by the Department.

(11) Review and recommend to the Department for approval funding from the Conservation Trust Fund and serve as the review authority for other state and federal funding programs if called upon to do so.

(12) Work with the Department, private non-profit conservation groups and interested private sector interests to preserve and protect open space for the benefit of the citizens of the State.

(13) Recommend to the Department for adoption, after public hearing, any rules and regulations as may be necessary to carry out any provisions of this chapter.

§7507. State Resource Areas.

(a) In furtherance of the purposes of this chapter, the Council shall, in conjunction with the Interagency Working Group, develop and forward to the Department for adoption:

(1) Standards and criteria consistent with the purposes of this chapter for evaluating the lands and waters of the State for inclusion as State Resource Areas in the open spare program;

(2) A system for determining the existence and location of State Resource Areas; their degree of endangerment; an evaluation of their importance; and information related to their natural, historic, or open space values;

(3) A priority ranking system for the acquisition of said lands and waters or rights therein.

(b) The Department shall carry out the following actions in furtherance of this chapter:

(1) Designate and adopt State Resource Areas for inclusion in the open space program. State Resource Areas shall be shown on maps of sufficient scale to identify individual properties for planning and zoning purposes.

(2) Update the State Resource Area maps, in consultation with county governments, at least every five years.

(c) Upon adoption of the State Resource Area maps the Department shall send copies to the affected county for inclusion in the conservation element of their respective comprehensive plans, and send copies to affected municipalities for inclusion in their respective comprehensive plans. Updated State Resource Area Maps shall also be submitted to said agencies no later than one year prior to mandatory comprehensive plan updates as required in the Delaware Code.

(d) It is the intent of the General Assembly that the Council shall, in conjunction with the Department, analyze the feasibility and advisability of establishing a right of first refusal to purchase any property located within a State Resource Area. The Council shall propose and recommend to the General Assembly legislation to accomplish the foregoing, after holding public hearings with respect to such proposal.

§7508. Land Use Requirements.

(a) In order to maintain the protection of the unique ecological functions of State Resource Areas in a manner consistent with the purposes of this chapter, each county government shall adopt and incorporate overlay zoning ordinances, guidelines and specific technically-based environmental performance standards, design criteria and mitigation requirements, where appropriate, that shall apply to significant ecological functions and identified historic and archeological sites on these lands. The guidelines shall designate the boundaries to which they apply and provide a procedure for the appeal of such boundary designations. The zones created hereunder shall overlie and not replace the existing zoning or preclude or prejudice any change thereto. The standards specified in the guidelines shall include, but not be limited to:

(1) The establishment of frontage, building height, setback and site design requirements that shall apply in State Resource Areas and which may apply to lands immediately adjacent thereto, which will result in residential, commercial, and industrial or other uses which minimize the loss of open space and associated values of State Resource Area lands.

(2) The establishment of technically based specific environmental performance standards and design criteria that shall apply in and may apply adjacent to State Resource Areas in order to protect the values of said lands.

(b) The powers granted counties under Title 9, Delaware Code as they pertain to the protection of any natural feature or resource governed by this Title, shall be exercised through the adoption of ordinances and land use requirements duly enacted or approved by the county government of each county. Such natural resource protection requirements shall restrict land use activity by means of enactment and enforcement of specific technically-based environmental performance standards, design criteria and mitigation requirements consistent with State law and regulations. Minimum lot sizes, density limitations, and prescribed percentages of impervious surface and use limitations and prohibitions shall not constitute performance standards as required herein, however, such limitations and restrictions shall be adopted where appropriate, to establish an alternative means of complying with the purpose and requirements of the overlay zones. It shall be the option of the owner of land to satisfy either (1) the County environmental performance standards, design criteria and mitigation requirement or (2) the overlay zoning ordinances where such options are made available. The guidelines, performance standards, design criteria of this subsection shall not apply to lands producing Agricultural Commodities as defined in Title 3, Chapter 7 of Delaware Code or lands under State Agency ownership.

(c) In order to encourage land owners and developers to promote the objectives of this Chapter, each county government shall evaluate density bonuses, credits, or other incentives and allowances to land owners and developers for lands or resource protection rights thereto, to encourage the permanent protection of open space and/or any natural resource as governed by this Title and elect such measures as they deem appropriate. The counties shall evaluate and consider enactment of measures to allow such bonuses, allowances, incentives and credits to have the ability to be sold, transferred, or applied, as a matter of right, to other lands to the maximum density permitted by the applicable zoning classification, so long as such action is consistent with the Comprehensive Plan of the County.

(d) Counties shall adopt zoning ordinances that enact these guidelines and standards within 18 months after receipt of State Resource Area Maps from the Department. If a county government does not comply with this 18 month enactment requirement, said county

shall be ineligible for any funds negotiated for but unexpended under subsection (e) of this section and return to the State an amount equal to Funds expended under an agreement negotiated under subsection (e).

(e) The Secretary shall negotiate an agreement and grant a one time amount of up to $100,000 to each county to assist with compliance of the requirements in this section.

§7509. Program Administration.

(a) The Department shall administer the conservation program described in this chapter. The Department shall develop, periodically review and maintain a comprehensive statewide outdoor recreation and conservation plan, for consideration and approval by the Council, which shall establish criteria and priorities for the application of funds available for the purposes of this chapter. The Department's existing Statewide Comprehensive Outdoor Recreation Plan shall be the initial plan for the purposes of this subsection.

(b) The Department, in conjunction with other public and private land management organizations, shall undertake a special program to acquire or otherwise permanently protect lands within established State Resource Areas and other lands identified as having State significance according to the procedures of this chapter.

(c) Rules and regulations adopted, and contracts entered into, with respect to the Delaware Land and Water Conservation Trust Fund as originally established under Section 4733 of this Title shall remain in effect with respect to the Conservation Trust Fund until amended, revoked or otherwise modified pursuant to this subsection.

(d) Direct costs associated with the administration of the conservation program described in this chapter shall be paid from the Land and Water Conservation Trust Fund.

(e) Five years after the enactment of this chapter, and every five years thereafter through the life of the program, the Secretary and the Council shall report to the Governor and the General Assembly on the status and accomplishments of the program with recommendations regarding continuation of land preservation activities. In addition to the requirements outlined above, the Secretary and the Council file annual reports with the General Assembly detailing accomplishments and activities of the program, including its impact on the tax base of the counties.

Section 2. Amend.

Chapter 34, Title 29 of the Delaware Code by deleting it in its entirety.

Section 3. Amend Sections 4733 through 4737, Chapter 47, Title 7 of the Delaware Code by deleting them in their entirety.

Section 4. This Act is the Delaware Land Protection Act referred to in Senate Substitute 1 to Senate Bill No. 110.

Approved July 13, 1990.

CHAPTER 353

FORMERLY

HOUSE BILL NO. 368
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 60, TITLE 7, DELAWARE CODE, RELATING TO THE FORMULATION AND IMPLEMENTATION OF AN EXTRACTIVE USE PROGRAM.

WHEREAS, the State of Delaware recognizes the need to regulate the excavation of clay, sand, silt, gravel and rock for the protection of groundwater; and

WHEREAS, the extraction and processing of earth products are a necessary part of the ongoing economic development activity in Delaware, and the nature of this material makes it a vital component of numerous construction trades, however, the actual extraction of the material and subsequent use of the site have the potential of causing serious environmental impairment; and

WHEREAS, Title 7, Delaware Code, provides for the protection of water resources in the State of Delaware.

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 Subchapter II, Chapter 60, Title 7 of the Delaware Code by adding thereto the following new section to read as follows:

"§6036. Borrow Pits.

(a) The Secretary shall develop, implement and enforce, and may amend, modify and repeal, after notice and public hearing, a program to protect the waters of the State from adverse environmental impacts relating to the operation of borrow pits. In addition to any other authority which the Secretary may exercise for the purpose under this Chapter or other Chapters of the Delaware Code, the Secretary may:

(1) Require borrow pit owners/operators to obtain operating permits from the Department of Natural Resources and Environmental Control;

(2) Require reclamation of abandoned pits by owners/operators;

(3) Require borrow pit owners/operators to secure the borrow pit premises from illegal dumping, disposal of wastes or vandalism; and

(4) Adopt, amend, modify, or repeal rules or regulations to effectuate this section.

(5) Fees may be collected or charged for permits to be issued under this section in an amount determined by the issuing authority, which fee shall not exceed the sum of $80 per disturbed acre, per year, per project.

(b) The Secretary may delegate all or part of the program to any County having rules or regulations governing borrow pits which, upon a finding by the Secretary, are at least equivalent to State requirements."

Section 2. Amend §6002, Subchapter II, Chapter 60, Title 7 of the Delaware Code by adding two new subsections (5) and (7) to said section as follows and redesignating the other subsections in said section accordingly:

"(5) 'Borrow pit' means any excavation into the subsurface for the purpose of extraction of earth products with the exception of excavation for utility or road construction, agricultural or highway drainage, or dredging operations under the jurisdiction of the U.S. Army Corps of Engineers.

(7) 'Earth products' means any solid material, aggregate, or substance of commercial value, whether consolidated or loose, found in natural deposits on or in the earth, including, but not limited to clay, silt, diatomaceous earth, sand, gravel, stone, metallic ores, shale and soil."

Approved July 16, 1990.

CHAPTER 354

FORMERLY

HOUSE BILL NO. 434
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 3, 15, 17, 20, 30, 31, 47, AND 49 OF TITLE 15, OF THE DELAWARE CODE RELATING TO REGISTRATION, REGISTRATION OFFICERS, ELECTION OFFICERS, TIME DIRECTIVES AND AGE RESTRICTIONS, AND ELECTION LAWS.

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

Section 1. Amend Section 306, Chapter 3, Title 15, Delaware Code by deleting the words "June" and "July" and inserting in lieu thereof the words "April" and "May", respectively.

Section 2. Amend Section 307, Chapter 3, Title 15, Delaware Code by deleting the words "delivered by" as they appear in subsection (c) and inserting in lieu thereof the words "available from".

Section 3. Amend Chapter 15, Title 15, Delaware Code by deleting it in its entirety.

Section 4. Amend Chapter 17, Title 15, Delaware Code by renaming it as "REMOVAL PROCEDURES FOR REGISTRATION RECORDS".

Section 5. Amend Subsection 1703(a), Section 1703, Chapter 17, Title 15, Delaware Code by deleting the words "and date of birth" and by inserting in lieu thereof the words ", date of birth, and social security number if available".

Section 6. Amend Subsection 1705(a), Section 1705, Chapter 17, Title 15, Delaware Code by the words "21 years of age" and inserting in lieu thereof the words "18 years of age".

Section 7. Amend Section 1722, Chapter 17, Title 15, Delaware Code by deleting the first paragraph in subsection (a) and subparagraphs (3), (5) and subsection (b) in their entirety; redesignate present paragraph 1, 2, and 4 as subsections (a), (b), (d) and inserting new subsections (c), (e), (f) as follows:

"(c) If unable to sign, the applicant shall make his mark on the application for registration and the original and duplicate permit registration records initialed by the registration officers. If the applicant is unable to sign or make his mark because of physical disability, the registration officers shall indicate the fact in the space provided for the signature of the applicant upon the registration records, and they shall sign the application for registration and initial the original and duplicate permanent registration records the same as in other cases.

(e) The registration officers shall record the name and address of each applicant upon a separate list of registered voters in the order in which they appear at the registration place to be registered.

(f) At the end of the registration day, the registration officer shall deliver to the department all of the sets of registration records supplied by the department along with the list of all transactions."

Section 8. Amend §1728(a), Chapter 17, Title 15, Delaware Code by deleting the word "inventory" as it appears in the first sentence of subsection (a).

Section 9. Amend Subsection 1728(a), Section 1728, Chapter 17, Title 15, Delaware Code by deleting the word "inventory" as it appears in the second sentence of subsection(a) and substituting in lieu thereof the word "records".

Section 10. Amend Subsection 1728(b), Section 1728, Chapter 17, Title 15, Delaware Code by deleting the words "registered mail" as they appear in the second sentence of said subsection and inserting in lieu thereof the words "first class mail"; and by deleting the word "typewritten" as it appears in the last sentence of said subsection and inserting in lieu thereof "typed or written".

Section 11. Amend Section 1725 and 1728, Chapter 17, Title 15, Delaware Code by deleting the word "registrar" and inserting in lieu thereof the words "registration officer" as they appear throughout Sections 1725 and 1728.

Section 12. Amend Chapter 17, Title 15, Delaware Code by deleting Sections 1721, 1723, 1724, 1726, 1727 in their entirety and renumbering Sections 1722, 1725, and 1728 as "Subchapter II Procedure at Registration Place, Sections 2011 through 2013" respectively.

Section 13. Amend Subsection 1742(a), Section 1742, Chapter 17, Title 15, Delaware Code by inserting the word "anew" after the words "such person must register" as they appear in the first sentence.

Section 14. Amend Section 1745, Chapter 17, Title 15, Delaware Code by deleting the words ", and the Commissioner shall cause a new punch card to be made for the applicant and file it in the proper place" as they appear in the last sentence.

Section 15. Amend Chapter 17, Title 15, Delaware Code by redesignating "Subchapter III, Sections 1741 through 1749" as "Subchapter VI, Section 2041 through 2049", respectively.

Section 16. Amend Chapter 20, Title 15, Delaware Code by renaming Chapter 20 as "Office and Mobile Registration; Registration by Mail".

Section 17. Amend Chapter 20, Title 15, Delaware Code by renumbering existing "Subchapter II, Sections 2002 through 2006" as Subchapter III, Sections 2021 through 2025, respectively.

Section 18. Amend Chapter 20, Title 15, Delaware Code by renumbering existing "Subchapter III, Sections 2012 through 2015" as "Subchapter IV, Sections 2031 through 2034", respectively.

Section 19. Amend Chapter 20, Title 15, Delaware Code by striking Subchapter I and §2001 in their entirety and adding a new Subchapter I to read as follows:
"Subchapter I. Registration Officers; Office Registration.

Section 2001. Appointment.

The department shall appoint as registration officers a sufficient number of registered voters to conduct registration in the department's central office.

Section 2002. Appearance of registration officers for taking of oath and instruction.

Each person appointed under Section 2001 of this title shall appear before the department to qualify by taking and subscribing to the prescribed oath (or affirmation) and to receive suitable instruction after due notice from the department, which shall be given at least 7 days before the times appointed for the appearance of the registration officers. No person shall be excused from the obligation unless he shall have become disqualified by sickness, disability or otherwise.

Section 2003. Oath of office for registration officers.

(a) Each person appointed under Section 2001 of this title shall take and subscribe before the department before beginning his duties the following oath (or affirmation):

I,_____, residing in_____election district of the _____representative district in _____county, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Delaware, and that I will faithfully discharge the duties of registration officer in _____county, according to the best of my ability.

(b) Any board of elections member, administrative director, deputy administrative director or other authorized agent of the department may administer this oath (or affirmation).

Section 2004. Certificate of appointment.

Each department shall deliver a certificate of appointment to whomsoever it shall appoint and who shall be sworn into office as registration officers. Such certificate shall be in such form as shall be prescribed by the department and shall include the date of the expiration of his term of office.

Section 2005. Vacancies.

If any vacancy occurs in the office of the registration officer before the expiration of the full term, from any cause whatsoever, the department shall appoint some suitable person to fill such vacancy who shall serve for the residue of such unexpired term who shall

possess the same qualifications and be qualified in the same manner and who shall possess the same powers and perform the same duties as the original appointee.

Section 2006. Special powers of registration officers during registration.

Each of the registration officers shall, in addition to the other powers conferred upon him by law, have, during the respective times of the appointed sittings for registration; the power to:

(a) Preserve order and enforce obedience to his lawful commands at or around the place of registration;

(b) Keep access to such place open and unobstructed;

(c) Protect and keep safe the registration records while in his and the assistant registration officer's custody and possession.

(d) Administer oaths or affirmations."

Section 20. Amend Subsection 3002(d), Chapter 30, Title 15, Delaware Code by deleting the words "August 15" and inserting in lieu thereof the words "July 15".

Section 21. Amend Subsection 3106(e), Chapter 31, Title 15, Delaware Code by inserting the words "at the time of filing" at the end of subsection (e).

Section 22. Amend Section 4701, Chapter 47, Title 15, Delaware Code by deleting it in its entirety and adding in lieu thereof a new section to read as follows:

"Section 4701. Appointment; term.

(a) The county executive committee of each of the 2 principal political parties shall submit to the department no later than February 1 of each general election year a list containing the names of 8 registered voters for each election district in the county. The department shall appoint all election officers, including clerks, from these lists; provided, that if the lists are not filed with the department by February 1 or if the number of names submitted are not sufficient, the department shall select some qualified person or persons shown on its records to be registered in the appropriate political party.

(b) During the month of April in each general election year, each department shall appoint for each election district in its county 1 inspector; 2 judges of election, 1 from each of the 2 principal political parties; and 2 clerks of election, 1 from each of the 2 principal political parties, provided that where the election district has fewer than 100 voters of a principal political party, the department may appoint such party's clerk or clerks of election from a different election district within the same representative district. The terms of the inspectors, judges, and clerks of election shall extend from the day of their appointment to April 1 of the next general election year. They shall appear before the department to qualify by subscribing to the proscribed oath (or affirmation) and receiving suitable instruction in the manner provided for all officers in Sections 4702 and 4703 of this title.

Whenever an election district is to be provided more than 1 voting machine, 2 additional clerks, 1 from each principal political party, shall be appointed for each additional voting machine. These additional appointments shall be made in April whenever the number of additional voting machines is known to the department. Subsequent additional appointments shall be made as soon as practicable after the department determines the need for additional voting machines in an election district."

Section 23. Amend Subsection 4703(a), Section 4703, Title 15, Delaware Code by deleting the words "registrar or assistant registrar".

Section 24. Amend Chapter 47, Title 15, Delaware Code by renumbering existing Sections 4702 through 4705 as Sections 4705 through 4708, respectively.

Section 25. Amend Chapter 47, Title 15, Delaware Code to add a new section 4702 to read as follows:

"Section 4702. Appearance of election officers for taking of oath and instruction.

Each person appointed under Section 4701 of this title shall appear before the department to qualify by taking and subscribing to the prescribed oath (or affirmation) and to receive suitable instruction after due notice from the Department, which shall be given at least 7 days before the times appointed for the appearance of the election officers. No

person shall be excused from the obligation unless he shall have become disqualified by sickness, disability or otherwise."

Section 26. Amend Chapter 47, Title 15, Delaware Code to add a new Section 4703 to read as follows:

"Section 4703. Oath of Office for Election Officers.

(a) Each person appointed under Section 4701 of this title shall take and subscribe before the department before beginning his duties the following oath (or affirmation):

I,_____, residing in_____election district of the _____representative district in _____county, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Delaware, and that I will faithfully discharge the duties of election officer for the_____election district of the_____representative district in_____county, according to the best of my ability.

(b) Any board of elections member, administrative director, deputy administrative director or other authorized agent of the department may administer this oath (or affirmation)."

Section 27. Amend Chapter 47, Title 15, Delaware Code to add a new Section 4704 to read as follows:

"Section 4704. Certificate of Appointment.

Each department shall deliver a certificate of appointment to whomever it shall appoint and who shall be sworn into office as inspector, judge,or clerk of election. Such certificate shall be in such form as shall be prescribed by the department and shall specify the election district for which the persons to whom it is issued is appointed and the date of the expiration of this term of office."

Section 28. Amend Section 4911, Chapter 49, Title 15, Delaware Code to delete existing subsections (a) and (b), redesignating existing subsection (c) as subsection (b), and inserting a new subsection (a) to read as follows:

"During the hours that a primary, general, or special election is open, there shall be displayed at or near the entrance of each polling place so as to be readily visible, a United States flag and a black and white flag or paperboard sign at least 20 inches by 30 inches in size. The flags or signs shall be provided by the department. The black and white flags and signs shall be white with black letters bearing the words "POLLING PLACE."

Approved July 16, 1990.

CHAPTER 355

FORMERLY

HOUSE BILL NO. 442
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 11 OF THE DELAWARE CODE, RELATING TO THE BOARD OF PAROLE.

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

Section 1. Amend Section 4347 (f), Chapter 43, Title 11 of the Delaware Code by striking the first paragraph of that subsection in its entirety and substituting in lieu thereof a new first paragraph to read as follows:

"All paroles shall issue upon order of the Board duly adopted by a majority of those present and voting: provided however, no person who has been convicted of and imprisoned for murder, rape, unlawful sexual intercourse in the first or second degree, kidnapping or any offense relating to the sale, attempt to sell, delivery or possession with intent to sell or deliver a narcotic drug shall be granted a parole except by order of the Board duly adopted by at least 4 of the 5 members of the Board. A quorum shall be a minimum of 3 members."

Approved July 16, 1990.

CHAPTER 356

FORMERLY

HOUSE BILL NO. 574
AS AMENDED BY HOUSE AMENDMENT NOS. 2, 7 AND 8
AND SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AUTHORIZE THE SALE OF CERTAIN SURPLUS LANDS HELD BY THE STATE OF DELAWARE AS TRUSTEE OF THE JOHN FERRIS TRUST UNDER CERTAIN CONDITIONS AND TO EXEMPT SUCH SALE FROM THE PROVISIONS OF 7 DEL. C. CHAPTER 45 AND 29 DEL. C. CHAPTER 94.

WHEREAS, title to certain lands in New Castle County is presently held by the State of Delaware as trustees of a trust established by the Will of John Ferris; and

WHEREAS, the Ferris trust is presently administered by the Secretary of the Department of Services for Children, Youth and Their Families as successor trustee to the State Division of Correction of the Department of Health and Social Services and State Department of Correction; and

WHEREAS, the Secretary of the Department of Services for Children, Youth and Their Families has determined that a portion of Ferris trust land of approximately 50 acres, more or less, is excess of its reasonably foreseeable needs; and

WHEREAS, the General Assembly finds that the 50 acres, more or less, which are the subject of this Act, and which are to be more specifically described in a deed for said land, have been reported to it as excess property by the Secretary of the Department of Services for Children, Youth and Their Families, are presently subject to no use, were acquired in trust by the State of Delaware at no cost to the State, bear a present value not less than the highest per acre value of those valuations determined by three independent real estate appraisers, is not needed by any other state or local governmental agency, and will be put to the highest and best use in the interest of the State of Delaware and the beneficiaries of the trust if the Hewlett-Packard Company acquires same; and

WHEREAS, the findings set forth in the immediately preceding paragraph are made in lieu of findings by the State Surplus Real Property Commission pursuant to 29 Del. C. §9405; and

WHEREAS, sale of said 50 acre parcel, more or less, will result in the realization of substantial cash proceeds which will inure to the interest of beneficiaries of the Ferris Trust and the people of the State of Delaware; and

WHEREAS, the Hewlett--Packard Company has offered to purchase said 50 acre surplus parcel, more or less, at a confirmatory appraisal price to be established as the highest per acre price for the land resulting from the appraisals of three (3) independent professional real estate appraisers; and

WHEREAS, the establishment of the confirmatory appraisal price for the subject land pursuant to Section 2 of this Act assures compliance with the legal fiduciary duty of the State of Delaware as trustee to secure the maximum and full market value for said land; and

WHEREAS, approval of the sale of the subject parcel by the State has been petitioned for by the Secretary of the Department of Services for Children, Youth and Their Families in litigation styled In the Matter of the Sale and Conversion of Certain Trust Property of the Ferris Trust, C.M. No. 4908, in the Court of Chancery in and for New Castle County; and

WHEREAS, questions have been raised in the litigation in the Court of Chancery regarding the need for General Assembly approval of the sale pursuant to 7 Del. C §4518 and 29 Del C. Chapter 94 and as to who has standing to seek court approval of such transaction; and

WHEREAS, it is the desire of the General Assembly that a sale of the subject lands to the Hewlett-Packard Company should occur, which sale might be lost if there were protracted litigation over these question; and

WHEREAS, the General Assembly finds and declares that the proposed sale of property at the highest appraised value provides a public benefit, serves the public interest, and is in the interest of the Ferris trust.

NOW, THEREFORE:

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

Section 1. The Secretary of the Department of Services for Children, Youth and Their Families is hereby authorized, on behalf of the State of Delaware, to convey by deed 50 acres, more or less, of John Ferris trust property to the Hewlett-Packard Company, being more specifically referred to as a portion of the westernmost section of New Castle County Tax Parcel No. 07-032.30-010 and the precise metes and bounds of which shall be agreed upon by the Hewlett-Packard Company and the Secretary of the Department of Services for Children, Youth and Their Families prior to sale and which shall be recorded at the Office of New Castle County Recorder of Deeds.

Section 2. The price per acre for the land conveyed pursuant to Section 1 shall be known as the confirmatory appraisal price. The confirmatory appraisal price shall be the highest price per acre derived from appraisals conducted by three (3) independent professional real estate appraisers.

Section 3. The General Assembly hereby authorizes and approves the petition filed with the Court of Chancery in and for New Castle County by the Secretary of the Department of Services for Children, Youth and Their Families seeking approval of sale of the land to the Hewlett-Packard Company pursuant to 12 Del. C. §3533. The conveyance of the land to the Hewlett-Packard Company shall be consummated after approval of said sale by the Court of Chancery.

Section 4. The provisions of 7 Del. C. Chapter 45 and those of 29 Del. C. Chapter 94 shall not apply to the sale described in Section 1 of this Act. It is the intention of the General Assembly that the value of the subject land in any such sale shall be established by professional appraisals as set forth in Section 2, above.

Section 5. Nothing in this Act shall be construed as applying to any other transaction or as deciding any issues relating to the need to obtain General Assembly approval in order to convey trust property in any future sale of such property or relating to the standing of the Secretary of the Department of Services for Children, Youth and Their Families regarding his power to convey trust property in any future sale of such property.

Section 6. Proceeds realized from the sale of Ferris property referenced by this Act shall be deposited into the Ferris Trust. All proposed expenditures of these funds, or income earned from these funds, shall be appropriated and expended in accordance with the intentions of the Ferris Trust and in conformity with the Annual Appropriations Act of the State of Delaware.

Section 7. Conveyance of the land described in section 1 of this Act to Hewlett-Packard Company shall be conditioned upon execution and recording of a declaration of restrictions that provide that no road, lane or street that would provide said property with access to Centre Road shall be constructed unless and until said property is rezoned to O-2 zoning classification or its subsequent equivalent.

Section 8. Conveyance of the land described in Section 1 of this Act to Hewlett-Packard Company shall be conditioned upon execution and recording of a declaration of restrictions that provide that prior to a conveyance of said property, or a portion thereof, by Hewlett-Packard Company to some third party the property, or portion thereof, must be offered to the State of Delaware, by delivery of a copy of the bona fide contract to the Governor, President Pro Tempore of the Senate and the Speaker of the House of Representatives, at the same price and upon the same terms as the bona fide contract and the State of Delaware shall be permitted a period of ninety (90) days to decide if the option to purchase shall be exercised.

Approved July 16, 1990.

CHAPTER 357

FORMERLY

HOUSE BILL NO. 674

AS AMENDED BY
HOUSE AMENDMENTS NO. 1, 2, 3, 4, AND 5

AN ACT TO AMEND TITLE 18, DELAWARE CODE, REQUIRING CONTINUING CARE FACILITIES TO REGISTER AND FILE FINANCIAL DISCLOSURE STATEMENTS WITH THE SECRETARY OF STATE AND REQUIRING TRUTH IN ADVERTISING REGARDING SUCH FACILITIES.

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

Section 1. Amend Part I, Title 18 of the Delaware Code by adding thereto a new chapter, designated as Chapter 46, which new chapter shall read as follows:

"Chapter 46. LIFE-CARE REGISTRATION ACT.

§4601. Definitions.

The following words and phrases when used in this Act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

'Continuing care.' The furnishing to an individual, other than an individual related by consanguinity or affinity to the person furnishing such care, of housekeeping services, board and lodging or lodging services, together with furnishing or promising to furnish nursing services, medical services or other health-related services, regardless of whether or not the lodging and services are provided at the same location and pursuant to an agreement effective for the life of the individual or for a period in excess of one year, including mutually terminable contracts and in consideration of the payment of an entrance fee with or without other periodic charges. The payment of, or agreement to pay, condominium or cooperative assessments for common expenses of the condominium or cooperative with respect to a condominium or cooperative housing unit which is part of or associated with a continuing care facility shall be considered as the furnishing of lodging services.

'Deposit.' A portion of the entrance fee or any other charges of the provider, except the application fee, received by the provider to reserve a living unit, or reserve a priority position on the facility's waiting list.

'Entrance fee.' An initial or deferred transfer to a provider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility. A fee which is less than the sum of the regular periodic charges for one year of residency will not be considered to be an entrance fee for the purposes of this Act. If a resident is required to own a condominium or cooperative unit in order to obtain continuing care at a continuing care facility, the price paid for such unit shall be considered as an entry fee and the purchased unit shall be considered as a living unit for the purposes of this Act.

'Facility.' The place or places in which a person undertakes to provide continuing care to an individual.

'Living unit.' A room, apartment, cottage, house, condominium, cooperative, or other area within a facility set aside for the exclusive use or control of one or more identified individuals.

'Manager.' An entity operating a facility on behalf of the provider. This does not include personal financial statements of any employee of the manager.

'Omission of a material fact.' The failure to state a material fact required to be stated in any disclosure statement or registration in order to make the statements made therein not misleading in light of the circumstances under which they were made.

'Provider.' A person undertaking to provide continuing care in a facility.

'Resident.' An individual entitled to receive continuing care in a facility.

'Secretary.' The Secretary of State of Delaware.

'Solicit.' All actions of a provider or manager in seeking to have individuals residing in this State pay an application fee and enter into a continuing care agreement by any means such as, but not limited to, personal, telephone or mail communication or any other communication directed to and received by any individual in this State and any advertisements in any media distributed or communicated by any means to individuals in this State.

§4602. Registration.

No provider shall engage in the business of providing continuing care in this State until it shall have (1) filed a registration statement on a form to be prescribed by the Secretary, (2) filed with the Secretary the disclosure statement provided for in §4603, and (3) paid a registration fee of $50.00 to the Secretary; provided, however, a non-profit continuing care facility as defined in this Act whose facilities will not accommodate more than 100 residents shall be exempt from the provisions of this Act, providing the facility annually submits to the Secretary of State a certified audit evidencing qualifications for this exemption.

§4603. Disclosure Statement.

(a) Prior to the execution of a contract to provide continuing care or prior to the transfer of any money or other property (other than an application fee not to exceed $1,500.00) to a provider by or on behalf of a prospective resident, whichever shall first occur, the provider shall advise in writing the person with whom the contract is to be entered into that a copy of the current disclosure statement verified by the provider's chief financial officer is available for examination by the said person and that he/she may also have a copy of the current disclosure statement if he/she requests it. If said person requests a copy, it shall be provided to the person at least (2) days prior to the execution of the contract or the transfer of money to a provider whichever shall first occur. In the disclosure statement for each facility a multiple facility provider does not have to disclose information about its other facilities unless the operation of the facilities are financially connected. The disclosure statement shall contain all of the following information unless such information is in the contract, a copy of which must be attached to the statement:

(1) The name and business address of the provider and a statement of whether the provider is a partnership, corporation or other type of legal entity.

(2) The names and business addresses of the officers, directors, trustees, managing or general partners, and any person having a 10% or greater equity or beneficial interest in or of the provider and a description of such person's interest in or occupation with the provider.

(3) With respect to:

(i) The provider,

(ii) Any person named in response to paragraph (2), and

(iii) The proposed manager, if the facility will be managed on a day-to-day basis by a person other than an individual directly employed by the provider:

(A) A description of the business experience of such person, if any, in the operation or management of similar facilities.

(B) The name and address of any professional service, firm, association, trust, partnership or corporation in which such person has, or which has in such person, a 10% or greater interest and which it is presently intended will or may provide goods, leases or services to the facility of a value of $500 or more, within any year, including:

(I) A description of the goods, leases or services and the probable or anticipated cost thereof to the facility or provider,

(II) The process by which the contract was awarded, and

(III) Any additional offers that were received.

(C) A description of any matter in which such a person:

(I) has been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property; or

(II) is subject to a currently effective injunctive or restrictive order of a court of record, or within the past five years had any state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency or department, arising out of or relating to business activity or health care, including, without limitation, actions affecting a license to operate a foster care facility, nursing home, retirement home, home for the aged or facility registered under this Act or a similar act in another state.

(4) A statement as to:

(i) Whether the provider or manager is or ever has been affiliated with a religious, charitable or other nonprofit organization,

(ii) The nature of the affiliation, if any,

(iii) The extent to which the affiliate will be responsible for the financial and contractual obligations of the provider, and

(iv) The provision of the Federal Internal Revenue Code, if any, under which the provider or affiliate is exempt from the payment of income tax.

(5) The location and description of the physical property or properties of the facility, existing or proposed, and, to the extent proposed, the estimated completion date or dates, whether or not construction has begun and the contingencies subject to which construction may be deferred.

(6) Each of the services provided or proposed to be provided under contracts for continuing care at the facility, including the extent to which medical and/or nursing care is furnished. The disclosure statement shall clearly state which services are included in the basic contracts for continuing care and which services are made available at or by the facility at extra charge.

(7) A description of all fees required of residents, including the entrance fee and periodic charges, if any. The description shall include the manner by which the provider may adjust periodic charges or other recurring fees and the limitations on such adjustments, if any. If the facility is already in operation or if the provider or manager operates one or more facilities within this State, there shall be included tables showing the frequency and average dollar amount of each increase in periodic rates at each such facility for the previous five years or such shorter period as the facility may have been operated by the provider or manager.

(8) The provisions that have been made or will be made, if any, to provide reserve funding or security to enable the provider to fully perform its obligations under contracts to provide continuing care at the facility, including the establishment of escrow accounts, trusts or reserve funds, together with the manner in which such funds will be invested and the names and experience of persons who will make the investment decisions.

(9) Financial statements of the provider and manager for each facility in Delaware certified as complete and accurate by the Treasurer or other officer of the provider and manager, and prepared in accordance with generally accepted accounting principles, including:

(i) A balance sheet as of the end of the two most recent fiscal years. The balance sheet shall include the amount and purpose of all reserve accounts, how the reserves are invested and the interest or other income earned thereon.

(ii) Income and expense statements for each facility in Delaware for the two most recent fiscal years or such shorter period of time the facility shall have been in existence. The income and expense statement shall show the total receipts from and expenditures for each service (residential, dining, health care, etc.) provided to residents

(iii) The plans of the provider of an existing facility for the year following the date of the disclosure statement projecting the items in the above subsections (6) through (9) inclusive or any other anticipated financial items.

(iv) Annual reports or financial statements as set forth in (i) or (ii) above of all persons or entities having more than a ten percent (10%) interest in the provider or manager. This subsection shall apply only to initial application for new or existing facilities.

(10) If operation of the facility has not yet commenced, a statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the facility for the three years after the date of opening, including:

(i) An estimate of the cost of purchasing or constructing and equipping the facility including such related costs as financing expense, legal expense, land costs, occupancy development costs and all other similar costs which the provider expects to incur or become obligated for prior to the commencement of operations.

(ii) A description of any mortgage loan or other long-term financing intended to be used for the financing of the facility, including the anticipated terms and costs of such financing.

(iii) An estimate of the total entrance fees to be received from or on behalf of residents at or prior to commencement of operation of the facility.

(iv) An estimate of the funds, if any, which are anticipated to be necessary to fund start-up losses and provide reserve funds to assure full performance of the obligations of the provider under contracts for the provision of continuing care.

(v) A projection of estimated income from fees and charges other than entrance fees, showing individual rates presently anticipated to be charged and including a description of the assumptions used for calculating the estimated occupancy rate of the facility and the effect on the income of the facility of government subsidies for health care services, if any, to be provided pursuant to the contracts for continuing care.

(vi) A projection of estimated operating expenses of the facility, including a description of the assumptions used in calculating the expenses and separate allowances, if any, for the replacement of equipment and furnishings and anticipated major structural repairs or additions.

(vii) Identification of any assets pledged as collateral for any purpose.

(viii) An estimate of annual payments of principal and interest required by any mortgage loan or other long-term financing.

(11) The cover page of the disclosure statement shall state, in a prominent location and type face, the date of the disclosure statement and that registration with the Secretary does not constitute approval, recommendation or endorsement of the facility by the Secretary, nor is it evidence of, nor does it attest to, the accuracy or completeness of the information set out in the disclosure statement.

(12) A copy of the standard form or forms of contract for continuing care used by the provider shall be attached as an exhibit to each disclosure statement. If not part of the contract, any contract changes since the last filing of a disclosure statement, any rules and regulations regarding the administration of the facility, conduct of the residents, or rights of the residents shall also be filed.

(13) Any initial or annual disclosure statement shall be made available to any member of the public upon request upon payment of reasonable copying charges.

(b) The provider shall file with the Secretary, annually within four months following the end of the provider's fiscal year, an annual verified disclosure statement which shall contain the information required by this Act for the initial disclosure statement. The annual disclosure statement shall also be accompanied by a narrative describing any material differences between:

(1) The pro forma income statements filed pursuant to this Act either as part of the application for registration or as part of the most recent annual disclosure statement, and

(2) The actual results of operations during the fiscal year.

(c) Each provider shall have five (5) copies of the current disclosure statement readily available during normal business hours for examination by all residents at a convenient location in each continuing care facility operated by or/for the provider in Delaware. The residents shall be given a reasonable opportunity to examine the disclosure statement and copies of all or any part thereof shall be made by the facility for the resident when requested. Except for the copy of the disclosure statements referred to in §4603(a) hereof, the reasonable copying cost may be charged for such copies.

(d) In addition to filing the annual disclosure statement, the provider may amend its currently filed disclosure statement at any other time if, in the opinion of the provider, an amendment is necessary to prevent the disclosure statement and annual disclosure statement from containing any material misstatement of fact or omission to state a material fact required to be stated therein. Any such amendment or amended disclosure statement must be filed with the Secretary before it is delivered to any resident or prospective resident and is subject to all the requirements, including those as to content and delivery, of this Act.

§4604. False Information.

(a) No provider shall 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 or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television statement, or in any other way, an advertisement, announcement or statement of any sort containing any assertion, representation or statement which is untrue, deceptive or misleading.

(b) No provider shall file with the Secretary or make, publish, disseminate, circulate or deliver to any person or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or delivered to any person or placed before the public, any financial statement which does not accurately state its true financial condition.

§4605. Civil Liability.

(a) Any person who, as a provider or manager, or on behalf of the provider or manager has not filed the registration statement and disclosure statement with the Secretary and paid the fee required by §4602.

(1) enters into a contract for continuing care at a facility;

(2) enters into a contract for continuing care at a facility without having first delivered a disclosure statement meeting the requirements of this act to the person contracting for such continuing care; or

(3) enters into a contract for continuing care at a facility with a person who has relied on a disclosure statement which omits a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they are made, not misleading; shall be liable to the person contracting for such continuing care for damages and repayment of all fees including entrance fees paid to the provider, facility or person violating this act, together with interest thereon at the legal rate for judgments, Court costs and reasonable attorney fees less the reasonable value of care and lodging provided to the resident not previously paid for by the resident by or on whose behalf the contract for continuing care was entered into prior to discovery of the violation, misstatement or omission or the time the violation, misstatement or omission should reasonably have been discovered.

(b) Any provider who fails after a written request therefor to deliver a copy of the disclosure statement to any person who is party to a resident agreement with the provider, shall be liable to such resident for all costs, including counsel fees, incurred by such resident in requiring the provider to provide him/her with a copy of its disclosure statement.

(c) Liability under this section shall exist regardless of whether or not the provider or person liable had actual knowledge of the misstatement or omission.

(d) A person may not file or maintain an action under this section unless and until the person makes written demand on the provider for the refund provided under this subsection, the demand describes the act or omission complained of, and the demand is refused by the provider or not answered by the provider in writing within 10 days of the date the provider received the demand.

(e) An action shall not be maintained to enforce a liability created under this Act unless brought before the expiration of six years after the execution of the contract for continuing care which gave rise to the violation.

A non-profit continuing care facility within the definition of continuing care in this act, which maintains a resident population of which 1/3 or more residents are unable to pay the full costs of care each month; and which guarantees lifetime care regardless of ability to pay in its resident's agreement prior to accepting a resident, and whose resident's agreement specifically states the reason a person may be transferred or removed to another facility or expelled for cause, and which facility is subject to other State and Federal regulations affecting the nature and character of services provided, shall be exempted from the provisions of this act, providing the facility annually submits to the Secretary of State a certified audit evidencing qualificatioins for this exemption."

Section 2. Short Title.

This Act shall be known and may be cited as the Life-Care Registration Act.

Section 3. Effective Date.

This Act shall be effective six months after its approval by the Governor.

Approved July 16, 1990.

CHAPTER 358

FORMERLY

SENATE BILL NO. 56

AN ACT TO AMEND CHAPTER 59, TITLE 11 OF THE DELAWARE CODE RELATING TO CERTAIN FINES.

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

Section 1. Amend §5917(a), Title 11, Delaware Code by deleting the amount "$100" as it appears therein, and by inserting in lieu thereof the amount "$1,000".

Approved July 16, 1990.

CHAPTER 359

FORMERLY

SENATE BILL NO. 33

AN ACT TO AMEND CHAPTER 41, TITLE 7, DELAWARE CODE, RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL WITH RESPECT TO TAX DITCHES.

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

Section 1. Amend §4194, Chapter 41, Title 7, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new §4194 to read as follows:

"§4194. Appropriations to Department of Natural Resources and Environmental Control

An appropriation to the Department of Natural Resources and Environmental Control for purposes of planning, designing and constructing tax ditches/public group ditches shall be included in the annual appropriation bill (Budget Bill) of the General Assembly."

Approved July 16, 1990.

CHAPTER 360

FORMERLY

SENATE BILL NO. 8

AN ACT TO AMEND TITLE 16, CHAPTER 27, SUBCHAPTER II OF THE DELAWARE CODE RELATING TO THE POSTHUMOUS REMOVAL OF EYES FROM EYE DONORS.

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

Section 1. Amend Section 2713(d), Subchapter II, Chapter 27, Title 16 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"(d) Notwithstanding §2716(b) of this Title, the donor may designate in his will, card or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose or, in the case of a gift of eyes, he may employ or authorize an undertaker licensed by the State or a qualified eye bank technician on the staff of the Medical Eye Bank of Delaware or the Lion's Eye Bank of Delaware Valley who has successfully completed a course in eye enucleation approved by the Medical Examiner of the State to enucleate eyes for the gift after certification of death by a physician. A qualified undertaker or eye bank technician acting in accordance with this subsection shall be free from civil and criminal liability with respect to the eye enucleation."

Approved July 16, 1990.

CHAPTER 361

FORMERLY

HOUSE BILL NO. 585
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE CREATING THE WASTE MINIMIZATION/POLLUTION PREVENTION ACT.

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

Section 1. Amend Title 7 of the Delaware Code by adding a new chapter to read as follows:

"CHAPTER 78. WASTE MINIMIZATION/POLLUTION PREVENTION ACT.

§7801. Short Title.

This Act shall be known and may be cited as the 'Waste Minimization/ Pollution Prevention Act.'

§7802. Findings and Purpose.

(a) The General Assembly finds that:

(1) whenever possible, the generation of waste should be reduced or eliminated as expeditiously as possible, and that waste that is generated should be recovered, reused, recycled, treated, or disposed of in a manner that minimizes any present or future threats to human health or the environment;

(2) there may exist many promising technologies for the reduced generation of waste, for recovery, reuse, recycling, and treatment of waste; and

(3) financial commitments by public agencies and private industry for the expeditious development and implementation of waste reduction, recovery, reuse, recycling, and treatment technologies depends upon further research as well as credible and timely demonstrations of economic viability, technical feasibility, environmental acceptability, and reliability of this technology.

(b) Therefore the General Assembly declares:

(1) the purposes of this chapter are to enhance the protection of human health and the environment, and to establish a multi-media Waste Minimization/Pollution Prevention Program which will demonstrate and facilitate the potential for pollution prevention and waste minimization in Delaware through focusing on the following objectives:

1. targeting industries and locations for technical assistance; and

2. providing waste minimization/pollution prevention, education and outreach; and

3. developing a statewide recycling program; and

(2) that it is the policy of this State, in concurrence with the Delaware Environmental Legacy Report, that waste that is generated should be, in order of priority, reduced at its source, recovered, reused, recycled, treated, or disposed of so as to minimize the present and future threat to human health and the environment.

(c) It is the intent of this Chapter to complement and be enforced in conjunction with other laws.

§7803. Definitions.

As used in this chapter

(a) 'Department' means the Department of Natural Resources and Environmental Control.

(b) 'Implementation Committee' means the Waste Minimization/Pollution Prevention Implementation Committee.

(c) 'Multi-Media' means all environmental media including, but not limited to, workplaces within facilities, water, land and air.

(d) '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.

(e) 'Recycle' means to separate and to process a reusable material in order to return that material to commerce.

(f) 'Secretary' means the Secretary of the referenced State department or a duly authorized designee.

(g) 'Trade Secret' means any information concerning production processes employed or substances manufactured, processed or otherwise used within a facility which the Secretary of the Department has determined to be propriety information.

(h) 'Waste' means, but is not limited to, those substances defined as such under Delaware Codes, or the regulations promulgated thereunder, Air Pollution as defined in §6002 of this Title; Hazardous Waste as defined in §6302 of this Title; Industrial Waste as defined in §6002 of this Title; Liquid Waste as defined in §6002 of this Title; Other Wastes as defined in §6002 of this Title; Refuse as defined in §6002 of this Title; Rubbish as defined in §6002 of this Title; Sewage as defined in §6002 of this Title and Solid Waste as defined in §6002 of this Title.

(i) 'Waste Minimization' means the process by which a facility conducts an analysis of a production process to determine the waste minimization techniques which could be implemented.

§7804. Waste Minimization/Pollution Prevention Program.

(a) The Department shall establish the Implementation Committee and appoint the members thereof.

(1) The Implementation Committee shall be composed of, but not be limited to, the following individuals or their designee: the Secretary of the Department; the Director of the Delaware Development Office; the Secretary of the Department of Agriculture; the Secretary of the Department of Administrative Services; the President of the Delaware State Chamber of Commerce; the Superintendent of the Department of Public Instruction; the General Manager of the Delaware Solid Waste Authority; a representative of the League of Local Governments; a representative of the Chemical Industry Council; a representative of Delaware State College; a representative of Delaware Technical and Community College; a representative of the University of Delaware; a representative from the private solid waste collection industry; a representative of civic organizations; and a representative of an environmental organization. The Implementation Committee will be chaired by the Secretary of the Department and be staffed by the Department. The members of the Implementation Committee are appointed for a period of one and one-half years and shall meet at least monthly during this period.

(2) The Implementation Committee shall select the target industry and location for the initial technical assistance program. The Committee shall evaluate the technical assistance program one year after the program commences or upon completion, whichever is earlier. The Committee shall then select a second target industry or location for the technical assistance program.

(b) The objectives of the Waste Minimization/Pollution Prevention Program shall be:

1. targeting industries and locations for technical assistance;

2. providing waste minimization/pollution prevention education and outreach; and

3. developing a statewide recycling program.

These objectives shall be accomplished through implementation of, but not be limited to, the programs outlined in this Section.

(1) Technical Assistance:

(a) The Department shall create a multi-media opportunity audit program to provide technical assistance to targeted industries, focusing on small companies within the industry because, for the most part, they do not have the economic or technical resources necessary to acquire recommendations on how to effectively

minimize their wastes. The program will be made available to other industries which request assistance. The overall objective of the multi-media opportunity audit program is to reduce or recycle to the maximum extent practicable all waste streams within an industry.

(b) An information clearinghouse shall be established and located at the Delaware Development Office. The clearinghouse will contain a database of waste minimization/pollution prevention technologies and case studies of technology applications.

(2) Waste Minimization/Pollution Prevention Education and Outreach:

(a) The Department shall increase public awareness of the need for individual and community based pollution prevention and waste minimization programs by conducting educational workshops and industry seminars.

(b) The Department shall produce a pollution prevention newsletter to be distributed to industry and the public.

(3) Statewide Recycling Program:

(a) The Implementation Committee shall develop a Comprehensive State-wide Recycling Plan, and shall aide the Department in implementing the Plan. The Plan shall include programs which utilize appropriate collection methods in each county. These methods may include curb-side collection, material recovery facilities, central drop-off collection points, or other methods as deemed appropriate. The Plan shall also include programs to develop markets for recyclables and recycled products, requirements for state procurement of recycled products, and incentives for processing facilities and companies which use recycled products to locate in Delaware. The Plan shall include recommendations on which programs are most feasible and beneficial; who should be responsible for implementing them; how much they will cost; and how they might be financed.

(c) An annual report on the Waste Minimization/Pollution Prevention Program shall be provided to the Governor and the General Assembly. The report shall include an evaluation of current programs and plans for implementation of any additional programs, including information on potential benefits, who should be responsible for implementing them, how much they will cost, and how they might be financed.

§7805. Trade Secret Protection.

All trade secret information, written, verbal or observed, obtained pursuant to this Chapter by the Department or any other State agency will be held as confidential unless such information is already a matter of public record or disclosure is required by law. Nothing in this subsection shall be construed as limiting the disclosure of information by the Department to any officer, employee or authorized representative of the state or federal government concerned with effecting this Chapter. Prior to disclosure of trade secret information to an authorized representative who is not an officer or employee of the state or federal government, the person providing the trade secret information may require the representative to sign an agreement prohibiting disclosure of such information to anyone not authorized by this Chapter or the terms of the agreement. Such agreement shall not preclude disclosure by the representative to any state or federal government officer or employee concerned with effecting this Chapter. Any person who, by virtue of obtaining access to confidential trade secret information and knowing that disclosure is prohibited, knowingly and willfully discloses the information to any person not entitled to receive it shall be in violation of this Chapter and subject to disciplinary actions provided by the Merit Rules, including dismissal.

Approved July 16, 1990.

CHAPTER 362

FORMERLY

SENATE BILL NO. 353

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF AN ELDER CARE INFORMATION AND SUPPORT SYSTEM FOR DELAWARE FAMILIES WITHIN THE DIVISION OF AGING, DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

WHEREAS, by the 21st century 50 million Americans will be over 65 and 45% of this group will be 75 or older; and

WHEREAS, there is a broad spectrum of elder care options, from assistance with housekeeping to full nursing home care; and

WHEREAS, there is an increasing need for family involvement with care of the aging at a time when more of the population has joined the workforce; and

WHEREAS, it is estimated that 30% of employees are care givers and 80% of that care is provided by family members rather than institutions; and

WHEREAS, care giving responsibility impacts productivity, availability, mobility, turnover, and creativity, and results in higher use of health benefits; and

WHEREAS, family members have an increasing need for information and support as they attempt to provide appropriate care for elderly relatives.

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

Section 1. Amend Title 31 of the Delaware Code by adding a new Chapter 35, which shall read as follows:

"Chapter 35. ELDER CARE INFORMATION AND SUPPORT SYSTEM FOR DELAWARE FAMILIES

§3501. Declaration of Policy

The General Assembly of the State of Delaware recognizes that caring for the elderly is becoming an increasing responsibility of Delaware families. While it is an objective of the Division of Aging to help older people remain independent in their homes or in their community, some degree of assistance is often needed. When more services are needed or nursing home care is required, families become very involved and must make difficult decisions. In many cases, these decisions are made without the knowledge of the resources or alternatives available.

By establishing an Elder Care Information and Support System for Delaware Families, the General Assembly intends to assist Delaware Families by making available information regarding elder care resources and alternatives.

§3502. Establishment of an Elder Care Information and Support System For Delaware Families

There is hereby established an Elder Care Information and Support System for Delaware Families within the Division of Aging, Department of Health & Social Services.

§3503. Responsibilities of the Elder Care Information and Support System For Delaware Families

The Elder Care Information and Support System shall have the following responsibilities:

a) Develop a state wide information and support system for Delaware families who are caring for elders locally or providing long-distance care giving;

b) Establish an Alzheimer's Family Support Center to assist families confronting the devastation of Alzheimer's Disease;

c) Network with the Delaware business community to encourage their active role in providing assistance to their own employees;

d) Network with other states and national organizations, such as the Washington Business Group on Health, to provide additional assistance to Delaware families; and

e) Engage in such other activities as shall be deemed beneficial to further assist Delaware families in meeting their elder care responsibilities."

Section 2. This Act shall be effective upon the appropriation by the General Assembly of sufficient funds for the purposes set forth in this Act.

Approved July 16, 1990.

CHAPTER 363

FORMERLY

SENATE BILL NO. 491

AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATING TO CERTAIN FEES AND CHARGES PAYABLE TO THE SECRETARY OF STATE.

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 §391(a)(2), §391(a)(3) and §391(a)(4), Title 8, of the Delaware Code by striking said subparagraphs in their entireties and substituting in lieu thereof the following:

"(2) Upon the receipt for filing of a certificate of amendment of certificate of incorporation, or a certificate of amendment of certificate of incorporation before payment of capital, or a restated certificate of incorporation, increasing the authorized capital stock of a corporation, the tax shall be an amount equal to the difference between the tax (computed at the foregoing rates) upon the total authorized capital stock of the corporation including the proposed increase, and the tax (computed at the foregoing rates divided by two, unless the authorized capital was established June 18, 1990, or later in which case the foregoing rates will apply) upon the total authorized capital stock excluding the proposed increase. In no case shall the amount paid be less than $30."

"(3) Upon the receipt for filing of a certificate of amendment of certificate of incorporation before payment of capital and not involving an increase of authorized capital stock, or an amendment to the certificate of incorporation not involving an increase of authorized capital stock, or a restated certificate of incorporation not involving an increase of authorized capital stock, or a certificate of retirement of stock, the tax to be paid shall be $30. For all other certificates relating to corporations, not otherwise provided for, the tax to be paid shall be $5. In case of corporations created solely for religious or charitable purposes no tax shall be paid."

"(4) Upon the receipt for filing of a certificate of merger or consolidation of 2 or more corporations, the tax shall be an amount equal to the difference between the tax (computed at the foregoing rates) upon the total authorized capital stock of the corporation created by the merger or consolidation, and the tax (so computed and divided by two, unless the authorized capital was established June 18, 1990, or later in which case the foregoing rates will apply) upon the aggregate amount of the total authorized capital stock of the constituent corporations. In no case shall the amount paid be less than $75. 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."

Approved July 16, 1990.

CHAPTER 364

FORMERLY

HOUSE BILL NO. 616
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 3 AND 4

AN ACT TO AMEND CHAPTER 11, TITLE 24, DELAWARE CODE RELATING TO DENTISTRY AND DENTAL HYGIENE.

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

Section 1. Amend §1123(a), Chapter 11, Title 24, Delaware Code by striking subsection (a) in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) An applicant for a license to practice Dentistry shall submit to the Board of Dental Examiners of the State of Delaware a certificate issued by the National Board of Dental Examiners showing he or she has completed the National Board examination with a score of at least 80. An applicant for a license to practice Dental Hygiene shall submit to the Board of Dental Examiners of the State of Delaware a certificate issued by the National Board of Dental Examiners showing he or she has completed the National Board examination with a score of at least 77.

Each applicant for a license in Dentistry or Dental Hygiene, in addition, shall have passed a practical examination prepared and administered by the Delaware State Board of Dental Examiners. The minimum acceptable passing score for the practical examination shall be established by the Delaware State Board of Dental Examiners. The test and its methods of administration will be validated as to its appropriateness and fairness by a member of the faculty from an accredited school of dentistry. The faculty member may not be licensed to practice Dentistry in Delaware and shall be agreed to by the Division of Professional Regulation and the Delaware State Board of Dental Examiners.

Each applicant in Dentistry or Dental Hygiene shall pass a written jurisprudence examination demonstrating his or her knowledge of Delaware laws pertaining to Dentistry as approved by the Division of Professional Regulation and the Delaware Board of Dental Examiners.

No person who has failed the practical examination three times may be allowed licensure in Delaware, unless mitigating circumstances are shown to the satisfaction of the Board of Dental Examiners.

An applicant for a license to practice Dentistry shall submit proof of completion of a general practice residency or its equivalency, approved by the American Dental Association, before a license can be issued. If an applicant practicing Dentistry in another jurisdiction has not taken the National Boards within the past 5 years he or she shall satisfy the Board of Dental Examiners that he or she has remained academically current through continuing education or otherwise.

Each applicant for licensure in Dentistry or Dental Hygiene shall submit proof of current certification in cardiopulmonary resuscitation (CPR) technique in accordance with regulations adopted by the Board.

An applicant for licensure in Dentistry or Dental Hygiene must not have been subjected to any disciplinary action by another licensing authority during the period of licensure in that jurisdiction. A statement to this effect must be provided by the Board of Dental Examiners of each and every state in whichthe applicant has ever held licensure to practice Dentistry or Dental Hygiene.

Approved July 17, 1990.

CHAPTER 365

FORMERLY

HOUSE BILL NO. 538

AN ACT TO AMEND CHAPTER 88, TITLE 29, DELAWARE CODE, RELATING TO THE DIVISION OF PROFESSIONAL REGULATION AND PROVIDING FOR THE TRAINING OF BOARD MEMBERS.

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

Section 1. Amend Section 8810, Chapter 88, Title 29, Delaware Code by adding a new subsection (l) to read as follows:

"(l) The Division of Professional Regulation shall provide at least once every fiscal year training to members appointed to the regulatory boards listed in subsection (a) of this section. The training shall outline the legal responsibilities of Board members to protect the health, safety and welfare of the general public."

Approved July 17, 1990.

CHAPTER 366

FORMERLY

SENATE BILL NO. 196
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 24 OF THE DELAWARE CODE RELATED TO COMPOSITION OF PROFESSIONAL REGULATORY BOARDS AND PROVIDING FOR ADDITIONAL PUBLIC MEMBERS OF SEVERAL BOARDS AND COMMISSIONS.

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

Section 1. Amend Section 1101 of Chapter 11 of Title 24 by substituting the number "9" for the number "7" in the first sentence; and by substituting the word "Three" for the word "One" in the first sentence of the second paragraph; and by substituting "public members" for the words "public member" wherever it appears; and by striking the third paragraph in its entirety.

Section 2. Amend subsection (b) of Section 1104 of Chapter 11 of Title 24 by substituting "public members" for the words "public member" as it appears in the third sentence.

Section 3. Amend Subsection (b) of Section 1402 of Chapter 14 of Title 24 by substituting the number "9" for the number "7" in the first sentence; and by substituting the word "Four" for the word "Two" in the second sentence; and by substituting the number "3" for the number "2" in the last sentence; and substituting the number "5" for the number "4" in the last sentence.

Section 4. Amend Subsection (b) of Section 1405 of Chapter 14 of Title 24 by substituting the word "Five" for the word "Four" in the second sentence.

Section 5. Amend Subsection (a) of Section 1903 of Chapter 19 of Title 24 by substituting the number "14" for the number "11" in the first sentence; and by substituting the word "5" for the word "2" in the second sentence.

Section 6. Amend Subsection (b) of Section 1904 of Chapter 19 of Title 24 by substituting the word "Eight" for the word "Six".

Section 7. Amend Subsection (a) of Section 2501 of Chapter 25 of Title 24 by substituting the number "9" for the number "7" wherever it appears; and by substituting the word "Four" for the word "Two" in the first sentence of the second paragraph.

Section 8. Amend Subsection (a) of Section 2603 of Chapter 26 of Title 24 by substituting the number "7" for the number "5" in the second sentence; and by substituting the phrase "Three members shall be from the public" for "One member shall be from the public"; and by adding the letter "s" to end of the word "member" in the last sentence of Subsection (a).

Section 9. Amend Subsection (b) of Section 2702 of Chapter 27 of Title 24 by substituting the number "3" for the number "1" in the first sentence; and by substituting the phrase "public members" for the phrase "public member" in the first sentence; and by substituting the number "3" for the number "2" in the second sentence; and by subsituting the number "4" for the number "3" in the third sentence.

Section 10. Amend Section 2705, Chapter 27, Title 24 by substituting the number "4" for the number "3".

Section 11. Amend Subsection (a) of Section 2902 of Chapter 29 of Title 24 by substituting the number "9" for the number "7" in the first sentence; and by substituting the phrase "4 public members" for "2 public members".

Section 12. Amend Subsection (a) of Section 3005 of Chapter 30 of Title 24 by substituting the number "8" for the number "7" in the first sentence; and by substituting the number "3" for the number "2".

Section 13. Amend Subsection (c) of Section 3006 of Chapter 30 of Title 24 by substituting the number "5" for the number "4".

Section 14. Amend Subsection (b) of Section 3502 of Chapter 35 of Title 24 by substituting the number "9" for the number "7" in the first sentence; and by substituting the number "4" for the number "2".

Section 16. Amend Subsection (b) of Section 3504 of Chapter 35 of Title 24 by substituting the number "5" for the number "4".

Section 17. Amend Subsection (a) of Section 5202 of Chapter 52 of Title 24 by substituting the phrase "4 members representative of the public" for the phrase "2 members representative of the public".

Section 18. Amend Subsection (c) of Section 5203 of Chapter 52 of Title 24 by substituting the number "5" for the number "4".

Approved July 17, 1990.

CHAPTER 367

FORMERLY

HOUSE BILL NO. 129
AS AMENDED BY HOUSE 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 Section 10004(b)(1), Chapter 100, Title 29 of the Delaware Code by inserting the word "an" immediately after the word "of" and before the word "individual" as they appear in said subsection.

Section 2. Amend Section 10004(b)(1), Chapter 100, Title 29 of the Delaware Code by striking the semicolon "(;)" at the end of said subsection and substituting in lieu thereof the following: ". This provision shall not "apply to the discussion by a licensing board or commission which is subject to the provisions of Section 8810 of Title 29 of this Code, of an individual citizen's qualifications to pursue any profession or occupation for which a license must be issued by the public body in accordance with Delaware law;"

Approved July 17, 1990.

CHAPTER 368

FORMERLY

SENATE BILL NO. 434
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE APPOINTMENT OF MEMBERS TO CERTAIN BOARDS AND COMMISSIONS.

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

Section 1. Amend §102, Chapter 1, Title 24 of the Delaware Code by re-designating the first paragraph of said section as new Subsection (a); by striking the last five sentences of the second paragraph; by re-designating the second paragraph as new Subsection (b); and by adding the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment.

(e) Any vacancy in the membership of the Board shall be filled by the Governor for the unexpired portion of the three-year term. The Governor shall remove from the Board any member whose certificate or permit to practice has been revoked or suspended; and may, after hearing, remove any member of the Board for neglect of duty or other just cause."

Section 2. Amend §203, Chapter 2, Title 24 of the Delaware Code by re-designating present Subsection (c) as new Subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 3. Amend §304, Chapter 3, Title 24 of the Delaware Code by striking the figure "5" as the same appears in Subsection (b), and substituting the figure "3" in lieu thereof; by re-designating present Subsection (c) as new Subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 4. Amend §503, Chapter 5, Title 24 of the Delaware Code by striking the figure "5" as the same appears in Subsection (b), and substituting the figure "3" in lieu thereof

by re-designating Subsection (c) as new Subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 5. Amend §702, Chapter 7, Title 24 of the Delaware Code by re-designating present Subsection (c) as new subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 6. Amend §1102, Chapter 11, Title 24 of the Delaware Code by striking the figure "4" as the same appears in the first sentence of said section, and substituting the figure "3" in lieu thereof; by re-designating the first paragraph of said section as new Subsection (a); by re-designating the second paragraph of said section as new Subsection (d); and by adding to said section the following new subsections:

"(b) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(c) Any act or vote by a person appointed in violation of subsection (b) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (b), unless such amendment or revision amends this section to permit such an appointment."

Section 7. Amend §1303, Chapter 13, Title 24 of the Delaware Code by re-designating present Subsection (c) as new Subsection (e); by re-designating each succeeding subsection accordingly; and by adding the said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 8. Amend §1603, Chapter 16, Title 24 of the Delaware Code by striking Subsection (c) in its entirety; by re-designating present Subsection (d) as new Subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive

appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 9. Amend §1710, Chapter 17, Title 24 of the Delaware Code by striking the figure "4" as the same appears twice in Subsection (h), and substituting the figure "2" in lieu thereof.

Section 10. Amend §1903, Chapter 19, Title 24 of the Delaware Code by re-designating present Subsection (g) as new Subsection (i); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(g) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(h) Any act or vote by a person appointed in violation of subsection (g) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (g), unless such amendment or revision amends this section to permit such an appointment."

Section 11. Amend §2005, Chapter 20, Title 24 of the Delaware Code by re-designating present Subsection (c) as new Subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 12. Amend §2102, Chapter 21, Title 24 of the Delaware Code by designating the second paragraph under Subsection (b) as new Subsection (c); by re-designating present Subsection (c) as new Subsection (f), and re-designating each succeeding Subsection accordingly; by striking the third paragraph under subsection (b) which paragraph begins with the word "Each"; and by adding to said section the following new subsections:

(d) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(e) Any act or vote by a person appointed in violation of subsection (d) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d), unless such amendment or revision amends this section to permit such an appointment."

Section 13. Amend §2501, Chapter 25, Title 24 of the Delaware Code by striking the figure "5" as the same appears in Subsection (a), and substituting the figure "3" in lieu thereof; by re-designating present Subsection (b) as new Subsection (e); by re-designating each succeeding subsection accordingly; by re-designating the second paragraph of Subsection (a) as new Subsection (b); and by adding to said section the following new subsections:

(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 14. Amend §2603, Chapter 26, Title 24 of the Delaware Code by adding thereto a new Subsection (d), and a new Subsection (e), which new subsections shall read as follows:

(d) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(e) Any act or vote by a person appointed in violation of subsection (d) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d), unless such amendment or revision amends this section to permit such an appointment."

Section 15. Amend §2702, Chapter 27, Title 24 of the Delaware Code by re-designating present Subsection (e) as new Subsection (g); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

(e) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(f) Any act or vote by a person appointed in violation of subsection (e) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (e), unless such amendment or revision amends this section to permit such an appointment."

Section 16. Amend §2807, Chapter 28, Title 24 of the Delaware Code by striking the figure "4" as the same appears in subsection (c), and in subsection (d), and substituting the figure "3" in lieu thereof; and by adding to said section the following new subsections:

"(f) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(g) Any act or vote by a person appointed in violation of subsection (f) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (f), unless such amendment or revision amends this section to permit such an appointment."

Section 17. Amend §2808, Chapter 28, Title 24 of the Delaware Code by striking the figure "4" as the same appears twice in subsection (b), and substituting the figure "3" in lieu thereof; by striking subsection (a) in its entirety; and by re-designating each succeeding subsection accordingly.

Section 18. Amend §2902, Chapter 29, Title 24 of the Delaware Code by re-designating present subsection (d) as new subsection (f); by re-designating each succeeding subsection accordingly; and by adding to the said section following new subsections:

"(d) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the

Board until an interim period of at least one term has expired since such person last served.

(e) Any act or vote by a person appointed in violation of subsection (d) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d), unless such amendment or revision amends this section to permit such an appointment."

Section 19. Amend §3005, Chapter 30, Title 24 of the Delaware Code by re-designating present subsection (c) as new subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 20. Amend §3103, Chapter 31, Title 24 of the Delaware Code by re-designating present subsection (c) as new subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 21. Amend §3304, Chapter 33, Title 24 of the Delaware Code by deleting the phrase '2 additional terms' as found in Section (b) and replacing said phrase with the phrase '1 additional term', deleting the phrase '2 additional full terms' as found in Section (b) and replacing said phrase with the phrase '1 additional full term' and re-designating present subsection (c) as new subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 22. Amend §3502, Chapter 35, Title 24 of the Delaware Code by adding thereto a new subsection (e), and a new subsection (f), which new subsections shall read as follows:

"(e) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(f) Any act or vote by a person appointed in violation of subsection (e) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any

appointment or attempted appointment in violation of subsection (e), unless such amendment or revision amends this section to permit such an appointment."

Section 23. Amend §3603, Chapter 36, Title 24 of the Delaware Code by re-designating present subsection (d) as new subsection (f); by re-designating each succeeding subsection accordingly; and by adding the said section the following new subsections:

"(d) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(e) Any act or vote by a person appointed in violation of subsection (d) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (d), unless such amendment or revision amends this section to permit such an appointment."

Section 24. Amend §3712, Chapter 37, Title 24 of the Delaware Code by adding to said section the following new subsections:

"(d) Each member shall serve for a term of three years, and may succeed himself for one additional term; provided however, that 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, and the member shall no longer be eligible to participate in Board proceedings unless lawfully appointed.

(e) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(f) Any act or vote by a person appointed in violation of subsection (e) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (e), unless such amendment or revision amends this section to permit such an appointment."

Section 25. Amend §3904, Chapter 39, Title 24 of the Delaware Code by re-designating present subsection (c) as new subsection (e); by re-designating succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 26. Amend §5104, Chapter 51, Title 24 of the Delaware Code by re-designating present subsection (c) as new subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any

appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Section 27. Amend §5202, Chapter 52, Title 24 of the Delaware Code by re-designating present subsection (c) as new subsection (e); by re-designating each succeeding subsection accordingly; and by adding to said section the following new subsections:

"(c) A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) shall be invalid. An amendment or revision of this Chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c), unless such amendment or revision amends this section to permit such an appointment."

Approved July 17, 1990.

CHAPTER 369

FORMERLY

HOUSE BILL NO. 537

AN ACT TO AMEND CHAPTER 88, TITLE 29 OF THE DELAWARE CODE RELATING TO DIVISION OF PROFESSIONAL REGULATION

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

Section 1. Amend Paragraph 7, Subsection (i), Section 8810, Chapter 88, Title 29, Delaware Code by adding a second sentence to read as follows:

"If the respondent fails to comply with the subpoena issued pursuant to this subsection, the Division of Professional Regulation may compel compliance with said subpoena by filing a motion to compel in Superior Court which shall have jurisdiction over this matter."

Approved July 17, 1990.

CHAPTER 370

FORMERLY

SENATE BILL NO. 375

AN ACT TO AMEND CHAPTER 85, TITLE 29, DELAWARE CODE RELATING TO THE COUNCIL ON EMPLOYMENT SERVICES.

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

Section 1. Amend Section 8507, Chapter 85, Title 29 of the Delaware Code by deleting said Section in its entirety.

Approved July 17, 1990.

CHAPTER 371

FORMERLY

SENATE BILL NO. 380
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER III, CHAPTER 35, TITLE 24, DELAWARE CODE RELATING TO THE APPLICABILITY OF THE PROVISIONS OF CHAPTER 223, VOL. 65, LAWS OF DELAWARE, RELATIVE TO THE LICENSURE REQUIREMENTS OF PSYCHOLOGISTS.

WHEREAS, the provisions of Chapter 223, Vol. 65, Laws of Delaware being S.B. No. 281 of the 133rd General Assembly, grandfathered in employees working for the state, at institutions operated by the State or political subdivisions of the State, before July 31, 1985; and

WHEREAS, Mr. Michael Betts was hired as a clinical psychologist at the Kent-Sussex Community Mental Health Center on December 2, 1985; and

WHEREAS, in January of 1986 the legislature enacted into law S.B. 281 which placed more stringent requirements on the licensure of psychologist in this state.

WHEREAS, during the period a number of events occurred one (1) of which included an evaluation by Maintenance Review determining that Mr. Betts' position should be a psychologist III for which the necessary paperwork was processed to accomplish this; however, it was not feasible for the Division of Alcoholism, Drug Abuse and Mental Health to assign a supervisor to him to comply with the law because the Division did not have any licensed psychologists in the downstate area; and

WHEREAS, in May of 1989 an evaluation was made by "Maintenance Review" determining that Mr. Betts' position should be that of a psychologist III and paperwork was processed making him a psychologist II at a pay grade 16; and

WHEREAS, the Division needs to employ a licensed psychologist in Mr. Betts' position in order to comply with the law and provide the required mental health services; and

WHEREAS, Mr. Betts' has in the mean time been certified as eligible for a psychiatric social worker III at pay grade 15 which he has accepted in order to retain employment with the Kent/Sussex Community Mental Health Center; and

WHEREAS, in view of these unique and unusual circumstances which have lasted over a two year period, management supports this request of Mr. Betts' to be grandfathered in the law because it was no fault on the part of Mr. Betts that resolution of this dilemma has drawn on for this length of time; and

WHEREAS, Mr. Betts was actually placed in a precarious position being hired as a clinical psychologist on December 2, 1985 when the law did not require that he be under the supervision of a licensed psychologist and later when the Delaware General Assembly passed S.B. 281 tightening the requirements, and requiring a licensed psychologist to supervise him, it left Mr. Betts in a quandry which he had nothing to do with, nor was he apprised of this unfortuitous situation.

NOW THEREFORE:

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

Section 1. Amend §3517(i) of Subchapter III, Chapter 35,, Title 24, D.C. by striking the date "July 31, 1985" as the same appears in said subsection (i) and substituting in lieu thereof the date of "December 31, 1985".

Approved July 17, 1990.

CHAPTER 372

FORMERLY

SENATE BILL NO. 404

AN ACT TO AMEND TITLE 28 OF THE DELAWARE CODE RELATING TO SPONSORS AND PROMOTERS OF CERTAIN ENTERTAINMENT EVENTS.

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

Section 1. Amend Chapter 9, Title 28 of the Delaware Code by adding thereto a new subchapter, designated as subchapter III, which new subchapter shall read as follows:

"Subchapter III. Regulation of Sponsors and Promoters of Public Entertainment Events other than Boxing, Wrestling, Racing, and Outdoor Music Festivals.

§929. Definitions

The following words, terms, and phrases, when used in this subchapter, shall have the meanings inscribed to them in this section except where the context clearly indicates a different meaning.

(a) 'Promoter' shall mean any person who, privately or as a business agent for a professional enterprise, offers his/her services to another person or organization - in return for the use of that person's/organization's name as sponsor, and a fee, commission or profit share - acquires, advertises and conducts a paid entertainment event for the general public.

(b) 'Entertainment Event' shall mean any form of circus or carnival; stage play; variety show; concert; magic, puppet or mime show, pageant, musical or similar types of public entertainment programs other than boxing, wrestling, racing and outdoor music festivals.

(c) 'Sponsor' shall mean any person or organization who agrees, verbally or in writing, to authorize the use of their name as an indorsement for, and supporter of, a paid public entertainment event promoted by another individual or business enterprise.

(d) 'Contract' shall mean a written agreement between the 'Promoter' and the 'Sponsor' which sets forth the authority, responsibility, and liability of each party and, most specifically, the financial details of the agreement.

§930. Sponsors' Responsibilities

(a) Each sponsor shall demand that any promoter, offering fund-raising services in the form of entertainment events, exhibit said promoter's current year occupational license required by Section 2301(a) or (b) of Title 30.

(1) If a sponsor enters into an agreement with a promoter, without having first verified said promoter's credentials and occupational license status, the sponsor assumes joint liability with the promoter for any failures of service promised by the promoter to the consumer public.

(b) Sponsors may, if they so desire, charge the promoter a fee for the use of their name (individual or organization) in promotional material concerning the entertainment event. Such fee, shall not be less than $500.00 and shall be specifically stated in the contractual agreement between sponsor and promoter.

§931. Promoters' Responsibilities

(a) Each promoter (individual and/or firm) shall acquire a Delaware annual occupational license and pay such other fees as are established in Section 2301 of Title 30.

(b) Promoters shall comply with Section 901(b) of this Title by obtaining any licenses or permits which may be required by the local jurisdiction where an entertainment event is to be presented.

(c) Each promoter shall fully reimburse the sponsor for any sponsor's advance expense payments or loans, before any other expenses, commissions or fees are paid from the proceeds of the event.

§932. Contracts

(a) All contractual agreements between promoters and sponsors shall be written in clear text, plain language.

(b) The contractual agreement shall contain in an appropriate location, the promoter's current Delaware occupational license number.

(c) Distribution of the profits of the venture shall be stated specifically as a percentage for the sponsor and the promoter or as a specific dollar share for the sponsor.

(d) Any fees or commissions agreed to for the promoter shall be considered as a part of the promoter's share of the profits and not an operating expense of preparing for, and conducting, the event."

Section 2. Severability Clause.

The provisions of this Bill are severable. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, phrase or word shall not affect the validity or enforceability of the remaining sections, subsections, paragraphs, sentences, clauses, phrases or words.

Approved July 17, 1990.

CHAPTER 373

FORMERLY

SENATE BILL NO. 448

AN ACT TO AMEND CHAPTER 27 OF TITLE 25 OF THE DELAWARE CODE RELATING TO MECHANICS' LIENS.

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

Section 1. Amend Subchapter III of Chapter 27, Title 25, Delaware Code, by transferring §2737 to Subchapter II and renumbering same section to read 2729.

Approved July 17, 1990.

CHAPTER 374

FORMERLY

SENATE BILL NO. 457

AN ACT TO AMEND CHAPTER 85, TITLE 14, DELAWARE CODE, RELATING TO APPLICATION COMMITMENTS AND BOND REQUIRED OF PRIVATE BUSINESS AND TRADE SCHOOLS.

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

Section 1. Amend Section 8505, Chapter 85, Title 14, Delaware Code, by designating the present Section as Subsection (a) of Section 8505.

Section 2. Amend Subsection 8505(a), Title 14, Delaware Code, by deleting paragraph (2) in its entirety and substituting in lieu there of the following:

"(2) To agree to provide a surety company bond for the protection of the contractual rights of students in such form and amount as will meet the approval of the Board and written by a company authorized to do business in this State. Such bonds shall be deposited with the Secretary of State. The amount of the surety bond shall be determined in accordance with Subsection (b) of this Section, except that in no case shall the surety bond of a business and trade school covered by this Chapter be for less than $5,000 per calendar year."

Section 3. Amend Section 8505, Title 14, Delaware Code, by adding a new Subsection (b) to read as follows:

"(b) The amount of the surety bond required of a private business or trade school shall be determined as follows:

(1) The following private business and trade schools shall only be required to post a bond in the amount of $5,000:

(a) Schools which only solicit students in the State and which do not receive any revenues for services provided within the State; and

(b) Schools which do not receive revenue directly from their students for tuition or any other services. Revenue received by such schools cannot be generated by guaranteed student loans and/or state or federal student grants.

(2) All other private business and trade schools which operate in or from the State, or who render services to students within the State, shall provide a bond in an amount equal to the highest anticipated gross prepaid tuition for students enrolled on any given day in the calendar year for which a certificate of approval is requested. This amount shall include monies paid by all students regardless of their state of residence."

Approved July 17, 1990.

CHAPTER 375

FORMERLY

SENATE BILL NO. 466
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 80, TITLE 7 OF THE DELAWARE CODE RELATING TO THE APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

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

Section 1. Amend Chapter 80, Title 7 of the Delaware Code by adding the following section:

"§8005. Low-Level Radioactive Waste Surcharge Rebates

Authority is given to Delaware's Appalachian States Low-Level Radioactive Waste Compact Commissioners to approve the disbursement of funds from the Low-Level Radioactive Waste Surcharge Escrow Account established by the U.S. Department of Energy. These funds can only be used to (1) establish low-level radioactive waste disposal facilities, (2) mitigate the impact of low-level radioactive waste disposal facilities on the host state, (3) regulate low-level radioactive waste disposal facilities, or (4) ensure the decommissioning, closure and care during the period of institutional control of low-level radioactive waste disposal facilities as stipulated by the Low-Level Radioactive Waste Policy Amendments Act."

Approved July 17, 1990.

CHAPTER 376

FORMERLY

SENATE BILL NO. 467

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 words "which are not organized for profit and" from the fourth sentence of such subsection.

Section 2. Amend §104, Title 8, Delaware Code by deleting therefrom the reference to "§241-245" and inserting in lieu thereof the reference "§241-243, 245".

Section 3. Amend §145(e), Title 8, Delaware Code by deleting from the first sentence thereof the phrase "a civil or criminal" and inserting in lieu thereof the phrase "any civil, criminal, administrative or investigative", and by inserting the parenthetical phrase "(including attorneys' fees)" after the word "expenses" and before the word "incurred" in the first and second sentences thereof.

Section 4. Amend §151(b), Title 8, Delaware Code by deleting that subsection and inserting in lieu thereof the following:

"(b) The stock of any class or series may be made subject to redemption by the corporation at its option or at the option of the holders of such stock or upon the happening of a specified event; provided, however, that at the time of such redemption the corporation shall have outstanding shares of at least one class or series of stock with full voting powers which shall not be subject to redemption. Notwithstanding the limitation stated in the foregoing proviso:

(1) Any stock of a regulated investment company registered under the Investment Company Act of 1940, as heretofore or hereafter amended, may be made subject to redemption by the corporation at its option or at the option of the holders of such stock.

(2) Any stock of a corporation which holds (directly or indirectly) a license or franchise from a governmental agency to conduct its business or is a member of a national securities exchange, which license, franchise or membership is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, may be made subject to redemption by the corporation to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it.

Any stock which may be made redeemable under this section may be redeemed for cash, property or rights, including securities of the same or another corporation, at such time or times, price or prices, or rate or rates, and with such adjustments, as shall be stated in the certificate of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to subsection (a) of this section."

Section 5. Amend §170(a), Title 8, Delaware Code by inserting the phrase ", or to its members if the corporation is a nonstock corporation organized for profit," in the first sentence thereof after the words "capital stock" and before the word "either".

Section 6. Amend §212, Title 8, Delaware Code by designating subsection "c" thereof as subsection "e" and by adding new subsections (c) and (d) thereto as follows:

"(c) Without limiting the manner in which a stockholder may authorize another person or persons to act for him as proxy pursuant to subsection (b) of this section, the following shall constitute a valid means by which a stockholder may grant such authority:

(1) A stockholder may execute a writing authorizing another person or persons to act for him as proxy. Execution may be accomplished by the stockholder or his authorized officer, director, employee or agent signing such writing or causing his or her signature to be affixed to such writing by any reasonable means including, but not limited to, by facsimile signature.

(2) A stockholder may authorize another person or persons to act for him as proxy by transmitting or authorizing the transmission of a telegram, cablegram, or other means of electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such telegram, cablegram or other means of electronic transmission must either set forth or be submitted with information from which it can be determined that the telegram, cablegram or other electronic transmission was authorized by the stockholder. If it is determined that such telegrams, cablegrams or other electronic transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information upon which they relied.

(d) Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to subsection (c) of this section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission."

Section 7. Amend §228(b), Title 8, Delaware Code by deleting from the first sentence thereof the word "stockholders" and inserting in lieu thereof the word "members".

Section 8. Amend §228(c), Title 8, Delaware Code by inserting the words "or members" in the first sentence thereof between the word "stockholders" and the word "are".

Section 9. Add a new §231 to Title 8, Delaware Code as follows:

"§231 Voting Procedures and Inspectors of Elections.

(a) The corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability.

(b) The inspectors shall (i) ascertain the number of shares outstanding and the voting power of each, (ii) determine the shares represented at a meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

(c) The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the inspectors after the closing of the polls unless the Court of Chancery upon application by a stockholder shall determine otherwise.

(d) In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in accordance with §212(c)(2), ballots and the regular books and records of the corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification pursuant to subsection (b)(v) of this section shall specify the precise information considered by them including the person or persons from whom they obtained the information, when the information

was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

(e) Unless otherwise provided in the certificate of incorporation or bylaws, this section shall not apply to a corporation that does not have a class of voting stock that is (i) listed on a national securities exchange, (ii) authorized for quotation on an interdealer quotation system of a registered national securities association, or (iii) held of record by more than 2,000 stockholders."

Section 10. Amend §242, Title 8, Delaware Code to add a new subsection (c) thereto as follows:

"(c) The resolution authorizing a proposed amendment to the certificate of incorporation may provide that at any time prior to the filing of the amendment with the Secretary of State, notwithstanding authorization of the proposed amendment by the stockholders of the corporation or by the members of a nonstock corporation, the board of directors or governing body may abandon such proposed amendment without further action by the stockholders or members."

Section 11. Amend §251(d), Title 8, Delaware Code by inserting the parenthetical phrase "(or a certificate in lieu thereof)" in the first sentence thereof between the phrase "the agreement" and the phrase "with the Secretary of State".

Section 12. Amend §251(f), Title 8, Delaware Code by deleting the third sentence thereof and inserting the following in lieu thereof:

"If an agreement of merger is adopted by the constituent corporation surviving the merger, by action of its board of directors and without any vote of its stockholders pursuant to this subsection, the secretary or assistant secretary of that corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and, (i) if it has been adopted pursuant to the first sentence of this subsection, that the conditions specified in that sentence have been satisfied, or (ii) if it has been adopted pursuant to the second sentence of this subsection, that no shares of stock of such corporation were issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation."

Section 13. Amend §254(b), Title 8, Delaware Code by deleting that subsection and inserting in lieu thereof the following:

"(b) Any 1 or more corporations of this State may merge or consolidate with 1 or more joint-stock associations, except a joint-stock association formed under the laws of a state which forbids such merger or consolidation. Such corporation or corporations and such 1 or more joint-stock associations may merge into a single corporation, or joint-stock association, which may be any 1 of such corporations or joint-stock associations, or they may consolidate into a new corporation or joint-stock association of this State, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. The surviving or resulting entity may be organized for profit or not organized for profit and if the surviving or resulting entity is a corporation, it may be a stock corporation or a nonstock corporation."

Section 14. Amend §254(c), Title 8, Delaware Code by deleting that subsection and inserting in lieu thereof the following:

"(c) Each such corporation and joint-stock association 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 stock corporation, the interest of members of each nonstock 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 nonstock corporation or into shares, memberships, or financial or beneficial interests of the joint-stock association surviving or resulting from such merger or consolidation, and, if any shares of any such stock corporation, any membership interests of any such nonstock 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 interest of the nonstock corporation or into shares, memberships, or financial or beneficial interests of the joint-stock association 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 nonstock

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 interest 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 nonstock corporation or shares, memberships, or financial or beneficial interests of the joint-stock association 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 where the surviving or resulting entity is a corporation. There shall also be set forth in the agreement such other matters or provisions as shall then be required to be set forth in certificates of incorporation or documents required to establish and maintain a joint-stock association by the laws of this State and that can be stated in the case of such merger or consolidation. 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."

Section 15. Amend §254(d), Title 8, Delaware Code by deleting the word "The" which appears as the first word of the second sentence of that subsection and inserting in lieu thereof the phrase "Where the surviving or resulting entity is a corporation, the"; by deleting the phrase "the surviving or resulting corporation" from that portion of the third sentence thereof which appears prior to the colon and inserting in lieu thereof the phrase "where the surviving or resulting entity is a corporation it"; and by inserting at the end of such subsection the following sentence: "Where the surviving or resulting entity is a joint-stock association, the agreement shall be filed and recorded and shall be effective for all purposes when filed in accordance with the laws regulating the creation of joint-stock associations."

Section 16. Amend §254(e), Title 8, Delaware Code by deleting the word "The" which appears as the first word of the second sentence thereof and inserting in lieu thereof the phrase "Where the surviving or resulting entity is a corporation, the".

Section 17. Amend §254(f), Title 8, Delaware Code by deleting that subsection and inserting in lieu thereof the following:

"(f) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation or charitable joint-stock association into a stock corporation or joint-stock association if the charitable status of such nonstock corporation or joint-stock association would be thereby lost or impaired, but a stock corporation or joint-stock association may be merged into a charitable nonstock corporation or charitable joint-stock association which shall continue as the surviving corporation or joint-stock association."

Section 18. Amend §256, Title 8, Delaware Code by deleting from the caption and text thereof the comma and word ",nonprofit" wherever they so appear.

Section 19. Amend §262(d)(1), Title 8, Delaware Code by deleting from the first sentence thereof the phrase "entitled to such appraisal rights" and inserting in lieu thereof the phrase "who was such on the record date for such meeting with respect to shares for which appraisal rights are available pursuant to subsections (b) or (c) hereof".

Section 20. Amend §262(d)(2), Title 8, Delaware Code by inserting in the last sentence thereof the word "thereby" between the words "intends" and "to".

Section 21. Amend §280(a)(2), Title 8, Delaware Code by deleting the period at the end of the first sentence of that subsection and inserting in lieu thereof the following: ";provided, however, that in the case of a claim filed pursuant to §295 of this title against a corporation or successor entity for which a receiver or trustee has been appointed by the Court of Chancery the time period shall be as provided in §296 of this title, and the 30-day appeal period provided for in §296 shall be applicable." and by deleting the period at the end of the second sentence of that subsection and inserting in lieu thereof the following: "and, in the case of a notice sent by a court-appointed receiver or trustee and as to which a claim has been filed pursuant to §295, copies of §295 and §296 of this title."

Section 22. Amend §280(b)(1), Title 8, Delaware Code by inserting the word "contractual" between the words "with" and "claims" in the first sentence thereof, and by inserting the following sentence between the first and second sentences thereof: "Provided, however, that as used in this §280 and in §281 of this title, the term

"contractual claims" shall not include any implied warranty as to any product manufactured, sold, distributed or handled by the dissolved corporation."

Section 23. Amend §280(b)(2), Title 8, Delaware Code by inserting the phrase "on a contract" between the words "claimant" and "whose" in the first sentence thereof.

Section 24. Amend §280(c)(2), Title 8, Delaware Code by deleting from the first sentence thereof the phrase "which will be sufficient to provide compensation to claimants whose claims are known to the corporation or successor entity but whose identities are unknown" and inserting in lieu thereof the phrase "which will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the corporation or that have not arisen but that, based on facts known to the corporation or successor entity, are likely to arise or to become known to the corporation or successor entity prior to the expiration of applicable statutes of limitation" and by deleting the second sentence of such subsection and inserting the following in lieu thereof: "The Court of Chancery may appoint a guardian ad litem in respect of any such proceeding brought under this subsection."

Section 25. Amend §280, Title 8, Delaware Code to add a new subsection (f) thereto as follows:

> "(f) The time periods and notice requirements of this section shall, in the case of a corporation or successor entity for which a receiver or trustee has been appointed by the Court of Chancery, be subject to variation by, or in the manner provided in, the Rules of the Court of Chancery."

Section 26. Amend §281(a)(4), Title 8, Delaware Code by deleting the phrase "obligations of" from the first sentence of that subsection and inserting in lieu thereof the phrase "claims that are mature, known and uncontested or that have been finally determined to be owing by".

Section 27. Amend §281(b), Title 8, Delaware Code by inserting the word "contractual" between the words "unmatured" and "claims" in the first sentence thereof and by deleting the phrase "which are known to the dissolved corporation or such successor entity but for which the identity of the claimant is unknown" from the first sentence of that subsection and inserting the phrase "which will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the corporation or that have not arisen but that, based on facts known to the corporation or successor entity, are likely to arise or to become known to the corporation or successor entity prior to the expiration of applicable statutes of limitation" in lieu thereof.

Section 28. Amend §281, Title 8, Delaware Code to add a new subsection (e) thereto as follows:

> "(e) The term 'priority', as used in this section, does not refer either to the order of payments set forth in subparagraphs (1)-(4) of paragraph (a) of this section or to the relative times at which any claims mature or are reduced to judgment."

Section 29. Amend §502(e), Title 8, Delaware Code by deleting the reference "§283" and inserting in lieu thereof the reference "§284".

Section 30. This Bill shall become effective on July 1, 1990.

Approved July 17, 1990.

CHAPTER 377

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 476

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE AUTHORITY OF THE ENVIRONMENTAL APPEALS BOARD.

WHEREAS, the Environmental Appeals Board was created by §6007, Title 7, Delaware Code to hear the appeal of any person whose interest is substantially affected by any action of the Secretary of the Department of Natural Resources and Environmental Control; and

WHEREAS, since its creation, the Environmental Appeals Board has proven to be a fair, reasonable, prudent and prompt source of administrative relief which, among other things, has provided recourse for Delaware citizens who could not otherwise afford to pursue remedies in court; and

WHEREAS, the Environmental Appeals Board has been granted broad jurisdiction to hear appeals of any action by the Secretary, including the adoption of regulations; and

WHEREAS, the adoption of regulations, which have the force and effect of law, substantially impacts and affects the interests of Delaware citizens; and

WHEREAS, the Environmental Appeals Board has for many years heard and ruled on appeals of regulations adopted by the Secretary; and

WHEREAS, it has always been and continues to be the intent of the Delaware General Assembly to authorize the Environmental Appeals Board to provide the valuable function of hearing appeals of regulations adopted by the Secretary; and

WHEREAS, the Delaware Attorney General's Office, in a proceeding before the Environmental Appeals Board, recently challenged the Board's jurisdiction to hear appeals of regulations adopted by the Secretary; and

WHEREAS, the Environmental Appeals Board responded in the course of its ruling that it does possess such jurisdiction; and

WHEREAS, the Attorney General's Office more recently has petitioned the Superior Court for a Writ of Prohibition, thereby challenging once more the Environmental Appeals Board's jurisdiction to hear appeals of regulations adopted by the Secretary; and

WHEREAS, such petition may cause expensive and unjustifiable delays and uncertainties to Delaware citizens who are affected by the regulations; and

WHEREAS, the confirmation and clarification of the authority of the Environmental Appeals Board to act in this essential part of its legislative mandate is a matter of great importance to the citizens of this state;

NOW, THEREFORE:

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

Section 1. Amend §6008, Title 7, Delaware Code, by adding a new subsection (g) thereto, to read as follows:

"(g) In the appeal of any rule or regulation adopted by the Secretary, including any such appeal now pending before the Board, the Board shall conduct a public hearing at which the appellant and the Department may submit any relevant testimony, exhibits, and other documents.

Section 2. This Act shall become effective upon its adoption.

Approved July 17, 1990.

CHAPTER 378

FORMERLY

SENATE BILL NO. 478
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE RELATING TO SCHOOL BUS DRIVER LICENSES.

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

Section 1. Amend Title 21, Chapter 27, Section 2708(b), by placing a period (".") after the words "operator's licenses" and by striking the words, "provided, however, that a school bus driver's license shall be renewed annually, prior to the start of the school year, at a time set by Department regulation."

Section 2. Amend Title 21, Chapter 27, Section 2708(c) by striking said subsection in its entirety.

Approved July 17, 1990.

CHAPTER 379

FORMERLY

SENATE BILL NO. 480
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 85, TITLE 11, DELAWARE CODE, RELATING TO THE DESTRUCTION OF CRIMINAL IDENTIFICATION RECORDS BY THE STATE BUREAU OF IDENTIFICATION.

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

Section 1. Amend Section 8506(c), Chapter 85, Title 11, Delaware Code, by adding the phrase "or until that person reaches age 80 or reaches age 75 with no criminal activity listed on their record in the past 40 years, whichever shall first occur," after the word "dead" in said section.

Approved July 17, 1990.

CHAPTER 380

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 484
AS AMENDED BY SENATE AMENDMENTS NO. 1, 2 AND 3

AN ACT TO AMEND CHAPTER 69 AND CHAPTER 88, TITLE 29 OF THE DELAWARE CODE, RELATING TO THE PROCUREMENT OF MATERIAL AND AWARD OF CONTRACTS FOR PUBLIC WORKS, AND THE DIVISION OF PURCHASING, DEPARTMENT OF ADMINISTRATIVE SERVICES.

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

Section 1. Amend Section 8806, Chapter 88, Title 29 of the Delaware Code, by striking subsection b(1) (2) and (3) in their entirety, and substituting in lieu thereof the following:

" (b) The Division of Purchasing shall have the following powers, duties and functions relating to the central purchasing of materiel, and services throughout the State of Delaware:

(1) Establish and implement a system of central purchasing with authority to manage the procurement of materiel, and non-professional services by all State departments, agencies, boards and commissions consistent with the provisions of Title 29, Section 6903(k) of the Delaware Code.

(i) The Secretary of Administrative Services with the concurrence of the Budget Director and the Secretary of Finance may promulgate proper policy and administrative procedures, including but not limited to regulations, to implement the central purchasing system and to govern the purchase of materiel, and non-professional services. Said regulations are exempt from the provisions of Title 29, Section 10100, Delaware Code, et seq., the Administrative Procedures Act.

(ii) State Agencies not so required, local governments and duly authorized volunteer fire companies within the State, may participate in the system of central purchasing.

(iii) All State departments and agencies shall provide informational copies of all contracts for materiel and non-professional services to the Division of Purchasing.

(2) Act as the exclusive purchasing agent in central or joint purchasing by two or more agencies, departments or commissions of the State.

(3) Act as the purchasing agent in central or joint purchasing with other governmental jurisdictions, including other State Governments, local governments, and duly authorized volunteer fire companies provided that, at a minimum, all contracts are awarded in conformance with the requirements of Title 29, Chapter 69, Delaware Code.

Section 2. Amend Section 6903(k), Chapter 69, Title 29 of the Delaware Code by deleting it in its entirety and by substituting in lieu thereof the following:

"Every State department and agency within the Executive Branch, Judicial Branch and Legislative Branch of the State government shall procure all materiel, equipment and non-professional services through the Statewide contracts administered by the Division of Purchasing, Department of Administrative Services.

"The operations funded by the Transportation Trust Fund or by Public School Districts are specifically excepted from the requirements of this subsection."

Section 3. (a) Amend Title 29, Section 6903, Chapter 69 of the Delaware Code, by striking the figure "$5,000" as it appears in subsection 6903(a) (1) and substituting in lieu thereof the following: "$10,000."

(b) Amend Title 29, Section 6903, Chapter 69, Delaware Code by deleting subsection 6903(b) in its entirety and substituting in lieu thereof the following:

"Procurements of not more than $10,000 may be made under small purchase procedures established by the Secretary of Administrative Services. The procedures established by the Secretary shall provide for a simplified administrative process for obtaining competitive prices for small purchases."

Section 4. (a) Amend Title 29, Section 6903(c) by deleting "$5,000" and by substituting in lieu thereof the following "$10,000" and by deleting "$10,000" and by substituting in lieu thereof the following: "the amount established pursuant to Section 6903(e)."

(b) Amend Title 29, Section 6903(e) by deleting it in its entirety and by substituting in lieu thereof the following:

"The Secretary of Transportation and the Director of the Delaware Development Office, in consultation with the Secretary of Administrative Services and the approval of the Controller General and Budget Director, shall establish the value of public works contracts which shall be awarded only after public advertising and the receipt of sealed bids as provided for in this subchapter. This level shall be reviewed and adjusted at least once every three years based upon changes in the prevailing costs of labor and material."

Section 5. Amend Title 29, Section 6903(a)(6), of the Delaware Code by deleting subsection(a)(6), including subsections (a-c), in their entirety and substituting in lieu thereof the following:

"(6) If the materiel to be purchased is data processing, telecommunications hardware and software, or computer hardware or software, the primary purpose of which is to process information in the form of data, words, images, graphics or voice, it may only be purchased in accordance with the requirements of this subchapter unless the Executive Director, Office of Information Systems, certifies in writing that the materiel to be purchased is a sole source and available only from one vendor. Nothing in this Section shall be construed to permit an agency to procure computer/telecommunications hardware and/or software without the approving authority's signature as otherwise provided in the laws and policies of the State of Delaware."

Section 6. (a) Amend Title 29, Section 6903(a) of the Delaware Code by adding a new subsection (9) to read as follows: "(9) When the use of competitive sealed proposals is authorized pursuant to §6922 of this title."

(b) Amend Title 29, Delaware Code by adding a new Section 6922 to read as follows:

"§6922 Competitive Sealed Proposals

When the Secretary of Administrative Services makes a determination that the use of competitive sealed bidding is either not practicable or not advantageous to the State agency, a procurement shall be effected by competitive sealed proposals as outlined in this Section.

Competitive sealed proposals shall be solicited through a request for proposals which shall be issued and shall include the specifications for the services or items of materiel to be procured, all contractual terms and conditions applicable to the procurement, the location where proposals are to be received and the date, time and place where proposals are to be received and reviewed.

(a) Public notice of the request for proposals shall be given in the same manner as provided in §6931 and §6937 of this title.

(b) The request for proposals shall state the relative weight given to the factors in evaluating proposals.

(c) Offerors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Negotiations may be conducted with responsible offerors who submit proposals found to be reasonably likely to be selected for award.

(d) The contents of any proposal shall not be disclosed so as to be available to competing offerors during the negotiation process.

(e) The award shall be made to the responsible offeror or offerors whose proposal is most advantageous to the State agency or a local public body,

taking into consideration the evaluation factors set forth in the request for proposals. The award of a contract for services may be made upon criteria which do not include price."

Section 7. (a) Amend Title 29, Subsection 6909(a), Chapter 69, of the Delaware Code by inserting after the words "that in a contract for the purchase of materiel," and before the words "or in the execution of maintenance contracts as defined in this Title" the words "public works contracts with a value less than $50,000."

(b) Amend Title 29, Subsection 6909(h), Chapter 69, of the Delaware Code, by inserting after the words "contracts for the purchase of materials" and before the words "equipment and maintenance valued at less than $50,000" the words "public works."

Approved July 17, 1990.

CHAPTER 381

FORMERLY

HOUSE BILL NO. 695
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 24, CHAPTER 29 OF THE DELAWARE CODE RELATING TO THE LICENSURE AND REGULATION OF REAL ESTATE APPRAISERS.

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 24, Chapter 29 of the Delaware Code by renumbering subchapter 2 thereof to subchapter 3, redesignating sections 2940 through 2950 as sections 2950 through 2960 and inserting therein a new subchapter 2 to read as follows:

"Subchapter II. Regulation of real estate appraisers.

§2930. Certificate Requirement.

(a) No person, partnership, association or corporation shall act as real estate appraiser, or advertise or assume to act as such without being registered with and duly licensed or certified by the Council on Real Estate Appraisers.

(b) Corporations, partnerships and associations shall not be licensed under this subchapter, but nothing in this subchapter shall prevent a corporation, partnership or association from acting as an appraiser provided that every member or officer of such partnership, association or corporation who actively participates in the appraisal business of such entity is a licensed or certified real estate appraiser and unless every employee who acts as an appraiser for such partnership, association or corporation is a licensed or a certified appraiser.

(c) A person who is not a state certified or licensed real estate appraiser under this subchapter may assist a state certified or licensed real estate appraiser in the preparation of an appraisal provided that he or she is actively and personally supervised by a state certified or licensed real estate appraiser and provided that any appraisal report is reviewed and signed by the state certified or licensed appraiser.

§2931. Council on Real Estate Appraisers.

(a) The Council on Real Estate Appraisers is hereby established with a primary objective, to which all other objectives and purposes are secondary, of protecting the general public (specifically those persons who are direct recipients of services regulated by this Chapter) from occupational practices which tend to reduce competition or fix the price of services rendered and meet standards as set by a Federal Financial Regulatory Agency. The secondary objectives of the Council 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 Council shall develop standards assuring professional competence; shall monitor complaints brought against practitioners regulated by the Council; shall adjudicate at formal complaints hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against practitioners. Although independent of the Real Estate Commission, the Council shall be supported administratively by the Commission's staff. The Council shall meet at least four times each year.

(b) The Council on Real Estate Appraisers shall be composed of 9 members. The Governor shall appoint members of the Council. The terms of the newly appointed members shall be staggered. The first three appointees shall serve for a term of one year, the next three appointees shall serve for a term of two years then the next three appointees shall serve for a term of three years. Thereafter, all new appointees shall serve for a term of three years. A member shall serve for a term of 3 years, and may succeed himself or herself for 1 additional term; provided however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only 1 additional full term. Any person appointed to fill a vacancy on the Council 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, and the member shall no longer be eligible to participate in Council proceedings unless lawfully appointed. A person who has never served on the Council may be appointed to the Council two consecutive times, but no such person shall thereafter be eligible for two consecutive appointments. No person who has been twice appointed to the Council, or who has served on the Council for six years within any nine-year period, shall again be appointed to the Council until an interim period of at least one term has expired since such person last served. A member of the Council shall be

suspended or removed by the Governor for misfeasance, nonfeasance or malfeasance. A member subject to disciplinary proceedings shall be disqualified from Council business until the charge is adjudicated or the matter is otherwise concluded. A member may appeal any suspension or removal to the Superior Court. No member of the Council of Real Estate Appraisers, while serving on the Council, shall be a president, chairperson or other official of a professional association of real estate appraisers.

(c) A balanced membership shall be maintained on the Council by the appointment of three members engaged primarily in the real estate appraisal business who are certified appraisers, two members engaged in the real estate brokerage business who are also licensed real estate appraisers, one member from the banking community and three members from the public at large. To serve on the Council, a public member shall not be nor ever have been a real estate appraiser, nor a member of the immediate family of a real estate appraiser; shall not have been employed by a real estate appraiser; shall not have had a material financial interest in the providing of goods and services to real estate appraisers nor have been engaged in an activity directly related to real estate appraisal. Such public member shall be accessible to inquiries, comments and suggestions from the general public. Members of the Council shall receive $50 per meeting as compensation for each meeting attended up to 10 meetings per calendar year; provided, however, no member shall receive compensation for the year in excess of $500. Council members may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council. A chairman of the Council shall be chosen by the members, shall serve in that capacity for a term of one year and shall be eligible for re-election. Any appointment, pursuant to this section, to replace a member whose position becomes vacant prior to the expiration of his term, shall be only for the remainder of that term.

Notwithstanding the foregoing, the members of the first Council who are real estate appraisers need not be licensed or certified as appraisers for their initial term.

(d) A majority of members shall constitute a quorum; and no action shall be taken without the affirmative vote of at least 5 members. Any member who fails to attend 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.

(e) Minutes of all meetings shall be recorded, and copies shall be maintained by the Division of Professional Regulation. A stenographic record of any disciplinary hearing shall be made by a qualified court reporter. At the request and expense of any party such record shall be transcribed and made available to the requesting party.

§2932. Powers of the Council on Real Estate Appraisers.

(a) The Council on Real Estate Appraisers is hereby empowered and is required to promulgate necessary rules and regulations which comply in all respects with, and are not more stringent than the requirements of Title 12, United States Code, Chapter 34A and any subsequent amendments thereto. Regulations must be promulgated within 90 days following completion of the adoption of regulations by the Federal Financial Institutions Regulatory Agencies and the Resolution Trust Corporation; provided, however, that regulations must be promulgated to take effect not later than July 1, 1991 unless an extension is granted by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, or any other dates specified by a subsequent act of the Federal Congress. Such regulations are subject to administrative review under the Administrative Procedures Act and to judicial review by application to the Superior Court.

In addition, the Council may:

(1) Adopt and revise such rules and regulations consistent with the law and this subchapter as may be necessary and convenient to enable it to carry into affect this subchapter.

(2) Examine, license, certify and renew the licenses and certifications of duly qualified applicants, including applicants for conducting real estate appraisal schools;

(3) Conduct hearings upon charges calling for discipline of a licensed or certified real estate appraiser, or the revocation of such license or certification;

(4) Issue subpoenas and compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;

(5) Keep records of all its proceedings;

(6) Make an annual report to the Governor and the General Assembly.

(b) The Council on Real Estate Appraisers is required to include in its regulations educational, experience and testing requirements for licensure and certification of real estate appraisers that ensure protection of the public interest. Educational experience and testing requirements for certified and licensed appraisers must specifically meet the criteria established by the Appraiser Qualification Board of the Appraisal Foundation, if any, or such additional standards as may be specified by a Federal Financial Regulatory Agency or by 12 United States Code, Chapter 34A.

§2933. Roster of Appraisers; Annual Fees.

(a) The Council on Real Estate Appraisers is required each year to publish a roster of all licensed and certified appraisers and to transmit the roster annually to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(b) The Council on Real Estate Appraisers is also required to charge and collect fees for applications, registrations, examinations, original licensure and/or certification and annual renewals thereof, as well as for each additional officer, change of place of business or employer, and for duplicate documents. The amount to be charged for each fee imposed under this subchapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Council, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Council. There shall be a separate fee charged for each service or activity. At the beginning of each calendar year the Division of Professional Regulation, or any other state agency acting on its behalf, shall compute for each separate activity or service, the appropriate fee for the coming year. In addition, the Council shall collect an annual registry fee of not more than $25 to be transmitted by the Council to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(c) In those instances where the uniform national examination is to be taken in Delaware, applicants shall nevertheless pay all fees charged by the testing service directly to the testing service. Where the testing service refuses to accept direct payment, the applicant may pay the Council. In the event there are extra local expenses incurred by the State for its services in administering the examination, the applicant shall pay an additional fee to the Council to defray those local expenses.

§2934. Real Estate Appraiser Qualifications Criteria: General Certification Classification.

(a) The General Certification Classification of real estate appraisers shall apply to appraisals of all types of real property. Applicants for initial certification must meet the requirements, and renewal applicants the continuing education requirements as required by Title 12, United States Code, Chapter 34A and any subsequent amendments thereto and any regulations adopted thereunder.

(b) An applicant for certification under this subchapter shall not have been convicted of a felony, nor have been professionally penalized for drug abuse nor have been professionally penalized or convicted for fraud within the past 5 years.

(c) Each applicant shall provide such information as may be required on an application form designed and furnished by the Council. No application form shall require a picture of the applicant; require information relating to citizenship, place of birth, length of state residency; nor require personal references.

(d) Where the Council has found to its satisfaction that an application has been intentionally fraudulent, or that false information has been intentionally supplied, it shall report its finding to the Attorney General for further action.

(e) Where the application of a person has been refused or rejected and such applicant feels that the Board has acted without justification; has imposed higher or different standards for him or her than for other applicants or licensees; or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§2935. Appraiser Qualifications Criteria: Residential Certification Classification.

(a) The Residential Certification Classification of real estate appraisers would apply to the appraisals of one to four units and up to twelve units when a net income capitalization analysis is not required. Applicants for initial certification must meet the requirements, and renewal applicants the continuing education requirements as required

by Title 12, United States Code, Chapter 34A and any subsequent amendments thereto and any regulations adopted thereunder.

§2936. Requirements for Licensing Appraiser Trainees, Real Estate Appraisers and Real Property Appraisers.

(a) Applicants for appraiser trainee licenses, residential real estate appraisers licenses and real property appraisers licenses must meet the minimum qualifications as established by the Uniform Standards of Professional Appraisal Practice as issued by the Appraisal Foundation or its successor. In the absence of such standards the following shall be required by the Council.

(1) Any applicant for a real estate appraiser trainee license shall have successfully completed a minimum of 40 classroom hours of education on real estate matters satisfactory to the Council, including classroom hours on the topic of the Code of Professional Ethics and Uniform Standards of Professional Appraiser Practice.

(2) An applicant for a license as residential real estate appraiser, in addition to the education requirements of a trainee license shall have successfully completed an additional 20 classroom hours. The applicant must have had at least two years of continuous experience under the supervision of a Delaware certified or licensed residential or general real estate appraiser as an appraiser trainee. The applicant must submit to the Council a list of at least 30 appraisals of residential real estate of one to four family units or up to twelve units when a net income capitalization analysis is not required, which appraisals were completed by the applicant during his or her two years of experience with verification by the supervising appraiser that the work was substantially completed by the applicant. The applicant must complete and pass an examination approved by the Council. An applicant for license must not have been subjected to any disciplinary action by another licensing authority during the period of licensure in that jurisdiction. A statement to this effect must be provided by the licensing authority in each and every state in which the applicant has ever held a license to practice real estate appraisal.

(3) An applicant for licensure as a licensed general real estate appraiser, in addition to the educational requirements for licensure as a licensed real estate appraiser trainee, must have successfully completed an additional 45 classroom hours of Council approved courses relating to the appraisal of income-producing and/or non-residential property, including classroom hours on the topics of the Code of Professional Ethics and Uniform Standards of Professional Appraisal Practice. The applicant must have at least three years of experience as an appraiser trainee under the supervision of a Delaware licensed or certified general real estate appraiser, at least two years of which shall have been under the supervision of a Delaware certified general real estate appraiser or Delaware licensed general real estate appraiser. The applicant must submit to the Council a list of at least 30 appraisals of residential real estate of one to four family units or up to twelve units when a net income capitalization analysis is not required, and ten appraisals of non-residential, multi-family residential (in excess of four units) and/or income-producing properties which appraisals were completed by the applicant under said supervision, with verification by the supervisor that the work was substantially completed by the applicant. Having obtained the prerequisite education and experience requirements, the applicant must, prior to licensing, pass an examination approved by the Council.

§2937. Council Administration.

(a) Nothing herein contained shall preclude the Council from determining, after investigation as to the facts of a particular case, that any or all of the above education and experience requirements are met by the background and qualifications of an applicant which are recognized by the Council as meeting the requirements of this subchapter.

§2938. Non-resident Licensure and Certification.

(a) Every applicant for certification or licensure under this subchapter who is not a resident of this State shall submit, with the application for certification or licensure, an irrevocable consent that service of process upon him or her may be made by delivery of the process to the Secretary of State if, in an action against the applicant in a court of this state arising out of the applicant's activities as a real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(b) A non-resident of this State who has complied with the provisions of this subchapter shall obtain a licensure or certification for real estate appraisal.

(c) If, in the determination by the Council, another State is found to have licensure and/or certification provisions approved by the Appraisal Subcommittee of the Federal Financial Institutions Examination council, an applicant who is licensed or certified as a real estate appraiser in that State shall obtain the equivalent license or certification in this State.

§2939. Disciplinary Proceedings; Reprimand; Revocation of Privileges.

All complaints shall be received and investigated in accordance with subsection (i), Section 8810, Chapter 88, Title 29 of the Delaware Code. The rights of any person as a state certified or licensed real estate appraiser may be revoked or suspended, or the person may be otherwise disciplined in accordance with the provisions of this subchapter, upon any of the grounds set forth in this section. The Council may investigate the actions of a state certified or licensed real estate appraiser, and may revoke or suspend the rights of a certified or licensed real estate appraiser, or otherwise discipline an appraiser for any of the following acts or omissions:

(a) Procuring or attempting to procure licensure or certification pursuant to this subchapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for licensure or certification, or through any form of fraud or misrepresentation;

(b) Failing to meet the minimum qualifications established by this subchapter;

(c) Paying money other than provided for by this subchapter to any member or employee of the Council to procure licensure or certification under this subchapter;

(d) A conviction of a felony or a misdemeanor which is substantially related to the qualifications, functions and duties of a person developing real estate appraisals and communicating real estate appraisals to others;

(e) An act or omission involving dishonesty, fraud or misrepresentation with the intent to substantially benefit the licensed or certified appraiser or another person or with the intent to substantially injure another person;

(f) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

(g) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(h) Willfully disregarding or violating any of the provisions of this subchapter or the regulations of the Council for the administration and enforcement of the provisions of this subchapter;

(i) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment;

(j) Violating the confidential nature of client records to which he or she gained access through employment or engagement as an appraiser; or

(k) Entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real property. In a disciplinary proceeding based upon a civil judgment, the real estate appraiser shall be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

§2940. Disciplinary Sanctions.

(a) The Council may impose any of the following sanctions, singly or in combination when it finds, after a hearing, that one of the conditions or violations set forth in §2962 of this title applies to a practitioner regulated by this subchapter.

by Title 12, United States Code, Chapter 34A and any subsequent amendments thereto and any regulations adopted thereunder.

§2936. Requirements for Licensing Appraiser Trainees, Real Estate Appraisers and Real Property Appraisers.

(a) Applicants for appraiser trainee licenses, residential real estate appraisers licenses and real property appraisers licenses must meet the minimum qualifications as established by the Uniform Standards of Professional Appraisal Practice as issued by the Appraisal Foundation or its successor. In the absence of such standards the following shall be required by the Council.

(1) Any applicant for a real estate appraiser trainee license shall have successfully completed a minimum of 40 classroom hours of education on real estate matters satisfactory to the Council, including classroom hours on the topic of the Code of Professional Ethics and Uniform Standards of Professional Appraiser Practice.

(2) An applicant for a license as residential real estate appraiser, in addition to the education requirements of a trainee license shall have successfully completed an additional 20 classroom hours. The applicant must have had at least two years of continuous experience under the supervision of a Delaware certified or licensed residential or general real estate appraiser as an appraiser trainee. The applicant must submit to the Council a list of at least 30 appraisals of residential real estate of one to four family units or up to twelve units when a net income capitalization analysis is not required, which appraisals were completed by the applicant during his or her two years of experience with verification by the supervising appraiser that the work was substantially completed by the applicant. The applicant must complete and pass an examination approved by the Council. An applicant for license must not have been subjected to any disciplinary action by another licensing authority during the period of licensure in that jurisdiction. A statement to this effect must be provided by the licensing authority in each and every state in which the applicant has ever held a license to practice real estate appraisal.

(3) An applicant for licensure as a licensed general real estate appraiser, in addition to the educational requirements for licensure as a licensed real estate appraiser trainee, must have successfully completed an additional 45 classroom hours of Council approved courses relating to the appraisal of income-producing and/or non-residential property, including classroom hours on the topics of the Code of Professional Ethics and Uniform Standards of Professional Appraisal Practice. The applicant must have at least three years of experience as an appraiser trainee under the supervision of a Delaware licensed or certified general real estate appraiser, at least two years of which shall have been under the supervision of a Delaware certified general real estate appraiser or Delaware licensed general real estate appraiser. The applicant must submit to the Council a list of at least 30 appraisals of residential real estate of one to four family units or up to twelve units when a net income capitalization analysis is not required, and ten appraisals of non-residential, multi-family residential (in excess of four units) and/or income-producing properties which appraisals were completed by the applicant under said supervision, with verification by the supervisor that the work was substantially completed by the applicant. Having obtained the prerequisite education and experience requirements, the applicant must, prior to licensing, pass an examination approved by the Council.

§2937. Council Administration.

(a) Nothing herein contained shall preclude the Council from determining, after investigation as to the facts of a particular case, that any or all of the above education and experience requirements are met by the background and qualifications of an applicant which are recognized by the Council as meeting the requirements of this subchapter.

§2938. Non-resident Licensure and Certification.

(a) Every applicant for certification or licensure under this subchapter who is not a resident of this State shall submit, with the application for certification or licensure, an irrevocable consent that service of process upon him or her may be made by delivery of the process to the Secretary of State if, in an action against the applicant in a court of this state arising out of the applicant's activities as a real estate appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(b) A non-resident of this State who has complied with the provisions of this subchapter shall obtain a licensure or certification for real estate appraisal.

(c) If, in the determination by the Council, another State is found to have licensure and/or certification provisions approved by the Appraisal Subcommittee of the Federal Financial Institutions Examination council, an applicant who is licensed or certified as a real estate appraiser in that State shall obtain the equivalent license or certification in this State.

§2939. Disciplinary Proceedings; Reprimand; Revocation of Privileges.

All complaints shall be received and investigated in accordance with subsection (i), Section 8810, Chapter 88, Title 29 of the Delaware Code. The rights of any person as a state certified or licensed real estate appraiser may be revoked or suspended, or the person may be otherwise disciplined in accordance with the provisions of this subchapter, upon any of the grounds set forth in this section. The Council may investigate the actions of a state certified or licensed real estate appraiser, and may revoke or suspend the rights of a certified or licensed real estate appraiser, or otherwise discipline an appraiser for any of the following acts or omissions:

(a) Procuring or attempting to procure licensure or certification pursuant to this subchapter by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for licensure or certification, or through any form of fraud or misrepresentation;

(b) Failing to meet the minimum qualifications established by this subchapter;

(c) Paying money other than provided for by this subchapter to any member or employee of the Council to procure licensure or certification under this subchapter;

(d) A conviction of a felony or a misdemeanor which is substantially related to the qualifications, functions and duties of a person developing real estate appraisals and communicating real estate appraisals to others;

(e) An act or omission involving dishonesty, fraud or misrepresentation with the intent to substantially benefit the licensed or certified appraiser or another person or with the intent to substantially injure another person;

(f) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

(g) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

(h) Willfully disregarding or violating any of the provisions of this subchapter or the regulations of the Council for the administration and enforcement of the provisions of this subchapter;

(i) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment;

(j) Violating the confidential nature of client records to which he or she gained access through employment or engagement as an appraiser; or

(k) Entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real property. In a disciplinary proceeding based upon a civil judgment, the real estate appraiser shall be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

§2940. Disciplinary Sanctions.

(a) The Council may impose any of the following sanctions, singly or in combination when it finds, after a hearing, that one of the conditions or violations set forth in §2962 of this title applies to a practitioner regulated by this subchapter.

(1) Issue a letter of reprimand;

(2) Censure a practitioner;

(3) Place a practitioner on probationary status, and require the practitioner to:

a. Report regularly to the Council upon the matters which are the basis of the probation.

b. Limit all practice and professional activities to those areas prescribed by the Council; and/or

c. Continue or renew his professional education until the required degree of skill has been attained in those areas which are the basis of the probation.

(4) Suspend or revoke any practitioner's certification or license.

§2941. Hearing Procedures.

(a) Upon receipt of a complaint from the Attorney General's office or an investigative report of a complaint from the Division of Professional Regulation, the Council shall determine what action, if any, it shall take. If the Council decides not to take any further action, and the complainant is known to the Council, the Council shall forward by letter to the complainant its reasons for not taking further action. Where the Council has determined to take further action, the matter shall be heard by the Council within 3 months from the date on which the complaint was received. The Council 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 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 shall be effected in the same manner as with civil litigation.

(b) All hearings shall be informal without use of the rules of evidence. If the Council finds, by a majority vote of all members, that the complaint has merit, the Council shall take such action permitted under this Chapter as it deems necessary. The Council decision shall be in writing and shall include its reasons for such decision. A copy of the decision shall be mailed immediately to the practitioner. The Council decision shall become effective on the 30th day after the date it is mailed or served on the practitioner, unless there is an appeal by the practitioner to the Superior Court within that time.

§2942. Practicing without a licensure; penalties.

(a) Where the Council has determined that person is practicing real estate appraising within this State without having lawfully obtained a license therefor, or that a person previously licensed is unlawfully practicing although his or her license has been suspended or revoked, the Council shall formally warn such person. If the offense continues, the Council shall make a formal complaint to the Attorney General. The complaint shall include all evidence known to, or in the possession of, the Council.

(b) Where the Council has placed a practitioner on probationary status under certain restrictions or conditions, and the Council 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.

§2943. Definitions.

(a) This act specifically adopts the terms 'appraisal subcommittee,' 'federally related transaction', 'real estate related financial transaction', 'federal financial institutions regulatory agencies', and 'financial institution' contained in Title 12 United States Code, Chapter 34A and in any subsequent amendments thereto.

(b) 'Real estate appraiser' means any person who, subsequent to the effective date of this subchapter, for compensation or valuable consideration, advises, consults or prepares analyses with respect to real estate values, uses, sales developments or disposition including acquisitions by eminent domain, or renders opinions relevant to the marketability of real estate, as a whole or partial vocation. This subchapter does not apply to any real estate licensee who prepares a competitive market analysis survey used only for the purpose of listing a property for sale or lease nor to any individual who prepares real estate appraisals for his full-time employer for the employer's internal use only and which is performed in the regular course of employee's position."

Section 2. Amend Section 2901(a)(3), Chapter 29, Title 24, Delaware Code by striking said paragraph in its entirety and renumbering the remaining paragraphs accordingly.

Section 3. Amend Section 2905(b), Title 24, Delaware Code by striking said subsection in its entirety.

Section 4. Amend Section 2905(c), Chapter 29, Title 24, Delaware Code by striking the phrase "real estate salespersons and real estate appraisers." at the end of subsection "c" and substituting in lieu thereof the phrase "and real estate salespersons."

Section 5. Amend Section 2906, Chapter 29, Title 24, Delaware Code by striking said section and substituting in lieu thereof the following:

> "No person, partnership, association or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such real estate broker or real estate salesperson without being registered and without a certificate of registration issued by the Commission.
>
> No partnership, association or corporation shall be granted a certificate unless every member or officer of such partnership, association, or corporation who actively participates in the brokerage business of such partnership, association or corporation holds a certificate as a real estate broker and unless every employee who acts as a salesperson for such person, partnership, association or corporation holds a certificate as a real estate salesperson."

Section 6. Amend §2907, Chapter 29, Title 24, Delaware Code, by striking the words ", real estate salesperson or real estate appraiser" as the same appear in said section and substituting the words "and real estate salesperson" in lieu thereof.

Section 7. Amend §2904, Chapter 29, Title 24, Delaware Code by striking said section in its entirety.

Section 8. Severability.

If any section or subsection of this act shall be declared invalid by a court of competent jurisdiction or the Appraisal Subcommittee Council, the validity shall not effect other provisions of this act which can be given effect without the invalid provision or, to this end, are severable from any invalid section.

Section 9. Amend §2901, Title 24, Delaware Code, by redesignating subsections (a)(1) through (a)(5) as subsections (a)(2) through (a)(6) and adding a new subsection (a)(1) to read as follows:

"(a)(1) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal."

Section 10. The provisions of this Act shall become effective September 30, 1990. Further amend Chapter 29, Title 24 Delaware Code by redesignating existing Sections 2940 through 2950 as Sections 2950 through 2960.

Section 11. Amend §2909, Chapter 29, Title 24, Delaware Code, by striking the words ", salesperson or appraiser" and ", salesperson's or appraiser's" as the same appear in said section and substituting the words "and salesperson" and "or salesperson's" in lieu thereof.

Section 12. Amend §2909, Chapter 29, Title 24, Delaware Code, by striking the words "When an applicant for licensure by reciprocity as a real estate appraiser can show that he or she possesses the relevant background the Commission shall license the applicant as a real estate appraiser." as the same appear in said section.

Section 13. Amend §2912, Chapter 29, Title 24, Delaware Code, by striking the words ", real estate salesperson or real estate appraiser" as the same appear in said section and substituting the words "or real estate salesperson" in lieu thereof.

Section 14. Amend §2916, Chapter 29, Title 24, Delaware Code, by striking the words ", salespersons and appraisers." as the same appear in said section and substituting "and salespersons" in lieu thereof.

Section 15. Amend §2921, Chapter 29, Title 24, Delaware Code, by striking the words ", real estate salesperson or real estate appraiser", ", real estate salesperson and real estate appraiser" and", real estate salesperson's or real estate appraiser's" as the same

appear in said section and substituting "or salesperson", "and real estate salesperson" and "and real estate salesperson's" in lieu thereof.

Approved July 17, 1990.

CHAPTER 382

FORMERLY

HOUSE BILL NO. 711
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE TO AUTHORIZE THE ESTABLISHMENT OF LINES OF CREDIT AND THE ISSUANCE OF PROMISSORY NOTES FOR AMOUNTS BORROWED PURSUANT TO SAID LINES OF CREDIT BY RESOLUTION OF THE SUSSEX COUNTY COUNCIL.

WHEREAS, Title 9 of the Delaware Code currently requires the Sussex County Council to follow procedures for the enactment of an ordinance when establishing a line of credit for short term borrowing purposes; and

WHEREAS, it is often necessary to establish a line of credit for short term borrowing purposes in a time period less than that required for advertising an ordinance and holding a public hearing thereon; and

WHEREAS, this legislative enactment authorizes the Sussex County Council to establish lines of credit for short term borrowing purposes and to execute, issue and deliver promissory notes for amounts borrowed pursuant to said lines of credit, by resolution.

NOW THEREFORE:

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

Section 1. Amend Section 7002(t)(3), Title 9, Delaware Code, by deleting said paragraph in its entirety and by substituting in lieu thereof a new paragraph (3) to read as follows:

"(3) Bonds and notes issued pursuant to this chapter shall be authorized by ordinance of the county government approved by not less that four-fifths (4/5) of all of the members thereof; provided, however, that the County government shall be authorized by resolution approved by a majority of all of the members thereof to establish lines of credit for short term borrowing purposes and to execute, issue, and deliver promissory notes for amounts borrowed pursuant to said lines of credit. Each such ordinance or resolution shall state in brief and general terms the objects or purposes for which the bonds or notes are to be issued and the maximum aggregate principal amount of bonds or notes to be issued for each such object or purpose. Such ordinance, or a subsequent resolution of the County government pertaining to such ordinance, or a 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 therefore, 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 of 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 premiums; the interest rate or rates, including variable rates, and any limitation with respect thereto or the manner of their determination; the times and place or places within or without the 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 or more ordinances into one 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 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."

Section 2. Amend Section 7002(t)(1), Title 9, Delaware Code, by deleting said paragraph in its entirety and by substituting in lieu thereof a new paragraph (1) to read as follows:

"(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 autho[illegible]t-

appear in said section and substituting "or salesperson", "and real estate salesperson" and "and real estate salesperson's" *in lieu thereof*.

Approved July 17, 1990.

CHAPTER 382

FORMERLY

HOUSE BILL NO. 711
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE TO AUTHORIZE THE ESTABLISHMENT OF LINES OF CREDIT AND THE ISSUANCE OF PROMISSORY NOTES FOR AMOUNTS BORROWED PURSUANT TO SAID LINES OF CREDIT BY RESOLUTION OF THE SUSSEX COUNTY COUNCIL.

WHEREAS, Title 9 of the Delaware Code currently requires the Sussex County Council to follow procedures for the enactment of an ordinance when establishing a line of credit for short term borrowing purposes; and

WHEREAS, it is often necessary to establish a line of credit for short term borrowing purposes in a time period less than that required for advertising an ordinance and holding a public hearing thereon; and

WHEREAS, this legislative enactment authorizes the Sussex County Council to establish lines of credit for short term borrowing purposes and to execute, issue and deliver promissory notes for amounts borrowed pursuant to said lines of credit, by resolution.

NOW THEREFORE:

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

Section 1. Amend Section 7002(t)(3), Title 9, Delaware Code, by deleting said paragraph in its entirety and by substituting in lieu thereof a new paragraph (3) to read as follows:

"(3) Bonds and notes issued pursuant to this chapter shall be authorized by ordinance of the county government approved by not less that four-fifths (4/5) of all of the members thereof; provided, however, that the County government shall be authorized by resolution approved by a majority of all of the members thereof to establish lines of credit for short term borrowing purposes and to execute, issue, and deliver promissory notes for amounts borrowed pursuant to said lines of credit. Each such ordinance or resolution shall state in brief and general terms the objects or purposes for which the bonds or notes are to be issued and the maximum aggregate principal amount of bonds or notes to be issued for each such object or purpose. Such ordinance, or a subsequent resolution of the County government pertaining to such ordinance, or a 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 therefore, 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 of 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 premiums; the interest rate or rates, including variable rates, and any limitation with respect thereto or the manner of their determination; the times and place or places within or without the 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 or more ordinances into one 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 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."

Section 2. Amend Section 7002(t)(1), Title 9, Delaware Code, by deleting said paragraph in its entirety and by substituting in lieu thereof a new paragraph (1) to read as follows:

"(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 autho- t-

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. The term "bonded indebtedness" shall not include the promissory notes issued pursuant to lines of credit for short term borrowing purposes. "Short term borrowing purposes" shall include borrowings with a term of not to exceed five (5) years from date of such note, or a note that is payable upon demand of the obligee."

Section 3. Amend Section 7002(t)(7), Title 9, Delaware Code, by deleting said paragraph in its entirety and by substituting in lieu thereof a new paragraph (7) to read as follows:

"(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 is not applied to or is 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, or shall be applied as set forth in such ordinance or resolution, or a subsequent ordinance or resolution of the County.

Approved July 17, 1990.

CHAPTER 383

FORMERLY

HOUSE BILL NO. 270
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 31 OF TITLE 16 TO PROVIDE FOR THE ISSUANCE OF VANITY BIRTH CERTIFICATES.

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 3134, Chapter 31, Title 16 of the Delaware Code by adding a new subsection as follows:

"(d) The State Registrar shall upon request, within one year of a child's birth, furnish any applicant with a vanity certificate of birth registration. Vanity certificates shall be specially designed for framing and display. The name of the child shall be calligraphed on the vanity certificate. Each vanity certificate shall be signed by the Governor. The State Registrar shall charge a fee of $25 for providing vanity certificates. Said fee shall be apportioned as follows: $12.50 shall be deposited to the Delaware Children's Trust Fund to advance the purposes of that Fund, $12.50 shall be retained by the Division of Health and Social Services to offset the cost of certificates in the Office of Vital Statistics. Any excess funds shall be deposited in a Special account to be used for the Delaware Health Statistical Center."

Approved July 17, 1990.

CHAPTER 384

FORMERLY

HOUSE BILL NO. 311
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, PART IV, TITLE 16 OF THE DELAWARE CODE RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AND REGULATING THE POSSESSION AND DELIVERY OF NON-CONTROLLED PRESCRIPTION DRUGS.

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

Section 1. Amend §4754A, Chapter 47, Part IV, Title 16 of the Delaware Code by striking the Title to said section in its entirety, and substituting in lieu thereof the following:

"§4754A. Possession and delivery of a non-controlled prescription drug."

Section 2. Amend §4754A, Chapter 47, Part IV, Title 16 of the Delaware Code by adding thereto the following new subsections:

"(d) Any person who delivers or possesses with intent to deliver a non-controlled prescription drug not obtained directly from, nor pursuant to, a valid prescription or order of a practitioner who is acting in the course of his professional practice, or except as otherwise authorized by the statutes of this State, shall be guilty of a class E felony.

(e) To distribute, sell, offer to sell, dispense, administer or prescribe any anabolic steroid or human growth hormone, or any counterfeit substance purporting to be an anabolic steroid or human growth hormone, for purposes of human body building or enhancement of human athletic performance, is a violation of Subsection (d) of this Section. For purposes of this section it is not a valid medical practice to distribute, sell, offer to sell, dispense, administer or prescribe any anabolic steroid or human growth hormone, or counterfeit substance purporting to be an anabolic steroid or human growth hormone, for purposes of human body building or enhancement of human athletic performance.

(f) For purposes of this section, the words "body building" shall mean the increasing of muscle mass, muscle strength. or muscle weight. For purposes of this section, the words "athletic enhancement" shall mean the improvement of performance in any form of exercise, sport or game."

Section 3. Amend §4701, Chapter 47, Part IV, Title 16 of the Delaware Code by re-designating present subsection (14) as new subsection (15); and by re-designating each succeeding subsection accordingly.

Section 4. Amend §4701, Chapter 47, Part IV, Title 16 of the Delaware Code by adding thereto a new subsection, designated as subsection (14), which new subsection shall read as follows:

"(14) 'Human growth hormone' is synonymous with the term 'human chorionic gonadotropin.'

Section 5. Amend §4701, Chapter 47, Part IV, Title 16 of the Delaware Code by re-designating present subsection (4) as new subsection (5); and by re-designating each succeeding subsection accordingly.

Section 6. Amend §4701, Chapter 47, Part IV, Title 16 of the Delaware Code by adding thereto a new subsection, designated as subsection (4), which new subsection shall read as follows:

"(4) 'Anabolic steroid' shall mean but is not limited to any isomer, ester, salt, or derivative of the following that acts in the same manner on the human body:

a. Clostebol

b. dehydrochlormethyltestosterons

c. ethylestroenol

d. fluoxymesterone

e. human growth hormone

f. mesterolone

g. methandienone

h. methandrostenolone

i. methenolone

j. methyltestosterone

k. nondrolone

l. norethandrolone

m. oxandrolone

n. oxymesterone

o. oxymetholone

p. stanozolol

q. testosterone"

Approved July 17, 1990.

CHAPTER 385

FORMERLY

HOUSE BILL NO. 388
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2
AND SENATE AMENDMENT NO. 1

AN ACT TO REESTABLISH THE BOARD OF LANDSCAPE ARCHITECTS BY REESTABLISHING AND REENACTING ALL PROVISIONS OF CHAPTER 2, TITLE 24 OF THE DELAWARE CODE.

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

Section 1. Reestablish the Board of Landscape Architects by amending Title 24 of the Delaware Code by reenacting Chapter 2, as follows:

"§200. Objectives of Board.

The primary objective of the Board of Landscape Architecture, 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 unsafe practices, and from occupational 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 complaints hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against practitioners.

§201. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(1) "Landscape architect" shall mean a person who, on the basis of demonstrated knowledge acquired by professional education or practical experience, or both has been granted, and holds a current certificate entitling him to use the designation "landscape architect", and practices landscape architecture in this State under the authority of this chapter.

(2) "Landscape architecture" shall mean any service or creative work the adequate performance of which requires landscape architectural education, training and experience. It shall mean the performance of professional services such as consultation, investigation, research, planning, design, preparation of drawings, specifications and contract documents, and responsible supervision or construction management in connection with the development of land areas where, and to the extent that the dominant purpose of such services is: The preservation, enhancement or determination of proper land uses, natural land features, ground cover and plantings, naturalistic and aesthetic values; the determination of settings, grounds and approaches for buildings and structures or other improvements; the determination of environment problems of land relating to erosion, flooding, blight and other hazards; the shaping and contouring of land and water forms; the setting of grades, determination of drainage and providing for storm drainage systems where such systems do not require structural design of system components and determination of landscape irrigation.

"Landscape architecture" shall include the design of such tangible objects and features as are necessary to the purpose outlined herein but shall not include the design of buildings, structures and utilities with separate and self-contained purposes such as are ordinarily included in the practice of architecture or engineering.

(3) "Board" shall mean the Delaware State Board of Landscape Architecture.

§202. License required.

No person shall hold himself out to the public as being a licensed landscape architect, or use in connection with his name or otherwise assume, use or advertise any title or description intending to convey the impression that he is a licensed landscape architect, unless such person has been licensed under this chapter.

§203. Board of Landscape Architecture - Appointment; composition; qualifications; term of office; suspension or removal; compensation.

(a) The Board of Landscape Architecture shall consist of 5 members appointed by the Governor: Three professional members who shall be licensed landscape architects; and 2 public members. To serve on the Board, a public member shall not be nor ever have been a landscape architect, nor a member of the immediate family of a landscape architect; shall not have been employed by a landscape architect; shall not have had a material financial interest in the providing of goods and services to landscape architect; nor have been engaged in an activity directly related to landscape architecture. Such public member shall be accessible to inquiries, comments and suggestions from the general public.

(b) Each member shall serve for a term of 3 years, and may succeed himself for 1 additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself for only 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, and the member shall no longer be eligible to participate in Board proceedings unless lawfully appointed.

(c) A member of the Board shall be suspended or removed 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.

(d) No member of the Board of Landscape Architecture, while serving on the Board, shall be a president, chairman or other official of a professional association of landscape architects.

(e) The provisions set forth for "employees" in §5805 of Title 29 shall apply to all members of the Board, and to all agents appointed by or otherwise employed by the Board.

(f) Each Board member shall be reimbursed for all expenses involved in each meeting, including travel; and in addition shall receive not more than $50 for each meeting attended, but not more than $500 in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

§204. Same - Officers; meetings; quorum.

(a) In the same month of each year the members shall elect, from among their number, a President, a Secretary and a Treasure. Each officer shall serve for 1 year, and shall not succeed himself in the same office.

(b) The Board shall hold regularly scheduled business meetings 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 Boarj members. Special or emergency meetings may be held without notice provided a quorum is present.

(c) A majority of members shall constitute a quorum; and no action shall be taken without the affirmative vote of at least 3 members. Any member who fails to attend 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 shall be maintained by the Division of Professional Regulation. At any hearing where evidence is presented, such hearing shall be recorded and transcribed by the Division.

§205. Same - Powers and duties.

(a) The Board of Landscape Architecture shall have authority to:

(1) Formulate rules and regulations relating to official seals and other matters, 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 to process all applications;

(3) Designate a written national examination, prepared by either the national professional association or by a recognized legitimate national testing service. The examination shall be prepared for testing on a national basis, and not specifically prepared at the request of the Board for its individual use. The national examination shall be taken by persons applying for licensure, except applicants who qualify for licensure by reciprocity;

(4) Provide for the administration of all examinations, including notice and information to applicants;

(5) Under such conditions as are permitted by the national testing service, to administer the uniform national examination, or another nationally-administered examination for those applicants who have been unable to take it at the school or college of landscape architecture, or elsewhere;

(6) Grant licenses to all persons who meet the qualifications for licensure;

(7) Receive complaints from practitioners and from the public concerning practitioners, or concerning practices of the profession; to evaluate such complaints; and to take such action within its powers as the Board deems appropriate;

(8) 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 Administrative Procedures Act;

(9) Where it has been determined after a disciplinary hearing, that penalties or sanctions shall be imposed, to designate and impose the appropriate sanction or penalty after time for appeal has lapsed;

(10) Bring proceedings in the courts for the enforcement of this chapter;

(11) 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.

(b) The Board may require by subpoena the attendance and testimony of witnesses and the production of papers, records or other documentary evidence.

§206. Qualifications of applicant; report to Attorney General; judicial review.

(a) An applicant who is applying for examination and licensure under this chapter shall have the following qualifications:

(1) He shall have been graduated from a school or college of landscape architecture approved by the National Council of Landscape Architectural Registration Boards or other legitimate national association of landscape architects;

(2) An applicant may take the examination if such applicant has engaged in landscape architecture for a period of 8 years or more prior to applying for licensure;

(3) Where an applicant has taken courses in landscape architecture, but has not received a degree in landscape architecture, each complete year of study may be accepted in lieu of 2 years of actual experience, to fulfill the requirements of paragraph (2) of this subsection;

(4) An applicant shall not have been convicted of a felony, nor have been professionally penalized or convicted for drug addiction, nor have been professionally penalized or convicted for 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; require information relating to citizenship, place of birth, length of state residency; nor require personal references.

(b) Where the Board has found to its satisfaction that an application has been intentionally fraudulent, or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

(c) Where the application of a person has been refused or rejected and such applicant feels that the Board has acted without justification; has imposed higher or different standards for him than for other applicants or licensees; or has in some other

manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§207. Examination.

(a) The Board shall, in the same month of each year, or at such times as are determined by the testing service, administer the uniform national examination, prepared and graded by the National Council of Landscape Architectural Registration Boards; or such portions of the uniform national examination as it deems necessary. Such written examination shall be obtained from, and corrected by, the National Council of Landscape Architectural Registration Boards, or similar national testing service. Where an applicant has failed to pass the examination, but has successfully completed or passed certain portions or sections which he previously failed, he or she shall be permitted to retake only those certain portions or sections of the examination he or she has failed, if the testing service permits such partial examination. In the event the applicant fails the second time to successfully complete or pass the examination, the Board may require that such applicant again take the complete examination.

(b) In the event an applicant has already taken and passed the uniform national examination, the certificate from the National Council of Landscape Architectural Registration Boards acknowledging same shall be accepted, and no further state examination shall be necessary.

§208. Reciprocity.

Where the applicant is already licensed in another state, the Board shall accept a certificate or other of his examination score issued by the National Council of Landscape Architectural Registration Boards that the applicant has successfully completed or passed the uniform national examination, or the certificate or other evidence of successful completion of a similar national testing service for its national examination for landscape architects, in lieu of all other requirements for licensure provided for in this chapter. Upon receipt of an application for reciprocity, 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. An application for licensure by reciprocity shall be accompanied by full payment of the reciprocity fee.

§209. Fees.

(a) 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 a purpose 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 Board fees for the coming year.

(b) In those instances where the uniform national examination is to be taken in Delaware, applicants shall nevertheless pay all fees charged by the testing service directly to the testing service. Where the testing service refuses to accept direct payment, the applicant may pay the Board. In the event there are extra local expenses incurred by the State for its services in administering the examination, the applicant shall pay an additional fee to the Board to defray those local expenses.

§210. Issuance of license; renewal; inactive status; reinstatement.

(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 this chapter.

(b) Each license shall be renewed biennially, in such manner as is determined by the Division of Professional Regulation. The Board shall in its rules and regulation, determine the period of time within which a practitioner may still renew his license, notwithstanding the fact that such practitioner has failed to renew on or before the renewal date; provided, however, that such period shall not exceed 1 year. The Board shall charge for each month or quarter during such "late renewal period" a late fee

which, at the end of such "late period" will be twice the sum of the unpaid renewal fee. At the expiration of the period designated by the Board, the license shall be deemed to be lapsed and not renewable unless the former licensee re-applies under the same conditions which govern reciprocity; provided, however, that the former licensee shall also pay a reinstatement fee in an amount which is 3 times the amount of the reciprocity fee.

(c) Any licensee may, upon his written request, be placed in an inactive status. The renewal fee of such person shall be pro-rated in accordance with the amount of time such person was inactive. Such person may re-enter practice upon notification to the Board of his intent to do so.

(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 apply for a new license, successfully complete the uniform national; examination and shall pay all appropriate fees therefor.

§211. Complaints.

All filings and investigations of complaints by practitioners or members of the public which concern any aspect of the practice of landscape architecture shall be presented and processed pursuant to §8810(i) of Title 29.

§212. Practice by corporations and partnerships.

(a) The privilege of engaging in the practice of landscape architecture is personal, based upon the qualifications of the individual evidenced by his registration and is not transferable. All final drawings, specifications, plans, reports or other papers or documents involving the practice of landscape architecture, as defined with this chapter, when issued or filed for public record, shall be dated and bear the signature and seal of the landscape architect or landscape architects who prepared or approved same.

(b) Nothing in subsection (a) of this section shall be construed to prevent the formation of partnerships and corporations as a vehicle for the practice of landscape architecture subject to the following conditions: The practice of or offer to practice landscape architecture for others by individual landscape architects registered under this chapter through a corporation as officers, employees or agents, or through a partnership as partners, officers, employees or agents, or the offerings or rendering of landscape architectural services by a corporation or partnership through individual landscape architects registered under this chapter is permitted, subject to this chapter; provided, however:

(1) One or more of the corporate officers in the case of a corporation, or 1 or more of the partners in the case of a partnership, is designated as being responsible for any services in the practice of landscape architecture on behalf of the said corporation or partnership and is a landscape architect registered under this chapter.

(2) All personnel of said corporation or partnership, who act in its behalf as landscape architects, are registered under this chapter; and

(3) Said corporation or partnership has been issued a certificate of authorization by the Board, as herein provided.

(c) The requirements of this chapter shall not prevent a corporation and its employees from performing landscape architectural services for a corporation, its subsidiary or for affiliated corporations.

(1) A corporation or partnership desiring a certificate of authorization shall file with the Board an application, on forms provided by the Board listing relevant information, including the names and addresses of officers and members of the corporation, or officers and partners of the partnership and also of an individual or individuals duly registered to practice landscape architecture in this State who shall be in responsible charge of the practice of landscape architecture through the said corporation or partnership, and other information required by the said Board. accompanied by the appropriate fee. A form, giving the same information, shall accompany the annual renewal fee. In the event there should be a change in the list during the year, such change shall be designated on a copy of the same form or on an identical duplicate, and filed with the Board within 30 days after the effective date of said change. If all of the requirements of this section are met, the Board shall issue a certificate of authorization to such corporation or partnership, and the corporation

or partnership shall be authorized to contract for and to collect fees for landscape architectural services.

(2) No such corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees or officers by reason of its compliance with this section, nor shall any individual practicing landscape architecture be relieved of responsibility for landscape architectural services performed by reason of his employment or relationship with such corporation or partnership.

§213. Grounds for discipline; procedure.

(a) Practitioners regulated under this chapter shall be subject to those disciplinary actions set for in §214 of this title if, after a hearing, the Board finds:

(1) That the practitioner has employed or knowingly cooperated in fraud or material deception in order to be licensed, or be otherwise authorized to practice landscape architecture;

(2) Illegal, incompetent or negligent conduct in the practice of landscape architecture;

(3) Excessive use or abuse of drugs (including alcohol, narcotics or chemicals);

(4) That the practitioner has been convicted of a felony or crime involving moral turpitude;

(5) That the practitioner, as a landscape architect or otherwise in the practice of his profession, knowingly engaged in an act of consumer fraud or deception, engaged in the restraint of competition or participated in price-fixing activities;

(6) That the practitioner has violated a lawful provision of this chapter, or any lawful regulation established thereunder.

(b) A practitioner shall be subject to nondisciplinary remedial action if, after a hearing, the Board finds that there is a danger 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;

(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 nondisciplinary 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 in accordance with §214 of this title.

(d) Where a practitioner fails to comply with the Board's request that he submit to an examination or attending a hearing, the Board may petition the Superior Court to order such examination or attendance, and the said Court or any judge assigned thereto shall have jurisdiction to issue such order.

(e) Subject to subchapter IV of Chapter 101 of Title 29, 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.

§214. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that 1 of the conditions or violations set forth in §213 of this title applies to a practitioner regulated by this chapter.

(1) Issue a letter of reprimand;

(2) Censure a practitioner;

(3) Place a practitioner on probationary status, and require the practitioner to:

a. Report regularly to the Board upon the matters which are the basis on the probation;

b. Limit all practice and professional activities to those areas prescribed by the Board; and/or

c. Continue or renew his professional education until the required degree of skill has been attained in those areas which are the basis of the probation.

(4) Suspend any practitioners's license

(b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies which required such action have been remedied.

(c) The Board may temporarily suspend a practitioner's license in advance of a final adjudication, or during the appeals process; but only in cases where there is a clear and immediate danger to the health and safety and welfare of the public if the licensee is allowed to continue to practice. Such suspension may be appealed.

(d) 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.

(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.

§215. Hearing procedures.

(a) Upon the receipt of a complaint, 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 3 months from the date on which the complaint was received. 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 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 shall be effected in the same manner as with civil litigation.

(b) All hearings shall be informal without use of 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 decision. A copy of the decision shall be mailed immediately to the practitioner. The Board's decision shall become effective on the 30th day after the date it is mailed or served on the practitioner, unless there is an appeal by the practitioner to the Superior Court within that time.

§216. Practicing without a license; penalties.

(a) Where the Board has determined that a person is practicing landscape architecture within the State without having lawfully obtained a license therefor, or that a person previously licensed is unlawfully practicing although his license has been suspended or revoked, the Board shall formally warn such person. 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.

(b)Where the Board has placed a practitioner on probationary status under certain restrictions 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 practitioners's license.

(c) Where a person not currently licensed as a landscape architect is convicted of unlawfully practicing landscape architecture in violation of this chapter such offender shall, upon the first offense, be fined $50, 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 application provisions of Title 11.

(d) Where a person previously convicted of unlawfully practicing landscape architecture is convicted a second or subsequent time of such offense, the fine assessed against such person shall be increased by $250 for each subsequent offense thereafter."

Approved July 17, 1990.

CHAPTER 386

FORMERLY

HOUSE BILL NO. 394
AS AMENDED BY SENATE AMENDMENT NOS. 1, 2, 3, 4 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 31 OF THE DELAWARE CODE AND CHAPTER 29, TITLE 10 OF THE DELAWARE CODE RELATING TO THE DELAWARE STATE HOUSING CODE AND ITS ENFORCEMENT.

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 §4105(c) including paragraphs (1) and (2), Title 31, of the Delaware Code by deleting the existing subsection in its entirety and substituting in lieu thereof the following:

"(c) The Delaware State Housing Code shall not apply to any existing single family owner-occupied residential structure. The provisions shall become and remain applicable upon the rental or sale of such residential structure after the effective date hereof. The Delaware State Housing Code shall not apply to any existing resort residential structure with an occupancy limited to the months of May through September inclusively."

Section 2. Amend Section 4105, Chapter 41, Title 31 of the Delaware Code by adding a new subsection (d) as follows:

"When there are practical difficulties involved in carrying out the provisions of this code, such that the literal application of the requirements of the code would cause undue hardship or the displacement of low income occupants with no affordable housing alternatives, the code official is permitted to vary or modify such provision(s) upon written application of the owner or the owner's representative, provided that the spirit and intent of the law shall be observed and public welfare and safety be assured."

Section 3. Amend Section 4105, Chapter 41, Title 31 of the Delaware Code by adding thereto a new subsection, designated as subsection (e), to read as follows:

"(e) The State Housing Code shall not be administered in any community which has enacted its own code which contains minimum standards for the promotion and protection of the safety and health of the public which are equal to or exceed the standards established by Subchapter II hereof and administration and enforcement procedures which are substantially equivalent to those set forth in Subchapter III hereof, as determined by the Housing Director. At the request of any community which has adopted a housing code, the Housing Director shall provide written notice to the community of its determination, stating the reasons therefore. Provided, however, that if such community thereafter seeks to amend, alter, or otherwise change its housing code, it shall provide the Housing Director with a copy of such proposed change. In such a case, the Housing Director shall notify such community in writing within sixty (60) days of receipt of such proposed change of its determination whether such proposed change meets the standards set forth in this subsection (e), and, in such case, the State Housing Code shall not be administered in such community, notwithstanding such amendment or change.

Section 4. Amend Section 4106(b)(5), Chapter 41, Title 31 of the Delaware Code by striking the existing subsection in its entirety and substituting in lieu thereof a new section which shall read as follows:

"(5) Code Official. The official who is charged with the administration and enforcement of this Chapter, or any duly authorized representative. The Housing Director, or any duly authorized representative thereof, shall be the Code Official for the State of Delaware."

Section 5. Amend Section 4106(b), Chapter 41, Title 31 of the Delaware Code by redesignating the current sub-subsections (18) through (44) thereof as (19) through (45) and by inserting a new sub-subsection (18) to read as follows:

"(18) Housing Director. - The Director of the Delaware State Housing Authority."

Section 6. Amend Section 4106, Chapter 41, Title 31 of the Delaware Code by deleting newly designated subsection (40) in its entirety and redesignating the remaining subsections accordingly.

Section 7. Amend Section 4109, Chapter 41, Title 31 of the Delaware Code by deleting the word "Secretary" and inserting in lieu thereof "the Housing Director."

Section 8. Amend Section 4122, Chapter 41, Title 31 of the Delaware Code by inserting at the end of the existing paragraph the phrase "as determined by the Code Official."

Section 9. Amend Section 4124, Chapter 41, Title 31 of the Delaware Code by deleting the last sentence thereof in its entirety.

Section 10. Amend Section 4126, Chapter 41, Title 31 of the Delaware Code by adding to the existing subsection (c) the following:

"The fee for inspections performed by the Housing Director, when acting as a code official for the enforcement of the Code in areas which have not adopted the Code shall be $25 for the initial inspection and $10 for each subsequent inspection related to the same complaint.

At the discretion of the Housing Director and for good cause shown, such inspection fees may be waived."

Section 11. Amend Section 4128(b), Chapter 41, Title 31 of the Delaware Code by deleting subsection (5) thereof in its entirety and redesiganting the remaining subsections accordingly.

Section 12. Amend Section 4128, Chapter 41, Title 31 of the Delaware Code by deleting subsection (c) in its entirety and substituting in lieu thereof the following:

"(c) Service. Such service shall be deemed properly served upon such owner and/or occupant if a copy thereof is delivered to the owner and/or occupant personally; or by leaving the notice at the usual place or abode, in the presence of someone in the family of suitable age and discretion who shall be informed of the contents thereof; or by certified or registered mail service addressed to the owner and/or occupant at his or her last known address. If the owner, agent or person in control is not found, a copy of the notice posted in a conspicuous place on the premises shall be deemed the equivalent of personal service, upon posting. Any notice herein shall, if mailed, be deemed to be effective upon mailing."

Section 13. Amend Section 4130(b), Chapter 41, Title 31 of the Delaware Code by deleting it in its entirety.

Section 14. Amend Section 4131(b), Chapter 41, Title 31 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(b) Penalty for Violation; jurisdiction. - Any person who shall violate this Chapter or who fails to comply with any notice or order issued by a Code Official pursuant to this Chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than $25 nor more than $1,000 or imprisoned for a term not to exceed thirty days, or both. Each day of a separate and continuing violation shall be deemed a separate offense under this section. The Justice of the Peace Court in the county in which the property is located shall have exclusive jurisdiction over offenses prosecuted under this Chapter."

Section 15. Amend Section 4131, Chapter 41, Title 31 of the Delaware Code by deleting the existing subsection (c) in its entirety and substituting in lieu thereof the following:

"(c) Prosecution. - In the event any violation order is not promptly complied with, a Code Official with constable powers pursuant to Title 10, Delaware Code, Section 2901, may issue a citation, and in cases involving first offenders of this Code, may assess a fine of $100 or, in the alternative, may direct that the owner or occupant appear in the court of law having jurisdiction over the alleged violation. In those jurisdictions in which the code officials do not have constable powers, the code official may institute an action in the appropriate court, or may request the City Solicitor or community attorney-at-law to institute such action to seek the penalties provided in Section 4131(b) of this Title."

Section 16. Amend Section 4132, Chapter 41, Title 31 of the Delaware Code by deleting said section in its entirety and redesignating the remaining sections accordingly.

Section 17. Amend Section 2901, Chapter 29, Title 10 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof a new section 2901 which shall read as follows:

"The chief executive officer of any county or municipal corporation, or the Housing Director, in the case of the enforcement of the State Housing Code contained in Chapter

41, Title 31 of the Delaware Code, may appoint and employ such numbers of code enforcement constables as shall be necessary to enforce all ordinances pertaining to building, housing, sanitation or public health codes."

Section 18. Amend Section 2902(b), Chapter 29, Title 10 of the Delaware Code, by inserting the following language at the end of the existing section:

"Provided, however, that a code enforcement constable appointed by the Housing Director shall have jurisdiction throughout the State to enforce the provisions of the State Housing Code in a county or municipality which has not adopted and/or undertaken to enforce the State Housing Code after July 12, 1988. In addition to the other powers set forth herein, such housing code enforcement constables may impose a voluntary assessment of $100 in cases involving first offenders of the State Housing Code."

Section 19. Amend Section 2902, Chapter 29, Title 10 of the Delaware Code, by adding thereto a new subsection to be designated as subsection "(e)" with said subsection to read as follows:

"(e) Any summons issued by a housing official with constable powers may, in cases involving first offenders, provide that in lieu of appearing in court, the offender may remit a voluntary assessment of $100."

Section 20. This Act shall become effective upon enactment into law.

Approved July 17, 1990.

CHAPTER 387

FORMERLY

HOUSE BILL NO. 565
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE, RELATING TO TENANT'S REMEDY OF REPAIR AND DEDUCTION FOR MINOR DEFECTS.

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

Section 1. Amend subsection (a), §5306, Chapter 53, Title 25 of the Delaware Code by deleting the word "statute" and substituting in lieu thereof the phrase "statute, code, or ordinance,".

Section 2. Amend subsection (a), §5306, Chapter 53, Title 25 of the Delaware Code by deleting the phrase "not exceeding $50" and substituting therein the phrase "not exceeding $100".

Section 3. Amend §5306, Chapter 53, Title 25 of the Delaware Code by adding thereto a new subsection (c) as follows:

"(c) A tenant who is otherwise delinquent in the payment of rent may not take advantage of the remedy provided in this Section."

Section 5. Amend §5306, Title 25 of the Delaware Code by adding a new subsection (d) as follows:

"(d) The tenant is liable for any damage to persons or property caused by tenant or someone authorized by tenant due to making said repairs."

Approved July 17, 1990.

CHAPTER 388

FORMERLY

SENATE BILL NO. 507

AN ACT TO AMEND SUBCHAPTER I, CHAPTER 9, TITLE 10, DELAWARE CODE, TO AUTHORIZE APPOINTMENT OF COMMISSIONERS OF FAMILY COURT.

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

Section 1. Amend Subchapter I, Chapter 9, Title 10, Delaware Code, by adding thereto a new §915 to read as follows:

"§915. Commissioners; appointment; duties; review.

(a) The Governor may appoint, with the advice and consent of a majority of all members elected to the Senate, suitable persons to act as Commissioners of the Court, all of whom shall hold office at the pleasure of the Governor and shall be residents of the State for at least five years immediately preceding their appointment. The salaries shall be part of the annual budget of the Family Court. The salaries shall reflect the educational background and experience of the appointees. Each Family Court Commissioner shall be considered a full time position.

(b) On the effective date of this Act, the Governor shall appoint, with the consent of a majority of all members elected to the Senate, one Family Court Master from each County to serve as Interim Commissioners for a period of one year. Thereafter, the Governor may appoint, with the consent of the Senate, such Commissoners as are necessary to fulfill the requirements of the Court. The terms of such initial Commissioners shall be staggered in order to avoid all terms expiring on the same date. At the expiration of said initial terms, all subsequent appointments shall be for four-year terms.

(c) When requested by the Chief Judge or any Associate Judge of the Family Court, a Commissioner may hear only matters properly before him involving juvenile detention pending adjudication. A Commissioner shall have authority to make an assessment of the seriousness of the charge or charges against a child, the record of the juvenile, and whether such charge or charges, record, and the best interests of the child deem the juvenile inappropriate for a nonsecure alternative to detention developed by the Department of Services for Children, Youth, and Their Families and approved by the Court, such as home detention, daily monitoring, intensive home-based services with supervision, foster placement, or a nonsecure residential setting. If a Commissioner places a juvenile in secure detention, the Commissioner shall state on the record the reasons for said detention. Upon appeal by the juvenile, the Chief Judge may disapprove in writing any detention decision made by a Commissioner. Said disapproval shall recite the reasons therefore

(d) Upon appeal, a Commissioner shall transmit to the Chief Judge or such Associate Judge as the Chief Judge designates, all papers and records relating to the case, together with his findings in writing. Unless disapproved by the Chief Judge or such Associate Judge as the Chief Judge designates within 72 hours, the decision of the Commissioner shall be final and shall become the judgement of the Court."

Section 2. This Act shall become effective on January 15, 1991.

Approved July 18, 1990.

CHAPTER 389

FORMERLY

SENATE BILL NO. 508
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO CREATE AN OVERSIGHT COMMITTEE ON JUVENILE DETENTION TO ASSURE THAT A CLEAR, OBJECTIVE, CONCISE, AND NON-ARBITRARY SET OF STANDARDS FOR THE DETENTION OF JUVENILES AND THEIR COMMITMENT TO A SECURE CARE FACILITY IS BEING IMPLEMENTED AND ENFORCED BY THE FAMILY COURT OF THE STATE OF DELAWARE.

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

Section 1. There is hereby established an Oversight Committee on Juvenile Detention.

Section 2. The Committee shall consist of nine members, four of whom shall be appointed by the Governor, one of whom shall be the Chairman of the Senate Committee on Children and Youth and Their Families, and four of whom shall be members appointed by the Chairman. The Chairman of the Oversight Committee shall be appointed by the Chairman of the Senate Committee on Children and Youth and Their Families.

Section 3. The powers and duties of the Committee shall include, but not be limited to, oversight of the implementation and adherence to a clear, concise, objective, and non-arbitrary set of standards for the detention of juvenile offenders remanded to a secure facility. Such set of standards shall be approved by the Family Court and the Secretary of the Department of Services for Children, Youth and Their Families.

Section 4. The Committee shall review applicable statutory and regulatory provisions and procedures in order to evaluate the adequacy and appropriateness of due process protections afforded juveniles charged with delinquent acts. The Committee shall recommend such changes in these laws, rules, and/or procedures as it deems necessary to ensure that said juveniles' due process rights are not violated. The Committee shall provide these recommendations to the General Assembly in the form of a report due on or before Jan. 15, 1991.

Section 5. The Committee shall review the implementation of §937(g)(1), Title 10, Delaware Code, known as the "mixing law," to determine its impact on placement and treatment options available for juveniles charged with or adjudicated of delinquent acts.

Section 6. Members of the Committee in the performance of their duties may visit without prior notification any juvenile secure detention facility, have access to those records of juveniles detained in a secure facility which contain information used by the Family Court in the course of determining the detention of said juveniles and review the treatment programs established for juveniles detained in a secure care facility.

Section 7. The Committee shall report on or before January 15 of each year to members of the General Assembly on its activities and make recommendations on improvements to the system of detention before adjudication.

Section 8. The Committee shall continue in existence until such time as its members determine by majority vote that its oversight function is no longer required or until disbanded by statute.

Approved July 18, 1990.

CHAPTER 390

FORMERLY

SENATE BILL NO. 509
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO THE DISPOSITION OF CHILDREN PENDING ADJUDICATION AND PAYMENT FOR CARE.

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

Section 1. Amend §936, Chapter 9, Title 10 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§936. Disposition of child pending adjudication; payment for care.

(a) Pending adjudication no child alleged to be delinquent may be placed in secure detention operated by the Department of Services for Children, Youth and Their Families unless the court determines that no means less restrictive of the child's liberty gives reasonable assurance that the child will attend the adjudicatory hearing and:

(1) The child is a fugitive from another jurisdiction on a delinquency petition; or

(2) The child is charged with an offense, which, if committed by an adult would constitute a felony; including offenses contained within Title 10 and

Chapter 47, Title 16 the Uniform Controlled Substance Act, or one of the following misdemeanors: Assault III, Unlawful Imprisonment II, Vehicular Assault I, Indecent Exposure I, Unlawful Sexual Contact III, or Carrying a Concealed Dangerous Instrument; or

(3) The child has wilfully failed to appear at a hearing on a delinquency petition and there is substantial probability that the child will run away or otherwise be unavailable for a subsequent court appearance; or

(4) The child has demonstrated a pattern of repeated failure to comply with court-ordered placement pursuant to a delinquency petition in an out-of-home residential or foster care setting.

(b) Prior to making a decision of secure detention pending adjudication the court shall consider and, where appropriate, employ any of the following alternatives:

(1) Release on the child's own recognizance;

(2) Release to parents, guardian, or custodian;

(3) Release on bail;

(4) Release with imposition of restrictions on activities, associations, movements and residence reasonably related to securing the appearance of the child at the next hearing;

(5) Release to a nonsecure detention alternative developed by the Department of Services for Children, Youth and Their Families such as home detention, daily monitoring, intensive homebase services with supervision, foster placement, or a nonsecure residential setting.

(c) If the court places a child in secure detention pending adjudication, the court shall state in writing the basis for its detention determination pursuant to subsection (a) of this section and the reasons for not employing any of the secure detention alternatives under subsection (b) of this section.

(d) If a child has been placed in secure detention pending adjudication an initial hearing to determine the appropriateness of detention and to review conditions of release shall be held the next day the court is in session.

(e) No child shall be retained in secure detention after the initial hearing unless an assessment of the current charge or charges against the child and the record of the juvenile indicate to the court that the juvenile should not be placed in a nonsecure detention alternative developed by the Department of Services for Children, Youth and Their Families as set forth in paragraph (b)(5) of this section.

(f) A detention review hearing with counsel shall be held within 14 court days of the initial detention hearing and if detention is continued, detention review hearings shall be held thereafter at intervals not to exceed 21 court days.

(g) When a juvenile is detained pending adjudication the adjudicatory hearing shall be held no later than 30 days from the date of detention. If no adjudicatory hearing is held within 30 days, upon motion by a juvenile, the court shall within 72 hours fix a date for the adjudicatory hearing unless it grants a continuance of the hearing for good cause shown.

(h) Pending adjudication the court may release a child alleged to be dependent or neglected to his or her custodian; or, where the welfare of the child appears to require such action, place him or her in the care of the Department of Services for Children, Youth and Their Families or any suitable person or agency; provided, however, that if the child is placed with someone other than a relative, the court shall require an evaluation and report from the Department of Services for Children, Youth and Their Families;

(i) Pending adjudication the court may order the person legally liable therefor to pay for the child's care during the period of his or her placement outside his or her own home;

(j) Pending adjudication, the court may defer proceedings pending further investigation, medical or other examination, or where the interest of a child will thereby be served."

Section 2. Amend §934(b)(3) by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(b)(3) May order the child detained in a facility designated by the Department of Services for Children, Youth and Their Families pursuant to section 936(a) of this chapter provided that no means less restrictive of the child's liberty gives reasonable assurance that the child will attend the adjudicatory hearing; and provided that the alternatives delineated in section 936(b)(5) of this chapter have been considered; and provided that such detention shall continue only until the next session of the Family Court."

Section 3. This act shall take effect December 1, 1990.

Approved July 18, 1990.

CHAPTER 391

FORMERLY

SENATE BILL NO. 510
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO ESTABLISH A COMMITTEE TO DEVELOP A FRAMEWORK FOR DISPOSITIONS OF ADJUDICATED DELINQUENT YOUTH.

WHEREAS the Family Court, the Department of Services for Children, Youth and Their Families, the Attorney General, the Public Defender, the Criminal Justice Council and other interested and informed groups have entered into productive discussions concerning the development of guidelines for making decisions regarding adjudicated youth; and

WHEREAS, a conference jointly sponsored by the Family Court, the Department of Services for Children, Youth and Their Families and the Criminal Justice Council is scheduled to develop consensus on a framework for guiding dispositions for adjudicated youth as well as options for placement and/or treatment of such youth; and

WHEREAS, the General Assembly wishes to support this effort and provide legislative oversight and direction to the aforementioned group.

NOW, THEREFORE:

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

Section 1. Amend Part A. Subchapter III, Chapter 9, Title 10, Delaware Code, by designating §936 as §936A and inserting a new §936B to read as follows:

§936B. Committee on Dispositional Guidelines for Juveniles.

(a) There is hereby established a Committee on Dispositional Guidelines for Juveniles.

(b) The members of the Committee shall include the following persons or their designees:

the Chief Judge of the Family Court;

Family Court Judge, designated by the Chief Judge;

Secretary, DSCYF;

Director, Division of Youth Rehabilitative Service;

Attorney General;

Public Defender;

Executive Director, Criminal Justice Council;

Executive Director, Delaware Council on Crime and Justice;

Executive Vice President, Child, Inc.;

Designee of the United Way of Delaware

Chair, Foster Care Review Board;

Governor's Assistant for Criminal Justice;

Chairperson of the Senate Committee of Children, Youth and Families;

Chairperson of the House Committee on Human Resources;

Executive Dir., Del. Volunteer Legal Service.

(c) The Committee is hereby directed to develop recommendations on guidelines for use in determining dispositions for juvenile offenders. The guidelines shall include clear, consistent and objective criteria for determining that the rehabilitation plan for a youth should include a period of secure incarceration. Such guidelines shall

reflect the General Assembly's intent that only chronic or violent juvenile offenders require secure incarceration, and that other adjudicated youth are more appropriately and effectively served through less restrictive programs.

(d) The Committee shall also develop guidelines for the process to be used by the Family Court and the Department of Services for Children, Youth and Their Families in reaching dispositional decisions, which shall include:

(1) consideration of the instant offense(s) for which the youth has been adjudicated

(2) consideration of the youth's prior record of delinquency

(3) the availability of less restrictive interventions which will protect public safety and provide the youth an opportunity for rehabilitation

(e) The Committee shall develop a list of services required to provide a full continuum of placement and/or treatment options for adjudicated delinquent youth. In developing this list, the Committee shall:

(1) review available data from both the Family Court and the Department of Services for Children, Youth and Their Families concerning the characteristics of youth who come to the attention of these agencies;

(2) review existing programs and services of the Family Court, the Department of Services for Children, Youth and Their Families, and other social service agencies within the State;

(3) review relevant information describing dispositional practices and services from other states and from the professional literature; and

(4) consult with experts both within and outside the State.

(f) The Committee shall prepare a written report and recommendations and shall forward any recommendations requiring legislative action to the appropriate committee(s) of the General Assembly by January 1, 1991.

Approved July 18, 1990.

CHAPTER 392

FORMERLY

SENATE BILL NO. 420

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO FAMILY COURT PROCEEDINGS.

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

Section 1. Amend §934(b)(3), Title 10, Delaware Code by adding the phrase "; and provided that such detention shall continue only until the next session of the Family Court" immediately after the word "protection" at the end of said paragraph

Approved July 18, 1990.

CHAPTER 393

FORMERLY

HOUSE BILL NO. 567
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND DELAWARE CODE, TITLE 14, CHAPTER 17, RELATING TO DIVISION III EQUALIZATION FUNDING IN THE REORGANIZED SCHOOL DISTRICTS.

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

Section 1. Amend Delaware Code, Title 14, Section 1707, by striking said section in its entirety and by substituting in lieu thereof the following:

"§1707. Division III equalization funding.

(a) Any school district which provides funds from local taxation for current operating expenses in excess of basic state appropriations, under Divisions I and II of this chapter, shall be eligible for state funds on a matching basis in accordance with this section.

(b) In the application of the formula, the following definitions shall apply:

(1) 'School district ability' means the total full valuation of all taxable real property within the school district as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated, divided by the number of units of pupils, excluding those units in special schools administered by a school district which are supported by a tuition tax, in the public schools of the school district as of September 30 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. In the case of a vocational-technical school district, the school district ability shall be determined by dividing the total full valuation of all taxable real property located within the vocational-technical school district by the total number of units in the public schools located in the vocational-technical school district's attendance area, excluding those units assigned to special schools as defined herein and those units assigned to the vocational-technical school district, as of September 30 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. In the case of a school district created under the provisions of §1028(k) of this Title, two school district abilities shall be computed. 'Tax district ability' shall be computed by dividing the total full valuation of all taxable real property located in the school tax district in the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated, by the number of units of pupils, excluding those units in special schools administered by all school districts in the school tax district, in the public schools of the school tax district as of September 30 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. 'Individual district ability' shall be computed as specified in the first sentence of this paragraph.

(2) 'State average ability' means the total full valuation of all taxable real property in the State as of July 1 in the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated divided by the total number of units of pupils in the public schools of the State, excluding those units assigned to vocational-technical school districts and those assigned to special schools as defined in Paragraph (1) of this Subsection, as of September 30 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated.

(3) 'Authorized amount' means $17,000 per unit for fiscal year 1991; $18,000 for fiscal year 1992; $19,000 for fiscal year 1993 and as established in the annual State Budget Appropriation Act thereafter.

(4) 'Units of pupils' means the total number of Division I units as specified in §1703 of this Title.

(5) 'Total full valuation' means the total assessed valuation of taxable property divided by the most current assessment to sales price ratio. The Budget Office shall conduct, in accordance with nationally accepted standards and practices, an assessment to sales price study, by school district, at least every two years in order to establish the most current ratios and such studies shall be open to public review. Each county is required to make available to the State

Budget Office, at the cost of reproduction only, machine readable copies of its assessment and sales transactions files. In the event a county completes a general reassessment during the period between studies, the county's assessment to sales price ratio shall be equal to its rate of assessment, until a subsequent assessment to sales price study is completed.

(6) 'Total assessed valuation' means the official total assessed value of taxable real property appearing on the assessment rolls of appropriate county governing body or bodies as the case may be.

(7) 'Ability index' means the school district ability divided by the state average ability. In the case of a school district created under the provisions of §1028(k) of this Title, two ability indices shall be computed. 'Tax district ability index' shall be computed by dividing the tax district ability by the state average ability. 'Individual district ability index' shall be computed by dividing the individual district ability by the state average ability.

(8) 'School district current expense revenue' means the product of the school district's current operating expense real estate tax rate times the total assessed valuation as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated, plus the product of the school district's capitation tax for current operating expense, times the number of capitations as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. In the case of a school district created under the provisions of §1028(k) of this Title, two values for current expense revenues shall be computed. 'Tax district current expense revenue' shall be computed by multiplying the current operating expense real estate tax rate for the school tax district by the total assessed valuation of the school tax district as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. 'Individual district current expense revenue' shall be computed as specified in the first sentence of this paragraph.

(9) 'School district effort' means the school district's current expense revenue divided by the school district's total full valuation as of July 1 in the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. In the case of a county vocational-technical school district, the school district effort means the school district's current expense revenue divided by the total number of units of pupils in the district in the year immediately preceding the fiscal year for which Division III funds are appropriated divided by the school district ability. In the case of a school district created under the provisions of §1028(k) of this Title, two values of school district effort shall be computed. 'Tax district effort' shall be computed by dividing tax district current expense revenue by the total full valuation of taxable property in the school tax district as of July 1 of the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated. 'Individual district effort' shall be computed by dividing individual district current expense revenue by the total full valuation of the school district as of July 1 in the fiscal year immediately preceding the fiscal year for which Division III funds are appropriated.

(10) 'State average effort' means the authorized amount times 85% divided by the state average ability.

(11) 'Effort index' means the school district effort divided by the state average effort. The effort index for any school district shall not be greater than 1.00. In the case of a school district created under the provisions of §1028(k) of this Title, two effort indices shall be computed. 'Tax district effort index' shall be computed by dividing the tax district effort by the state average effort. 'Individual district effort index' shall be computed by dividing the individual district effort by the state average effort.

(12) 'Local district effort index' applies only to school districts created under the provisions of §1028(k) of this Title and means the lesser of 1 minus the tax district effort index or the individual district effort index, but shall be a number at least equal to zero.

(c) The formula for determining the sums to be allocated in Division III, to school districts other than those created under the provisions of §1028(k) of this Title, shall be as provided in this Subsection. The state share per unit is equal to the authorized amount times the effort index times the quantity of 1 minus .67 times the ability index; provided that, in no case shall the state share be less than the equivalent of 10% of the authorized amount times the effort index. The state share for special schools as defined in Paragraph (1) of Subsection (b) of

this Section shall be equal to the state share for the vocational-technical school district in the county in which the special school is located. The state share per unit in any fiscal year shall not be less than 95% or more than 120% of the state share per unit in the preceding fiscal year, except as provided in Subsection (e) of this Section.

(d) The formula for determining the sums to be allocated in Division III, to school districts created under the provisions of §1028(k) of this Title, shall be provided in this Subsection. The state share per unit is equal to the sum of two amounts defined as follows. The 'tax district share' is equal to the authorized amount times the tax district effort index times the quantity of 1 minus .67 times the tax district ability index; provided that, in no case shall the tax district share be less than the equivalent of 10% of the authorized amount times the tax district effort index. The 'individual district share' is equal to the authorized amount times the local district effort index times the quantity of 1 minus .67 times the individual district ability index; provided that, in no case shall the individual district share be less than the equivalent of 10% of the authorized amount times the individual district ability index. The state share per unit, the sum of the tax district share and the individual district share, in any fiscal year shall not be less than 95% or more than 120% of the state share per unit in the preceding fiscal year, except as provided in Subsection (e) of this Section.

(e) In the case of a school district with an effort index less than 1.00, or a district created under §1028(k) of this Title where the sum of the tax district effort index and the individual district effort index is less than 1.00, that passes a current expense tax referendum to increase taxes in the fiscal year preceding the fiscal year for which Division III funds are appropriated, the state share per unit shall be determined as provided in this Subsection. The state share per unit shall first be computed in accordance with the provisions of Subsection (c) or Subsection (d) of this Section, whichever calculation is appropriate for a particular school district, excluding the 120% provision. The state share per unit shall then be calculated a second time using the appropriate formula from Subsection (c) or Subsection (d) except that the current expense tax rate(s) for real estate and capitation for the current fiscal year shall replace the rates for the immediately preceding fiscal year throughout the calculation. The 120% maximum provision shall also be excluded in this second calculation. The state share per unit shall be equal to the amount computed in the second calculation; provided that, in no case shall the state share per unit be greater than the state share per unit under the second calculation minus the state share per unit under the first calculation plus 120% of the state share per unit in the preceding fiscal year.

(f) The 95% provision contained in Subsection (c) and Subsection (d) assumes that a school district does not reduce its current expense revenue by reducing current expense tax rates on real estate or capitations. In the event that a school district does reduce its current expense tax rate(s), the 95% minimum shall not apply and the school district shall qualify for a state share per unit based upon the formula in Subsection (c) or Subsection (d) only.

(g) Total state equalization shall be computed by multiplying the state share per unit times the number of units of pupils enrolled in the school district, the vocational school district, or the special school in the fiscal year for which the Division III funds are appropriated.

(h) Division III funds shall be utilized to supplement funds appropriated under Division I, including legal expenses associated with collective bargaining, and Division II for the purpose of advancing education beyond the level authorized through the basic appropriations in Divisions I and II or through any other state or federal appropriation.

(i) A committee, composed of not less than ten or more than fifteen members, shall be appointed by the President of the State Board of Education to annually review and make recommendations on the equalization formula. The committee shall also be empowered to analyze other issues and concerns related to equalization that impact the State's ability to achieve the basic purpose of equalization for Delaware's school districts. The committee shall include at least the following: a representative of the State Board of Education; a representative from the Governor's Office designated by the Governor; at least one member each from the House of Representatives and the State Senate designated by the Speaker of the House and the President Pro Tempore of the Senate, respectively; the Secretary of Finance or his designee; the State Budget Director or his designee; the Controller General or his designee; a representative of the State Education Association

designated by that organization; and at least three representatives of the local school districts, one from each county."

Section 2. If for the fiscal year ending June 30, 1991, a school district is entitled to a state share per unit of equalization funding, under the provisions of Delaware Code, Title 14, §1707, that is less than the state share per unit the district received in the prior school year because the "effort index" for the school district is less than 1.00, and if the school district conducts a successful current expense referendum at some time during the fiscal year ending June 30, 1991, for implementation in the fiscal year beginning July 1, 1991, then the school district shall receive a state share per unit calculated in accordance with Delaware Code, Title 14, §1707, except that the current expense tax rate(s) for the fiscal year beginning on July 1, 1991, shall be used in the calculation of the state share.

Approved July 19, 1990.

CHAPTER 394

FORMERLY

HOUSE BILL NO. 575
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 5

AN ACT TO AMEND CHAPTER 84, TITLE 29 OF THE DELAWARE CODE RELATING TO THE COUNCIL ON TRANSPORTATION AND THE CAPITAL IMPROVEMENTS PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION.

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

Section 1. §8409. Council on Transportation.

(a) There is hereby established a Council on Transportation.

(b) The Council shall serve in an advisory capacity, except as otherwise provided, to the Secretary, the Deputy Secretary, the Transportation Directors and the Governor, and shall:

(1) Consider matters relating to transportation in the State and other matters such as the budget and capital improvement program which may be referred to it by the Governor or the Secretary of the Department;

(2) Study, research, plan and advise on matters it deems appropriate to enable the Department to function in the best possible manner;

(3) Have final approval of and adopt the Department of Transportation Capital Improvement Program which shall be submitted annually to the Council by the Department;

a. On or before August 31 of each year, the Council shall review the updated Department capital improvements program prepared by the Department of Transportation, and established pursuant to Section 8419 of this Title, as amended. The updated Capital Improvements Program shall cover a period of not less than six years. On or before August 31 of each year, the draft Capital Improvement Program shall be available to the public and the Council shall publish notices in a newspaper of general circulation in each county. The notices shall specify dates and places at which public meetings will be held, by the Council, one in each county, at which time the program will be reviewed and publicly explained and objections or comments may be made by an individual or group. Public meetings shall be held at least two weeks after the draft Capital Improvement program is made available to the public. The notices shall also specify the name and address of the person to whom written comments may be sent. The written comments must be received by the person within ten days after the last public meeting, which must be scheduled no later than September 30 of each year. Following the written comment period, the Council may make priority changes to the proposed capital improvements program in an open meeting by documenting the reasons and justifications for changes, using the priority formula-based processes described in Section 8419 of this Chapter, and shall adopt the program by November 1 of each year. The Capital Improvements Program as prepared by the Department and as adopted by vote of the Council shall become the adopted Capital Improvements Program for the upcoming fiscal year. The adopted program shall be submitted to the agency charged with preparation of the State Capital Improvements Program and members of the General Assembly on/or before November 15 of each year for inclusion in the state capital improvements program for the following fiscal year.

b. The Department capital improvements program, as recommended to the agency charged with preparation of the State's Capital Improvement Program, shall set forth estimated expenditures by project and/or program for engineering, rights-of-way and construction of any major capital transportation project/program when applicable. The program shall include detailed information by project as to location, description of improvement, areas of deficiency and priority rating.

(4) Have final approval of and adopt all corridor route projects in connection with new road alignments, which project shall be submitted to the Council by the Department;

(5) Have final approval on matters relating to highway transportation priority planning as set forth in §8419 of this title, as amended;

(6) Review and comment on the issuance, suspension, revocation or reinstatement of all certificates of public convenience and necessity issued pursuant to Chapter 18 of Title 2, as amended.

(c) The Council shall adopt all motions and approve all projects only by a

majority vote of the entire membership of the Council. All voting shall be done in person and at regular or special meetings of the Council. If the Council, for any reason, shall fail to approve and adopt in writing within a reasonable period of time after receipt of the programs or projects referred to it, the Secretary of the Department may, with the approval of the Governor, upon 40 days prior written notice to the Chairperson of the Council, give final approval to said programs or projects notwithstanding the absence of the Council's written comments or approval.

(d) The council shall consist of nine (9) members, with the members of no one political party holding a number of seats greater than one in excess of that held by the members of any other political party. This provision shall be applied only as existing council members complete their present terms and all appointments made after the effective date of this Act shall be made in a manner sufficient to implement the political balance sought by this section, upon completion of the terms of the existing council members, at the earliest possible date.

(e) The Governor shall appoint the members of the Council, all of whom shall reside in the State, with a minimum of two (2) members residing in any one county. A Chairperson of the Council shall be appointed by the Governor from the membership of the Council to serve at his pleasure.

(f) No person shall be eligible for appointment to the Council on Transportation who is a director, officer or employee of any public carrier, as defined by Chapter 18 of Title 2, as amended, or who owns or directly or indirectly controls more than 1 percent of the stock of any public carrier.

(g) No member of the Council shall hold any office or position or be engaged in any business, employment or vocation, the duties of which are incompatible with the duties of their membership on the Council.

(h) Members of the Council shall serve for a term of three (3) years, provided however, that after the expiration of three (3) years such members shall continue to serve until such time as the Governor appoints a replacement. Members of the Council on Transportation existing prior to January 1, 1990, shall be permitted to complete the existing term of their membership, subject to the other provisions of Section 8409 as amended. As the terms of their existing members of the Council expire, each of the first three appointments of members of the Council shall be for a term of 1 year, and the next three such appointments shall be each for a term of 2 years. Thereafter, all appointments shall be made for 3 year terms such that three members of the Council are appointed each year.

(i) 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.

(j) (1) Failure to attend 3 consecutive regular meetings of the Council shall be construed as a request by that member to resign from the Council and a replacement may thereafter be appointed in his stead.

(2) Members may be removed only for just cause, except as otherwise provided herein. Prior to removal, members shall be entitled to notice of the reason for removal and shall be entitled to a hearing before the Governor or his designee.

(k) Any replacement appointment to the Council to fill a vacancy prior to the expiration of the term shall be filled for the remainder of the term.

Section 2. §8419. Transportation priority planning.

The Department of Transportation, with Council approval, shall:

(1) Establish a method of determining current needs and costs of the entire multi-modal transportation requirements in the State which will be utilized in allocating capital funds by transportation capital improvement program. The needs and costs will be updated annually.

(2) a. Establish a priority formula-based process which shall be used for setting priorities on all Department Transportation projects which, if contained in the authorization act would be categorized as corridor/noncorridor and which shall consider, but not be limited to the following: Safety, service and condition factors; social, economic and environmental factors; regional variations; seasonality of traffic; continuity of improvement; availability of federal and State funds; and ability to utilize these funds for projects and programs.

b. The priority formula-based process may be utilized on other transportation programs as processes are developed and approved by the Council.

(3) Develop a needs study and a priority formula-based process along with any other relevant criteria which shall be used for the development of the Department's priority recommendations for the Department capital improvements program. Department programs or projects utilizing other than state, Transportation Trust Fund or federal funds shall be indicated within the capital improvements program with their priority rating as specified in paragraph a. of subdivision (2) of this section, but the costs shall not be added to the total estimated cost of the overall program. An annual written report including this data shall accompany the Department recommendations.

(4) Update and prepare annually a statewide Department capital improvements program for submission to the Council on Transportation. The first year shall consist of transportation programs and projects, containing the highest priorities in the categories specified in paragraph a. of subdivision (2) of this section and transportation programs and projects in the categories mentioned in paragraph b. of subdivision (2) of this section. No program or project in these categories will be funded for construction, except programs or projects that can, with reasonable certainty, be advertised for bidding that year. Proposed projects or programs for the remaining 5 years shall be grouped by order of priority and year that the construction or activity should begin. Department programs or projects utilizing other than state, Transportation Trust Fund or federal funds shall be indicated within the capital improvements program with their priority rating as specified in paragraph a. of subdivision (2) of this section, but the costs shall not be added to the total estimate cost of the overall program. The estimated cost of the program for each year shall be approximately equal to estimated federal and state funds available for transportation purposes during that year. The estimated federal and state fund availability will be developed annually by the Department of Transportation with the assistance of the agency responsible for the Capital Improvements Program.

(5) Review any priority changes that would result in the introduction of new projects or programs to a proposed or adopted Department Capital Improvements Program and make recommendations on such priority changes or introduction of new projects or programs based on the criteria and priority formula-based process which establish the priorities or projects and programs. The Department shall, fully document its recommendations in a written report to the Council on Transportation.

Approved July 18, 1990.

CHAPTER 395

FORMERLY

HOUSE BILL NO. 627

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE STATE BOARD OF EDUCATION AND THE STATEWIDE EDUCATIONAL TESTING PROGRAM.

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

Section 1. Amend Section 122(b)(17), Title 14 by striking said paragraph in its entirety and substituting in lieu thereof the following:

"(17) Governing the statewide assessment of student achievement and the assessment of the educational attainments of the Delaware public school system. The State Board shall consult with representatives of the local school districts in designing and implementing the assessment program required under this paragraph. The assessment program shall be designed and operated to provide the General Assembly, the State Board of Education, educational administrators, teachers and the public with timely and accurate information on student achievement and educational attainments. At a minimum, the State Board of Education shall conduct an annual assessment of basic skills achievement for all regular pupils in, at a minimum, grades 3, 6, 8 and 11. The State Superintendent of Public Instruction shall annually report the results of the assessment program to the General Assembly. Such reports shall include: an analysis of the results of each assessment activity; recommended statewide action to address identified deficiencies; and, where applicable, school and district assessment results and district plans to address identified deficiencies."

Approved July 19, 1990.

CHAPTER 396

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 102
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND DELAWARE CODE, TITLE 11, CHAPTER 65 RELATING TO CORRECTIONS

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

Section 1. Amend Delaware Code, Title 11, Chapter 65, Subchapter VI, by deleting §6532 and inserting in lieu thereof a new §6532 to read as follows:

"§6532 Work by Inmates.

(a) The Department may establish compulsory programs of employment, work experience and training for all physically-able inmates. To the maximum extent practical, these programs shall approximate normal conditions of employment in free agriculture, industry and business, with respect to equipment, management practices and general procedures.

(b) The products of inmate labor and services may be sold and marketed to tax-supported departments and institutions and agencies of the State and its governmental subdivisions and such other employers or entities within or outside of the State of Delaware, as the Department shall determine. The Department may make contractual arrangements for the use of inmate labor by other tax-supported units of government responsible for the conservation of natural resources or other public works. The Department may also assign inmates to community work projects including, but not limited to, litter control along State highways and on State beaches and trash removal from State facilities, as provided in subsection (c) below.

(c) Before entering into an agreement with any other state department seeking prisoner-workers in accordance with this section, the Department shall have established a pilot litter-control program in each of the 3 counties with the cooperation of the Department of Transportation. The Department of Transportation shall advise the Department as to the kinds of equipment and the costs thereof that will be required and will act at all times as the consultant to the Department in this program.

(d) Inmates shall be compensated, at rates fixed by the Department, for labor performed, including institutional maintenance.

(e) In the event that an inmate shall labor for more than 8 hours in 1 day or 40 hours in 1 week, said inmate shall be compensated at 1 and 1/2 times the regular hourly rates paid to said inmates for such work time he/she has labored in excess of 8 hours in 1 day or 40 hours in 1 week.

(f) The Department shall cause to be placed into an account, payable to each inmate upon his/her discharge, income from the inmate's employment and any other income or benefits, accruing to or payable to, and for the benefit of said inmate, including but not limited to any worker's compensation or Social Security benefits. From the account of each inmate, the Department shall deduct, in order of the priority set forth herein, the following sums:

(1) Support payments for dependents of the inmate who are receiving public assistance during the period of incarceration, or to whom the inmate is under a Court ordered obligation to provide support and restitution as may have been assessed against said inmate pursuant to Court Order;

(2) Court costs, fines, and such other items as may be assessed against said inmate pursuant to Court Order; and

(3) A proportionate share of the costs of incarceration of inmates in the facility in which said inmate is housed including but not limited to room, board, medical care, legal services, prison education, training, library services, counseling and treatment services, religious services and other programs and services as shall be provided together with an allocation of the overhead for operating such prison and the Department in accordance with a fee-schedule to be established by the Department.

(g) In assigning inmates to employment, work experience, training and community work project programs in accordance with this section:

(1) Assignments to programs conducted or operated outside the physical boundaries of Department-run correctional facilities shall not be available to inmates serving time for any crime classified as a class A felony, or any crime classified as a class B felony which involves a sex offense, escape or assault.

(2) The Department is authorized to establish regulations or guidelines further restricting the participation of inmates in such programs so as to minimize potential danger to the community.

(h) The Department is authorized to revoke previously earned good time (whether such good time was earned pursuant to this section or other provisions of this title) from inmates who refuse to perform labor as required by the Department pursuant to this section. In addition, the Department may impose such other lawful disciplinary measures as it deems appropriate upon inmates refusing to perform labor as required by the Department pursuant to this section.

(i) No greater amount of labor shall be required of any inmate than his/her physical health and strength will reasonably permit, nor shall any inmate be placed at such labor as the institutional physician determines to be beyond his/her ability to perform.

(j) Inmates refusing to participate in compulsory programs of employment established by the Department pursuant to this program shall not be eligible for parole nor shall the Department apply for modification of sentence, and shall further be subject to such other disciplinary measures as the Commissioner may establish by regulation."

Section 2. Amend Delaware Code, Title 11, Chapter 65, Subchapter VI, by adding a new §6534A to read as follows:

"§6534A Claims for Costs of Support; Lien

Upon the sentencing of any convicted criminal to incarceration in any state correctional facility, the attorney general may file a claim for future maintenance and support of such inmate with the court from which said inmate was sentenced, and thereupon the court may make an order making such inmate's estate or property liable for the expenses of such future care and support by the Department as is more fully provided in §6532(f), and such claim, upon approval by the Court shall constitute a lien upon all property, real and personal, of said prisoner."

Section 3. Amend Delaware Code, Title 11, Chapter 65, Subchapter VI, §6533 by adding a new subsection (e) to read as follows:

"(e) All wages, salary, or other compensation earned by or payable to an inmate employed in accordance with this section shall be placed in said inmate's account and subject to deductions in accordance with the provisions of §6532(f)."

Section 4. Amend Delaware Code, Title 11, Chapter 65, Subchapter VI, §6534 by deleting said section in its entirety and inserting in lieu thereof a new §6534 to read as follows:

"The balance remaining in an inmate's account established and maintained in accordance with §6532(f) shall be paid to him/her at the time of his/her release, except that the Department may from time to time, in its discretion, or upon order from a court of competent jurisdiction, pay all or part thereof to the inmate as spending money. The Department shall establish guidelines and procedures for payments to inmates in accordance with this section."

Section 5. Amend Delaware Code, Title 11, Chapter 65, Subchapter VI by adding a new §6531A to read as follows:

"§6531A Education Programs.

(a) The Department shall establish programs of education for inmates including but not limited to courses toward a G.E.D. and courses of vocational training. In establishing such programs, the Department shall also establish rules and regulations regarding the order in which inmates shall be eligible to enroll in such courses. In such regulations, priority shall be given to inmates who have not previously earned a

high school diploma or G.E.D., and priority shall also be correlated to inmates' projected release dates.

(b) When the Department shall make G.E.D. courses available to inmates at a correctional facility, inmates at such facility who are eligible in accordance with the rules and regulations of the Department established under subsection (a) above, shall be required to enroll in and attend such courses.

(c) The costs of providing such G.E.D. courses established pursuant to subsections (a) and (b) above shall in accordance with a schedule to be established by the Department be assessed against those inmates required under subsection (b) to be enrolled, and may be deducted from said inmate's account in accordance with the provisions of §6532(f).

(d) Inmates required to participate in compulsory programs of education established by the Department pursuant to this section shall not be eligible for parole nor shall the Department apply for modification of sentence until successfully obtaining a G.E.D. Inmates refusing to participate in such programs shall further be subject to such other disciplinary measures as the Commissioner shall establish by regulation.

Section 6. Amend Delaware Code, Title 11, Chapter 65, Subchapter VI, §6533A by adding a new subsection (d) to read as follows:

"(d) Inmates pursuing a G.E.D. under the provisions of this section pursuant to the requirement of §6531(c), shall in accordance with a schedule to be established by the Department be assessed for the costs of courses made available under this section, including the costs of transportation and security, and such costs may be deducted from said inmate's account in accordance with the provisions of §6532(f).

Section 7. Amend Delaware Code, Title 11, Chapter 65, Subchapter VI by deleting §6531 in its entirety and substituting in lieu thereof a new §6531 to read as follows:

"§6531 Treatment and Rehabilitation Programs.

(a) Persons committed to the institutional care of the department shall be dealt with humanely, with effort directed to their rehabilitation.

(b) The Department shall establish alcohol and drug counseling and treatment programs for inmates. The Department may further establish a program of mandatory drug testing for inmates. In establishing such programs, the Department shall also establish rules and regulations regarding the order in which inmates shall be eligible to participate in such courses. Such regulations shall accord priority to inmates testing positive for illegal drugs, and inmates serving sentences imposed for drug related offenses.

(c) When the Department shall make programs of counseling and treatment available to inmates at a correctional facility, inmates at such facility who are eligible in accordance with the rules and regulations of the Department established under subsection (b) above, shall be required to enroll in and participate in such programs.

(d) The costs of providing such counseling and treatment programs established pursuant to subsections (b) and (c) above shall in accordance with a schedule to be established by the Department be assessed against those inmates required under subsection (c) to be enrolled, and may be deducted from said inmate's account in accordance with the provisions of §6532(f).

(e) Inmates required to participate in compulsory programs of drug or alcohol counseling or treatment established by the Department pursuant to this section shall not be eligible for parole nor shall the Department apply for modification of sentence until successfully completing such programs. Inmates refusing to participate in such programs shall further be subject to such other disciplinary measures as the Commissioner shall establish by regulation.

(f) The Department shall establish programs of work, case work counseling and psychotherapy, library and religious services and commissary, and shall further establish procedures for the classification of inmates for those purposes."

Section 8. Amend Del. Code, Title 11, Chapter 65, Subchapter VI, by adding a new Section 6534B to read as follows:

"Section 6534B. Prison Industries & Services Special Fund.

(a) There is hereby established a Prison Industries & Services Special Fund which shall consist of:

(1) Monies received from the sale of products as described in Section 6532 of this chapter;

(2) Monies received through the contract of service or labor as described in Section 6532 of this chapter;

(3) Monies received per Section 6532 (f) (3) of this chapter;

(4) Monies received per Section 6531A (c) of this chapter; and,

(5) Monies received per Section 6531 (d) of this chapter.

(b) Funds from the Industries & Services Special Fund shall be expended only for the following purposes:

(1) Financing the Prison Industries Programs, including but not limited to, all prison manufacturing, construction, contractual services, and labor provided;

(2) Financing the Educational programs required by Section 6531A of this chapter;

(3) Financing the Treatment/Rehabilitation programs required by Section 6531 of this chapter; and,

(4) Financing any and all programs as itemized in Section 6532 (f) (3) of this chapter.

(c) The Prison Industries & Services Special Fund shall be appropriated and expended in conformity with the annual Appropriations Act of the State of Delaware.

(d) Nothing in this Act shall preclude the appropriation of General Funds to support the programs itemized in subsection (b) of this section."

Section 9. The provisions of the Bill are severable. The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, phrase or word shall not affect the validity or enforceability of the remaining sections, subsections, paragraphs, sentences, clauses, phrases or words.

Approved July 18, 1990.

CHAPTER 397

FORMERLY

SENATE BILL NO. 331
AS AMENDED BY SENATE AMENDMENTS NO. 2 AND 5

AN ACT TO AMEND CHAPTER 31, TITLE 24, DELAWARE CODE, RELATING TO THE LICENSURE OF FUNERAL SERVICE PRACTITIONERS.

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

Section 1. Amend §3110 of Chapter 31, Title 24, Delaware Code, by adding thereto a new paragraph (e) to read as follows:

"(e) Notwithstanding the provisions of subsection (b) of this Section in the event a funeral service practitioner, who was previously licensed in Delaware and who has let his or her license lapse for reasons beyond his or her control as determined by the Board, is applying for licensure under the provisions of this Section, the Board may grant a license to such applicant, subject, however, to the continuing education requirements set forth in paragraph (b) of this Section, and upon payment of the appropriate fee and on formal submission of a written application on forms provided by the Board."

Approved July 18, 1990.

CHAPTER 398

FORMERLY

SENATE BILL NO. 447

AN ACT TO AMEND CHAPTER 90, TITLE 29 OF THE DELAWARE CODE RELATING TO THE ABOLITION OF THE DIVISIONAL ADVISORY COUNCILS AND EXECUTIVE ADVISORY COUNCIL ON CHILDREN, YOUTH AND THEIR FAMILIES AND THE ESTABLISHMENT OF THE ADVISORY COUNCIL FOR CHILDREN, YOUTH AND THEIR FAMILIES.

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

Section 1. Amend Chapter 90, Title 29 of the Delaware Code by deleting Sections 9008 and 9009 in their entirety and substituting in lieu thereof a new section 9008 to read as follows:

"§9008. Advisory Council for Children, Youth and Their Families.

(a) There is hereby established an Advisory Council for Children, Youth and Their Families.

(b) The Advisory Council for Children, Youth and Their Families shall serve in an advisory capacity to the Secretary of the Department of Services for Children, Youth and Their Families. The duties of the Council shall include, but not be limited to, the following:

(1) Study, research and advise the Secretary on the development of family-centered services and further service integration within the Department;

(2) Review and advise the Secretary regarding the annual proposed budget for the Department;

(3) Recommend legislation to the Secretary to improve services for youth and their families;

(4) Provide input to the Secretary on the Department's long term strategic planning process;

(5) Identify the emerging needs of Delaware's youth and their families and help to plan changes required in the state's service delivery system.

(c) The Advisory Council shall be composed of 15 members who shall be appointed by the Governor. The terms of the new members shall be staggered. The first eight appointees shall serve for a term of two years. The remaining seven new members shall serve for a term of one year. Thereafter, all new appointees shall serve for a term of two years. No person shall serve for more than two consecutive terms. Persons serving two consecutive terms shall be eligible for reappointment after a one year absence.

(d) No more than eight of the members of the Council shall be affiliated with the same political party. Any person who declines to announce his or her political affiliation shall also be eligible for appointment as a member of the Council.

(e) The Council shall be composed of 8 public members and 7 professional members. Public members are defined as persons not employed in a professional capacity with youth service agencies or organizations. Professional members are defined as employees of public and private youth service agencies or organizations or related governmental agencies.

(f) A Chairperson of the Council shall be chosen by the members of the Council from among the Council members and shall serve in that capacity for a term of one year and shall be eligible for 1 reappointment.

(g) The Chairperson of the Council shall be responsible for submitting the Council's findings and recommendations to the Secretary of the Department. Any written inquiries or recommendations submitted by the Council shall be responded to in written form by the Secretary within 30 working days of receipt of the inquiries or recommendations. The Secretary shall either adopt or reject recommendations made by the Council and provide the Council with a written explanation for such a decision.

(h) 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. The Secretary shall provide the council with staff support.

(i) 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.

Section 2. Amend Chapter 90, Title 29 of the Delaware Code by redesignating Sections 9010 through 9019 as Sections 9009 through 9018

Section 3. This Act shall take effect on July 1, 1990.

Approved July 18, 1990.

CHAPTER 399

FORMERLY

HOUSE BILL NO. 578
AS AMENDED BY HOUSE AMENDMENT NO. 1

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 §1106(a), Chapter 11, Title 30 of the Delaware Code by striking paragraph 1 of said subsection and substitute in lieu thereof a new paragraph 1 to read as follows:

"(1)(i) Interest qualifying under §103 of the United States Internal Revenue Code of 1986 or any similar statute, other than interest on obligations and securities of this State and its political subdivisions and authorities; and (ii) dividends paid by a regulated investment company (sometimes referred to as a mutual fund) qualifying under §852(b)(5) of the United States Internal Revenue Code of 1986 or any similar statute; provided that dividends attributable to interest on obligations and securities of this State and its political subdivisions and authorities may be excluded from such addition if the amount of interest attributable thereto is reported in writing to the holder or owner of the shares or units of the regulated investment company by or on behalf of the manager of the regulated investment company, and such report states the dollar amount or percentage of Delaware and non-Delaware dividends pertaining to the taxpayer;"

Section 2. Amend §1106(b), Chapter 11, Title 30 of the Delaware Code by striking paragraph (1) of said subsection and substitute in lieu thereof a new paragraph (1) to read as follows:

"(1)(i) Interest on obligations of the United States and its territories and possessions, or of any authority, commission or instrumentality of the United States, to the extent includable in gross income for federal income tax purposes, but exempt from state income taxes under the laws of the United States; and (ii) dividends paid by a regulated investment company (as defined in §851 of the United States Internal Revenue Code of 1986, or any similar statute, sometimes referred to as a mutual fund) to the extent such dividends are attributable to interest paid on obligations of the United States and its territories and possessions, or of any authority, commission or instrumentality of the United States, which interest would be subject to subtraction from federal adjusted gross income under subparagraph (i) of this paragraph if such obligations were owned directly by an individual and the interest on them were paid to such individual. The portion of the dividends of a regulated investment company which represents United States government interest which is exempt from state income taxes under this subparagraph shall be as reported in writing to the holder or owner of the share or units of the regulated investment company by or on behalf of the manager of the regulated investment company, and such report shall state the dollar amount or percentage of exempt and non-exempt dividends pertaining to the taxpayer;"

Section 3. Amend §1169(a), Chapter 11, Title 30 of the Delaware Code by adding after the word "individual" as it appears therein the phrase "or trust".

Section 4. Amend §1169(b), Chapter 11, Title 30 of the Delaware Code by striking the phrase "individual estimates to be his" and substitute in lieu thereof the phrase "individual or trust estimates to be his or its"

Section 5. Amend §1169(d), Chapter 11, Title 30 of the Delaware code by adding after the word "individual" as it appears therein the phrase "or trust".

Section 6. Amend §1169(a), Chapter 11, Title 30 of the Delaware Code by adding at the end of said subsection the following sentence: "For purposes of this Section, the term "trust" shall mean any trust the fair market value of whose assets at the end of the tax year next preceding the tax year for which estimated taxes are otherwise required by this Section equal or exceed $1 million."

Section 7. Sections 1, 3, 4, 5 and 6 of this Act shall be effective for tax years beginning after December 31, 1990. Section 2 of this Act shall be effective for tax years beginning after December 31, 1989.

Approved July 18, 1990.

CHAPTER 400

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 682
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING TO THE REGISTRATION OF HEAVY VEHICLES.

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

Section 1. Amend Chapter 21, Title 21 of the Delaware Code by adding to Chapter 21 a new §2105, as follows:

"§2105. Registration of heavy vehicles.

"(a) Every person applying to register a vehicle at a registered gross vehicle weight of 26,000 pounds or greater shall provide to the Department with the application documentation of the manufacturer's gross vehicle weight rating for such vehicle, subject to the following schedule:

(1) With respect to such vehicles which were lawfully registered in this State on December 31, 1990, as a 1987 or older model year vehicle, the obligation to provide manufacturer's weight rating documentation shall not apply to any application for registration, or renewal of registration, of such vehicles until January 1, 1994;

(2) With respect to such vehicles which were lawfully registered in this State on December 31, 1990, as a 1988, 1989, 1990 or 1991 model year vehicle, the obligation to provide manufacturer's weight rating documentation shall not apply to any application for registration, or renewal of registration, of such vehicles until January 1 of the fifth calendar year after such vehicle's model year;

(3) With respect to any such new vehicles which are registered in this State for the first time on or after January 1, 1991, the obligation to provide manufacturer's weight rating documentation shall apply to any application for registration.

(b) Any of the following items shall constitute acceptable documentation of the manufacturer's gross vehicle weight rating in accordance with this section:

(1) A valid manufacturer's gross vehicle weight rating plate, sticker or plaque permanently affixed to the vehicle; or

(2) New vehicle delivery documents which contain the Vehicle Identification Number (VIN), and the gross vehicle weight rating; or

(3) A written statement from the manufacturer setting forth the Vehicle Identification Number (VIN), the weight ratings of the major component parts of the vehicle, including axle assemblies, suspension system, frame and tires, and the overall gross vehicle weight rating. The manufacturer's statement must be based on the design weight rating of the component parts, including tires, and upon the professional judgment of the manufacturer, in the exercise of due care, that the components and their installation are in accordance with accepted industry practice and in compliance with the Federal Motor Vehicle Safety Standard found in Title 49 of the Code of Federal Regulations.

(c) As used in this chapter, 'manufacturer' shall include any maker of new, incomplete vehicles and such maker's authorized sales and service representatives; any maker or final assembler of vehicle bodies, components or specialized equipment; and any installer of vehicle bodies, major components or specialized equipment which alters the vehicle's gross vehicle weight rating, or which substantially changes its use, and which conforms to the requirements of the National Traffic and Motor Vehicle Safety Act and of the Federal Motor Vehicle Safety Standard found in Title 49 of the Code of Federal Regulations.

(d) Any vehicle which has a gross weight of 26,000 pounds or greater, except as provided in §2152 of this chapter, shall not be registered at a weight in excess of the manufacturer's gross vehicle weight rating for such vehicle. For those vehicles registered pursuant to §2152 of this chapter, the actual gross weight of the truck or truck tractor shall not exceed the manufacturer's gross vehicle weight rating.

(e) Any vehicle which has a gross weight rating in excess of 26,000 pounds shall not be operated within this State unless such vehicle is properly registered pursuant to this section and either (1) has permanently affixed to it an unaltered and legible plate, sticker or plaque which states the gross vehicle weight rating, or (2) has within the vehicle the manufacturer's gross vehicle weight rating documentation required by subsection (b) of this section.

(f) Any vehicle altered so as to change its gross vehicle weight rating or substantially change its use shall not be registered or operated within this State unless the vehicle's new gross weight rating is documented in accordance with subsection (b) of this section.

(g) If the gross vehicle weight rating for a vehicle registered pursuant to this section is documented in accordance with subsection (b)(2) or (b)(3) of this section, the Division of Motor Vehicles shall maintain such documentation of the manufacturer's gross vehicle weight rating as part of such vehicle's title file.'.

Section 2. This Act shall take effect upon its enactment into law, except for Section 1 of this Act, which shall take effect on January 1, 1991.

Approved July 18, 1990.

CHAPTER 401

FORMERLY

HOUSE BILL NO. 671
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 36, TITLE 14 OF THE DELAWARE CODE RELATING TO THE EDUCATIONAL BENEFITS FOR CHILDREN OF DECEASED MILITARY AND STATE POLICE.

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

Section 1. Amend Section 3604, Chapter 36, Title 14, by the Delaware Code by deleting the existing section in its entirety and substituting in lieu thereof the following:

"§3604. Eligible Institutions.

Benefits authorized in this chapter may be utilized for attendance at an institution financially supported by the State; or if the desired major or training is not available in such an institution, then at a private institution in Delaware; or, if there is no institution in Delaware offering such major or training, at a public or private institution in another state. If an eligible student chooses to attend an institution out of the sequence described herein, the value of the benefit will be reduced as described in §3605.

Section 2. Amend Section 3605, Chapter 36, Title 14, of the Delaware Code by striking the existing section in its entirety and substituting in lieu thereof the following:

§3605. Extent of Benefit.

The per student benefits granted under this chapter may not exceed the amount of tuition and fees per academic year. Benefits shall be limited to 4 years of training or education. If the student attends an institution according to the priority sequence outlined in § 3604, the benefit shall be equal to the amount of tuition and fees. If the student chooses to attend a Delaware private institution when his/her major is offered at a Delaware public institution, or if the student chooses to attend an out-of-state institution when his/her major is offered at a Delaware public institution and/or a Delaware private institution, the amount of the benefit shall be equal to the tuition and fees of: 1) the average tuition and fees of the Delaware public institutions which offer the major, or 2) the average tuition and fees of the Delaware private institutions which offer the major, if it is not offered at a Delaware public institution.

Section 3. Amend Section 3606, Chapter 36, Title 14, of the Delaware Code by deleting the second paragraph in its entirety as it appears therein.

Approved July 18, 1990.

CHAPTER 402

FORMERLY

HOUSE BILL NO. 624
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 86, TITLE 29 AND CHAPTER 94, TITLE 16 OF THE DELAWARE CODE IN ORDER TO FORMALLY RECOGNIZE THE EXISTING ADMINISTRATIVE RELATIONSHIP BETWEEN THE STATE ADVISORY COUNCIL FOR THE COORDINATION OF SERVICES TO THE HANDICAPPED AND THE DEPARTMENT OF COMMUNITY AFFAIRS; TO CHANGE THE NAME OF THE COUNCIL TO THE "STATE COUNCIL FOR PERSONS WITH DISABILITIES"; TO CHANGE REFERENCES TO "THE HANDICAPPED" TO "PERSONS WITH DISABILITIES"; AND TO INCREASE THE NUMBER OF CONSUMERS ON THE COUNCIL FROM SIX TO TWELVE.

WHEREAS, the State Advisory Council for Coordination of Services to the Handicapped was established in 1980 pursuant to Chapter 94, Title 16 of the Delaware Code; and

WHEREAS, the Council was originally established with professional staff provided by the Office of Management, Budget and Planning; and

WHEREAS, this Office was discontinued in November 1981, thus leaving the Council without an administering agency; and

WHEREAS, the Department of Community Affairs has provided, on an informal basis, staff services to this Council during this period; and

WHEREAS, the Council wishes to now be formally established, for administrative purposes, within the Office of Handicapped Services in the Department of Community Affairs; and

WHEREAS, the Council wishes to also change its name to the "State Council for Persons with Disabilities;" and

WHEREAS, the Council wishes to increase the number of consumers from six to twelve in order to bring to the Council more representation from community members who have disabilities; and

WHEREAS, the Council wishes to strike references to "the handicapped," using instead the preferred term "persons with disabilities;".

NOW, THEREFORE:

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

Section 1. Amend Chapter 94, Title 16 of the Delaware Code by striking said chapter in its entirety.

Section 2. Amend Chapter 86, Title 29, Delaware Code by adding a new section 8606 to read as follows:

"8606. State Council for Persons with Disabilities

(a) There is hereby established a State Council for Persons with Disabilities.

(b) This Council shall have the following duties and responsibilities:

(1) Promote coordination among all state programs, services and plans established for or related to persons with disabilities.

(2) Review, on a continuing basis, all state policies, plans, programs and activities concerning persons with disabilities which are conducted, or assisted in whole or part, by state departments, agencies or funds in order to determine whether such policies, programs, plans and activities effectively meet the needs of persons with disabilities.

(3) Make recommendations to the Governor, the General Assembly and all state departments and agencies respecting ways to improve the administration of services for persons with disabilities, and for facilitation the implementation of new or expanded programs.

(4) Provide the Governor, the General Assembly, all interested agencies and the general public with review and comment on all state legislative proposals affecting people with disabilities.

(5) Serve as a central state clearinghouse for information and data regarding:

a. The current numbers of persons with disabilities and their needs;

b. The location, provision and availability of services and programs for persons with disabilities.

c. Any other relevant information and data about persons with disabilities which the Council deems appropriate.

(6) Prepare and submit to the Governor and the General Assembly an annual report of the activities of the Council and a status on services and programs for persons with disabilities.

(7) Monitor the implementation of the final recommendations of the Governor's Task Force for the Implementation of the White House Conference on Handicapped Individuals.

(c) For administrative purposes, this Council is placed within the Office of Handicapped Services in the Department of Community Affairs.

(d) This Council shall consist of the following members:

(1) The Secretary of the Department of Health and Social Services, or a designee of the Secretary;

(2) The Secretary of the Department of Labor, or a designee of the Secretary;

(3) The State Superintendent of Public Instruction, or a designee of the Secretary;

(4) The Secretary of the Department of Community Affairs, or a designee of the Secretary;

(5) The Secretary of the Department of Services to Children, Youth and Their Families, or a designee of the Secretary;

(6) The following councils and committees shall elect 1 of their members each year to serve as a member of the Council:

a. The Governor's Advisory Council for Exceptional Citizens;

b. Developmental Disabilities Planning Council;

c. Governor's Committee on Employment of Persons with Disabilities;

d. Council on Mental Retardation;

e. Council on Mental Health;

f. Architectural Accessibility Board;

g. Council on Transportation;

h. Council on Aging;

i. Council on Public Health;

j. Council on Deaf Equality.

(7) Twelve consumers appointed by the Council Chairperson.

(e) In appointing persons under (d) (7), preference should be given to persons with disabilities, and any vacancy among the members referred to in paragraph (d) (6) of this subsection should be filled by the respective council/committee within 1 month of the vacancy.

(f) Any member who misses either 3 consecutive meetings or 4 out of any 12 consecutive meetings shall be presumed to have resigned from the Council.

(g) Members of the Council shall serve without compensation, except that they may be reimbursed by the Office of Handicapped Services, Department of Community Affairs, for reasonable and necessary expenses incident to their duties as members of the Council to the extent funds are available therefor and in accordance with state law.

(h) The Council itself shall elect its own Chairperson.

(i) The Council shall determine its own meeting schedule, but there shall be not less than 4 meetings each calendar year, open to the public, held in an accessible place, and with accommodations as requested.

(j) A simple majority of the total membership shall constitute a quorum which shall be necessary to vote on any issue.

(k) As used in this section, "persons with disabilities" means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment with the exception of the visually impaired.

(l) For purposes of this Section, the operations and activities of the Division for the Visually Impaired and the Governor's Advisory Council on the Blind shall be exempt from the purview of the State Council for Persons with Disabilities."

Approved July 18, 1990.

CHAPTER 403

FORMERLY

HOUSE BILL NO. 608
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5 OF TITLE 13 OF THE DELAWARE CODE RELATING TO DOMESTIC RELATIONS.

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

Section 1. Amend Section 513(b)(1), Chapter 5, Title 13 of the Delaware Code by striking the word "Where" at the beginning of the first sentence of said paragraph and substituting in lieu thereof the phrase "Except in cases brought under Title IV-D of the federal Social Security Act described in Section 513(b)(1)a., where".

Section 2. Amend Section 513(b)(1), Chapter 5, Title 13 of the Delaware Code by adding thereto a new subparagraph to be designated as (a). which shall read as follows:

"(a). In any case brought under Title IV-D of the federal Social Security Act, where a duty to support has been determined to exist and a new or modified support order is established, the Court shall attach the obligor's income, if any, as of the effective date of the order; except that such income shall not be subject to such withholding under this subparagraph in any case where (i) one of the parties demonstrates, and the Court (or administrative process) finds that there is good cause not to require immediate income withholding or (ii) a written agreement is reached between both parties which provides for an alternative arrangement."

Section 3. Amend Section 513(b)(1), Chapter 5, Title 13 of the Delaware Code by adding a new subparagraph to be designated as (b). which shall read as follows:

"(b). In any case where an order of support is not subject to immediate income withholding under section 513(b)(1)a. of this chapter, the obligor's income shall be attached automatically upon the filing of a verified notice by the obligee of a default in payment for seven (7) working days, or the earliest of:

(i) the date as of which the obligor requests that such withholding begin;

(ii) the date as of which the obligee requests that such withholding begin, and the State determines such request is appropriate; or

(iii) such earlier date as the State may select."

Section 4. Amend Section 516(d), Chapter 5, Title 13 of the Delaware Code by striking the word "Bureau" as the same appears in the first sentence of said subsection and substituting in lieu thereof the word "Division".

Approved July 18, 1990.

CHAPTER 404

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 541

AN ACT TO AMEND TITLE 14, CHAPTER 40 AND TITLE 19, CHAPTER 13, OF THE DELAWARE CODE RELATING TO THE RIGHT OF SCHOOL EMPLOYEES TO ORGANIZE.

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

Section 1. Amend Section 4002(l), Chapter 40, Title 14, Delaware Code by striking said subsection and substituting in lieu thereof the following:

"(l) 'Public school employee' or 'employee' means any employee of a public school employer except public school administrators and confidential employees of a public school employer; provided the exclusive representative of designated appropriate bargaining units certified under Title 19 informs the Secretary of Labor, the Executive Director of the Board and the public school employer in writing, by certified mail, that it elects coverage under the provisions of this Chapter; or provided that an employee organization has submitted a petition on behalf of public school employees pursuant to Section 4010 or 4011 of this Chapter which includes a request to be covered under the provisions of this Chapter prior to the submission of a similar petition pursuant to Section 1304 or 1305 of Title 19.

Section 2. Amend Section 4002, Chapter 40, Title 14, Delaware Code by adding a new subsection (f), and re-lettering existing subsections as appropriate, which shall read:

"(f) 'Confidential employee' means any employee whose functional responsibilities or knowledge in connection with the issues involved in the collective bargaining process would make membership in an appropriate bargaining unit incompatible with the employee's official duties."

Section 3. Amend Section 4002, Chapter 40, Title 14, Delaware Code by adding a new subsection (p), and re-lettering existing subsections as appropriate, which shall read:

"(p) 'Supervisory employee' means any employee of a public school employer who has the authority, in the interest of the public school employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature, but requires the use of independent judgment."

Section 4. Amend Section 4003(l), Chapter 40, Title 14, Delaware Code by striking said subsection and substituting in lieu thereof the following:

"(l) Organize, form, join or assist any employee organization, provided that membership in, or an obligation, resulting from collective bargaining negotiations, to pay any dues, fees assessments or other charges to, an employee organization shall not be required as a condition of employment for certified professional school employees."

Section 5. Amend Section 4010(d), Chapter 40, Title 14, Delaware Code by adding to the end of the subsection as it appears the following:

"The Board or its designee shall separate supervisory and non-supervisory employees into separate appropriate bargaining units for all units created subsequent to the effective date of this Act."

Section 6. Amend Section 1301 (2)(b) Chapter 13, Title 19, Delaware Code by striking said paragraph and substituting in lieu thereof the following:

"(b) Any employee of a public school system of the State as defined in Chapter 40, Title 14;"

Approved July 18, 1990.

CHAPTER 405

FORMERLY

HOUSE BILL NO. 63
AS AMENDED BY SENATE AMENDMENTS NO. 1, 2, 3, AND 4

AN ACT TO AMEND CHAPTER 52, TITLE 30 OF THE DELAWARE CODE RELATING TO MOTOR CARRIER REGISTRATION AND REPORTING REQUIREMENTS.

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

Section 1. Amend §5202(3), Chapter 52, Title 30, Delaware Code by striking said subsection in its entirety and adding a new subsection (3) to read as follows:

"(3) 'Motor Vehicle' means a motor vehicle used, designed, or maintained for transportation of persons or property and: (1) having two axles and a gross registered vehicle weight exceeding 26,000 pounds or (2) having three or more axles regardless of weight, or (3) used in combination when the weight of such combination exceeds 26,000 pounds gross registered vehicle weight. Qualified motor vehicle does not include recreational vehicles."

Section 2. Amend §5224, Chapter 52, Title 30, Delaware Code by adding a new subsectin to read as follows:

"(e) This Chapter shall not apply to any farm truck with a gross registered vehicle weight of less than 40,001 pounds providing that said vehicle displays a valid FT license tag or its equivalent."

Section 2. The provisions of this Act shall become effective October 1, 1990.

Approved July 18, 1990.

CHAPTER 406

FORMERLY

SENATE BILL NO. 228
AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENTS NOS. 1 and 2

AN ACT TO AMEND CHAPTER 60, TITLE 7, DELAWARE CODE, RELATING TO DEFINITIONS OF CONTAMINATION AND THE OBLIGATION OF PERSONS WHO CONTAMINATE WATER SUPPLIES.

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

Section 1. Amend Subchapter II, Chapter 60, Title 7, Delaware Code by adding thereto the following new Section to read as follows:

"§6036. Obligation of persons who contaminate drinking water supplies.

(a) The Secretary shall develop and publish the necessary forms to be used by any person who believes his drinking water supply has been contaminated to petition for an alternative water supply, said petition will include, at a minimum, the following:

(1) Well information including a valid DNREC well permit number, or other certified documentation as to how and when the well or other water intake was constructed, and,

(2) The contaminant and its concentration in the form of a signed analytical report from a certified drinking water laboratory which identifies the sample, the contaminant, its concentration and the analytical method detection limit, and,

(3) The date the sample was collected, the name of the person collecting the sample, a description of the sample container, and the preservation techniques used, if any.

The form shall be notarized and certified as being true and factual by the petitioner. Failure to provide all relevant information, or providing false information, will be grounds to reject a petition.

(b) Upon the Secretary's receipt of a certified petition that sets forth allegations that a discharge of a substance into a drinking water supply has affected a petitioner's use of an existing drinking supply well or other drinking water intake through any activity, the Secretary shall notify all potentially responsible parties who shall be given 30 days in which to either respond to the petition, propose remedial action, or request a hearing on the merits of the petition.

(c) After evaluating all available information in his possession, the Secretary will issue an order either verifying or rejecting the contentions contained in the petition. The Secretary's decision to verify the petition and grant relief must be based on findings of fact contained in the certified petition and other scientifically conclusive evidence in his possession, which at a minimum establishes that:

(1) A State or Federal drinking water standard has been exceeded, and,

(2) A source, due to its nature, proximity, and hydrogeologic connection to the affected water supply is the likely cause of the contamination provided that the activity does not contain a valid State or Federal permit with which the permittee has fully complied and provided that the permit did not anticipate the contamination of the drinking water supply.

(d) Upon verification of a petition as set forth in Section 6036 (c), the Secretary shall require that if any activity results in the contamination of an existing drinking water supply by contaminants other than bacteria, viruses, nitrate or pesticides, which have been applied according to the manufacturer's instructions, then the person(s) who is responsible for the contamination shall complete one of the following activities which is deemed to be the most cost effective:

(1) Provide at no cost to each person who has had his existing drinking water supply contaminated, the installation of an alternative water supply of at least equal quantity and quality to said person's water supply that existed on the date the water supply was contaminated, or:

(2) Provide at no cost to each person who has had his existing drinking water supply contaminated, a complete water supply connection to a water supply

distribution system, and provide water to said person for a term of up to three years in an amount not to exceed 100,000 gallons per year. Said three year term shall commence on the first day water is supplied to said person by the person who contaminated the drinking water supply. Water used by said person that exceeds 100,000 gallons per year shall be paid by said person at a rate that is established by the appropriate rate setting body taking into consideration the rate charged for the supply of public water in the water supply area before it was contaminated, or the rate charged in a similar area, or:

(3) Provide at no cost the treatment system necessary to maintain the water supply as an adequate drinking water supply and provide the costs of operation and maintenance of the system for a period of three years.

(e) In addition to the provisions of subsection (d) of this section the Secretary may require that the person who has caused the contamination of a person's drinking water supply by contaminates other than bacteria, viruses, nitrate or pesticides, shall provide at no cost to each person who has had his drinking water supply contaminated an interim water supply that is of a quality and quantity to meet said person's needs as shall be determined by the Secretary on a case by case basis. In addition, the Secretary shall determine the dates on which the interim water supply shall commence and be terminated.

(f) Any affected party may appeal a decision by the Secretary concerning a replacement water supply petition to the Environmental Appeals Board in accordance with Section 6008 of this Title.

(g) Any hearing that may be conducted pursuant to the provisions of this section shall be done according to procedures as set forth in 7 Del. C. §6006.

(h) For the purposes of this section, 'Contamination' means the human alteration of the chemical, physical, biological or radiological integrity of water which violates Federal or State drinking water standards."

Approved July 18, 1990.

CHAPTER 407

FORMERLY

SENATE BILL NO. 381

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(d)(1), Chapter 11, Title 30 of the Delaware Code by striking the symbol and figure "$20,000" as it appears in said paragraph and substitute in lieu thereof the following: "$40,000, or such lesser amount as the Director may determine but in any event not less than $20,000."

Section 2. This Act shall be effective for tax years commencing after December 31, 1990.

Approved July 18, 1990.

CHAPTER 408

FORMERLY

SENATE BILL NO. 384
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 11, 14, 19, AND 23 OF TITLE 30 OF THE DELAWARE CODE RELATING TO VARIOUS REFERENCES TO THE FEDERAL INTERNAL REVENUE CODE.

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

Section 1. Amend §1101, Chapter 11, Title 30 of the Delaware Code by striking the year "1954" as it appears in said Section and substitute in lieu thereof the year"1986".

Section 2. Amend §1106(a), Chapter 11, Title 30 of the Delaware Code by striking the year "1954" as it appears in paragraph (2) of said subsection and substitute in lieu thereof the year "1986".

Section 3. Amend §1901(5), Chapter 19, Title 30 of the Delaware Code by striking the phrase '1954 (Title 26, U.S.C.A. 1954, Chapter 1) as in force on February 5, 1958 or as it may thereafter be amended from time to time' wherever it appears in said subsection and substitute in lieu thereof the phrase '1986 and amendments thereto'.

Section 4. Amend §1902(b), Chapter 19, Title 30 of the Delaware Code by striking the figure "1971" as it appears in paragraph (9) and substitute in lieu thereof the figure "1961".

Section 5. Amend §1902(b), Chapter 19, Title 30 of the Delaware Code by striking the year "1954" as it appears in paragraphs (9) and (12) of said subsection and substitute in lieu thereof the year "1986".

Section 6. Amend §1401, Chapter 14, Title 30 of the Delaware Code by striking the phrase "increased by the amount of the federal specific exemption (as defined in §2521, Internal Revenue Code of 1954 [26 U.S.C. §2521] or such similar subsequent tax legislation) claimed in computing taxable gifts for federal gift tax purposes" as it appears in subsection (1) of said Section.

Section 7. Amend Section 2301(p), Chapter 23, Title 30 of the Delaware Code by striking the year "1954" as it appears therein and substitute in lieu thereof the year "1986".

Section 8. Amend Section 2301(o), Chapter 23, Title 30 of the Delaware Code by striking the year "1954" as it appears therein and substitute in lieu thereof the year "1986".

Section 9. Sections 4 and 6 shall be effective upon enactment. The effectiveness of all other sections shall coincide with the effectiveness of respective provisions of the Federal Internal Revenue Code.

Approved July 18, 1990.

CHAPTER 409

FORMERLY

HOUSE BILL NO. 737

AN ACT TO AMEND CHAPTER 3, TITLE 31 OF THE DELAWARE CODE TO REQUIRE CERTAIN PERSONS TO FURNISH INFORMATION OF CRIMINAL HISTORY.

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

Section 1. Amend Chapter 3, Title 31 of the Delaware Code by adding thereto a new Section 309, to read as follows:

"§309. Criminal History Information Relating to Child Care Personnel and Foster and Adoptive Parents.

(a) "Child Care Facility" as used in this Section means residential child care facilities under contract to or operated directly by the Department of Services for Children, Youth and Their Families.

(b) "Child Care Personnel" as used in this Section means all persons who seek employment for compensation or persons who volunteer to provide direct child care service or persons who for any reason have regular direct access to children and/or adolescents under the age of 18 at any facility as referred to in subsection (a) of this Section. This definition shall include any employee or volunteer of the Department of Services for Children, Youth and Their Families or one of its contractors who have regular direct access to children and/or adolescents under the age of 18, but who do not provide child care services at a facility as referred to in subsection (a) of this Section. Child Care Personnel, for purposes of this Section, shall also include applicants wishing to become adoptive or foster parents.

(c) All prospective child care personnel are covered by the provisions of this Section as well as current child care personnel who have been providing said child care for a period of less than one year. In the case of adoptive parents, criminal background checks shall be performed in all cases in which a final adoption decree has not yet been filed.

(d) All child care personnel covered by this Section shall be required to submit their fingerprints and other necessary information in order for the following to be obtained:

(1) Report of the individual's entire criminal history record from the Delaware State Police or a statement from the Delaware State Police that the State Police central repository contains no such information relating to that person.

(2) A report of the individual's entire Federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544. The Division of State Police shall be the intermediary for the purposes of this paragraph.

(3) A certification from the Department of Services for Children, Youth and Their Families as to whether the individual is named in the central register as the perpetrator of a report of child abuse.

(e) Costs associated with obtaining said criminal history information and child abuse registry information shall be borne by the State.

(f) All information required in section (d) shall be forwarded to the DSCYF which will assess the information and make a determination of suitability for employment based upon the types of offenses, recency, record since the offenses and responsibilities of the position which the individual has obtained or is seeking to obtain. The DSCYF must exercise case-by-case judgment on the results. Any adverse judgment affecting the current or prospective child care individual shall be reviewed subject to regulations promulgated by the DSCYF under subsection (h).

(g) Upon making its determination of suitability, the DSCYF shall forward the determination, together with the results of the investigation, to the applicant and to the prospective or current employer or agency.

(h) The DSCYF shall, in the manner provided by law, promulgate regulations necessary to implement this section. These regulations shall:

(1) Set forth criteria for unsuitability for employment in or certification for child care services. Such criteria shall relate to criminal history record information and may include other information in addition to that set forth above. Such criteria and information shall be reasonably related to the prevention of child abuse.

(2) Prohibit any individual convicted of a sexually related offense or offenses against children or adolescents from employment in child care services.

(3) Set forth sanctions for employers who willfully hire or retain individuals in violation of this section or in violation of the regulations promulgated hereunder.

(4) Provide for the confidentiality of information obtained pursuant to subsection (d).

(5) Provide for administrative review of an adverse judgment by the DSCYF.

(i) Facilities and agencies which are subject to this section may provisionally hire an employee or a volunteer or place a child, pending the determination of the DSCYF. The failure of an individual to disclose any relevant criminal history information requested by the DSCYF as part of an application process that is subsequently disclosed as a result of a criminal history check performed pursuant to this chapter shall be grounds for immediate termination or removal of a placement.

(j) The DSCYF shall issue its determination in a reasonable amount of time following the receipt of information obtained pursuant to subsection (d)."

Section 2. This Act shall take effect September 1, 1990.

Approved July 18, 1990.

CHAPTER 410

FORMERLY

SENATE BILL NO. 449
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER III, CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO THE DISPOSITION OF DEPENDENT, NEGLECTED OR DELINQUENT CHILDREN.

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

Section 1. Amend §937, Subchapter III, Chapter 9, Title 10 of the Delaware Code by redesignating the first sentence of said section as subsection "(a)".

Section 2. Amend §937, Subchapter III, Chapter 9, Title 10 of the Delaware Code by deleting subsection (b) of said section in its entirety and substituting in lieu thereof a new subsection (b) which shall read as follows:

"(b) Following an adjudication by the Court in which it declares a child to be dependent or neglected, the Court may:

(1) Defer proceedings pending further investigation, medical or other examinations, or where the interests of the child will thereby be served;

(2) Allow a child to remain in his own home with or without Court supervision;

(3) Grant custody of a child to any person or agency where satisfactory arrangements can be made but, in the event the child is placed in a home other than the home of a relative, the Court shall require an evaluation and report from the Department of Services for Children, Youth and Their Families;

(4) Refer the child to the Department of Services for Children, Youth and Their Families for protective supervision;

(5) Grant custody of a child to the Department of Services for Children, Youth and Their Families for foster home placement;

(6) Grant the care or custody of a child to any licensed child-placing agency in this state that will accept the child, provided satisfactory arrangements can be made;

(7) Grant the care or custody of a child to any division of the Department of Services for Children, Youth and Their Families provided by the State for the care of children;

(8) Grant the care or custody of a child to any private institution within or without the state that cares for children, provided satisfactory arrangements can be made;

(9) Grant the care or custody of a child to any religious child-caring agency or institution, preferably of the child's religious faith or that of his parents, or either of them, within or without the state provided satisfactory arrangements can be made;

(10) 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 provided satisfactory arrangements can be made;

(11) Order such other treatment, rehabilitation or care as in the opinion of the Department of Services for Children, Youth and Their Families would best serve the needs of the child and society."

Section 3. Amend §937, Subchapter III, Chapter 9, Title 10 of the Delaware Code, by adding a new subsection (c) thereto which shall read as follows:

"(c) Following an adjudication in which the Court declares that a child is delinquent, it may:

(1) Defer proceedings pending further investigation, medical or other examinations, or where the interests of the child will thereby be served, and, release him upon his own recognizance or upon the recognizance of his custodian or near relative, or upon bond with surety, to appear whenever and wherever notified

to do so; or, where the required bond is not provided, detain him in a facility of the Department of Services for Children, Youth and Their Families;

(2) Allow a child to remain in his own home with or without Court supervision;

(3) Place a child on probation;

(4) Fine a child;

(5) Order a child to make monetary restitution in whole or in part as the Court determines for out-of-pocket costs, losses or damages caused by the delinquent act of the child where the amount thereof can be ascertained;

(6) Award a judgment in favor of any municipal corporation, county, town, school district or agency of the State, or any person, partnership, corporation or association, or any religious organization whether incorporated or not, 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 that the Court finds by a preponderance of the evidence presented that:

a. The parents or guardians knew of the child's delinquent nature; and

b. The parents or guardians failed to take reasonable measures to control the child.

(7) Require that any restitution ordered against the delinquent child precede the liability of the parents or guardians for the monetary damages caused by the child's delinquent act.

(8) Require, in the absence of objections 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 originally ordered by the Court.

(9) Award custody of a child to the Department of Services for Children, Youth and Their Families;

(10) 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 provided satisfactory arrangements can be made;

(11) Grant the care or custody of a child to any private institution within or without the state that cares for children, provided satisfactory arrangements can be made;

(12) Order the Motor Vehicle Division of the Department of Public Safety to:

a. Revoke or suspend the driving privileges or operator's license possessed by the child; or

b. Postpone the child's eligibility to obtain driving privileges or an operator's license if the child does not possess such privilege or license; in either case for a period not less than 3 months or more than 2 years.

(13) Grant custody of a person who is charged with an act of delinquency prior to reaching the age of 18 years but becomes 18 years of age prior to disposition of the charge, to the Department of Services for Children, Youth and Their Families.

(14) Order such other treatment, rehabilitation or care as in the opinion of the Department of Services for Children, Youth and Their Families would best serve the needs of the child and society.

The authority given the Court by paragraphs (5), (6), (7) and (8) shall be in addition to any other existing statutory or common law remedy."

Section 4. Amend §937, Subchapter III, Chapter 9, Title 10 of the Delaware Code, by adding a new subsection (d) thereto which shall read as follows:

"(d) For the purposes of this section, the phrase 'provided satisfactory arrangements can be made' shall mean that the Department of Services for Children, Youth and Their Families has approved payment for the placement of a child based upon a

contract between an agency or institution and the Department or that such a placement can provide a child with the necessary and/or appropriate treatment and/or rehabilitation in the judgment of the Department of Services for Children, Youth and Their Families."

Section 5. Amend §937, Subchapter III, Chapter 9, Title 10 of the Delaware Code by redesignating the current subsections (c), (d), (e), (f) and (g) thereof as subsections (e), (f), (g), (h) and (i).

Section 6. 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 the other provisions or applications of the Act which can be given effect without the invalid provision or application, provided that the basic purposes of the Act can still be served and to that end the provisions of this Act are declared to be severable.

Approved July 20, 1990.

CHAPTER 411

FORMERLY

SENATE BILL NO. 451
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21, OF THE DELAWARE CODE BY CHANGING VEHICLE REGISTRATIONS AND INSPECTIONS FROM AN ANNUAL TO A BIENNIAL REQUIREMENT.

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

Section 1. Amend §2109, Chapter 21, Title 21 of the Delaware Code, by striking subsection (a) in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) Any vehicle described in §2151 of this Title may be registered for 24 months, 12 months or 6 months, and the effective date of the registration shall be the first day of the calendar month in which the vehicle is registered and the required fees paid. The Division of Motor Vehicles may require vehicles to be registered for less than 24 months, as may be necessary to ensure a balanced monthly distribution of vehicle inspections and registrations; all fees shall be prorated. The registration of a vehicle shall expire at midnight on the last day of the period for which it is registered, and the vehicle shall not thereafter be operated upon the highways of this State until it has been re-registered according to law. This section shall not apply to the operation of vehicles under temporary or limited permits or certificates as otherwise provided by this Title."

Section 2. Amend §2109, Chapter 21, Title 21, Delaware Code, by striking the last sentence in subsection (c) and insert in lieu thereof the words "Thereafter, the registration shall be renewed pursuant to §2110 of this Chapter".

Section 3. Amend §2110(a), Chapter 21, Title 21, Delaware Code by inserting after the word "1 year" as it appears in said paragraph (a) the words "or 2 years".

Section 4. Amend §2110(a), Chapter 21, Title 21, by striking the words "3 months, 6 months or 1 year" as they appear in the second sentence of subsection (a) and insert in lieu thereof the words "3 months, 6 months, 1 year or 2 years".

Section 5. Amend §2151, Chapter 21, Title 21 of the Delaware Code by striking the figures "$10;" as they appear in paragraph (1) and insert in lieu thereof the words "$10 per year;".

Section 6. Amend §2151, Chapter 21, Title 21, Delaware Code, by striking the ";" at the end of paragraph (2) and insert in lieu thereof the words "per year;".

Section 7. Amend §2151(3), Chapter 21, Title 21, Delaware Code, by inserting the words "per year" after the figures "$2", "$2.60", and "$20" as they appear in said subparagraph (3).

Section 8. Amend §2151(5), Chapter 21, Title 21, Delaware Code, by inserting the words "per year" after the figures "$20" and "$2.60" as the same appears in said subparagraph (5).

Section 9. Amend §2151(7), Chapter 21, Title 21, Delaware Code, by inserting the words "per year" after the figure "$4" as the same appears in said subparagraph (7).

Section 10. Amend §2152(b), Chapter 21, Title 21, Delaware Code, by inserting the words "per year" after the figure "$20" as the same appears in subparagraph (b).

Section 11. Amend §2153, Chapter 21, Title 21, Delaware Code, by adding thereto the following sentence:

"These special number plates may be issued for 1 or 2 years at a fee of $10 per plate for each year."

Section 12. Amend §2154(f) and (g) of Chapter 21, Title 21, Delaware Code, by striking said subparagraphs in their entirety and substituting in lieu thereof a new paragraph (f) to read as follows:

"(f) The fee for each special plate issued pursuant to this Section is $10 per year. The plate may be originally issued or renewed for 1 or 2 years, and shall expire at midnight on December 31st of the year of expiration."

Section 13. Amend §2197(c), Chapter 21, Title 21, Delaware Code, by striking the words "annual license tax" as they appear in subsection (c) and inserting in lieu thereof the words "registration fee".

Section 14. Amend §2197(c), Chapter 21, Title 21, Delaware Code, by striking the words "annual basis" as the same appears in subsection (c) and inserting in lieu thereof the words "prior to renewal of registration".

Section 15. Amend §2199, Chapter 21, Title 21, Delaware Code, by deleting the words "annual physical inspection" as they appear in subsection (b) and inserting in lieu thereof the words "biennial physical inspection".

Section 16. The provisions of this Act shall be implemented at the discretion of the Division of Motor Vehicles, but no later than January 1, 1991.

Approved July 20, 1990.

CHAPTER 412

FORMERLY

SENATE BILL NO. 444
AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29, DELAWARE CODE BY CREATING A DELAWARE PUBLIC LIBRARY CONSTRUCTION ASSISTANCE ACT.

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

Amend Title 29 Delaware Code by adding thereto a new Chapter 66A to read as follows:

"Chapter 66A. Library Construction

§6601A. This Chapter shall be known as the 'Delaware Public Library Construction Assistance Act.'

§6602A. Definitions - as used in this Chapter:

(1) 'Library Construction' includes, but is not limited to, the acquisition, construction, reconstruction, alteration, remodeling or enlargement of library buildings, the acquisition or installation of apparatus or equipment or the acquisition of land required as sites for such buildings, including land or rights in land needed to provide access to sites, and the grading or other improvements of such sites, land or rights in land, including the construction of sidewalks where authorized by law, the construction of any sewers or water mains needed to connect such buildings to any publicly-owned sewer system or water system. The following items are not considered to be included within the definition of 'Library Construction': supplies, furniture and equipment not attached to the building, computers, debt service on loans, maintenance items and operating costs.

(2) 'Total Cost' means the maximum sum or sums of money which may be spent for a library construction project, provided that nothing contained in this chapter shall prevent any non-state source from increasing said total cost by providing a larger amount from non-state sources than that stated as that non-state share, nor prevent the acceptance and use of any funds appropriated by the Congress of the United States for these purposes.

(3) 'State Share' means that maximum sum of money which may be paid from state sources for a library construction project.

(4) 'Non-State Share' means:

(a) A sum of money from sources other than State funds;

(b) The fair market value of:

1. developed and/or undeveloped land not currently used as a public library site but to be used as the location for 'library construction' as defined herein, including parking lots; or

2. an existing facility under development not currently used as a public library but to be used as the location for 'library construction', as defined herein.

The aggregate value of the money, lands and facilities described in (a) and (b) above, when provided by any source other than the State and matched with the State share, will equal the total cost of the proposed library construction.

§6603A. Any public library, including privately incorporated public libraries, the Dover Public Library established pursuant to Chapter 158 of Part I, Volume 60, Laws of Delaware and public library systems established pursuant to Chapter 8 of Title 9 may be eligible for state assistance in library construction costs, with the state share representing up to 40% of the total cost of such library construction project.

§6604A. The Delaware Development Office shall review all proposals for funding under this chapter and make recommendations as part of the annual capital budget. This review shall include, but not be limited to, a determination of the need for the project, scope of the project, total cost of the project, and availability of the non-state share. The Delaware Development Office, within thirty (30) days of receiving a request for state

assistance under this chapter shall refer each proposal to the Division of Libraries and the Delaware Council on Libraries for their comments. The Division of Libraries and the Delaware Council on Libraries shall provide the Delaware Development Office with their comments on each such proposal within sixty (60) days of receipt of the proposal.

§6605A. The Delaware Development Office as part of its annual capital budget responsibilities set forth in §5011 of this title, shall insure that the State share and non-state share on all projects funded under this Chapter are expended in conformance with the provisions of this Act."

Approved July 19, 1990.

CHAPTER 413

FORMERLY

SENATE BILL NO. 470
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, TITLE 29, DELAWARE CODE, RELATIVE TO THE COMPUTATION OF PENSIONS AND THE DEFINITION OF WHAT CONSTITUTES AN EMPLOYEE.

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

Section 1. Amend §5501(a)(1)(b), Chapter 55, Title 29, Delaware Code, by striking the phrase "; or" and substituting in lieu thereof the following:

", the Wilmington Federal Credit Union; or".

Section 2. Amend §5501(d), Chapter 55, Title 29, Delaware Code, by adding a sentence to the end of said subsection to read as follows:

"Teachers who receive awards under the 'Teacher of the Year' program under §8903, Chapter 89, Title 14, Delaware Code and Merit System employees who receive awards under the 'Delaware Award for Excellence and Commitment in State Service' program shall have added to their compensation the dollar amount of such awards, granted during their employment, in determining the final average compensation to be used in the computation of their pension."

Section 3. The effective date of Section 2 of this Act shall be February 8, 1990.

Approved July 20, 1990.

CHAPTER 414

FORMERLY

HOUSE BILL NO. 588
AS AMENDED BY HOUSE AMENDMENTS NO. 1, 3, 4

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR SALES OF FIREARMS.

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

Section 1. Amend Title 11, Delaware Code by adding thereto a new Section 1448A as follows:

"§1448A Criminal History Record Checks for Sales of Firearms.

(a) No licensed importer, licensed manufacturer, or licensed dealer shall sell or deliver from his inventory any firearm, as defined in 11 Del. C. 222 (9), to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until he has:

(1) obtained a completed consent form from the potential buyer or transferee, which form shall have been promulgated by the State Bureau of Identification (SBI) and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, address, birth, date, gender, race, and social security number, driver's license number or other identification number of such potential buyer or transferee and has inspected identification containing a photograph of the potential buyer or transferee;

(2) requested, by means of a toll-free telephone call pursuant to subsection (e) herein, the SBI to conduct a criminal history record check; and

(3) received a unique approval number for that inquiry from the SBI, and has recorded the date and approval number on the consent form.

(b) Upon receipt of a request for a criminal history record check, the SBI during the licensee's call or by return call, shall;

(1) review its criminal history records to determine if the potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to 11 Del. C. §1448 or federal law; and

(2) inform the licensee making the inquiry either (i) that its records demonstrate that the potential buyer or transferee is so prohibited, or (ii) provide the licensee with a unique approval number.

(c) In the event of electronic failure or similar emergency beyond the control of the SBI, the SBI shall immediately notify the requesting licensee of the reason for, and estimated length of, such delay. After such notification, the SBI shall no later than the end of the third business day following a request for a criminal history record check of the licensee, either

(1) inform the licensee that its records demonstrate that the potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to 11 Del. C. §1448 or federal law, or

(2) provide the licensee with a unique approval number. Unless notified by the end of the third business day following a request for a records check that the potential buyer or transferee is so prohibited, and without regard to whether he has received a unique approval number, the licensee may complete the sale or delivery and shall not be deemed in violation of this section with respect to such sale or delivery.

(d)(1) Any records containing any of the information set forth in subsection (a)(1) pertaining to a potential buyer or transferee who is not found to be prohibited from receipt or possession of a firearm by reason of 11 Del. C. §1448 or federal law shall be confidential and may not be disclosed by any officer or employee of SBI to any person or to another agency. The SBI shall destroy any such records after it communicates the corresponding approval number to the licensee and such records shall be destroyed within 30 days after the day of receipt of the licensee's request.

(2) Notwithstanding contrary provisions of this subsection, the SBI shall maintain a log of dates of requests for criminal history record checks and unique approval numbers corresponding to such dates for a period of not longer than one year.

(3) Nothing in this section shall be construed to allow the State of Delaware to maintain records containing the names of licensees who receive unique approval numbers or to maintain records of firearm transactions, including the names or other identification of licensees and potential buyers or transferees, involving persons not prohibited by 11 Del. C. §1448 and federal law from the receipt or possession of firearms.

(e) The SBI shall establish a toll-free telephone number which shall be operational between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday and 9:00 a.m. and 5:00 p.m. Sunday for purposes of responding to inquiries as described in this section from licensed manufacturers, licensed importers, and licensed dealers. The SBI shall employ and train such personnel as are necessary to administer the provisions of this section.

(f) Any person who is denied the right to receive or purchase a firearm as a result of the procedures established by this section may request an amendment of any errors in the record pertaining to him by petitioning the SBI. If the SBI fails to amend the record within thirty (30) days, the person requesting the amendment may petition the Superior Court in the county of his residence for a writ of mandamus directing the SBI to amend the record. The court shall award the petitioner all reasonable attorney fees and other costs, if it determines that S.B.I. willfully refused to amend the record. If the record as corrected demonstrates that such person is not prohibited from receipt or possession of a firearm by 11 Del. C. §1448 or federal law, the SBI shall destroy any records it maintains which contain any information derived from the criminal history records check set forth in subsection (a)(1).

(g) The SBI shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this section.

(h) A licensed importer, licensed manufacturer, or licensed dealer is not required to comply with the provisions of this section in the event of:

(1) unavailability of telephone service at the licensed premises due to:

(a) the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located , or;

(b) the interruption of telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of God, or war, invasion, insurrection, riot, or other bona fide emergency, or other reason beyond the control of the licensee; or

(2) failure of the SBI reasonably to comply with the requirements of subsection (b) and (c) of this section.

Within seventy-two (72) hours of the normalization of telephone service the licensed importer, licensed manufacturer or licensed dealer shall communicate to S.B.I. the identifying data as set forth in paragraph (1) of subsection (a) for each sale or delivery of a firearm during the unavailabiltiy of telephone service.

(i) Compliance with the provisions of this section shall be a complete defense to any claim or cause of action under the laws of this state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer to any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, of any firearm which has been shipped or transported in interstate or foreign commerce.

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

(1) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898;

(2) any replica of any firearm described in subparagraph (1) of this subsection if such replica;

(a) is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition, or

(b) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade;

(3) any shotgun, which is defined as a firearm designed or intended to be fired from the shoulder and designed or made to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger;

(4) the return, by a licensed pawnbroker, of a firearm to the person from whom it was received.

(6) Transactions in which the potential buyer or transferee holds a valid concealed deadly weapons license pursuant to 11 Del. C. , §1441; and

(7) Transactions involving a law enforcement officer as defined by 11 Del. C., §222 (12);

(k) Any licensed dealer, licensed manufacturer, licensed importer or employee thereof who willfully and intentionally requests a criminal history record check from the SBI for any purpose other than compliance with subsection (a), or willfully and intentionally disseminates any criminal history record information to any person other than the subject of such information or discloses to any person the unique identification number shall be guilty of a Class A misdemeanor.

(l) Any person who, in connection with the purchase, transfer, or attempted purchase or transfer of a firearm pursuant to the subsection (a) willfully and intentionally makes any materially false oral or written statement or willfully and intentionally furnishes or exhibits any false identification intended or likely to deceive the licensee shall be guilty of a Class G felony.

(m) Any licensed importer, licensed manufacturer, licensed importer or employee thereof who willfully and intentionally sells or delivers a firearm in violation of this section shall be guilty of a Class A misdemeanor. Second or subsequent offenses by an individual shall be a Class G Felony.

(n) The SBI shall provide to the judiciary committees of the Senate and House of Repesentatives an annual report including the number of inquiries made pursuant to this section for the prior calendar year. Such report shall include, but not be limited to, the number of inquiries received from licensees, the number of inquiries resulting in a determination that the potential buyer or transferee was prohibited from receipt or possession of a firearm pursuant to 11 Del. C. §1448 or federal law, and the estimated costs of administering this section.

(o) This section shall become effective six months from the date of enactment or at such time as the SBI has notified all licensed importers, licensed manufacturers, and licensed dealers in writing that the procedures and toll-free number described in this section are operational, which ever shall occur first.

(p) Violations of this Section shall be in the exclusive jurisdiction of Superior Court.

(q) Notwithstanding 11 Del. C., Chapter 89, 29 Del. C., Chapter 10, and other Delaware laws the S.B.I. is authorized and directed to release records and data required by this Section. The S.B.I. shall not release or disclose criminal records or data except as specified in subsections (b) and (c).

Approved July 20, 1990.

CHAPTER 415

FORMERLY

HOUSE BILL NO. 727
AS AMENDED BY HOUSE AMENDMENT NO. 1
AND HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1
AND HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 9, CHAPTERS 3, 11 AND 81 OF THE DELAWARE CODE RELATING TO THE POWER OF COUNTY GOVERNMENTS TO IMPOSE AND COLLECT A REALTY TRANSFER TAX.

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

Section 1. Amend Section 330(a) of subchapter II of Chapter 3, Title 9, Delaware Code by adding a new subparagraph (4) to said section to read as follows:

"(4) Have the power and authority to impose and collect by ordinance a tax upon the transfer of real property situate within unincorporated areas of the county, subject to the conditions and limitations provided in Section 8102 of this title."

Section 2. Amend Section 1101 of Chapter 11, Title 9, Delaware Code by adding a sentence at the end of said section to read as follows:

"This grant of power shall also include the power to impose and collect by ordinance a tax upon the transfer of real property situate within the unincorporated areas of the county, subject to the conditions and limitations provided in Section 8102 of this title."

Section 3. Amend Chapter 81, Title 9, Delaware Code by adding a new Section 8102 and renumbering the remaining sections of Chapter 81, subchapter 1, Title 9, in sequence, said new Section 8102 to read as follows:

"Section 8102. Transfers of real property subject to county taxation.

Notwithstanding any statute to the contrary, the county government of each county shall have the power by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by the county, upon the transfer of real property within the unincorporated areas of the county; provided, however, that any realty transfer tax which is imposed by any county government shall not be greater than 1 percent of the value of the real property as represented by the document transferring the property; and further provided, that the county government shall by ordinance exempt from such taxation first time home buyers. Any revenues from a tax upon the transfer of real property derived from an ordinance hereinafter adopted by the Government of Kent County pursuant to the provisions of this Act shall first be dedicated for and applied to Kent County's cost component of the Statewide Paramedic Funding program as is more particularly set forth in Title 16, Chapter 98, Part X §9814 of the Delaware Code.

The provisions of Section 5401 and Section 5403 of Chapter 54 of Title 30 of the Delaware Code shall apply with respect to any realty transfer tax imposed by a county government pursuant to the authority granted in this section.

The funds realized by the counties pursuant to this section shall be segregated from the counties' general fund and the funds, and all interest thereon, shall be expended solely for capital and operating costs of public safety services, including police, fire, emergency medical, ambulance and paramedic services and related service such as 911 enhanced emergency number service and other emergency communication services and public works services, including, but not limited to, sewer, drainage and erosion regulation and enforcement."

Section 4. The government of each county may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the authority conferred in this Act. If the taxing power and authority granted in the Act shall be exercised by way of a stamp affixed to a document, the Recorder of Deeds in and for the county where said tax is imposed shall not receive for record documents subject to said tax unless stamps are affixed thereto.

Approved July 20, 1990.

CHAPTER 416

FORMERLY

HOUSE BILL NO. 104
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 83, TITLE 29 OF THE DELAWARE CODE RELATING TO THE AUTHORIZATION OF COMPENSATORY PAYMENTS TO THE CITY OF DOVER FOR CERTAIN EXEMPT PROPERTIES OWNED BY THE STATE OF DELAWARE.

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

Section 1. Amend Chapter 83, Title 29 of the Delaware Code by adding a new §8318 to read as follows:

"§8318. Compensatory Payments for Certain Exempt Properties Owned by The State of Delaware to the City of Dover

(a) The city of Dover shall appraise and assess real property taxes on all property owned by the State of Delaware lying within the City limits of the City of Dover and shall annually submit statements of these appraisals and assessments unto the Secretary of the Department of Finance, said assessments and appraisals to be in accordance with the procedure for appraising and assessing real property in the City of Dover.

(b) The Secretary of the Department of Finance shall examine and inspect the assessment and appraisals submitted by the City of Dover and shall have all rights to question the assessments and appeal any decisions regarding the same. If the Secretary of the Department of Finance is satisfied that the assessments and appraisals are accurate, then he shall direct payment of 7.7 percent of the assessed tax to the City of Dover."

Approved July 23, 1990.

FORMERLY

HOUSE BILL NO. 762
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 58, TITLE 29, DELAWARE CODE RELATING TO A CODE OF CONDUCT FOR STATE EMPLOYEES, STATE OFFICIALS AND CERTAIN LOCAL GOVERNMENTAL OFFICIALS.

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

Section 1. State Employees, Officers and Officials' Code of Conduct. Amend Subchapter I, Chapter 58, Title 29, Delaware Code, by striking Subchapter I in its entirety and substituting in lieu thereof the following:

"Subchapter I. State Employees, Officers and Officials' Code of Conduct.

§5801. Short Title.

This Subchapter shall be known and may be cited as the State Employees, Officers and Officials' Code of Conduct.

§5802. Legislative Findings and Statement of Policy.

The General Assembly finds and declares:

(1) In our democratic form of government, the conduct of officers and employees of the State must hold the respect and confidence of the people. They must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

(2) To ensure propriety and to preserve public confidence, officers and employees of the State must have the benefit of specific standards to guide their conduct and of some disciplinary mechanisms to guarantee uniform maintenance of those standards. Some standards of this type are so vital to government that violation thereof should subject the violator to criminal penalties.

(3) In our democratic form of government, it is both necessary and desirable that all citizens should be encouraged to assume public office and employment, and that, therefore, the activities of officers and employees of the State should not be unduly circumscribed.

§5803. Construction.

This subchapter shall be construed to promote high standards of ethical conduct in state government.

§5804. Definitions.

For the purposes of this subchapter:

"Close relative" means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.

"Commission" or "Ethics Commission" means the State Ethics Commission established by this subchapter.

"Compensation" means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by himself or another.

A person has a "financial interest" in a private enterprise if (i) he has a legal or equitable ownership interest in the enterprise of more than 10% (1% or more in the case of a corporation whose stock is regularly traded on an established securities market) (ii) he is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of $5,000 for services as an employee, officer, director, trustee or independent contractor; or (iii) he is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

"Matter" means any application, petition, request, business dealing or transaction of any sort.

"Person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

"Private enterprise" means any activity conducted by any person, whether conducted for profit or not for profit and includes the ownership of real or personal property; provided that private enterprise does not include any activity of the State or of any political subdivision or of any agency, authority or instrumentality thereof.

"State" means the State of Delaware and includes any state agency.

"State agency" means any office, department, board, commission, committee, court, school district, board of education and all public bodies existing by virtue of an act of the General Assembly or of the Constitution of the State, excepting only political subdivisions of the State, their agencies and other public agencies not specifically included in this definition which exist by virtue of state law, and whose jurisdiction (i) is limited to a political subdivision of the State or to a portion thereof, or (ii) extends beyond the boundaries of the State.

"State employee" means any person (A) who receives compensation as an employee of a state agency or (B) who serves as an appointed member, trustee, director or the like of any state agency and who receives or reasonably expects to receive more than $5,000 in compensation for such service in a calendar year (not including any reimbursement for expenses); provided that "state employee" does not include (i) members of the General Assembly; (ii) the Chief Justice and Associate Justices of the Supreme Court, (iii) the Chancellor and Vice-Chancellors of the Court of Chancery, (iv) the President Judge and Associate Judges of Superior Court, (v) the Chief Judge and Associate Judges of Family Court, (vi) the Chief Judge and Resident Judges of the Court of Common Pleas, (vii) the Chief Judge and Associate Judges of Municipal Court, (viii) the Chief Magistrate and Justices of the Peace, (ix) state officers, or (x) honorary state officials.

"State officer" means any person who is required by Subchapter II of this Chapter to file a financial disclosure statement but does not include (i) members of the General Assembly, (ii) the Chief Justice and Associate Justices of the Supreme Court, (iii) the Chancellor and Vice-Chancellors of the Court of Chancery, (iv) the President Judge and Associate Judges of Superior Court, (v) the Chief Judge and Associate Judges of Family Court, (vi) the Chief Judge and Resident Judges of the Court of Common Pleas, (vii) the Chief Judge and Associate Judges of Municipal Court or (viii) the Chief Magistrate and Justices of the Peace.

"Honorary state official" means a person who serves as an appointed member, trustee, director or the like of any state agency and who receives or reasonably expects to receive not more than $5,000 in compensation for such service in a calendar year (not including any reimbursement for expenses).

§5805. Prohibitions Relating To Conflicts Of Interest.

(a) Restrictions on exercise of official authority.

(i) No state employee, state officer or honorary state official may participate on behalf of the State in the review or disposition of any matter pending before the State in which he has a personal or private interest provided that, upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of his duties with respect to that matter.

(ii) A person has an interest which tends to impair his independence of judgment in the performance of his duties with respect to any matter when:

(a) any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons, or

(b) the person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

(b) Restrictions On Representing Another's Interest Before the State.

(i) No state employee, state officer or honorary state official may represent or otherwise assist any private enterprise with respect to any matter before the state agency with which the employee, officer or official is associated by employment or appointment.

(ii) No state officer may represent or otherwise assist any private enterprise with respect to any matter before the State.

(iii) This subsection shall not preclude any state employee, state officer or honorary state official from appearing before the State or otherwise assisting any private enterprise with respect to any matter in the exercise of his official duties.

(c) Restrictions On Contracting With The State. No state employee, no state officer and no private enterprise in which a state employee or state officer has a legal or equitable ownership of more than 10% (more than 1% in the case of a corporation whose stock is regularly traded on an established securities market) shall enter into any contract with the State (other than an employment contract) unless such contract was made or let after public notice and competitive bidding; provided that such notice and bidding requirements shall not apply to contracts not involving more than $2,000 per year if the terms of such contract reflect arms' length negotiations. "For the period of July 1, 1990 through June 30, 1991; nothing in this Subsection shall prohibit a state employee, a state officer, or a private enterprise in which a state employee or a state officer has a legal or equitable ownership of more than 10% (more than 1% in the case of a corporation whose stock is regularly traded on an established securities market) from contracting with a public school district and/or the State Board of Education for the transportation of school children without public notice and competitive bidding as is permitted under §6916 of this Title."

(d) Post Employment Restrictions. No person who has served as a state employee, state officer or honorary state official shall represent or otherwise assist any private enterprise on any matter involving the State, for a period of two years after termination of his employment or appointed status with the State, if he gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of his official duties as a state employee, officer or official.

(e) Unauthorized Disclosure Of Confidential Information. No person shall disclose any information required to be maintained confidential by the Commission under Sections 5806(d), 5807(b) or (d) or 5810(h).

(f) Criminal Sanctions.

(i) Any person who knowingly or willfully violates any provision of this Section shall be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more than one year and by a fine not to exceed $10,000.

(ii) A prosecution for a violation of this Section shall be subject to the time limitations of Title 11 Delaware Code Section 205.

(iii) The Superior Court shall have exclusive jurisdiction over prosecution for all criminal violations of this Section.

(g) Contracts Voidable By Court Action. In addition to any other penalty provided by law, any contract entered into by any state agency in violation of this subchapter shall be voidable by the state agency; provided that in determining whether any court action should be taken to void such a contract pursuant to this subsection, the state agency shall consider the interests of innocent third parties who may be damaged thereby. Any court action to void any transaction must be initiated within 30 days after the state agency involved has, or should have, knowledge of such violation.

§5806. Code of Conduct.

(a) Each state employee, state officer and honorary state official shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is

(b) No state employee, state officer or honorary state official shall have any interest in any private enterprise nor shall he incur any obligation of any nature which is in substantial conflict with the proper performance of his duties in the public interest. No state employee, state officer or honorary state official shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any of the following:

(i) impairment of independence of judgment in the exercise of official duties;

(ii) an undertaking to give preferential treatment to any person;

(iii) the making of a governmental decision outside official channels; or

(iv) any adverse effect on the confidence of the public in the integrity of the government of the State.

(c) No state employee, state officer, or honorary state official shall acquire a financial interest in any private enterprise which he has reason to believe may be directly involved in decisions to be made by him in an official capacity on behalf of the State.

(d) Any state employee or state officer who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, any state agency (and any honorary state official who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, the state agency on which he serves as an appointee) shall file with the Ethics Commission a written statement fully disclosing the same. Such disclosure shall be confidential and the Ethics Commission shall not release such disclosed information, except as may be necessary for the enforcement of this subchapter. The filing of such disclosure statement shall be a condition of commencing and continuing employment or appointed status with the State.

(e) No state employee, state officer or honorary state official shall use his public office to secure unwarranted privileges, private advancement or gain.

(f) No state employee, state officer or honorary state official shall engage in any activity beyond the scope of his public position which might reasonably be expected to require or induce him to disclose confidential information acquired by him by reason of his public position.

(g) No state employee, state officer or honorary state official shall, beyond the scope of his public position, disclose confidential information gained by reason of his public position nor shall he otherwise use such information for personal gain or benefit.

(h) No state employee, state officer or honorary state official, in the course of his public responsibilities, shall use the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable treatment by that person or a state agency.

§5807. Waivers of Restrictions and Advisory Opinions.

(a) Notwithstanding the provisions of Sections 5805 and 5806 of this Title, upon the written request of any state agency or of any individual who is or was a state employee, state officer or honorary state official, the Ethics Commission may grant a waiver to the specific prohibitions contained therein if the Ethics Commission determines that the literal application of such prohibition in a particular case is not necessary to achieve the public purposes of this chapter or would result in an undue hardship on any employee, fficer, official or state agency. Any such waiver may be granted only by written decision of the Ethics Commission. Any person who acts in good faith reliance upon any such waiver decision shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the waiver decision provided there was a full disclosure to the Ethics Commission of all material facts necessary for the waiver decision.

(b) Any application for a waiver, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that (i) public disclosure shall be made by the Commission upon the written request of the applicant, (ii) the Commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this subchapter (iii) the Commission shall report to appropriate federal and State authorities substantial evidence of any criminal violation which may come to its attention, and (iv) in the event that a waiver is granted, the waiver

decision and the record of all proceedings relating thereto shall be open to public inspection.

(c) Upon the written request of any state employee, state officer, honorary state official or state agency, the Commission may issue an advisory opinion as to the applicability of this subchapter to any particular fact situation. Any person who acts in good faith reliance upon any such advisory opinion shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the advisory opinion provided there was a full disclosure to the Ethics Commission of all material facts necessary for the advisory opinion.

(d) Any application for an advisory opinion, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that (i) public disclosure shall be made by the Commission upon the written request of the applicant, (ii) the Commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this subchapter and (iii) the Commission shall report to appropriate federal and state authorities substantial evidence of any criminal violation which may come to its attention.

§5808. State Ethics Commission; Establishment, Membership, Offices.

(a) There is hereby established the State Ethics Commission to administer and implement this subchapter. The Commission shall consist of seven members appointed by the Governor with the concurrence of the Senate. Not more than four members shall be registered with the same political party. No member shall hold any elected or appointed office under the government of the United States or the State or be a candidate for any such office. No member shall hold any political party office or an office in any political campaign. Members of the Commission may be removed by the Governor, with the concurrence of the Senate, for substantial neglect of duty, gross misconduct in office or violation of this law.

(b) A member of the Commission shall be appointed for a term of office of seven years and until his successor has been appointed and has qualified, except that the members first appointed shall be appointed for terms of office of one, two, three, four, five, six and seven years, respectively, and until their successors have been appointed and have qualified. No member shall serve for more than one full seven-year term. When a vacancy occurs in the membership of the Commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as original appointments.

(c) The Commission shall elect a chairman from among its membership. Four members of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least four members. Otherwise the Commission may delegate authority to the chairman to act for the Commission between meetings.

(d) Each member of the Commission shall be compensated at the rate of $100.00 for each day devoted to the performance of his official duties. Each member of the Commission shall be reimbursed for reasonable and necessary expenses incurred in the performance of official duties.

(e) The Attorney General shall provide legal counsel to the Commission and shall be the legal representative of the Commission in connection with its duties hereunder.

(f) The Attorney General shall investigate complaints referred by the Commission and shall prosecute all complaints before the Commission. The investigatory and prosecutorial functions of the Attorney General shall be performed by personnel who are not serving as legal counsel to the Commission.

(g) The principal office of the Commission shall be in Dover but it may meet, and exercise its power, at any other place in the state.

§5809. State Ethics Commission; Power and Duties.

(a) The powers and duties of the Ethics Commission shall be as follows:

(1) To recommend to the General Assembly from time to time such rules of conduct for public employees and officials as it shall deem appropriate.

(2) To issue written advisory opinions upon the request of any state employee, state officer, honorary state official or state agency as to the applicability of this subchapter to any particular fact situation.

(3) To refer to the Attorney General to investigate any alleged violation of this subchapter and, after notice and hearing, to recommend by resolution, such disciplinary action as it may deem appropriate, to the state agency employing the state employee or state officer, the state agency with which the honorary state official is associated, the agency or official who appointed such officer or official, or other appropriate official or agency as the Commission shall determine. The Commission may also dismiss, without reference to the Attorney General, any complaint which the Commission determines is frivolous or fails to state a violation.

(4) To report to the appropriate federal or State authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding whether advisory or disciplinary.

(5) To maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of Sections 5807(b) and (d) and 5810(h).

(6) To follow the procedural rules specified in Section 5810 of this Title and to establish such other procedural rules as shall not be inconsistent with the rules prescribed therein.

(7) To subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Commission's duties or exercise of its powers.

(8) To prescribe forms for reports, statements, notices and other documents required by law.

(9) To prepare and publish manuals and guides explaining the duties of individuals covered by this subchapter; and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.

(10) To provide assistance to state agencies, employees and officials in administering the provisions of this law.

(11) To prepare reports and studies to advance the purposes of this subchapter.

(12) To contract for any services which cannot satisfactorily be performed by the office of the Attorney General.

(13) To request appropriate state agencies to provide such professional assistance as it may require in the discharge of its duties.

§5810. State Ethics Commission; Complaints; Hearings; Dispositions.

(a) Upon the sworn complaint of any person or on its own initiative, the Commission may refer to the Attorney General for investigation any alleged violations of this subchapter. The Attorney General shall be the prosecuting attorney in all disciplinary proceedings before the Commission. In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of Section 5810(h).

(b) A member of the Commission shall be ineligible to participate, as a member of the Commission, in any commission proceeding relating to his or her conduct. A member of the Commission who has been found by the Commission to have violated this subchapter shall be ineligible to serve again as a member of the Commission.

(c) A member of the Commission may disqualify himself from participating in any investigation of the conduct of any person upon submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself.

(d) With respect to any violation with which a person has been charged and which the Commission has determined as proved, the Commission may take any one or more of the following actions:

(1) Issue a written reprimand or censure of that person's conduct.

(2) With respect to a state employee or state officer, other than an elected official, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any limits imposed by Chapter 59 of this Title but within the limits of the Constitution and other laws of the State.

(3) With respect to an honorary state official, recommend that appropriate action be taken to remove the official from office.

(e) In any proceeding before the Commission, upon the request of any person charged with a violation of this subchapter, such person shall be permitted to inspect, copy, or photograph books, papers, documents, photographs, or other tangible objects which will be used as evidence against that person in a disciplinary hearing and which are material to the preparation of his defense.

(f) In any proceeding before the Commission, if the Attorney General or the Commission at any time receives any exculpatory information respecting an alleged violation against any person, it shall forthwith make such information available to such person.

(g) Any person charged with a violation of this subchapter may apply to the Commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents on his behalf. The application shall be granted upon a concise showing by such person that the proposed testimony or evidence is relevant (or is reasonably calculated to lead to the discovery of relevant evidence) and is not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(h) (i) All proceedings before the Commission relating to a violation of this subchapter by a state employee, including the disposition thereof, shall be maintained confidential by the Commission unless public disclosure is requested in writing by the state employee.

(ii) All proceedings before the Commission relating to a violation of this subchapter by a state officer shall be maintained confidential by the Commission unless public disclosure is requested in writing by the state officer or unless the Commission, based on a preliminary inquiry, determines that there is reason to believe that a violation has occurred, and serves upon the alleged violator a statement of the alleged facts of such violation. After the service of such a statement on such person, all proceedings relating thereto shall be open to the public and the statement and any other paper filed thereafter respecting such violation shall be made available for public inspection at reasonable hours.

(iii) All proceedings relating to a violation of this subchapter by an honorary state official shall be maintained confidential by the Commission unless public disclosure is requested in writing by the honorary state official or unless the Commission determines that a violation has occurred and so informs the official. At and after the time of so informing the official, the Commission shall make the record of all proceedings relating thereto available for public inspection at reasonable hours and all subsequent proceedings relating thereto, if any, shall be open to the public.

(iv) Notwithstanding the confidentiality requirements of clauses (i)-(iii) above, the Commission shall make available for public inspection the record of all proceedings relating to any decision of the Commission which is appealed to Superior Court and the Commission shall report to appropriate federal or State authorities any substantial evidence of a violation of any criminal law which comes to its attention in connection with any proceeding under this subchapter.

(v) The Chairman of the Commission shall, with the approval of the Commission, establish such procedures as in the Chairman's judgment may be necessary to prevent the disclosure of any record of any proceedings or other information received by the Commission or its staff except as permitted by this subchapter.

§5811. Judicial Review. In the event that the Commission finds that any person has violated any provision of this subchapter, said person shall have a right of appeal to Superior Court of any such finding and of any sanctions imposed with respect thereto by filing a notice of appeal with the Superior Court within 30 days of the final action by the Commission in a particular case. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the Commission for further proceedings on the record. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the Commission's decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

Section 2. Code of Conduct Legislation for Local Government Officials. It is the desire of the General Assembly that all local governmental units adopt code of conduct legislation similar to this Act to apply to their public officials. Within two years after the effective date of this Act, the Ethics Commission established hereunder shall report to the General Assembly as to the existence of such legislation and shall make a recommendation to the General Assembly with respect to legislation to be adopted to cover such officials not then covered by legislation similar to this Act.

Section 3. Effective Date. This Act shall become effective six months after it is enacted in accordance with law.

Approved July 23, 1990.

CHAPTER 418

FORMERLY

SENATE BILL NO. 498

AN ACT TO AMEND CHAPTER 58, TITLE 29 OF THE DELAWARE CODE RELATING TO FINANCIAL DISCLOSURE REQUIREMENTS OF PUBLIC OFFICIALS.

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

Section 1. Amend §5812, Title 29 of the Delaware Code to add the following new clause "(o)" at the end thereof:

> "(o) 'Gift' means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received. 'Gift' shall not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a spouse or any relative within the third degree of consanguinity of the person or person's spouse or from the spouse of any such relative."

Section 2. Amend §5813(a)(4) of Title 29, Delaware Code by adding "or" at the end of clause "d" and by adding the following new clause "e":

> "(e) Any gift with a value in excess of $250 received from any person, identifying also in each case the amount of each such gift."

Section 3. This Act shall apply to financial disclosure statements filed after the date of enactment.

Approved July 23, 1990.

CHAPTER 419

FORMERLY

SENATE BILL NO. 497

AN ACT TO AMEND TITLE 29, DELAWARE CODE, CONCERNING LEGISLATIVE CONFLICTS OF INTEREST AND ESTABLISHING HOUSE AND SENATE ETHICS COMMITTEES.

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

Section 1. Amend Title 29, Delaware Code, by adding a new Chapter 10 thereto to read as follows:

"Chapter 10

LEGISLATIVE CONFLICTS OF INTEREST

§1001 Findings.

(a) The General Assembly hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. In serving the public interest, it is a legislator's right and responsibility to vote upon all questions before the House of which he or she is a member and to participate in the business of the House and its Committees, and in doing so, he or she is presumed to be acting in good faith and in the public interest.

(b) The General Assembly also acknowledges that the exercise of legislative rights is subject to limitations provided in Article II, Section 20 of the Delaware Constitution when personal or private interests conflict with the public interest.

(c) The purpose of this chapter is to define the limitations of Article II, Section 20 of the Delaware Constitution and to provide for its implementation and enforcement.

§1002 Restrictions Relating to Personal or Private Interest.

(a) A legislator who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to the House of which he or she is a member and shall not participate in the debate nor vote thereon; provided that, upon the request of any other member of the House or Senate, as the case may be, a legislator who has such a personal or private interest may nevertheless respond to questions concerning any such measure or bill. A personal or private interest in a measure or bill is an interest which tends to impair a legislator's independence of judgment in the performance of his or her legislative duties with respect to that measure or bill.

(b) A legislator has an interest which tends to impair his or her independence of judgment in the performance of his or her legislative duties with regard to any bill or measure when:

(1) the enactment or defeat of the measure or bill would result in a financial benefit or detriment to accrue to the legislator or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons, or

(2) the legislator or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure or bill to a lesser or greater extent than like enterprises or other interests in the same enterprise, or

(3) a person required to register as a legislative agent pursuant to Chapter 16 of Title 29 of the Delaware Code is a close relative of the legislator and that person acts to promote, advocate, influence or oppose the measure or bill.

(c) Disclosure required under subsection (a) shall be made in open session (i) prior to the vote on the measure or bill by any Committee of which the legislator is a member and (ii) prior to the vote on the measure or bill in the House of which the legislator is a member.

(d) A legislator who violates the provisions of this section shall be subject to such sanction as shall be prescribed by the House of which he or she is a member pursuant to rules adopted under Article II, Section 9 of the Delaware Constitution.

§1003 Legislative Ethics Committees.

The House and the Senate shall each establish an Ethics Committee which shall have the responsibilities assigned in this section with respect to the enforcement of this chapter and such other responsibilities as may be assigned by the House or the Senate as the case may be. Each Ethics Committee may, upon the request of a member, provide a written advisory opinion as to the application of this chapter to a particular situation. Any member who acts in good faith in reliance upon any such written advisory opinion shall not be subject to any disciplinary proceeding by the respective House with respect to the matters covered by the advisory opinion provided there was a full disclosure to the Ethics Committee of all facts necessary for the opinion. All proceedings before an Ethics Committee in connection with an advisory opinion shall be confidential, subject to the following: (i) the legislator involved may waive the privilege of confidentiality; (ii) the proceedings shall no longer be confidential and may be made public in any subsequent disciplinary proceeding if the legislator acts in disregard of an advisory opinion; and (iii) each Ethics Committee shall maintain records of its proceedings and advisory opinions which shall be available for reference by the Committee, subsequent Committees and their staff. Each Committee shall investigate allegations of violations of this chapter by the members of the respective House and shall make recommendations to the respective House with respect thereto. If in the course of any proceeding, advisory or investigative, the Committee shall become aware of any substantial evidence of a violation of any law involving legislative conduct subject to its jurisdiction it shall report the same to the appropriate federal or state authorities.

§1004 Definitions.

For the purposes of this Chapter:

(a) A 'close relative' means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.

(b) A 'private enterprise' means any activity whether conducted for profit or not for profit and includes the ownership of real or personal property; provided that 'private enterprise' does not include any activity of the State of Delaware, any political subdivision or any agency, authority or instrumentality thereof.

(c) A person has a 'financial interest' in a private enterprise if he or she:

(1) has a legal or equitable ownership interest in the enterprise of more than 10% (1% in the case of a corporation whose stock is regularly traded on an established securities market); or

(2) is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of $5,000 for services as an employee, officer, director, trustee or independent contractor; or

(3) is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

(d) A 'person' means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities."

Section 2. This Act shall become effective upon enactment.

Approved July 23, 1990.

CHAPTER 420

FORMERLY

SENATE BILL NO. 496

AN ACT TO AMEND CHAPTER 5, TITLE 11 AND CHAPTER 86, TITLE 29 OF THE DELAWARE CODE RELATING TO PAYMENTS BY CHECK.

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 Subchapter III, Subpart I, Title 11 of the Delaware Code by adding thereto a new section to read as follows:

"§915 Use of Credit Card Information

(a) In this section, the following words have the meanings indicated.

(1) 'Drawer' means the individual who makes or signs a check or other draft.

(2) 'Draft' does not include a credit or debit card sales draft.

(b) Subject to the provisions of subsection (c) of this section, as a condition of accepting a check or other draft as payment for consumer credit, goods, realty, or services, a person may not request or record the account number of any credit card of the drawer of the check or other draft.

(c) The provisions of this section do not prohibit a person from:

(1) Requesting the drawer to display a credit card for purposes only of identification or credit worthiness;

(2) Requesting or recording the type or issuer of a credit card of the drawer; or

(3) Recording the number and expiration date of a credit card if the person requesting the information has agreed with the credit card issuer to cash checks as a service to the issuer's cardholders and the issuer has agreed to guarantee payment of cardholder checks cashed by that person.

(d) Violation of this section is an unclassified misdemeanor."

Section 2. Amend §8612(b)(1), Title 29, Delaware Code by inserting after the phrase "and §1311(2) and (3) of Title 11 by vendors for the purpose of selling goods or services" the phrase "and §915 of Title 11".

Approved July 24, 1990.

CHAPTER 421

FORMERLY

SENATE BILL NO. 489

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 REVISE THE PROCEDURE FOR CERTAIN IMPROVEMENTS TO THE SIDEWALKS, CURBS AND GUTTERS.

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 35, Chapter 170, Volume 57, Laws of Delaware, as amended, by striking said Section 35 in its entirety and substituting in lieu thereof a new Section 35 to read as follows:

"CURBING AND PAVING

Section 35. (a) The City Council shall have the power to cause to be paved or repaved the sidewalks of said City, or any part or portion thereof, to cause to be repaired or relaid existing curbs or gutters, or both, or any part or portion thereof, or to cause to be laid, installed or constructed new curbs or gutters, or both, or any part or portion thereof with such material or materials and of such width or size and subject to such specifications as the City Council shall determine.

(b) Before the exercise of said power in any particular instance, the City Council shall adopt an ordinance or resolution stating in effect that on a named day and at a named hour and place, the City Council will meet to consider the question of paving or repaving the sidewalks, repairing existing curbs or gutters, or both, or altering existing curbs or gutters, or both, with any specified material or materials or to construct new curbs or gutters, or both.

(c) The ordinance or resolution shall specify the streets and the names and addresses of the owners of property in front of or adjacent to whose property the work shall be done.

(d) The said ordinance or resolution shall be published at least one (1) week prior to the meeting of the City Council in at least one (1) issue of a newspaper having a general circulation in The City of Lewes.

(e) The City Council shall hold a meeting in said City pursuant to the provisions of said ordinance or resolution and at such meeting shall hear the owners of property and other residents of the City appearing on the question referred to in the said ordinance or resolution.".

(f) Following said hearing, the City Council, either at said meeting or at a subsequent meeting, shall decide whether to proceed with the improvements referred to in said ordinance or resolution, or any part thereof, and if it shall decide to proceed, it shall determine whether the whole or some specified proportion of the cost of the improvements, repairs or replacements shall be assessed to the owner or owners of the property in front of or adjacent to whose property the said improvements, repairs or replacements are being constructed or installed. If the City Council concludes that the whole or a specified proportion of said cost shall be borne by said owners, the said owners shall be compelled to pay the whole or the specified proportion of the costs of the said work, the amount to be paid to be determined by the linear frontage of the parcel in front of which the sidewalk is to be paved or repaved or of the gutter to be laid, repaired or replaced or the curb to be repaired, constructed, or installed or any or all of said improvements, as the case may be.

(g) When the said paving or repaving, curbing or recurbing, guttering or reguttering, or any or all of them shall have been completed and the costs thereof ascertained, the City Council shall ascertain the amount that the owner of each parcel of property shall pay and shall give written notice thereof to such owner, or one of the co-owners if there be more than one (1) owner, by mailing the same to his last known address by first class mail with postage prepaid. If any owner shall fail to pay the specified amount within thirty (30) days after the mailing of such notice, the amount, together with costs and interest may be collected by the City Manager in the same manner and under the same terms and conditions as are provided for the collection of delinquent taxes.

(h) Any notice sent to one (1) co-owner shall be notice to all owners and in a case if no owners reside within the corporate limits of The City of Lewes, notice served as set forth herein or posted upon the premises shall be sufficient.

(i) Provisions contained herein shall apply to any ordinance or resolution enacted or adopted by the City Council in respect to any pavement, sidewalk, gutter or curb heretofore made or done which the said City Council may deem to need repair or replacement."

Approved July 24, 1990.

CHAPTER 422

FORMERLY

SENATE BILL NO. 488

AN ACT TO AMEND CHAPTER 83, TITLE 11, CHAPTER 39, 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, 1989.

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 (i) to read as follows:

"(i) Any monthly service or disability pension which became effective on or before July 1, 1989 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, 1989 and is payable on the date this subsection is enacted into law shall be increased effective July 1, 1990, by 2% plus .3% for each full month of retirement preceding January 1, 1975, up to a maximum of 15%. These increases shall continue to be paid through June 30, 1992 and every fiscal year thereafter provided that funds are appropriated in accordance with §5544(k) 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 (f) to read as follows:

"(f) Any pension under this Chapter that is payable on the date this subsection is enacted into law shall be increased effective July 1, 1990, by $60 a month."

Section 3. Amend §5544, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (k) to read as follows:

"(k)(1) The State's obligation to the State Employees' Pension Trust Fund, the State Judiciary Retirement Fund, and the State Police Retirement Fund to implement the provisions of §5532(i) of this Chapter shall be the payment required to amortize the unfunded accrued liability over two years from July 1, 1990.

(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(i) of this Chapter in fiscal year 1991 shall be the lump sum actuarial liability of the benefits granted."

Section 4. This Act shall become effective on July 1, 1990, provided that there are sufficient funds appropriated in the fiscal year 1991 Budget Appropriation Act.

Approved July 23, 1990.

CHAPTER 423

FORMERLY

SENATE BILL NO. 486
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 11 AND CHAPTER 86, TITLE 29 OF THE DELAWARE CODE RELATING TO PAYMENTS BY CREDIT CARDS.

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, Subchapter III, Subpart I, Title 11 of the Delaware Code by adding there to a new section to read as follows:

"§914 Use of Consumer Identification Information

(a) Except as provided in subsection (b) of this section, as a condition of accepting a credit card as payment for consumer credit, goods, realty, or services, a person may not write down or request to be written down the address and/or telephone number of the credit card holder on the credit card transaction form.

(b) A person may record the address or telephone number of a credit card holder if:

(1) the information is necessary for:

(I) the shipping, delivery, or installation of consumer goods; or

(II) special orders of consumer goods or services;

(2) Authorization from the credit card issuer as to the availability of credit is not required by the issuer to complete the credit card transaction; or

(3) The person processes credit card transactions by mailing transaction forms to a designated bankcard center for settlement.

(c) Violation of this section is an unclassified misdemeanor."

Section 2. Amend §8612(b)(1), Title 29, Delaware Code by inserting after the phrase "and §1311(2) and (3) of Title 11 by vendors for the purpose of selling goods or services" the phrase "and §914 of Title 11".

Approved July 24, 1990.

CHAPTER 424

FORMERLY

SENATE BILL NO. 487

AN ACT TO AMEND TITLE 16, DELAWARE CODE RELATING TO THE REPORTING OF CERTAIN INJURIES AND WOUNDS SUSTAINED IN A FIRE AND INVESTIGATIONS THEREOF.

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 66A to read as follows:

"CHAPTER 66A. REPORTING OF BURN INJURIES AND WOUNDS

§6601A. Burn Injury and Wounds to be Reported

Every case of a burn injury or wound, where the victim sustained second or third degree burns to five percent or more of the body and/or any burns to the upper respiratory tract with laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported to the Office of State Fire Marshal. The State Fire Marshal shall accept the report and notify the proper investigatory agency. The report shall be provided to the Office of the State Fire Marshal within seventy-two hours of the initial treatment. The report shall be made by (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital or other health care facility. The intentional failure to make such report is a Class A misdemeanor.

§6602A. Responsibility of State Fire Marshal

The Office of the State Fire Marshal shall have the authority to:

(a) Advise and assist fire companies, municipal corporations and districts, including agencies and department thereof in developing measures for more effective fire and arson prevention and control; to assist and encourage cooperative efforts to solve common problems relating to fire and arson prevention and control and to serve as a clearinghouse of information about fire and arson prevention and control, about reported cases of burn injuries or wounds sustained, and about state and federal services available to assist in solving such problems.

(b) Employ or contract with individuals, agencies or corporations to assist fire companies, municipal corporations and districts in the development of an arson investigation program or in the investigation of cases of suspected arson or cases or burn injuries or wounds sustained upon the request of such an entity. However, nothing in this provision shall be construed to remove the primary responsibility for arson investigations from appropriate local jurisdictions or agencies.

(c) Establish a burn registry data bank and disseminate information relating to fire and arson prevention and control, reported cases of burn injuries or wounds sustained, and to operate a state fire reporting system. The state fire reporting system shall include a procedure for the identification of patterns of suspicious, accidental, or criminal fires and for alerting appropriate state and local authorities. The fire reporting system shall also include fire incident data supplied by local fire agencies in a manner and on forms prescribed by the State Fire Marshal. To the extent practicable, the data shall be collected and maintained in a form compatible with information collected by other Delaware agencies, other states and the federal government. The State Fire Marshal shall cooperate with the division of State Police, Insurance Department, local police, fire and health agencies, the insurance industry and other appropriate organizations in maintaining such system."

Approved July 24, 1990.

CHAPTER 425

FORMERLY

SENATE BILL NO. 437

AN ACT TO AMEND CHAPTER 9, TITLE 4, DELAWARE CODE, RELATING TO PENALTIES FOR POSSESSION OR CONSUMPTION OF ALCOHOLIC LIQUORS BY THOSE UNDER THE AGE OF 21

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(f), Chapter 9, Title 4, Delaware Code, by striking the phrase "shall not be fined more than $25." as it appears therein, and by stubstituting in lieu thereof the following:

"shall have their State of Delaware driver's license revoked for a period of 30 days for the first offense and not less than 90 days nor more than 180 days for each subsequent offense. If the underage person does not have a State of Delaware driver's license, the person shall be fined $100 for the first offense and not less than $200 nor more than $500 for each subsequent offense."

Approved July 23, 1990.

CHAPTER 426

FORMERLY

SENATE BILL NO. 436

AN ACT TO AMEND TITLE 10 DELAWARE CODE RELATING TO THE MONETARY LIMITATION OF THE JUSTICE OF THE PEACE COURTS IN CIVIL ACTIONS.

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

Section 1. Amend §9301, Chapter 93, Title 10, Delaware Code by striking the figure "$2,500" wherever it appears in said section and inserting in lieu thereof the figure "$5,000."

Section 2. Amend §9303 (a) and (b) of Chapter 93, Title 10, Delaware Code by striking the figure "$2,500" as they appear in said subsection (a) and subsection (b) and substituting in lieu thereof the figure "$5,000."

Section 3. Amend §9304, Chapter 93, Title 10, Delaware Code by striking the figure "$2,500 as it appears in said section and substituting in lieu thereof the figure "$5,000."

"Section 4. Amend §9536(b) and (c) of Title 10, Delaware Code by striking the figure "$2,500" as it appears in said subsections (b) and (c) and substituting in lieu thereof the figure "$5,000".

Section 5. Amend §9573(b) of Title 10, Delaware Code by striking the figure "$2,500" as it appears in said section and substituting in lieu thereof the figure "$5,000".

Section 6. Amend §9583 of Title 10, Delaware Code by striking the figure "$2,500" as it appears in said section and substituting in lieu thereof the figure "$5,000".

Section 7. Amend §9615(a) of Title 10, Delaware Code by striking the figure "$2,500" as it appears in said section and substituting in lieu thereof the figure "$5,000"."

Approved July 23, 1990.

CHAPTER 427

FORMERLY

SENATE BILL NO. 435

AN ACT TO AMEND CHAPTER 47, TITLE 16, DELAWARE CODE, RELATING TO TRAFFICKING IN DRUGS.

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

Section 1. Amend §4753A, Chapter 47, Title 16, Delaware Code, by adding thereto a new subsection (e) to read as follows:

"(e) In any prosecution under this Section the State need not prove that the defendant had any knowledge as to the weight of substance possessed. The State need only prove that the defendant knew that the substance was possessed; and, that in fact the substance was that which is alleged and that the substance in fact weighed a certain amount."

Approved July 23, 1990.

CHAPTER 428

FORMERLY

SENATE BILL NO. 430
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 156, VOLUME 61 LAWS OF DELAWARE AS AMENDED, ENTITLED, "AN ACT TO REINCORPORATE THE CITY OF MILFORD" RELATING TO VARIOUS MISCELLANEOUS MATTERS TO INCLUDE INCREASE CONTRACT LIMITS, MEETINGS AND MEMBERS OF COUNCIL, MUNICIPAL ELECTIONS, ANNEXATION, CHANGE OF MUNICIPAL DISTRICTS AND REALTY TRANSFER TAX.

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, Section 1.01(B)(1), Chapter 156, Volume 61, Laws of Delaware by deleting "$5,000.00" and substituting in lieu thereof, "$10,000.00."

Section 2. Amend Article II, Section 2.01, Chapter 156, Volume 61, Laws of Delaware by deleting from the first sentence of the second paragraph the word "Tuesday" and substituting in lieu thereof the word "Monday".

Section 3. Amend Article II, Section 2.05(C), Chapter 156, Volume 61, Laws of Delaware by deleting from the first sentence and the second sentence the words "Sixty (60) days" and substituting in lieu thereof "One (1)" year.

Section 4. Amend Article II, Section 2.12(b), Chapter 156, Volume 61, Laws of Delaware by deleting the word "again".

Section 5. Amend Article IV, Section 4.02, Chapter 156, Volume 61, Laws of Delaware by deleting in the first sentence the words "at the annual meeting hereinbefore provided."

Section 6. Amend Article VII, Section 7.01(A), Chapter 156, Volume 61, Laws of Delaware by deleting the words "eight o'clock (8:00) in the morning" and substituting in lieu thereof, "twelve (12) noon".

Section 7. Amend Article VII, Section 7.01(B), Chapter 156, Volume 61, Laws of Delaware by deleting the words "three citizens" and substituting in lieu thereof, "no less than three nor more than five citizens" and by deleting the words, "last regular" and substituting in lieu thereof "regular March".

Section 8. Amend Article VII, Section 7.01(H), Chapter 156, Volume 61, Laws of Delaware

by deleting in the first and second sentences the words "Ten (10) days" and substituting in lieu thereof the words "Thirty (30) days".

Section 9. Amend Article VII, Section 7.06(C)(1), Chapter 156, Volume 61, Laws of Delaware by deleting the period at the end of the sentence and adding the following, "or other natural boundaries or survey lines as required."

Section 10. Amend Article X(b), Paragraph 9, Chapter 156, Volume 61, Laws of Delaware, by deleting the words "Seven o'clock in the morning" and substituting in lieu thereof "Twelve noon".

Section 11. Amend Article X(b), Chapter 156, Volume 61, Laws of Delaware by deleting in Paragraph Eleven the words, "One (1) year" and substituting in lieu thereof, "One Hundred Eighty (180) days".

Section 12. Amend Article XIV, Chapter 156, Volume 61 Laws of Delaware by deleting Subsection C in its entirety.

Section 13. Amend the paragraph designated "Name and Territorial Limits" of the City of Milford as it appears on Page 1 of the Charter in its entirety and substitute in lieu thereof the following:

"Name and Territorial Limits

The inhabitants of the City of Milford within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the "City of Milford."

CHAPTER 427

FORMERLY

SENATE BILL NO. 435

AN ACT TO AMEND CHAPTER 47, TITLE 16, DELAWARE CODE, RELATING TO TRAFFICKING IN DRUGS.

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

Section 1. Amend §4753A, Chapter 47, Title 16, Delaware Code, by adding thereto a new subsection (e) to read as follows:

"(e) In any prosecution under this Section the State need not prove that the defendant had any knowledge as to the weight of substance possessed. The State need only prove that the defendant knew that the substance was possessed; and, that in fact the substance was that which is alleged and that the substance in fact weighed a certain amount."

Approved July 23, 1990.

CHAPTER 428

FORMERLY

SENATE BILL NO. 430
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 156, VOLUME 61 LAWS OF DELAWARE AS AMENDED, ENTITLED, "AN ACT TO REINCORPORATE THE CITY OF MILFORD" RELATING TO VARIOUS MISCELLANEOUS MATTERS TO INCLUDE INCREASE CONTRACT LIMITS, MEETINGS AND MEMBERS OF COUNCIL, MUNICIPAL ELECTIONS, ANNEXATION, CHANGE OF MUNICIPAL DISTRICTS AND REALTY TRANSFER TAX.

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, Section 1.01(B)(1), Chapter 156, Volume 61, Laws of Delaware by deleting "$5,000.00" and substituting in lieu thereof, "$10,000.00."

Section 2. Amend Article II, Section 2.01, Chapter 156, Volume 61, Laws of Delaware by deleting from the first sentence of the second paragraph the word "Tuesday" and substituting in lieu thereof the word "Monday".

Section 3. Amend Article II, Section 2.05(C), Chapter 156, Volume 61, Laws of Delaware by deleting from the first sentence and the second sentence the words "Sixty (60) days" and substituting in lieu thereof "One (1)" year.

Section 4. Amend Article II, Section 2.12(b), Chapter 156, Volume 61, Laws of Delaware by deleting the word "again".

Section 5. Amend Article IV, Section 4.02, Chapter 156, Volume 61, Laws of Delaware by deleting in the first sentence the words "at the annual meeting hereinbefore provided."

Section 6. Amend Article VII, Section 7.01(A), Chapter 156, Volume 61, Laws of Delaware by deleting the words "eight o'clock (8:00) in the morning" and substituting in lieu thereof, "twelve (12) noon".

Section 7. Amend Article VII, Section 7.01(B), Chapter 156, Volume 61, Laws of Delaware by deleting the words "three citizens" and substituting in lieu thereof, "no less than three nor more than five citizens" and by deleting the words, "last regular" and substituting in lieu thereof "regular March".

Section 8. Amend Article VII, Section 7.01(H), Chapter 156, Volume 61, Laws of Delaware

by deleting in the first and second sentences the words "Ten (10) days" and substituting in lieu thereof the words "Thirty (30) days".

Section 9. Amend Article VII, Section 7.06(C)(1), Chapter 156, Volume 61, Laws of Delaware by deleting the period at the end of the sentence and adding the following, "or other natural boundaries or survey lines as required."

Section 10. Amend Article X(b), Paragraph 9, Chapter 156, Volume 61, Laws of Delaware, by deleting the words "Seven o'clock in the morning" and substituting in lieu thereof "Twelve noon".

Section 11. Amend Article X(b), Chapter 156, Volume 61, Laws of Delaware by deleting in Paragraph Eleven the words, "One (1) year" and substituting in lieu thereof, "One Hundred Eighty (180) days".

Section 12. Amend Article XIV, Chapter 156, Volume 61 Laws of Delaware by deleting Subsection C in its entirety.

Section 13. Amend the paragraph designated "Name and Territorial Limits" of the City of Milford as it appears on Page 1 of the Charter in its entirety and substitute in lieu thereof the following:

"Name and Territorial Limits

The inhabitants of the City of Milford within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the "City of Milford."

The boundaries and limits of the City of Milford and hereby established and declared to be as heretofore, that is to say:

BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a Northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the Western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the Western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the Southern or Southeastern line of what is known as the William T. Simpson property; thence in a Northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to Article X.

The Council may, at any time hereafter, cause a survey and plot to be made of said City, and the said plot, when made and approved by said Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

WARDS

The City of Milford shall initially be divided into four Wards: The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of five hundred feet west of the western boundary of U.S. Route 113;) thence southerly (in a line parallel to and five hundred feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and five hundred feet west of the western boundary of U.S. Route 113;) thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as

the William I. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River; thence southerly by the course of waters in Deep Branch to the center of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of five hundred feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended to the point of intersection of the centerlines of North Walnut Street and U. S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street. The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.

Section 14. Amend Article IX, Chapter 156, Volume 61, Laws of Delaware by adding a new section as follows:

9.12: Real Estate Transfer Tax

(a) The 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 City of Milford, regardless of where the instruments making the transfers are made, executed or delivered or where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfer occur; provided, however, that no tax levied under this section shall exceed on 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 volorem real estate taxes.

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

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

(d) The council may adopt an ordinance to provide for the effective administration and regulation of any tax adopted pursuant to the provisions of this section.

(e) This Section shall not become effective until it shall be approved by a majority of the qualified voters at a Special Election to be held pursuant to a Resolution adopted by the City Council of the City of Milford. The City 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 City of Milford within thirty (30) days immediately preceding the date of such Special Election. At the said Special Election, every person who is a bona fide

resident of the City of Milford 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 a Municipal Election if such a 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 a Municipal Election. The Special Election shall be held by a Board of Election to be appointed by the Mayor of the City of Milford 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 City of Milford. 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 City 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 July 23, 1990.

CHAPTER 429

FORMERLY

SENATE BILL NO. 416
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 21, DELAWARE CODE, CHAPTER 9, TITLE 10, DELAWARE CODE, AND CHAPTER 41, TITLE 21, DELAWARE CODE, RELATING TO DRIVER LICENSE QUALIFICATIONS, REVOCATION OF DRIVING PRIVILEGES, AND REVOCATION OF LICENSE.

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

Section 1. Amend Section 2707(b)(10), Chapter 27, Title 21, Delaware Code by deleting the words, "Person who, being under the age of 21 years, who has been convicted of any of the offenses listed hereinafter or who has been adjudicated delinquent as a result of acts which would constitute such offense if committed by an adult, for a period of two years from the date of conviction or adjudication of delinquency, or until said person's 18th birthday, whichever is longer." and inserting in lieu thereof the following:

"Person who has not reached his/her 21st birthday at the time of the offense, who has been convicted of or pleads guilty to, including a conviction or guilty plea pursuant to 16 Del. C. Section 4764 and qualifying for first offender election under 21 Del. C. Section 4177B, any of the offenses listed hereinafter or who has been adjudicated delinquent as a result of acts which would constitute such offense if committed by an adult, for a period of two years from the date of sentencing, or until said person's 18th birthday, whichever is longer."

Section 2. Amend Section 2707(b)(9), Chapter 27, Title 21, Delaware Code, by deleting it in its entirety and by substituting in lieu thereof the following:

"(9) A person who has not reached his/her 18th birthday upon notification by the Family court of the State pursuant to Section 937 of Title 10, for a time set by the court in its discretion."

Section 3. Amend Section 937 (b)(16) Chapter 9, Title 10, Delaware code by deleting the number "2" as the same appears therein and substituting in lieu thereof the number"4".

Section 4. Amend Section 2712, Chapter 27, Title 21, Delaware Code by redesignating the existing section as subsection (a) and by adding a new subsection (b) to read as follows:

"The Department shall not issue an operator's license to a person who has not reached his/her 18th birthday at the time of the offense if he/she has been adjudicated delinquent as a result of acts which would constitute such an offense if committed by an adult as set forth in Section 2732(a) of this Title."

Section 5. Amend Section 2732 (a), Chapter 27, Title 21, Delaware code by inserting after the words "... record of the conviction" and before the words "... of such person..." as the same appear in said section 2732(a), the following:

"or, adjudication of delinquency by Family Court for acts which would constitute such an offense if committed by an adult,"

Section 6. Amend Section 4177H(a), Title 21, Delaware Code, by deleting subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) Any person who pleads guilty to or is convicted of, including a guilty plea or conviction pursuant to 16 Delaware Code Section 4764, possession of a controlled substance under Section 4753 or 4754 of Title 16 of this code, or who is adjudicated delinquent as a result of acts which would constitute such offenses if committed by an adult, shall, in addition to any and all other penalties provided by law, have his/her driver's license and/or driving privileges revoked by the Secretary for a period of two years from the date of sentencing."

Section 7. Amend Section 4177H(b), Title 21, Delaware Code, by deleting said subsection (b) as it appears therein and substituting in lieu thereof the following:

"(b) Any person who pleads guilty to or is convicted of, including a guilty plea or conviction pursuant to 16 Delaware Code Section 4764, a violation of Sections 4751, 4752A, 4753A, 4755, 4756 or 4761 of Title 16 of this Code, or who is adjudicated delinquent as a result of acts which would constitute such offenses if committed by an adult, shall, in addition to any and all other penalties provided by law, have his/her driver's license

and/or driving privileges revoked by the Secretary for a period of three years from the date of sentencing."

Section 8. Amend Section 4177H, Title 21, Delaware Code by deleting subsection (c) in its entirety and by inserting in lieu thereof the following:

"(c) In cases where this section is applied, the Court shall immediately take possession of any Delaware issued driver's license and forthwith forward it to the Secretary, together with notification that revocation pursuant to this section has been implemented."

Approved July 23, 1990.

CHAPTER 430

FORMERLY

SENATE BILL NO. 389

AN ACT TO AMEND CHAPTER 47, TITLE 7, AND CHAPTER 80, TITLE 29, DELAWARE CODE RELATING TO THE ABOLITION OF THE RECREATIONAL ASSISTANCE FUND AND THE RECREATIONAL ADVISORY COUNCIL AND THE ESTABLISHMENT OF THE PARKS AND RECREATION COUNCIL.

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

Section 1. Amend Chapter 47, Title 7 of the Delaware Code by deleting Subchapter II, "Recreation Assistance Fund" in its entirety and redesignating the remaining Subchapter accordingly.

Section 2. Amend Section 8009, Title 29, Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§8009. Parks and Recreation Council.

(a) There is established the Parks and Recreation Council.

(b) The Parks and Recreation Council shall serve in an advisory capacity to the Director of Parks and Recreation and shall consider matters related to the planning, acquisition, development, management, conservation and programming of lands and services under the jurisdiction of the Division, and such other matters as may be referred to it by the Governor, the Secretary of the Department of Natural Resources and Environmental Control or the Director. The Council may also study, research, plan and advise the Director, the Secretary and the Governor on matters it deems appropriate to enable the Division to function in the best manner possible.

(c) The Parks and Recreation Council shall be composed of eleven members who shall be appointed as follows:

(1) Eight members shall be appointed by the Governor for three-year terms and shall be eligible for reappointment. At least five of these members shall have experience and/or expertise in the management of the Delaware State Parks and Recreation programs. The remaining members may be composed of other related disciplines including, but not limited to, cultural affairs, fish and wildlife, tourism, finance, conservation, marketing, special populations, education, or similar disciplines.

(2) The remaining three members shall be representatives of each of the Division's officially constituted advisory organizations: The Fort Delaware Society, the Natural Areas Advisory Council and a Delaware member of the Bi-State Advisory Council for the White Clay Creek Preserve. These members shall be appointed annually by their respective organizations.

(d) No more than four of the members appointed by the Governor shall be affiliated with the same political party. Any person who declines to announce his or her political affiliation shall also be eligible for appointment as a member of the Council.

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

(f) Failure to attend three consecutive regular meetings of the Council in the absence of mitigating circumstances shall be construed as a request by that member to resign from the Council and a replacement may thereafter be appointed in his or her stead.

(g) A Chairman shall be chosen by the members of the Council from among its membership and shall serve in that capacity for a term of one year. The Chairman shall be eligible for reelection.

(h) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall serve out the remainder of the term."

Approved July 23, 1990.

FORMERLY

SENATE BILL NO. 513

AN ACT TO AMEND CHAPTER 1, TITLE 14 OF THE DELAWARE CODE RELATING TO EMPLOYEES OF THE STATE BOARD OF EDUCATION.

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

Section 1. Amend §107, Chapter 1, Title 14 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§107. Superintendent of Public Instruction as Executive Secretary of Board; appointment; term; salary; qualifications; removal; vacancy.

(a) The Board shall appoint as its Executive Secretary a State Superintendent of Public Instruction. The State Superintendent and the State Board of Education shall enter into a written employment contract the duration of which shall be for a period of not less than one (1) year nor more than five (5) years.

(b) The State Superintendent shall be a graduate of a standard college and shall have not less than five (5) years experience in teaching and administration and shall possess such other qualifications as are required by the Board.

(c) The State Superintendent of Public Instruction may be removed by the State Board, during the contract period, for immorality, misconduct in office, incompetency or willful neglect of duty, upon the Board's making known to him or her in writing the charges against him or her, and giving him or her an opportunity of being heard, in person or by counsel, in his or her own defense, upon not less than ten (10) days' notice.

The State Board of Education may elect not to extend the contract of the State Superintendent upon its expiration. However, in such a case the State Board shall notify the State Superintendent in writing by certified mail, return receipt requested, at least six (6) months prior to expiration date of the existing contract that it does not intend to renew the contract thereby terminating the services of the State Superintendent. Failure to notify the State Superintendent in writing by the required date shall result in an automatic extension of the existing contract for a period of one year from its expiration date.

(d) In case of a vacancy due to death, resignation or removal, the Board shall fill the vacancy and the appointment shall be for the unexpired contract term or until a permanent successor qualifies."

Section 2. Amend §121, Chapter 1, Title 14 of the Delaware Code by deleting subsections (3), (4) and (5) in their entireties and substituting in lieu thereof the following and by renumbering the remaining subsections accordingly:

"(3) The appointment by execution of a written contract for a term of not less than one (1) year nor more than five (5) years of officers necessary for administering and developing the policies, rules and regulations of the State Board. As used in this section, the term 'officers' shall be defined as including Deputy Superintendents, Assistant Superintendents, Directors and any professionally certificated staff persons assigned to the Office of the State Superintendent. The State Board may elect not to renew the contract of any officer upon its expiration. However, in such a case the State Board shall notify the officer in writing by certified mail, return receipt requested, at least six (6) months prior to the expiration date of the existing contract that it does not intend to renew the contract thereby providing official notice that the services of the officer are to be terminated. Failure to notify an officer in writing by the required date shall result in an automatic extension of the existing contract for a period of one (1) year from its expiration date;

(4) The appointment by execution of a written contract, for a term of not less than one (1) year and not more than five (5) years, of professionally certificated staff persons other than those persons described in subsection (3) of this section, necessary for carrying out the policies, rules and regulations of the State Board. For the purposes of this subsection, certificated professional employees shall be understood to include State Supervisors, State Specialists and any other persons holding positions of similar rank. The State Board may elect not to renew the contract of a certificated professional employee upon its expiration However, in such a case, the State Board

..., return receipt requested, at least six (6) months prior to the expiration date of the existing contract that it does not intend to renew the contract thereby providing official notice that the services of the employee are to be terminated. Failure to notify an employee covered under this subsection in writing by the required date shall result in an automatic extension of the existing contract or a period of one (1) year from its expiration date. The written notification shall indicate that just cause exists for the State Board's proposed action; for the purposes of this subsection only, just cause shall be defined as including, but not limited to reduction in force, inefficiency, or unsatisfactory performance of duties;

(5) The removal, during the contract period, for immorality, misconduct in office, incompetency or willful neglect of duty of any officer or certificated professional employee appointed under this title or any special school law, giving him or her a copy of the charges against him or her, and an opportunity to be publicly heard, in person or by counsel, in his or her defense, upon not less than 10 days' notice; and whenever vacancies in any of the offices are caused by such removals, or otherwise, the Board shall fill the vacancy for the remainder of the unexpired term of the existing contract or until a successor qualifies;

(6) Providing the authority to the Superintendent to hire clerical assistants and other non-certificated employees necessary to provide support in carrying out the policies, rules and regulations of the State Board. Employees hired pursuant to this subsection shall not be required to enter into a written contract with the Board. Such employees shall be subject to dismissal, or other disciplinary action, imposed by the Superintendent only for just cause. For the purposes of this subsection only, just cause shall be defined as including but not limited to: layoff necessitated by a reduction in force; misconduct; inefficiency; inability to perform satisfactorily the work of his or her position; failure to meet reasonable standards of conduct; abuse; theft or destruction of property; incompetency; negligence in the performance of duty; insubordination that constitutes a serious breach of discipline; conviction of a felony or a Class A misdemeanor; failure to comply with the Military Selective Service Act; 50 USCA §451-73 et. seq.,; notoriously disgraceful personal conduct; unauthorized absence or abuse of leave privileges; acceptance of any valuable consideration with the expectation of influencing the employee in the performance of his or her duties; falsification of records; use of official position for personal advantage; intoxication from the use of alcohol or other controlled substances or the possession or sale thereof on state property or in a state-owned vehicle; evidence of illegal gambling on state property; pursuing any non-job related activities during working hours without permission of a supervisor; profane, obscene or insulting words toward the public or any state employee; failure to pay legal debts or reimburse the state for funds due; excessive tardiness; unlawful political activity; or sleeping while on duty.

In making a determination to dismiss or to impose a lessor disciplinary action, the Superintendent shall assess and take into account any mitigating or extenuating circumstances as well as the employee's work history. Any employee terminated pursuant to this subsection may request a formal hearing before the State Board, in person or by counsel, to present information in his or her own defense. Such hearing shall be held not earlier than ten (10) days nor later than forty-five (45) days after the issuance of written notification of dismissal from the Superintendent;

(7) In the case of a regularly employed officer, certificated professional or clerical assistant of the Board who is called to the service or voluntarily enters the armed forces of the United States or the National Guard of the State when in continuous active service, the granting to any such officer, professional or clerical assistant, a leave of absence which shall cover the period of service, not to exceed 3 years, or until the term of service to which he or she has been called is terminated; and upon the completion of the leave of absence the reinstatement of such officer, professional or clerical assistant in the position which he or she held at the time that the leave of absence was granted, if such regularly employed officer, professional or clerical assistant has received a certificate of satisfactory completion of service;

(8) The appointment of persons to replace officers, certificated professionals and clerical assistants on leaves of absence for active military service, as described in subsection (7) of this section, but such appointments shall be only for the period covered by said leaves of absence;".

Approved July 24, 1990.

CHAPTER 432

FORMERLY

SENATE BILL NO. 424
AS AMENDED BY SENATE AMENDMENTS NO. 1 AND 2

AN ACT TO AMEND CHAPTER 63 & 64, TITLE 7 OF THE DELAWARE CODE TO ESTABLISH A COMPREHENSIVE STATEWIDE PROGRAM FOR RECYCLING AND WASTE REDUCTION.

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

Section 1. Amend Chapter 64 of Title 7 of the Delaware Code designating the existing sections 6401-6449 as subchapter I and by adding thereto a new subchapter II to read as follows:

"Subchapter II. Recycling and Waste Reduction

§6450. Findings; Policy; Purpose. The General Assembly hereby makes the following findings and declares the following policies and purposes with respect to the recycling and reduction of solid waste materials. It is determined that the reduction of solid waste disposal and recovery of usable materials from solid waste are matters of extreme importance in minimizing the environmental impact of solid waste disposal through landfilling. It is in the public interest to develop a comprehensive Statewide system of recycling and resource recovery which maximizes the quantity of solid waste materials which can be recovered, re-used, or converted to beneficial use. The Statewide system should utilize existing and new resource recovery facilities such as reclamation projects and waste-to-energy projects while establishing and developing a Statewide source separation program through use of recycling centers. In addition to maximizing the recovery and re-use of materials from solid waste through use of large scale projects, it is a State goal to provide an opportunity for source separated recycling to every person in the State. In order to accomplish the goals and objectives of Statewiderecycling and waste reduction, it is determined that the Authority develop a comprehensive program incorporating long range planning, project development, public education and promotion, information gathering, and marketing. It is further determined that the Authority, in developing a Statewide comprehensive recycling and waste reduction program, consider measures to remove from the solid waste stream through source separation materials harmful to the environment which cannot be readily or effectively recycled so that such materials can be separately disposed in an authorized manner. These findings, policies and purposes are declared to be in the public interest and these provisions are considered necessary and for the public benefit as a matter of legislative determination and liberal interpretation in favor of accomplishing the stated goals and objectives shall be provided.

§6451. Definitions.

The following terms shall have the meanings ascribed to them in this chapter:

(1) "Recyclable material" means any material or group of materials that can be collected and sold or used for beneficial purposes or separated from the waste stream and disposed separately in an authorized manner to reduce environmental impacts.

(2) "Recycling" means the process by which solid waste and other discarded materials are transformed into usable materials or disposed separately in an authorized manner to reduce adverse environmental impacts.

(3) "Recycling center" means any solid waste management facility designed and operated by or on behalf of the Authority for the purpose of receiving recyclable materials. The construction and operation of recycling centers shall not require any municipal or State agency approval and no permit or license fee or any other form of assessment shall be made with respect to the construction and operation of recycling centers.

(4) "Source separation" or "source separated" means the process by which recyclable materials are segregated and kept apart from the waste stream by the generator thereof for the purpose of collection, disposition, recycling or resources recovery.

(5) "Waste reduction" means the efforts exercised by generators of useless discarded materials to avoid or minimize usage of such materials.

§6452. Statewide Recycling and Waste Reduction Plan. The Authority shall, pursuant to the provisions of §6403(j) of this title, incorporate into the statewide solid waste management plan, to the extent deemed necessary, provisions for:

(a) the long term planning of a coordinated program of source separation of recyclable materials and utilization of large scale resources recovery projects;

(b) the establishment of recycling centers to receive and handle source separatedrecyclable materials;

(c) the development of a marketing program for the State, national or internationalsale of recovered materials;

(d) the development of an informational program and establishment of specifications

and requirements for delivery of source separated recyclable materials to recycling centers to assure marketability of recovered materials;

(e) the development of a program for cooperation with the private sector to further the purposes and objectives of source separated recycling and waste reduction;

(f) the development of a program of coordination and cooperation with public interest groups and municipalities to further Statewide recycling and waste reduction;

(g) the development of a program of public education and promotion for Statewide recycling and waste reduction;

(h) the development of a program to source separate materials from the solid waste stream which are harmful to the environment for purposes of separate authorized disposal;

(i) the development of a system of registration and information gathering regarding the nature and extent of recycling and waste reduction undertaken throughout the State; and

(j) the development of incentive programs to encourage local and Statewide recyclingand waste reduction.

§6453. Recyclable Materials.

(a) The Authority shall consider, as part of its source separated recycling and waste reduction program, recovery and use of the following materials:

1. Newsprint.
2. Computer paper.
3. White paper.
4. Corrugated and other cardboard.
5. Plastics.
6. Ferrous metals.
7. Non-ferrous metals.
8. White goods.
9. Organic yard waste.
10. Used motor oil.
11. Asphalt.
12. Batteries.
13. Household paint, solvent, pesticide and insecticide containers.

(b) The Authority may adopt regulations describing recyclable materials and adding other materials to the list of recyclable materials.

§6454. Recycling Centers. After incorporation of recycling and waste reduction measures into the statewide solid waste management plan, the Authority shall establish recycling centers in each County. The recycling centers shall be the depositories forthe source separated recyclable materials designated by the Authority. The Authorityshall provide for the collection of source separated recyclable materials from the recycling centers and, to the extent possible, direct such separated materials to markets for use. Any profit after expenses resulting from the operation of the recycling centers shall be used to create economic incentives for the delivery of source separated recyclable materials to the recycling centers, and any deficit resulting from operation shall be applied uniformly to the user fees charged by the Authority for solid waste disposal.

§6455. Public Education and Promotion of Recycling and Waste Reduction Programs. The Authority shall initiate and conduct a public education program to disseminate information on the purposes and value of source separated recycling and resources recovery. Such program may be conducted in conjunction with similar efforts of private industry, municipalities and public interest groups. The program may include the use of public advertising.

§6456. Registration of Recycling and Resource Recovery Facilities. Any person engaged in recycling or resources recovery of source separated solid waste generated in the State shall file with the Authority an annual registration statement containing such information as specified in regulations adopted by the Authority. No fee shall be charged as part of the requirement for filing a registration statement.

§6457. Funding. Except as specifically provided otherwise for the operation of recycling centers under §6454 of this title, the costs of implementing programs related to recycling and waste reduction may be funded to the fullest extent authorized for other Authority activities under the provisions of this chapter.

§6458. Marketing of Recyclable Materials. The Authority shall be entitled to obtain, develop, create and promote State, national and international markets for usable materials recovered from recycling and resources recovery activities. The Authority shall seek to obtain the best available pricing for recovered materials, with due consideration to other pertinent factors, under short or long term arrangements as deemed appropriate by the Authority. The Authority shall be entitled to offer incentives to develop markets for recovered materials.

§6459. Annual Report. The Authority's annual report submitted under §6416 of this title shall set forth its operations and transactions involving recycling and waste reduction, and shall include information pertaining to the advice, assistance, and cooperative efforts extended by the Department of Natural Resources and Environmental Control to the Authority regarding the recycling and waste reduction program. The Authority shall also include in the independent audit of its fiscal affairs those matters related to its activities involving recycling and waste reduction.

§6460. Energy Resource Recovery Study - Kent and Sussex Counties. In addition to the requirements of §6429 of this title, the Authority is directed to undertake a feasibility analysis of establishing separate material and energy recovery facilities to Kent County and Sussex County independently. Such analysis shall include consideration of the availability of solid waste material, the market for recovered materials and energy, the effect of other recycling and waste reduction measures, general project economics and environmental impacts. The Authority shall not be entitled to proceed with a material and energy recovery facility under the provisions of §6429 of this title until such time that the feasibility study required hereunder is filed with the Governor, The President Pro Tempore of the Senate, and the Speaker of the House of Representatives. Such feasibility analysis shall be completed and filed no later than January 15, 1991."

Section 2. Amend Section 6403, Chapter 64 of Title 7 of the Delaware Code by adding a new subsection (m) to read as follows:

"(m) The Authority may, after notice and public hearing, adopt rules and regulations governing the composition, quality, quantity and delivery of source separated recyclable materials to recycling centers."

Section 3. Amend Section 6406(a)(15), Chapter 64 of Title 7 of the Delaware Code by changing the period at the end of such subparagraph to a comma, and adding the following:

"including the location of recycling centers, without the need to obtain land use approval."

Section 4. Amend Section 6406(a)(31), Chapter 64 of Title 7 of the Delaware Code by changing the period at the end of such subparagraph to a comma, and adding the following:

"except to the extent that the Authority engages in activities authorized under §6452(h) of this title."

Section 5. Amend Section 6407(a), Chapter 64 of Title 7 of the Delaware Code by adding a new subparagraph (6) to read as follows:

"(6) Establish payment schedules and make payments for the delivery of source separated recyclable materials to recycling centers, and create, through funding, incentives for the delivery of source separated recyclable materials to recycling centers by community groups under programs authorized by the Authority."

Section 6. Amend Section 6304(g), Chapter 63 of Title 7 of the Delaware Code by striking the period "." immediately following the word "Authority" and inserting the following:

"except to the extent authorized by the Authority with respect to small quantity source separated designated materials which are delivered to recycling centers for disposal in an authorized manner."

Section 7. The provisions of this Act shall be read in harmony with the existing provisions of 7 Del. C. Ch. 64 and nothing contained herein shall be construed to supersede such provisions. This legislation shall be known as the Delaware Recycling and Waste Reduction Act.

Section 8. The Authority shall submit to the Department of Natural Resources and Environmental Control for consideration and possible comment its proposed Statewide Recycling and Waste Reduction Plan and its proposed plans for the establishment of recycling centers. The Department of Natural Resources and Environmental Control shall provide advice, cooperation, and assistance to the Authority with respect to the activities undertaken by the Authority pursuant to this Act.

Approved July 24, 1990.

CHAPTER 433

FORMERLY

SENATE BILL NO. 280

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO REGULATING CAMPGROUND RESORTS MEMBERSHIP AND VACATION TIME SHARING PLANS SALES.

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

Section 1. Amend Title 6 of the Delaware Code by adding a new Chapter 28, which shall read as follows:

"Chapter 28. CAMPGROUND RESORTS MEMBERSHIP AND VACATION TIME SHARING PLANS SALES ACT

SUBCHAPTER 1. CAMPGROUND RESORTS MEMBERSHIP SALES

Section 2801. Applicability.

This subchapter shall apply to each campground resort membership contract executed at least in part in the State of Delaware 90 days after this Act is signed into law, regardless of the whereabouts of the membership camping resort operator's principal office or his campground resort or recreational facilities.

Section 2802. Definitions.

When used in this subchapter, the following shall have the meanings respectively set forth:

(1) 'Advertisement' means the attempt by publication, dissemination, solicitation or circulation to induce, directly or indirectly, any person to enter into any obligation, acquire any title, interest in or otherwise execute a contract as defined herein this section.

(2) 'Business day' means any day except Sunday or a legal holiday.

(3) 'Camping site' means a space designed and promoted for the purpose of locating a trailer, tent, tent trailer, pickup camper, van, recreational vehicle or other similar device used for camping.

(4) 'Campground Resort' means any tract or parcel of real property within the State of Delaware on which there are at least ten camping sites.

(5) 'Contract' means any written agreement of more than one year's duration, executed in whole or in part within the State of Delaware, which grants to a purchaser a nonexclusive right or license to use the campground resort of a membership camping resort operator or any portion thereof on a first come, first serve or reservation basis together with other purchasers.

(6) 'Facility' means an amenity within a campground resort set aside or otherwise made available to purchasers in their use and enjoyment of the campground resort, and may include campsites, swimming pools, tennis courts, recreational buildings, boat docks, rest rooms, showers, laundry rooms, and trading posts or grocery stores.

(7) 'Holder' means the membership camping resort operator who enters into a membership camping resort contract with a purchaser or the assignee of such contract who purchases the same for value.

(8) 'Managing entity' means a person who undertakes the duties, responsibilities and obligations of the management of a campground resort.

(9) 'Operator' means any person who is in the business of soliciting, offering, advertising or executing membership camping resort contracts.

(10) 'Offer' means any offer, solicitation, advertisement or inducement, to execute a contract.

(11) 'Person' means any individual, corporation, partnership, company, unincorporated association or any other legal entity other than a government or agency or a subdivision thereof.

(12) 'Purchaser' means any person who enters into a contract with an operator as defined herein.

(13) 'Purchase money' means any money, currency, note, security or other consideration paid by the purchaser for a membership camping agreement.

(14) 'Reciprocal program' means any arrangement under which a purchaser is permitted to use camping resort sites or facilities at one or more campground resorts not owned or operated by the operator with whom the purchaser has entered into a contract.

(15) 'Salesperson' means an individual, other than an operator, who offers to sell a contract by means of a direct sales presentation, but does not include a person who merely refers a prospective purchaser to a sales person without making any direct sales presentation.

Section 2803. Operator's disclosure statement.

(a) Every operator, salesperson, or other person who is in the business of offering for sale or transfer the rights under existing membership camping resort contracts for a fee shall deliver to his purchaser a current operator's disclosure statement before execution by the purchaser of the contract and no later than the date shown on such contract.

(b) The operators disclosure statement shall consist of the following:

(1) A cover page containing:

(A) The words, 'Membership Camping Operator's Disclosure Statement', printed in boldfaced type of a minimum size of ten points, followed by,

(B) The name and principal business address of the operator followed by,

(C) A statement that the operator is in the business of offering for sale contracts, followed by,

(D) The following in printed boldfaced type of a minimum size of ten points:

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN THE EXECUTION OF A MEMBERSHIP CAMPING RESORT CONTRACT. THE MEMBERSHIP CAMPING RESORT OPERATOR IS REQUIRED BY LAW TO DELIVER TO YOU A COPY OF THIS DISCLOSURE STATEMENT BEFORE YOU EXECUTE A MEMBERSHIP CAMPING RESORT CONTRACT. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. YOU AS A PROSPECTIVE PURCHASER SHOULD REVIEW ALL REFERENCES, EXHIBITS, CONTRACT DOCUMENTS, AND SALES MATERIALS. YOU SHOULD NOT RELY UPON ANY ORAL REPRESENTATIONS AS BEING CORRECT. REFER TO THIS DOCUMENT AND TO THE ACCOMPANYING EXHIBITS FOR CORRECT REPRESENTATIONS. THE MEMBERSHIP CAMPING RESORT OPERATOR IS PROHIBITED FROM MAKING ANY REPRESENTATIONS WHICH CONFLICT WITH THOSE CONTAINED IN THE CONTRACT AND THIS DISCLOSURE STATEMENT.

(E) The following language, printed on boldfaced type of a minimum size of ten points after the appearance of the items required in paragraphs (A) through (D) above:

SHOULD YOU EXECUTE A MEMBERSHIP CAMPING RESORT CONTRACT, YOU HAVE THE UNQUALIFIED RIGHT TO CANCEL SUCH CONTRACT. THIS RIGHT OF CANCELLATION CANNOT BE WAIVED. THE RIGHT TO CANCEL EXPIRES AT MIDNIGHT ON THE 5th BUSINESS DAY FOLLOWING THE DATE ON WHICH THE CONTRACT WAS EXECUTED. TO CANCEL THE MEMBERSHIP CAMPING CONTRACT, YOU AS THE PURCHASER MUST MAIL NOTICE OF YOUR INTENT TO CANCEL BY CERTIFIED MAIL TO THE MEMBERSHIP CAMPING RESORT OPERATOR AT THE ADDRESS SHOWN IN THE MEMBERSHIP CAMPING RESORT CONTRACT, POSTAGE PREPAID. THE MEMBERSHIP CAMPING RESORT OPERATOR IS REQUIRED BY LAW TO RETURN ALL MONIES PAID BY YOU IN CONNECTION WITH THE EXECUTING OF THE MEMBERSHIP CAMPING RESORT CONTRACT, UPON YOUR PROPER AND TIMELY CANCELLATION OF THE CONTRACT.

(F) The following information is required after all disclosure statements required in paragraphs (A) through (E) above:

(i) The name of the operator and the address of his principal place of business;

(ii) A brief description of the nature of the purchaser's right or license to use the campground resort and the facilities which are to be available for use by purchasers;

(iii) The location of each of the campground resorts which is to be available for use by purchasers and a brief description of the facilities at each campground resort which are currently available for use by purchasers. Facilities which are planned, incomplete, or not yet available for use shall be clearly identified as incomplete or unavailable. A brief description of any facilities that are or will be available to nonpurchasers shall also be provided.

(iv) As to all memberships offered by the operator at each campground resort:

(I) The form of membership offered;

(II) The types and duration of memberships along with a summary of the major privileges, restrictions, and limitations applicable to each type; and

(III) Provisions, if any, that have been made for public utilities at each campsite including water, electricity, telephone and sewer facilities;

(v) Any initial or special fee due from the purchaser together with a description of the purpose and method of calculating the fee;

(vi) A description of any liens, defects, or encumbrances affecting the campground resort;

(vii) A general description of any financing offered or available through the operator;

(viii) A statement that the purchaser has until midnight of the fifth business day following the signing of the membership campground resort contract to cancel the contract by proper notice to the membership camping resort operator;

(ix) A description of the insurance coverage that the operator provides for the benefit of purchasers, if any;

(x) Any fees or charges that purchasers are or may be required to pay for the use of the campground resort or any facilities;

(xi) The extent to which financial arrangements, if any, have been provided for the completion of facilities together with a statement of the operator's obligation to complete planned facilities. The statement shall include a description of any restrictions or limitations on the operator's obligation to begin or to complete such facilities;

(xii) The name of the managing entity, if there is one, and the significant terms of any management contract, including but not limited to, the circumstances under which the operator may terminate the management contract;

(xiii) Any services which the operator currently provides or expenses he pays which are expected to become the responsibility of the purchasers, including the projected liability which each such service or expense may impose on each purchaser;

(xiv) A brief description of the ownership in or other right to use the campground resort which is to be transferred to each purchaser, together with the duration of any lease, license, franchise or reciprocal agreement entitling the operator or purchasers from him to use the campground resort, and any provision in any such agreements which restrict or limit a purchaser's use of the campground resort;

(xv) A summary or copy, whether by way of supplement or otherwise, of the rules, restrictions or covenant regulating the purchaser's use of the campground resort and the facilities which are to be available for use by the purchasers, including a statement of whether and how the rules, restrictions, or covenants may be changed;

(xvi) A description of any restraints on the transfer of the membership camping resort contract;

(xvii) A brief description of the policies covering the availability of camping sites, the availability of reservations and the conditions under which they are made;

(xix) A statement of whether the operator has the right to withdraw permanently from use all or any portion of any campground resort devoted to membership camping and, if so, the conditions under which such withdrawal is to be permitted; and

(xx) A statement describing the material terms and conditions of any reciprocal program to be available to the purchaser including a statement concerning whether the purchaser's participation in any reciprocal program is dependent upon the continued affiliation of the operator with that reciprocal program and whether the operator reserves the right to terminate such affiliation.

(c) The operator shall promptly amend his operator's disclosure statements to reflect any material change in the campground resorts or its facilities.

Section 2804. Cancellation.

(a) A purchaser shall have the right to cancel a membership camping resort contract within five business days following the date of its execution.

(b) The right of cancellation shall not be waived and any attempt to obtain such waiver shall be unlawful. Nothing in this section shall preclude the execution of documents in advance of closing for delivery after the expiration of the cancellation period.

(c) If the purchaser elects to cancel the contract, he may do so only by mailing notice thereof by certified mail to the operator at the address listed in the contract. The cancellation shall be deemed effective upon mailing.

(d) Upon cancellation, the operator shall refund to the purchaser all payments made by such purchaser and collected by the operator pursuant to the cancelled contract. The refund shall be made within fifteen days and may, where payment has been made by credit card, be made by an appropriate credit to the purchaser's account.

Section 2805. Contracts.

The operator shall deliver to the purchaser a fully executed copy of the contract, which contract shall include at least the following information:

(1) The actual date the contract is executed by the purchaser.

(2) The name of the operator and address of the principal place of business.

(3) The total financial obligation imposed upon the purchaser by the contract, including the initial purchase price and any additional charges which the purchaser may be required to pay.

(4) A description of the nature and duration of the membership being purchased.

(5) A statement that the operator, salesperson, or any other person who in the business of offering for sale or transfer the rights under contracts for a fee is required by the Campground Resorts Membership and Vacation Time Sharing Plans Sales Act to provide each purchaser of a campground resorts membership with a copy of the operator's disclosure statement prior to execution of such contract and that a failure to do so is a violation of the Act.

(6) The following statement shall appear in the contract, under its own paragraph, immediately above the space reserved in the contract for the signature of the purchaser, in boldfaced type of a minimum size of ten points:

'PURCHASER'S NONWAIVABLE RIGHT TO CANCEL' shall appear at the beginning of said paragraph in boldfaced type of a minimum of ten points, immediately preceding the following statement:

..._____

(Date of Transaction)

(iii) The location of each of the campground resorts which is to be available for use by purchasers and a brief description of the facilities at each campground resort which are currently available for use by purchasers. Facilities which are planned, incomplete, or not yet available for use shall be clearly identified as incomplete or unavailable. A brief description of any facilities that are or will be available to nonpurchasers shall also be provided.

(iv) As to all memberships offered by the operator at each campground resort:

(I) The form of membership offered;

(II) The types and duration of memberships along with a summary of the major privileges, restrictions, and limitations applicable to each type; and

(III) Provisions, if any, that have been made for public utilities at each campsite including water, electricity, telephone and sewer facilities;

(v) Any initial or special fee due from the purchaser together with a description of the purpose and method of calculating the fee;

(vi) A description of any liens, defects, or encumbrances affecting the campground resort;

(vii) A general description of any financing offered or available through the operator;

(viii) A statement that the purchaser has until midnight of the fifth business day following the signing of the membership campground resort contract to cancel the contract by proper notice to the membership camping resort operator;

(ix) A description of the insurance coverage that the operator provides for the benefit of purchasers, if any;

(x) Any fees or charges that purchasers are or may be required to pay for the use of the campground resort or any facilities;

(xi) The extent to which financial arrangements, if any, have been provided for the completion of facilities together with a statement of the operator's obligation to complete planned facilities. The statement shall include a description of any restrictions or limitations on the operator's obligation to begin or to complete such facilities;

(xii) The name of the managing entity, if there is one, and the significant terms of any management contract, including but not limited to, the circumstances under which the operator may terminate the management contract;

(xiii) Any services which the operator currently provides or expenses he pays which are expected to become the responsibility of the purchasers, including the projected liability which each such service or expense may impose on each purchaser;

(xiv) A brief description of the ownership in or other right to use the campground resort which is to be transferred to each purchaser, together with the duration of any lease, license, franchise or reciprocal agreement entitling the operator or purchasers from him to use the campground resort, and any provision in any such agreements which restrict or limit a purchaser's use of the campground resort;

(xv) A summary or copy, whether by way of supplement or otherwise, of the rules, restrictions or covenant regulating the purchaser's use of the campground resort and the facilities which are to be available for use by the purchasers, including a statement of whether and how the rules, restrictions, or covenants may be changed;

(xvi) A description of any restraints on the transfer of the membership camping resort contract;

(xvii) A brief description of the policies covering the availability of camping sites, the availability of reservations and the conditions under which they are made;

(xix) A statement of whether the operator has the right to withdraw permanently from use all or any portion of any campground resort devoted to membership camping and, if so, the conditions under which such withdrawal is to be permitted; and

(xx) A statement describing the material terms and conditions of any reciprocal program to be available to the purchaser including a statement concerning whether the purchaser's participation in any reciprocal program is dependent upon the continued affiliation of the operator with that reciprocal program and whether the operator reserves the right to terminate such affiliation.

(c) The operator shall promptly amend his operator's disclosure statements to reflect any material change in the campground resorts or its facilities.

Section 2804. Cancellation.

(a) A purchaser shall have the right to cancel a membership camping resort contract within five business days following the date of its execution.

(b) The right of cancellation shall not be waived and any attempt to obtain such waiver shall be unlawful. Nothing in this section shall preclude the execution of documents in advance of closing for delivery after the expiration of the cancellation period.

(c) If the purchaser elects to cancel the contract, he may do so only by mailing notice thereof by certified mail to the operator at the address listed in the contract. The cancellation shall be deemed effective upon mailing.

(d) Upon cancellation, the operator shall refund to the purchaser all payments made by such purchaser and collected by the operator pursuant to the cancelled contract. The refund shall be made within fifteen days and may, where payment has been made by credit card, be made by an appropriate credit to the purchaser's account.

Section 2805. Contracts.

The operator shall deliver to the purchaser a fully executed copy of the contract, which contract shall include at least the following information:

(1) The actual date the contract is executed by the purchaser.

(2) The name of the operator and address of the principal place of business.

(3) The total financial obligation imposed upon the purchaser by the contract, including the initial purchase price and any additional charges which the purchaser may be required to pay.

(4) A description of the nature and duration of the membership being purchased.

(5) A statement that the operator, salesperson, or any other person who in the business of offering for sale or transfer the rights under contracts for a fee is required by the Campground Resorts Membership and Vacation Time Sharing Plans Sales Act to provide each purchaser of a campground resorts membership with a copy of the operator's disclosure statement prior to execution of such contract and that a failure to do so is a violation of the Act.

(6) The following statement shall appear in the contract, under its own paragraph, immediately above the space reserved in the contract for the signature of the purchaser, in boldfaced type of a minimum size of ten points:

'**PURCHASER'S NONWAIVABLE RIGHT TO CANCEL**' shall appear at the beginning of said paragraph in boldfaced type of a minimum of ten points, immediately preceding the following statement:

..._____

(Date of Transaction)

'YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR OBLIGATION WITHIN FIVE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN FIFTEEN BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED. IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MUST NOTIFY THE SELLER IN WRITING BY CERTIFIED MAIL OF YOUR INTENT TO CANCEL. YOUR NOTICE OF CANCELLATION SHALL BE EFFECTIVE UPON THE DATE SENT AND SHALL BE SENT

TO:._____ AT _____

(Name of Operator) (Address of Operator)

NO PURCHASER SHOULD RELY UPON REPRESENTATIONS OTHER THAN THOSE INCLUDED IN THIS CONTRACT.'

If no interest in real property is being conveyed, the contract shall also contain the following statement:

'YOU MAY ALSO CANCEL THIS CONTRACT AT ANY TIME AFTER THE ACCOMMODATIONS OR FACILITIES ARE NO LONGER AVAILABLE AS PROVIDED IN THIS CONTRACT.'

(7) The full name of all salespersons involved in the execution of the membership camping resort contract.

Section 2806. Escrow.

All purchase money received from or on behalf of a purchaser in connection with the execution of a contract shall be deposited and held in this State in an escrow account designated solely for that purpose, which may be the operator's own escrow account or that of the operator's attorney, until the expiration of the time for cancellation has expired as provided for in section 2804 of this Chapter, unless a later time is provided in the contract. If the contract has not been cancelled, any purchase money received from a purchaser may be released to the operator upon:

(1) The conveying to the purchaser of the right or license to use the campground resort and facilities as required in the contract; or

(2) The forfeiture of the purchase money by the purchaser under the terms of the contract.

Section 2807. Conditions on offering items as an inducement to execute.

(a) It is unlawful for any person by any means, as part of an advertising program, to offer any item of value as an inducement to the recipient to visit an operator's campground resort, attend a sales presentation or contract a salesperson, unless the person clearly discloses in writing in the offer in plain language each of the following:

(1) The name and campground resort address of the operator.

(2) A general statement that the advertising program is being conducted by an operator and the purpose of any requested visit.

(3) A statement of odds, in arabic numerals, of receiving each item offered.

(4) The approximate retail value of each item offered.

(5) The number of campgrounds that are participating in such advertising programs.

(6) The restrictions, qualifications, and other conditions that must be satisfied before the recipient is entitled to receive the item, including:

(A) Any deadline, if any, by which the recipient must visit the campground resort, attend the sales presentation or contact a salesperson in order to receive the item.

(B) The approximate duration of any visit and sales presentation.

(C) The date upon which the offer shall terminate and the final date upon which the gift or prizes are to be awarded.

(D) Any other conditions, such as minimum age qualification, a financial qualification or a requirement that if the recipient is married both husband and wife must be present in order to receive the item.

(7) A statement that the operator reserves the right to provide a rain check or a substitute or like item, if these rights are reserved.

(8) All other material rules, terms and conditions of the offer or program.

(b) It is unlawful to charge postage, shipping, handling, insurance redemption fees or any other fees for any item of value offered as an inducement to the recipient to visit an operator's campground resort and attend a sales presentation.

(c) It is unlawful for any person making an offer subject to subsection (a) of this section or any employee or agent of the person, to offer any item if the person knows or has reason to know that the offered item will not be available in a sufficient quantity based on the reasonably anticipated response to the offer.

(d) If the person making an offer subject to subsection (a) of this section is unable to provide an offered item because of limitations of supply, quantity or quality not reasonably foreseeable or controllable by the person making the offer, the person making the offer shall provide the approximate retail value of the item as stated in the advertising program as required under subsection (a)(4) of this section.

(e) On the written request of a recipient who has received or claims a right to receive any offered item, the person making an offer subject to subsection (a) of this section shall furnish to the recipient sufficient evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient.

(f) It is unlawful for any person making an offer subject to subsection (a) of this section or any employee or agent of the person to:

(1) Misrepresent the size, quantity, identity or quality of any prize, gift, money or other item of value offered.

(2) Misrepresent in any manner the odds of receiving any particular gift, prize, amount of money or other item of value.

(3) Label any offer a 'notice of termination' or 'notice of cancellation'.

(4) Materially misrepresent, in any manner, the offer, or program.

(g) Any violation of this section shall make any contract entered into voidable at the option of the purchaser.

Section 2808. Unfair trade practices.

A violation of any of the provisions of sections 2803 to 2807 inclusive, or failure to comply with the notice of cancellation required by section 2805 shall constitute an unfair or deceptive act or practice as set forth in Chapter 25 of Title 6.

Section 2809. Enforcement.

Violations of this subchapter shall be within the scope of the enforcement duties and powers of the State Division of Consumer Affairs as described in 29 Delaware Code §8612(b)(1).

SUBCHAPTER II. VACATION TIME SHARING PLAN

Section 2821. Applicability.

This subchapter shall apply to each vacation time sharing plan contract executed at least in part in the State of Delaware 90 days after this Act is signed into law, regardless of the whereabouts of the developer's principal office.

Section 2822. Definitions.

When used in this subchapter, the following shall have the meanings respectively set forth:

(1) 'Accommodations' means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room or any other structure which is situated on real property and designed for occupancy by one or more individuals.

(2) 'Advertising' means the use of media, mail or personal contacts to induce, directly or indirectly, any person to enter into any obligation, acquire any title, interest in or otherwise execute a contract as defined herein this section.

(3) 'Business day' means any day except Sunday or a legal holiday.

(4) 'Common expenses' means those expenses properly incurred for the maintenance, operation and repair of all accommodations or facilities subject to this subchapter.

(5) 'Contract' means any written agreement of more than one year's duration, executed in whole or in part within the State of Delaware which grants to a purchaser the rights and obligations of a time sharing plan.

(6) 'Developer' means the person creating a time sharing plan.

(7) 'Facilities' means any structure, service, improvement or real property, whether improved or unimproved, which is made available to the purchasers of a time sharing plan.

(8) 'Offer' means any offer, solicitation, advertisement or inducement, to execute a contract.

(9) 'Person' means any individual, corporation, partnership, company, unincorporated association or any other legal entity other than a government or agency or a subdivision thereof.

(10) 'Purchaser' means any person who is buying or who has bought a time share period in a time sharing plan.

(11) 'Reciprocal program' means any arrangement under which a purchaser is permitted to use time share units or facilities in one or more time sharing plans' locations not owned by the seller with whom the purchaser has entered into a contract.

(12) 'Salesperson' means an individual, other than a seller, who offers to sell a contract by means of a direct sales presentation, but does not include a person who merely refers a prospective purchaser to a sales person without making any direct sales presentation.

(13) 'Seller' means any developer, or any other person, or agent or employee thereof, who offers time share periods for sale to the public in the ordinary course of business, except persons who have acquired a time share period for their own occupancy and later offer it for resale.

(14) 'Time share period' means that period of time during which a purchaser of a time sharing plan is entitled to possession and use of the accommodations or facilities, or both, of a time sharing plan.

(15) 'Time share unit' means an accommodation or facility of a time sharing plan which is divided into time share periods.

(16) 'Time sharing plan' means an arrangement, plan, or similar device, whereby a purchaser, in exchange for consideration, receives a right to use accommodations or facilities, or both, for a period of more than three years and such use is to occur during specific periods of time which are less than one year during any given year within the terms of such arrangement, plan or other device.

Section 2823. Seller's disclosure statement.

(a) Every seller, salesperson, or other person who is in the business of offering for sale time sharing plan contracts for a fee shall deliver to his purchaser a current seller's disclosure statement before execution by the purchaser of the contract and no later than the date shown on such contract.

(b) The seller's disclosure statement shall consist of the following:

(1) A cover page containing:

(A) The words, 'Vacation Time Sharing Plan Seller's Disclosure Statement', printed in boldfaced type of a minimum size of ten points, followed by,

(B) The name and principal business address of the seller followed by,

(C) A statement that the seller is in the business of offering for sale contracts, followed by,

(D) The following in printed boldfaced type of a minimum size of ten points:

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN THE EXECUTION OF A VACATION TIME SHARING PLAN CONTRACT. THE VACATION TIME SHARING PLAN SELLER IS REQUIRED BY LAW TO DELIVER TO YOU A COPY OF THIS DISCLOSURE STATEMENT BEFORE YOU EXECUTE A VACATION TIME SHARING PLAN. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. YOU AS A PROSPECTIVE PURCHASER SHOULD REVIEW ALL REFERENCES, EXHIBITS, CONTRACT DOCUMENTS, AND SALES MATERIALS. YOU SHOULD NOT RELY UPON ANY ORAL REPRESENTATIONS AS BEING CORRECT. REFER TO THIS DOCUMENT AND TO THE ACCOMPANYING EXHIBITS FOR CORRECT REPRESENTATIONS. THE VACATION TIME SHARING PLAN SELLER IS PROHIBITED FROM MAKING ANY REPRESENTATIONS WHICH CONFLICT WITH THOSE CONTAINED IN THE CONTRACT AND THIS DISCLOSURE STATEMENT.

(E) The following language, printed in boldfaced type of a minimum size of ten points after the appearance of the items required in paragraphs (A) through (D) above:

SHOULD YOU EXECUTE A VACATION TIME SHARING PLAN CONTRACT, YOU HAVE THE UNQUALIFIED RIGHT TO CANCEL SUCH CONTRACT. THIS RIGHT OF CANCELLATION CANNOT BE WAIVED. THE RIGHT TO CANCEL EXPIRES AT MIDNIGHT ON THE 5th BUSINESS DAY FOLLOWING THE DATE ON WHICH THE CONTRACT WAS EXECUTED. TO CANCEL THE VACATION TIME SHARING PLAN CONTRACT, YOU AS THE PURCHASER MUST MAIL NOTICE OF YOUR INTENT TO CANCEL BY CERTIFIED MAIL TO THE VACATION TIME SHARING PLAN SELLER AT THE ADDRESS SHOWN IN THE VACATION TIME SHARING PLAN CONTRACT, POSTAGE PREPAID. THE VACATION TIME SHARING PLAN SELLER IS REQUIRED BY LAW TO RETURN ALL MONIES PAID BY YOU IN CONNECTION WITH THE EXECUTION OF THE VACATION TIME SHARING PLAN CONTRACT, UPON YOUR PROPER AND TIMELY CANCELLATION OF THE CONTRACT.

(F) The following information is required after all disclosure statements required in paragraphs (A) through (E) above:

(i) The name of the seller and the address of his principal place of business;

(ii) A brief description of the nature of the purchaser's right or license to use the time share unit and the facilities which are to be available for use by purchasers;

(iii) The location of each of the time share accommodations which is to be available for use by purchasers and a brief description of the facilities at each time share accommodation which are currently available for use by purchasers. Facilities which are planned, incomplete, or not yet available for use shall be clearly identified as incomplete or unavailable. A brief description of any facilities that are or will be available to nonpurchasers shall also be provided.

(iv) As to all time sharing plans offered by sellers:

(I) The form of plan offered:

(II) The types and duration of plans along with a summary of the major privileges, restrictions, and limitations applicable to each type; and

(III) Provisions, if any, that have been made for public utilities at each time share unit including water, electricity, telephone and sewer facilities;

(v) Any initial or special fee due from the purchaser together with a description of the purpose and method of calculating the fee;

(vi) A description of any liens, defects, or encumbrances affecting the time share plan;

(vii) A general description of any financing offered or available through the seller;

(viii) A statement that the purchaser has until midnight of the 5th business day following the signing of the vacation time sharing plan contract to cancel the contract by proper notice to the vacation time sharing plan seller;

(ix) A description of the insurance coverage that the seller provides for the benefit of purchasers, if any;

(x) Any fees or charges that purchasers are or may be required to pay for the use of the time share unit or any facilities;

(xi) The extent to which financial arrangements, if any, have been provided for the completion of facilities together with a statement of the seller's obligation to complete planned facilities. The statement shall include a description of any restrictions or limitations on the seller's obligation to begin or to complete such facilities;

(xii) Any services which the seller currently provides or expenses he pays which are expected to become the responsibility of the purchasers, including the projected liability which each such service or expense may impose on each purchaser;

(xiii) A brief description of the ownership in or other right to use the time share unit which is to be transferred to each purchaser, together with the duration of any lease, license, franchise or reciprocal agreement entitling the seller or purchasers from him to use the accommodations, and any provision in any such agreements which restrict or limit a purchaser's use of the time sharing plan;

(xiv) A summary or copy, whether by way of supplement or otherwise, of the rules, restrictions or covenant regulating the purchaser's use of the time sharing plan and the facilities which are to be available for use by the purchasers, including a statement of whether and how the rules, restrictions, or covenants may be changed;

(xv) A description of any restraints on the transfer of the vacation time sharing plan contract;

(xvi) A brief description of the policies covering the availability of time share units, the availability of reservations and the conditions under which they are made;

(xvii) A brief description of any grounds for forfeiture of a purchaser's contract;

(xviii) A statement of whether the seller has the right to withdraw permanently from use all or any portion of any facilities devoted to the time sharing plan and, if so, the conditions under which such withdrawal is to be permitted; and

(xix) A statement describing the material terms and conditions of any reciprocal program to be available to the purchaser including a statement concerning whether the purchaser's participation in any reciprocal program is dependent upon the continued affiliation of the operator with that reciprocal program and whether the operator reserves the right to terminate such affiliation.

(c) The seller shall promptly amend his seller's disclosure statements to reflect any material change in the time sharing plan or its facilities.

Section 2824. Cancellation.

(a) A purchaser shall have the right to cancel a vacation time sharing plan contract within five business days following the date of its execution.

(b) The right of cancellation shall not be waived and any attempt to obtain such a waiver shall be unlawful. Nothing in this section shall preclude the execution of documents in advance of closing for delivery after the expiration of the cancellation period.

(c) If the purchaser elects to cancel the contract, the purchaser may do so only by mailing notice thereof by certified mail to the seller at the address listed in the contract. The cancellation shall be deemed effective upon mailing.

(d) Upon cancellation, the seller shall refund to the purchaser all payments made by such purchaser and collected by the seller pursuant to the cancelled contract. The

refund shall be made within fifteen days and may, where payment has been made by credit card, be made by an appropriate credit to the purchaser's account.

Section 2825. Contracts.

The seller shall deliver to the purchaser a fully executed copy of the contract, which contract shall include at least the following information:

(1) The actual date the contract is executed by the purchaser.

(2) The name of the seller and address of the principal place of business.

(3) The total financial obligation imposed upon the purchaser by the contract, including the initial purchase price and any additional charges which the purchaser may be required to pay.

(4) A description of the nature and duration of the plan being purchased.

(5) A statement that the seller, salesperson, or any other person who is in the business of offering for sale or transfer the rights under contracts for a fee is required by the Campground Resorts Membership and Vacation Time Sharing Plans Sales Act to provide each purchaser of a vacation time sharing plan with a copy of the seller's disclosure statement prior to execution or such contract and that a failure to do so is a violation of the Act.

(6) The following statement shall appear in the contract, under its own paragraph, immediately above the space reserved in the contract for the signature of the purchaser, in boldfaced type of a minimum size of ten points:

'PURCHASER'S NONWAIVABLE RIGHT TO CANCEL' shall appear at the beginning of said paragraph in boldfaced type of a minimum of ten points, immediately preceding the following statement:

...(Date of Transaction)

'YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR OBLIGATION WITHIN FIVE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN FIFTEEN BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU DECIDE TO CANCEL THIS CONTRACT, YOU MUST NOTIFY THE SELLER IN WRITING BY CERTIFIED MAIL OF YOUR INTENT TO CANCEL. YOUR NOTICE OF CANCELLATION SHALL BE EFFECTIVE UPON THE DATE SENT AND SHALL BE SENT

TO:_____AT_____

(Name of seller) (Address of seller)

NO PURCHASER SHOULD RELY UPON REPRESENTATIONS OTHER THAN THOSE INCLUDED IN THIS CONTRACT.'

If no interest in real property is being conveyed, the contract shall also contain the following statement:

'YOU MAY ALSO CANCEL THIS CONTRACT AT ANYTIME AFTER THE ACCOMMODATIONS OR FACILITIES ARE NO LONGER AVAILABLE AS PROVIDED IN THIS CONTRACT.'

(7) The full name of all sales persons involved in the execution of the membership camping resort contract.

Section 2826. Escrow.

All purchase money received from or on behalf of a purchaser in connection with the execution of a contract shall be deposited and held in this State in an escrow account designated solely for that purpose, which may be the seller's own escrow account or that of the seller's attorney, until the expiration of the time for cancellation has expired as provided for in section 2824 of this Title, unless a later time is provided in the contract. If the contract has not been cancelled, any purchase money received from a purchaser may be released to the seller upon:

(1) The conveying to the purchaser of the right or license to use the time share unit and facilities as required in the contract; or

(2) The forfeiture of the purchase money by the purchaser under the terms of the contract.

Section 2827. Conditions on offering items as an inducement to execute.

(a) It is unlawful for any person by any means, as part of an advertising program, to offer any item of value as an inducement to the recipient to visit a vacation time sharing plans' facilities, attend a sales presentation or contact a salesperson, unless the person clearly discloses in writing in the offer in plain language each of the following:

(1) The name and vacation time sharing plan's address.

(2) A general statement that the advertising program is being conducted by a seller and the purpose of any requested visit.

(3) A statement of odds, in arabic numerals, of receiving each item offered.

(4) The approximate retail value of each item offered.

(5) The number of vacation time sharing plans that are participating in such advertising programs.

(6) The restrictions, qualifications, and other conditions that must be satisfied before the recipient is entitled to receive the item, including:

(A) Any deadline, if any, by which the recipient must visit the vacation time sharing facilities attend the sales presentation or contact a salesperson in order to receive the item.

(B) The approximate duration of any visit and sales presentation.

(C) The date upon which the offer shall terminate and the final date upon which the gift or prizes are to be awarded.

(D) Any other conditions, such as minimum age qualification, a financial qualification or a requirement that if the recipient is married both husband and wife must be present in order to receive the item.

(7) A statement that the seller reserves the right to provide a rain check or a substitute or like item, if these rights are reserved.

(8) All other material rules, terms and conditions of the offer or program.

(b) It is unlawful to charge postage, shipping, handling, insurance redemption fees or any other fees for any item of value offered as an inducement to the recipient to visit a vacation time sharing plan's facilities and attend a sales presentation.

(c) It is unlawful for any person making an offer subject to subsection (a) of this section or any employee or agent of the person, to offer any item if the person knows or has reason to know that the offered item will not be available in a sufficient quantity based on the reasonably anticipated response to the offer.

(d) If the person making an offer subject to subsection (a) of this section is unable to provide an offered item because of limitations of supply, quantity or quality not reasonably foreseeable or controllable by the person making the offer, the person making the offer shall provide the approximate retail value of the item as stated in the advertising program as required under subsection (a)(4) of this section.

(e) On the written request of a recipient who has received or claims a right to receive any offered item, the person making an offer subject to subsection (a) of this section shall furnish to the recipient sufficient evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient.

(f) It is unlawful for any person making an offer subject to subsection (a) of this section or any employee or agent of the person, to:

(1) Misrepresent the size, quantity, identity or quality of any prize, gift, money or other item of value offered.

(2) Misrepresent in any manner the odds of receiving any particular gift, prize, amount of money or other item of value.

(3) Label any offer a 'notice of termination' or 'notice of cancellation'.

(4) Materially misrepresent, in any manner, the offer, or program.

(g) Any violation of this section shall make any contract entered into voidable at the option of the purchaser.

Section 2828. Unfair trade practices.

A violation of any of the provisions of sections 2823 to 2827 inclusive, or failure to comply with the notice of cancellation required by section 2825 shall constitute an unfair or deceptive act or practice as set forth in Chapter 25 of Title 6.

Section 2829. Enforcement.

Violations of this chapter shall be within the scope of the enforcement duties and powers of the State Division of Consumer Affairs as described in 29 Delaware Code §8612(b)(1)."

Section 2. Severability.

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

Approved July 24, 1990.

CHAPTER 434

FORMERLY

HOUSE BILL NO. 643
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PRONOUNCEMENTS OF DEATH.

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

Section 1. Amend Section 1703(e)(9), Title 24 of the Delaware Code by deleting the phrase "as part of a hospice program" as it appears therein and substituting therein the phrase "as part of a hospice program or a certified home health care agency devoted primarily to caring for the terminally ill".

Section 2. Amend Section 1902(b), Title 24 of the Delaware Code by deleting the phrase "as part of a hospice program" as it appears therein and substituting therein the phrase "as a part of a hospice program or a certified home health care agency devoted primarily to caring for the terminally ill".

Approved July 24, 1990.

CHAPTER 435

FORMERLY

SENATE BILL NO. 492

AN ACT TO AMEND CHAPTER 33 OF TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION BENEFITS.

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

Section 1. Amend Section 3315(1), Chapter 33, Title 19 of the Delaware Code by striking the last paragraph of said section in its entirety.

Approved July 25, 1990.

CHAPTER 436

FORMERLY

SENATE BILL NO. 386

AN ACT TO AMEND CHAPTER 65, TITLE 11, DELAWARE CODE RELATING TO THE AUTHORITY OF THE DEPARTMENT OF CORRECTION TO COLLECT A PORTION OF INMATE WAGES AND TO CONTRIBUTE THEM TO THE VICTIM COMPENSATION FUND.

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

Section 1. Amend section 6534, Chapter 65, Title 11, Delaware Code, by adding a new subsection 6534(c) to read as follows:

"(c) The Department shall have the authority to deduct from any inmate's wages resulting from employment under the Private Sector/Prison Industries Enhancement Certification Program a portion thereof to be applied to the Victim Compensation Fund created pursuant to Chapter 90 of this Title. All deductions made by the Department pursuant to this subsection shall be limited to no more than 20 percent and no less than 5 percent of an inmate's gross wages received under the Program."

Approved July 25, 1990.

CHAPTER 437

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 308
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND TITLE 11 AND TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLES; AND PROVIDING FOR AN IGNITION INTERLOCK DEVICE ACT.

WHEREAS, there is a need to reduce the incidence of drivers on the highways and roads of this State who, because of their use, consumption, or possession of alcohol, pose a danger to the health and safety of other drivers; and

WHEREAS, one method of dealing with the problem of drinking drivers is to discourage the use of motor vehicles by persons who possess or have consumed alcoholic beverages; and

WHEREAS, the installation of an ignition interlock breath-alcohol device provides a means of deterring the use of motor vehicles by persons who have consumed alcoholic beverages; and

WHEREAS, ignition interlock devices are designed to supplement penalties which are intended to prevent a driver from operating a motor vehicle after using, possessing, or consuming alcohol; and

WHEREAS, it is economically and technically feasible to have an ignition interlock device installed in a motor vehicle in such a manner that the vehicle will not start if the operator has recently consumed alcohol.

NOW, THEREFORE:

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

Section 1. Amend §4177, Chapter 41, Part III, Title 21 of the Delaware Code by re-designating present subsection (e) as new subsection (f), and by re-designating present subsection (f) as new subsection (g).

Section 2. Amend §4177, Chapter 41, Part III, Title 21 of the Delaware Code by adding thereto a new subsection, designated as subsection (e), which new subsection shall read as follows:

"(e) In addition to or in lieu of any penalty for the violation of subsection (a) or subsection (b) of this Section, the Court may prohibit a person convicted under either subsection from operating any motor vehicle unless such motor vehicle is equipped with a functioning ignition interlock device; and such prohibition shall be for a period of not less than one year."

Section 3. Amend Subchapter IX, Chapter 41, Part III, Title 21 of the Delaware Code by re-designating present §4177F as new §4177I, and by re-designating each succeeding section in said subchapter accordingly.

Section 4. Amend Subchapter IX, Chapter 41, Part III, Title 21 of the Delaware Code by adding thereto the following new sections:

"§4177F. Ignition Interlock Device

(a) Where a person has been convicted a second or subsequent time within 5 years of a prior conviction, of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle, the Court may order that such person shall not operate any motor vehicle except one which is equipped with an approved ignition interlock device; and such restriction shall be for a period of not less than one year. Such restriction shall be in addition to any other penalty or restriction, or may be imposed where no other penalty or restriction is imposed. Any person who is restricted to an ignition interlock device shall purchase such device at his own cost.

(b) Notwithstanding any other provision of this Subchapter, a 'first offender' under §4177B shall have been 'convicted' for purposes of this section. For purposes of this section, the words 'ignition interlock device' or 'approved device' shall mean

ignition equipment, approved by the Director of the Division of Motor Vehicles, designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage. For purposes of this section, "certification" shall mean the essential requirement for approval of the Division. The Division of Motor Vehicles shall, consonant with the provisions of applicable State law, establish the required calibration setting; and shall provide standards for the certification, installation, setting, repair and removal of such devices.

(c) The Division of Motor Vehicles shall attach or imprint a notation on the driver's license of any person restricted under this section, stating that such person shall not operate any motor vehicle except one equipped with an ignition interlock device; or, in the Division's discretion, shall issue to such person at his own expense a restricted license which permits the holder to operate only those vehicles which are equipped with an approved device.

(d) If the Court imposes the use of an ignition interlock device as a term of probation on an offender whose driving privilege is not suspended or revoked, the Court shall require such person to provide proof to the Division of Motor Vehicles within three weeks thereafter that such a device has been permanently installed. If such offender fails to provide proof of installation within that period, absent a written finding of good cause for such failure, the Division shall report such failure to the Court, and the Court shall revoke or terminate such person's probation. The Division may, in lieu of proof of installment, require that the vehicle and device pass inspection by the Division.

(e) If the Court imposes the use of an ignition interlock device as a term of probation on an offender whose driving privilege is suspended or revoked for a period of less than three years, the Court shall require that such person report to the Division of Motor Vehicles at least once annually (or more frequently as the Court may order), on such forms and by such other proof as the Division may require, attesting to the condition and operation of each interlock device in such person's vehicle or vehicles. If such person fails to keep the device in good operating condition, the Division shall report such failure to the Court, and the Court may revoke such probation or issue such order as it deems appropriate. The Division may, in lieu of proof of such condition and operation, require that the vehicle and device be inspected by the Division at such times and under such conditions as the Division may deem necessary.

§4177H. Certification and Approval of Devices

(a) The Division of Motor Vehicles shall adopt and publish rules setting forth the requirements for obtaining certification of an ignition interlock device. No ignition interlock device shall be certified unless it meets the requirements specified and published by the Division. Such requirements shall include provisions for setting a calibration range which complies with §4177F and any other applicable law; and which shall include, but not be limited to, specifications that the device:

(1) does not impede the safe operation of the vehicle;

(2) has features that make circumvention difficult, but which do not interfere with the normal use of the vehicle; and

(3) resists tampering, and shows evidence of tampering if tampering is attempted.

(b) The cost of certification shall be borne by each manufacturer of an ignition interlock device who desires to have such device certified in this State."

Section 5. Amend Subpart D, Subchapter VI, Chapter 5, Title 11 of the Delaware Code by adding thereto a new section, designated as §1249, which new section shall read as follows:

"§1249. Abetting the Violation of Driver's License Restrictions

(a) It shall be unlawful for any person to blow into an ignition interlock device, or to start a motor vehicle equipped with such a device, for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted.

(b) It shall be unlawful for any person whose driving privilege is restricted to request or solicit any other person to blow into an ignition interlock device, or to start a motor vehicle equipped with such device, for the purpose of providing the person so restricted with an operable motor vehicle.

(c) It shall be unlawful to tamper with, or to circumvent the operation of, any ignition interlock device.

(d) A violation of this section shall be a Class A misdemeanor; provided however, that a second or subsequent conviction of a violation of this section shall be a Class G felony. Where a person violates this section, and such violation is a direct cause of the subsequent death of any person, such violation of this section shall be a Class G felony. The Superior Court shall have jurisdiction over all violations of this section."

Section 6. The Court shall notify the Division of Motor Vehicles of each order requiring the use of an ignition interlock device, and the Division shall stamp the record of each such offender who is required to use such a device, or shall otherwise reflect in its records that such person is required to use an interlock device.

Section 7. The provisions of this Act shall not become effective until the first February 1 after the Division of Motor Vehicles has completed a six-month pilot program, which pilot program shall be a six month implementation of this Act in one county of the State, which shall begin six months after the Governor has signed this Act. Upon the completion of the pilot program, the Secretary of Public Safety shall evaluate the pilot program and report to the General Assembly as to whether the provisions of this Act should be implemented statewide or discontinued altogether. The provisions of this Act shall automatically become effective on the first February 1 following the completion of the pilot program if legislation is not passed to discontinue the provisions of this Act and remove them from the Code.

Section 8. This Act shall be known as, and may be cited as, the Ignition Interlock Device Act.

Approved July 24, 1990.

CHAPTER 438

FORMERLY

HOUSE BILL NO. 743
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 24,SUBCHAPTER I, TITLE 24 OF THE DELAWARE CODE RELATING TO THE DEFINITION OF REAL ESTATE BROKERS.

Section 1. Amend §2901(a)(1) Title 24 of the Delaware Code by adding the words ", but shall not include an auctioneer as defined in §2301(7), Chapter 23, Title 30, Delaware Code." after the word "vocation".

Section 2. Amend §2901(a)(2) Title 24 Delware Code by adding the words ", but shall not include an auctioneer as defined in §2301(7), Chapter 23, Title 30, Delaware Code." after the word "vocation".

Approved July 26, 1990.

CHAPTER 439

FORMERLY

SENATE BILL NO. 490
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO AQUACULTURAL ACTIVITIES IN THE STATE OF DELAWARE.

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

Section 1. Amend Title 3 of the Delaware Code by adding thereto a new Chapter 4 to read as follows:

"Chapter 4. DELAWARE AQUACULTURE ACT

§401. Short Title.

This Act shall be known and may be cited as the 'Delaware Aquaculture Act'.

§402. Declaration of Purpose.

The General Assembly finds and declares it to be in the interest of the general welfare and economic prosperity of the State to have a comprehensive and ongoing program to promote and encourage aquacultural activities. The General Assembly further declares aquaculture to be an agricultural activity and that the Department of Agriculture shall coordinate aquacultural activities in the State of Delaware.

§403. Definitions.

As used in this Chapter:

(1) 'Aquaculture' means the cultivation, production or marketing of any fish, aquatic invertebrate or aquatic plant that is spawned, produced or marketed as a cultivated crop in waters of this State.

(2) 'Department' means the Department of Agriculture.

(3) 'Secretary' means the Secretary of the Department or his or her designee.

§404. Aquaculture Technical Assistance and Marketing Program.

The Department shall develop and implement a technical assistance and marketing program to assist owners and operators of aquacultural facilities and to promote Delaware aquaculture products. This program will be done in conjunction with, and shall be consistent with, the Department's responsibilities as defined in Section 3 of this Title. The Department's program shall include, but not be limited to, the following:

(1) Maintain a complete list of aquaculturalists engaged in the production of any aquacultural product for the purposes of certifying those aquaculturists as bonafide Delaware Aquaculture producers;

(2) Develop and administer procedures for possession, processing, sale, delivery, transportation, or exporting of aquaculture products that comply with all federal and state laws and regulations;

(3) Encourage the viability and profitability of aquaculture operations and to promote consumption of Delaware grown aquaculture products within and outside the State.

§405. Delaware Aquaculture Council.

A Delaware Aquaculture Council is hereby created for the purposes of assisting the Department with the enhancement and promotion of aquaculture activities and operations within the State. Duties of the Council shall include, but not be limited to, the following:

(1) Examine the impact of laws and regulations on the aquaculture industry and recommend to the Secretary methods to simplify regulatory processes or otherwise enhance the regulatory climate with respect to the efficient siting and operation of aquaculture operations;

(2) Examine research and educational needs as they relate to the improvement of management and operations of aquaculture operations and report to the Secretary on what actions are required to address these needs;

(3) Respond to requests of the Secretary to examine other issues relating to the enhancement of aquaculture activities and operations in Delaware.

The Council shall be composed of not less than 12 members. Members of the Council shall include:

(1) The Secretary of the Department of Natural Resources and Environmental Control or his designee;

(2) The Director of the Development Office or his designee;

(3) A representative of the University of Delaware to be appointed by the President of the University;

(4) A representative of Delaware State College to be appointed by the President of the College;

(5) A representative of the Farm Bureau Aquaculture Committee to be appointed by the President of the Delaware Farm Bureau;

(6) Three individuals that are actively involved in commercial aquaculture activities or operations to be appointed by the Chairman of the Council;

(7) Three individuals with an interest in aquaculture activities to be appointed by the Chairman of the Council.

The Secretary shall also be a member of the Council and shall serve as chair. Each Council member shall be reimbursed for all proper and necessary expenses but shall receive no compensation for time spent in attending the work of the Council.

§406. Limitations.

Aquaculture activities shall not promote the introduction of any non-indigenous species that harbor disease, parasites or are capable of surviving and adversely competing with indigenous plant or animal species."

Approved July 26, 1990.

CHAPTER 440

FORMERLY

HOUSE BILL NO. 778

AN ACT AUTHORIZING AND PROVIDING FOR THE APPROVAL OF THE CONSTRUCTION, MAINTENANCE AND OPERATION BY THE DEPARTMENT OF CORRECTION OF A WOMEN'S CORRECTIONAL FACILITY ON CERTAIN LANDS OWNED BY THE STATE OF DELAWARE.

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

Section 1. The Department of Correction is hereby authorized to construct, maintain and operate a women's correctional facility which shall provide housing for not more than 200 female inmates to be located on certain lands owned by the State of Delaware, located west of the former Penn Central Railroad tracks and north of Interstate 295, which lands include a portion of the grounds housing the main headquarters campus of the Department of Health and Social Services including the Delaware State Hospital, and other State-owned lands adjacent thereto, said lands being more specifically described as a portion of New Castle County Tax Parcel No. 10-009.00-007 and Parcel No. 10-009.00-001; provided, however, that the Department shall not use those residential streets designated as Central Avenue, Lovelace Avenue, McMullen Avenue, Robinson Drive and Lea Drive to provide vehicular access to said women's correctional facility.

Section 2. Notwithstanding any statute, ordinance, regulation or other provision of law to the contrary, zoning approval for the women's correctional facility described in Section 1 of this Act shall be solely by ordinance which shall be processed and considered by the government of New Castle County in accordance with the following provisions. The New Castle County Department of Planning and Planning Board shall, within 75 days of the effective date of this Act, deliver their recommendation to the County Council. The County Council shall hold a public hearing and render its decision not more than 90 days after the effective date of this Act. Upon the failure of the Department of Planning or Planning Board or both to deliver their recommendation to the County Council as required herein, the County Council shall consider and act upon the ordinance in accordance with the deadlines established in this Section without said recommendation. In the event that the County Council shall fail to act upon or render its decision on such ordinance in accordance with the deadlines established in this Section, the ordinance shall be deemed adopted by County Council, and the Clerk of Council shall immediately, upon the close of the 90th day following the effective date of this Act forward such ordinance to the County Executive of New Castle County for his action thereon. In the event that the County Executive shall sign such ordinance, it shall become effective immediately upon his signature. In the event that the County Executive shall not return such ordinance to the office of the Clerk of County Council within 10 calendar days after it shall have been presented to him or if such ordinance shall be returned after the 10 day period without the County Executive's approval, such ordinance shall become effective upon the expiration of the 10 day period as if the County Executive had approved and signed it.

Section 3. Notwithstanding any statute, ordinance, regulation or other provision of law to the contrary, no application for a special exception, special permit or any other approvals by the New Castle County Board of Adjustment shall be required with respect to any matter relating to the zoning approval for the women's correctional facility described in this Act. Upon actual or constructive adoption of an ordinance in accordance with this Act, the Department of Correction shall be authorized to proceed to construct, operate, and maintain a women's correctional facility on the property described in such ordinance to the same extent as if any special exception, special permit, or other Board of Adjustment approval otherwise required by statute, ordinance, regulation or other provision of law had been granted.

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

Approved August 2, 1990.

CHAPTER 441

FORMERLY

HOUSE BILL NO. 779
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING AND APPROVING THE ACQUISITION OF CERTAIN LANDS BY THE DEPARTMENT OF CORRECTION AND AUTHORIZING AND PROVIDING FOR THE APPROVAL OF THE CONSTRUCTION, MAINTENANCE AND OPERATION BY THE DEPARTMENT OF AN ADDITION OR ADDITIONS TO THE EXISTING MULTI-PURPOSE CRIMINAL JUSTICE CENTER FACILITY OR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF AN ADDITIONAL CORRECTIONAL FACILITY OR FACILITIES ON SAID LANDS.

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

Section 1. Notwithstanding any other provision of law to the contrary, the Department of Correction is hereby authorized to acquire on behalf of and in the name of the State without the approval of any other public body or political subdivision, by purchase, lease, assignment, gift, transfer, grant, devise, bequest or otherwise, and on such terms and conditions and in such manner as it may deem proper, or through condemnation proceedings pursuant to the exercise of the power of eminent domain, those parcels of land with any improvements thereon, situated in the City of Wilmington, New Castle County, and described as follows:

Parcel No. 1.

"Approximately .86 acres, more or less, beginning at a point along the northerly side of the right-of-way of East 12th Street, approximately 170 feet easterly of the intersection of the northerly right-of-way edge of East 12th Street, and the easterly right-of-way edge of the unopened street bed of Dure Street; thence northerly approximately 415 feet parallel to the unopened street bed of Dure Street; thence easterly approximately 90 feet parallel to East 12th Street; thence southerly approximately 415 feet parallel to the unopened street bed of Dure Street to the northerly side of the right-of-way of East 12th Street; thence westerly along said right-of-way of East 12th Street approximately 90 feet to said point of beginning; said property also being described as New Castle County Tax Parcel No. 26-045.00-004."

Parcel No. 2.

"Approximately 6.05 acres, more or less, beginning at a point along the northerly side of the right-of-way of East 12th Street approximately 260 feet easterly of the intersection of the northerly right-of-way edge of East 12th Street and the easterly right-of-way edge of the unopened street bed of Dure Street; thence northerly approximately 415 feet parallel to the unopened street bed of Dure Street; thence easterly approximately 530 feet parallel to East 12th Street, thence southerly along a diagonal line approximately 445.72 feet to a point along the northerly side of the right-of-way of East 12th Street approximately 998.91 feet easterly of the unopened street bed of Dure Street; thence westerly along said northerly side of the right-of-way of East 12th Street approximately 738.91 feet to said point of beginning; said property also being described as New Castle County Tax Parcel No. 26-045.00-005."

Section 2. Pursuant to the provisions of this Act, the Department is also hereby authorized to construct, maintain and operate an addition or additions to the existing Multi-Purpose Criminal Justice Center facility which is located on State-owned land immediately adjacent to the land described in this Act or to construct, maintain and operate an additional correctional facility or facilities on the land described in this Act.

Section 3. If the Department of Correction cannot agree with the owner of either of the parcels of land which it is authorized by this Act to acquire, it may exercise the right of eminent domain, in
the name of the State, by instituting condemnation proceedings in accordance with Chapter 61, Title 10 of the Delaware Code.

Section 4. The right of eminent domain herein conferred extends to and includes the right to acquire the fee simple title to any lands taken by the Department pursuant to this Act.

Section 5. Within 90 days of the date of of application the Zoning Board of Adjustment of the City of Wilmington shall approve or disapprove the Department's application for any and all variances necessary to construct, maintain and operate said addition or additions and its failure to act shall constitute and be deemed to be a final and irrevocable approval of said application.

Section 6. This Act shall become effective immediately upon the signature of the Governor.

Approved August 2, 1990.

CHAPTER 442

FORMERLY

SENATE JOINT RESOLUTION NO. 11

HONORING THE LATE GENERAL RICHARD H. ELLIS, A NATIVE OF LAUREL, DELAWARE, FOR HIS OUTSTANDING CONTRIBUTIONS AND APPOINTING A COMMITTEE TO RAISE THE NECESSARY FUNDS TO COMMISSION AN ARTIST TO DO A PORTRAIT OF GENERAL RICHARD H. ELLIS TO BE HUNG IN THE GALLERY OF LEGISLATIVE HALL AMONG OTHER DISTINGUISHED DELAWARE MILITARY HEROES.

WHEREAS, General Richard H. Ellis, a native of Laurel, rose to the highest levels of command in the United States Air Force and also by designation of President Reagan, became U. S. Commissioner on the US-USSR Consultative Commission with the rank of ambassador following his retirement from the service; and

WHEREAS, General Ellis was an American hero in both World War II and the Korean Conflict receiving the Distinguished Service Cross; the Distinguished Service Medal with four oak leaf clusters; the Silver Star; the Legion of Merit with two oak leaf clusters; the Distinguished Flying Cross; the Air Medal with four oak leaf clusters; the Purple Heart, and numerous other honors from the grateful people of the United States and many foreign governments; and

WHEREAS, during his distinguished and brilliant military career, which ended with his retirement from active duty as a Four Star General in 1981, he was Commander, Allied Air Forces Central Europe and Commander in Chief, United States Air Forces in Europe and Commander in Chief of the Strategic Air Command; and

WHEREAS, Richard Ellis was also a practicing member of the Delaware Bar with offices in Wilmington between his service in World War II and his recall to active duty in 1950 for service in the Korean Conflict; and

WHEREAS, General Ellis flew more than 200 combat missions during his illustrious military career and was credited with shooting down great numbers of enemy aircraft; and

WHEREAS, it is appropriate that the State of Delaware honor and cherish the memory of this outstanding native son who died March 28, 1989 at the age of 69.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 135TH General Assembly of the State of Delaware, with the approval of the Governor, that a special committee be authorized to commission a portrait of General Ellis which, when completed, will be hung with appropriate ceremonies, in the gallery of Delaware military heroes in Legislative Hall.

BE IT FURTHER RESOLVED that this Committee will be chaired by former Governor Elbert N. Carvel and will also include, at his request, Secretary of State, Michael E. Harkins and Ned Davis of Dover, also a native of Laurel, who will raise funds to pay for the portrait from the private sector with the good will and approval of the General Assembly and Governor Michael N. Castle; and

BE IT FURTHER RESOLVED that the Committee, upon completion of the portrait, in consultation with the Governor, the President Pro Tempore of the Senate and the Speaker of the House, will arrange appropriate ceremonies for its dedication and that the widow of General Ellis, the former Margaret Parry Wolcott, his three children and other members of the family, will all be invited to attend as well as such other members of the United States government and military services and citizens of the State of Delaware that are deemed appropriate for an occasion of this magnitude, honoring one of the bravest and most distinguished Delawareans in the glorious history of our Statehood.

Approved April 10, 1990.

CHAPTER 442

FORMERLY

HOUSE BILL NO. 524

AN ACT TO AMEND CHAPTER 43, TITLE 11, DELAWARE CODE RELATING TO PROBATION AND PAROLE COUNSELLORS OR OFFICERS.

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

Section 1. Amend Chapter 43, Title 11 by striking the phrase "Probation and parole counsellor" in its entirety wherever it appears therein and substituting in lieu thereof the phrase "Probation and parole officer".

Section 2. Amend Chapter 43, Title 11 by striking the phrase "probation counsellor" in its entirety wherever it appears therein and substituting in lieu thereof the phrase "probation officer".

Section 3. Amend §4321, Chapter 43, Title 11 by striking said section in its entirety and substituting in lieu thereof the following:

"§4321. Probation and parole officers.

The Department and its probation and parole officers shall conduct such presentence and preparole investigations or perform such other duties under this chapter as may be ordered by the Court, Parole Board or Department; provided, however, that all presentence investigations and reports for the Superior Court and the Court of Common Pleas shall be prepared as provided in §4335 of this title. The Department shall furnish to each person released under the supervision of the Department a written statement of the conditions of his probation or parole and shall instruct him regarding these conditions. The officers, under the supervision of the Department, shall prepare an evaluation and plan of treatment aimed at the alleviation of those conditions which brought about the criminal behavior of each person in his charge, and shall attempt in each case to effect a satisfactory adjustment between the individual and his needs and the demands of society. The officers shall keep informed of the conduct and condition of persons in their charge, shall aid them to secure employment, shall exercise supervision over them, shall see that they are in compliance with and fulfill the conditions of their release and shall use all suitable methods to aid and encourage them to bring about improvement in their conduct and conditions and to meet their probation or parole obligations. A special condition of supervision may be set by orders of the Court, Board of Parole or the probation and parole officer acting under the authority of the Court or Board of Parole. Special conditions of supervision imposed by the probation and parole officer shall be in accordance with Department procedures and may be enforced in the interim period of final review by the Court or Board of Parole. The officer shall keep detailed records of their work, shall assist in the collection and dispersal of all monies in accordance with the orders of the Court and Department and shall make such reports in writing and perform such other duties which the rules and regulations of the Department require, or which the Court, the Board of Parole or the Commissioner may require. Probation and parole officers shall exercise the same powers as constables under the laws of this State and may conduct searches of individuals under probation and parole supervision in accordance with Department procedures while in the performance of the lawful duties of their employment and shall execute lawful orders, warrants and other process as directed to him by any Court, Judge or Board of Parole of this State; however, a probation and parole officer shall only have such power and duties if he participates in and/or meets the minimum requirements of such training and education deemed necessary by the Department and Board of Examiners."

Approved October 5, 1990.

CHAPTER 443

FORMERLY

HOUSE BILL NO. 560

AN ACT TO AMEND CHAPTER 1, TITLE 19, DELAWARE CODE RELATING TO THE DUTIES AND POWERS OF THE DEPARTMENT OF LABOR INCLUDING THE CHARGING OF FEES FOR RESEARCH 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 Section 105, Chapter 1, Title 19, Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§105. Duties and powers of the Department; Fees; Department of Labor Research Fund;

(a) In addition to such other duties and powers which may be conferred upon it by law the Department may:

(1) Administer all labor laws in this state;

(2) Direct to the attention of the Attorney General of this state, with a request for the necessary enforcement action, all violations under the terms of this chapter;

(3) Collect, compile and analyze statistical information with respect to, and report upon the conditions of, labor generally, and upon all matters relating to the enforcement and effect of this chapter;

(4) Collect fees for research activities it conducts pursuant to this section, the amounts of said fees to approximate and reasonably reflect the costs of such activities;

(5) Propose to the Industrial Accident Board such rules or changes in rules as may be deemed advisable, either procedural or substantive;

(6) Do all in its power to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employees; provided, however, that neither the Department nor any of its representatives shall have the authority, under either this section or §§110 and 111 of this title, to make any public recommendation for the settlement of any specific labor dispute, or to make any public statement as to the merits of such dispute, prior to the final settlement thereof;

(7) Promote voluntary apprenticeship through cooperation with the United States Department of Labor;

(8) Make, amend and repeal regulations necessary for the internal administration of the Department, and for the proper conduct of any necessary hearings before the Department or its authorized agents. The members of the Department shall not be bound by technical rules of evidence in the conduct of such hearings.

(b) Any fees collected by the Department of Labor for its research service shall be paid into the State Treasury and the State Treasurer shall deposit the same to the credit of a special fund entitled 'Department of Labor Research Fund' from which necessary expenses of the Department of Labor shall be paid for analyses of labor force, employment, unemployment and occupational and industrial change upon proper vouchers signed by the Secretary of the Department of Labor. The Department of Labor Research Fund shall be a revolving fund and no funds deposited therein shall revert to the General Fund of the State Treasury, except for funds appropriated by the 135th General Assembly to begin said Fund, which funds shall be paid back to the State Treasurer out of the Department of Labor's Research Fund on or before June 30, 1992. The Department of Labor shall annually, on or before January 31, make a report to the Governor of all income and expenditures made from said Fund. A copy of said reports shall be given biennially, on or before January 31, to the members of the General Assembly."

Approved October 5, 1990.

CHAPTER 444

FORMERLY

HOUSE BILL NO. 604

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE BY PROVIDING FOR EMPLOYEE RECOGNITION PROGRAMS.

WHEREAS, in the name of service, State employees have made great contributions to every aspect of life in the State of Delaware serving in the Legislative, Executive and Judicial branches of government; and

WHEREAS, the effectiveness, efficiency and quality of State government depends in large measure on its employees who provide such a broad range of services that few citizens remain unaffected by their work; and

WHEREAS, the importance of public services rendered by State employees and the exemplary manner of their performance are too often forgotten or ignored; and

WHEREAS, the Statewide Labor-Management Committee has recommended that the State take proactive steps to recognize the dedication, talents and contributions made by State employees at all levels of government; and

WHEREAS, the Recognition Umbrella Committee has developed procedures and guidelines for Statewide and agency level employee recognition initiatives.

NOW THEREFORE:

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

Section 1. Amend Chapter 59, Title 29 of the Delaware Code by adding thereto a new Section 5950 to read as follows:

"§5950. Employee Recognition.

(a) It shall be part of the function of State agencies to conduct employee recognition programs for Merit System employees and employees in positions that are assigned comparable Merit System classes or paygrades. All such employee recognition programs shall be approved by the State Personnel Director prior to implementation.

(b) The first full week in May shall be designated Public Service Recognition Week. Employee recognition programs shall not, however, be confined to this week."

Section 2. Amend Section 5112 of Chapter 51, Title 29 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§5112. Employees not to be supplied with or reimbursed for food consumed during working hours; exceptions.

(a) No full-time employee of the State whose salary is paid by the State 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.

(b) Subsection (a) shall not apply to:

(1) employees of State agencies who regularly receive wages in kind in addition to their salaries;

(2) employees of the Delaware Development Office;

(3) the expenditures of funds for food supplies as part of employee recognition activities established pursuant to §5950 of this Title."

Section 3. Amend Section 5117 of Chapter 51, Title 29 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§5117. Employees neither supplied with nor reimbursed for parking expenses associated with commutation to work; exception.

(a) No State agency many rent parking spaces for employees' 'or State officials' private vehicles. It is the intent of this section to clearly establish that State employees are

liable for the full cost of commuting to and from work, including the cost of parking, and that the State will not participate in the payment of any of that commuting cost, including parking costs.

(b) This section does not alter the existing policy of reimbursing employees for expenses incurred while traveling on State business.

(c) Subsection (a) shall not apply to the use of rented parking spaces, as part of an approved employee recognition program established pursuant to §5950 of this Title."

Approved October 5, 1990.

CHAPTER 445

FORMERLY

HOUSE BILL NO. 700

AN ACT TO AMEND TITLE 25, OF THE DELAWARE CODE TO CLARIFY THE PROPERTY TO WHICH STATUTORY LIENS FOR TAXES AND OTHER GOVERNMENTAL CHARGES RELATE AND TO PROVIDE FOR A NOTICE OF LIEN FOR SUCH CHARGES.

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

Section 1. Amend Title 25, Delaware Code, by deleting the existing Section 2901 in its entirety and substituting therein the following:

"§2901. Lien of Taxes and Other Charges; Notice of Lien.

(a)(1) Except as otherwise provided, "lien" or "liens" as used in this Section 2901 shall arise whenever the following charges, as defined in this section, are levied or imposed by the State or any political subdivision thereof (including the Levy Court or County Council of any county, any united, consolidated or incorporated school district, or any incorporated town or city in this State) and such charges become due:

(a) Real property taxes, including penalty and interest thereon;

(b) School taxes, including taxes for a vocational-technical high school district or county vocational-technical center district, including penalty and interest thereon;

(c) Service charges for maintenance or use of sewer systems, including penalty and interest thereon;

(d) Service charges for maintenance or use of water systems, including penalty and interest thereon;

(e) Service charges for garbage collection;

(f) Charges for the costs of razing or demolition of buildings done through public expenditure; and

(g) Charges for duly authorized improvements to the exteriors of buildings done through public expenditure.

(2) "Liens" shall not include administrative costs incurred by the Sheriff in the Sheriff's Sale process.

(3) Except as provided in subsection (b)(1) hereof, the liens created by subsection (a) are levied or imposed only upon that parcel of real property against or upon which such charges have been levied or imposed. The liens created by this section shall have preference to and priority over all other liens on such real property, including liens of a date prior in time to the attaching of the liens created by this section.

(4) Any political subdivision having the power to levy or collect any of the charges described herein shall maintain a record of all charges creating liens under this section, including the amount of the lien, the name of the chargeable, and the location of the real property against or upon which such charges have been levied or imposed. The record or information contained therein shall be available to the public upon request.

(b)(1) Upon the filing of a Notice of Lien by a political subdivision in accordance with this subsection (b), the charges described in subsection (a)(1) hereof shall, as of the date of filing a Notice of Lien pursuant to this subsection (b), be and constitute a lien upon all real property of which the chargeable was seized at the time, or at any time after such Notice of Lien has been filed in accordance with this subsection (b), situate in the county (including all real property situate within any incorporated town or city located within the county) in which such charges are levied or imposed.

(2) Notices of Lien shall be in the form of an affidavit, executed by an attorney for the political subdivision or by an employee of the political subdivision having

custody and control over the records relating to the charges that constitute the lien, reciting that the chargeable is the owner of record of real property situate in the county (including all real property situate within any incorporated town or city located with the county) in which such charges are levied or imposed, that charges have been duly levied or imposed upon the chargeable, the types of charge as specified in subsection (a)(1), the amount of such charges as of the date of filing the Notice of Lien and that the chargeable has failed to pay said charges despite notice by the political subdivision.

(3) A Notice of Lien for any chargeable may be filed at any time after the charges have become delinquent. Charges shall be deemed "delinquent" if they are unpaid as of the date upon which any penalty or interest shall accrue thereon in accordance with law or, in the event that there is no such date established by law, as of ninety (90) days after the date upon which an authorized representative of the political subdivision made a demand for payment upon the chargeable.

(4) Notice of Lien shall be indexed by the name of the chargeable, in a separate index for such purposes maintained in the Office of the Prothonotary in each county. The index shall be maintained by the Office of the Prothonotary in the County in which the real property is located and shall include the name of the chargeable and the date and time the Notice of Lien was filed. A fee for filing the Notice of Lien shall be established by the Superior Court pursuant to 10 Del.C. §8705 and shall be paid at the time of filing the Notice of Lien. The affidavit filed for each Notice of Lien shall be available to the public upon request. The lien created hereunder shall be a lien upon all real property owned by the chargeable at the time of filing that is situate in the county (including any incorporated town or city located within the county) in which such charges are levied or imposed, and such lien shall have priority as of the time it is filed.

(5) The political subdivision that filed any Notice of Lien may, in its sole discretion and at any time and without receiving payment of all charges owed by the chargeable, release from the lien created hereby any or all parcels of real property owned by the chargeable by filing a writing to that effect with the Prothonotary, and such release shall be without prejudice to the right of the political subdivision to collect the remainder of any charges from any real property of the chargeable that is subject to the lien created under subsection (b) and has not been so released. Any release, whether partial or complete, shall be noted in the index for Notices of Lien.

(6) A Notice of Lien shall be ineffective as of the date all charges owed by the chargeable have been paid in full, subject to subsection (7) hereof.

(7) A Notice of Lien shall be effective for a period of three (3) years after the date of filing such Notice, unless the political subdivision files a subsequent Continuation of Lien against the same chargeable prior to the expiration of the three (3) year period and in such event the lien created by the subsequent Continuation of Lien will have priority as of the date of filing of the previous Notice of Lien. A Continuation of Lien will be effective for a period of three years following the initial three-year period of the Notice of Lien and shall constitute a lien against any real property acquired by the chargeable after the filing of the Notice of Lien, and located in the county in which the Notice of Lien was filed. No more than one Continuation of Lien may be filed for any one Notice of Lien, provided, however, that this limitation shall not preclude the later filing of a new Notice of Lien against the chargeable which shall be effective and have priority as of the date of such later filing.

(8) Upon written notice by the chargeable to the political subdivision that all charges for which the Notice of Lien was filed have been paid, the political subdivision shall enter a satisfaction of record on the Notice of Lien index.

(9) Nothing contained herein shall be deemed to affect or limit the ability of the political subdivision to collect any charge through any other legal procedure including, without limitation, proceedings pursuant to a Writ of Monition.

(10) All liens for the nonpayment of charges (including any created pursuant to 9 Del.C. §8701), other than the lien upon the real property against which the charge was levied or imposed as provided in subsection (a), are hereby extinguished, provided, however, that this subsection shall not affect any lien obtained by any political subdivision prior to the effective date hereof by any legal procedure including, without limitation, proceedings pursuant to a Writ of Monition.

Approved October 5, 1990.

CHAPTER 446

FORMERLY

HOUSE BILL NO. 744

AN ACT TO AMEND CHAPTER 5, TITLE 13 OF THE DELAWARE CODE RELATING TO ALIMONY,SUPPORT AND CERTAIN AGREEMENTS, ATTORNEYS' FEES, JURISDICTION, PROPERTY DIVISION, AND ENFORCEMENT OF COURT ORDERS, FINANCIAL REPORTING AND RELATED MATTERS.

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

Section 1. Amend Subsection (a), §507, Chapter 5, Title 13 of the Delaware Code, by deleting the second sentence thereof in its entirety and substituting in lieu thereof the following:

The Court shall have exclusive jurisdiction over the construction, reformation, enforcement and rescission of agreements made between future spouses, spouses, and former spouses concerning the payment of support or alimony, the payment of child support, the division and distribution of marital property and marital debts and any other matters incident to a marriage, separation or divorce. The Court shall have jurisdiction to resolve any issues resulting from the construction, reformation, enforcement or rescission of an agreement. In this regard, the Court shall apply the statutory factors set forth in 13 Del. C., Chapters 5, 6 and 15."

Section 2. Amend §512(a), Chapter 5, Title 13 of the Delaware Code by adding the following sentence to the end thereof:

"The Court may also enter an interim or emergency order for support in accordance with its rules and procedures."

Section 3. Amend Subsection (a), §513, Chapter 5, Title 13 of the Delaware Code by striking subparagraph (5) in its entirety and substituting in lieu thereof the following:

"(5) Order one party to pay all or part of the cost to the other party of maintaining or defending any proceeding under this Chapter and for attorneys' fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after the entry of judgment, after considering the legal and factual basis for the action, the results obtained, the financial resources of both parties, and such other factors as the Court deems just and equitable. The Court may order that the amount be paid directly to the attorney, who may enforce the order in his or her name."

Section 4. Amend Subsection (b), §513, Chapter 5, Title 13 of the Delaware Code by adding thereto a new subparagraph "(13)" to read as follows:

"(13) Any attachment or execution to enforce an order entered under this Chapter or an order for alimony, division of property or other financial relief under Chapters 6, 7, 13 or 15 shall not be subject to the exemptions or limitations set forth in §§3502 or 4913 of Title 10.

Section 5. Amend Subsection (c), §513, Chapter 5, Title 13 of the Delaware Code by renumbering the existing subsections (c)(1),(2) and (3) as (c)(2),(3) and (4), respectively, and by adding a new subsection (c)(1), as follows:

"(c)(1) Following the entry of any order of support under this Chapter, the parties must notify each other in writing of every change in circumstances which might materially affect the existing support order; and, in addition, each party shall exchange completed Financial Report forms every twelve months to determine how the needs of those receiving support are being met with the support paid, and whether any modification should be made to the existing support order based upon the factors set forth in §514."

Section 6. Amend Chapter 5, Title 13 of the Delaware Code by adding thereto a new §518 to read as follows:

"§518 Accounting.

A person who receives funds from another person for the support of a child in his or her care is a fiduciary with respect to such funds and may be ordered by the Court to account for the expenditure and management of such funds on application by any payer of

such funds for good cause shown. Any application filed for such an accounting shall state with particularity the reasons why it is being sought and the basis for believing that such an accounting is necessary. The Court may dismiss any application for an accounting if the application does not show good cause why such an accounting should be ordered, and the Court shall order that all costs and reasonable counsel fees incurred by the fiduciary in his or her defense be paid by the unsuccessful applicant. If an accounting is granted by the Court, it may equitably apportion the costs, including reasonable counsel fees, of the action among the parties to the proceeding after taking into account the legal and factual basis for the action, the results obtained, the financial resources of the parties, and such other factors as the Court deems just and equitable."

Section 7. Amend §516(e), Chapter 5, Title 13 of the Delaware Code by adding after the word "bond" in the first sentence thereof the phrase "or other adequate collateral security, with or without sureties, to secure payment of the obligation"; deleting from the first sentence the phrase "with sureties approved by the Court"; and by adding the phrase "or other collateral security" after the word "bond" in the second sentence thereof and in subsections (1), (2) and (3).

Section 8. This Act shall become effective 30 days after the day on which it is enacted into law. Actions commenced 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 actions as if this Act were not in effect.

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.

Approved October 5, 1990.

CHAPTER 447

FORMERLY

HOUSE BILL NO. 756

AMEND TITLE 14, DELAWARE CODE RELATING TO ABSENTEE VOTING.

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

Section 1. Amend Chapter 10, Title 14, Delaware Code by adding a new Section 1086 thereto to read as follows:

"§1086. Absentee Voting.

(a) Any individual qualified to vote in a school district election who shall be unable to appear to cast their ballot at the polling place of their school district on the date of the election may cast their vote by absentee ballot provided that the voter appears at the school district office during normal working hours 1 to 10 working days prior to the date of the election and executes an affidavit of eligibility, the form of which shall be prescribed by the State Department of Elections.

(b) Upon receipt of the executed affidavit, the school district shall provide the individual with an absentee ballot and sealable envelope approved by the State Department of Elections, with instructions stating that the absentee ballot must be executed at the school district office and returned to the appropriate school district personnel in that office without being taken from the premises.

(c) All absentee ballots received by the school district prior to the close of the polls on the district election date shall remain sealed and held by the district until such time as the votes are counted on the district election date, whereupon the absentee ballots shall be counted and totalled in with all other poll results."

Section 2. This Act shall take effect immediately upon signature by the Governor.

Approved October 5, 1990.

CHAPTER 448

FORMERLY

HOUSE BILL NO. 758

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE DISBURSEMENT OF SPECIAL ASSESSMENT FUNDS.

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

Section 1. Amend Section 3402, Chapter 34, Title 19, of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"(a) All moneys collected under this chapter shall be deposited in the Special Administration Fund of the Department of Labor and shall be dedicated to the establishment and implementation of programs to provide for the counseling, training and placement of dislocated workers, to assist in school-to-work transition activities such as vocational guidance, training, placement and job development, to provide for industrial training, to provide for career advancement training for state employees and to pay the administrative costs of such programs.

(b) All moneys collected under this chapter shall, in a timely manner after deposit pursuant to subsection (a) of this section, be deposited to the following special funds in the following amounts and for the following purposes:

(1) Ten percent (10%) of the total amount collected retained by the Division of Unemployment Insurance for costs associated with the collection of the tax.

(2) Twenty-five percent (25%) of the funds that remain after the cost of collecting the tax has been deducted to a special fund of the State to be administered by the Delaware Development Office to be awarded to appropriate subgrantees for industrial training for economic development in accordance with subchapter V of Chapter 50 of Title 29 of the Delaware Code.

Of this 25% sum, not more than $100,000 shall be allocated for subgrants to fund career training for state employees. Appropriate regulations for the granting of these funds shall be developed by the Delaware Development Office, in cooperation with the State Personnel Office and a representative of a public employees' union representing state employees.

Of this same 25% sum, no more than 10% may be retained by the Delaware Development Office for the payment of administrative costs.

(3) Seventy-five percent (75%) of the funds remaining after the cost of collecting the tax has been deducted to a special fund to be administered by the Delaware Private Industry Council, Inc., to be awarded to appropriate subgrantees to provide for services to dislocated workers, to assist in school-to-work transition activities and to underwrite such other innovative training programs as the Council may approve, under regulations promulgated by the Council in coordination with the Department of Labor.

Of this same 75% sum, no more than 11% may be retained by the administrative entity (Delaware Division of Employment and Training and Delaware Private Industry Council, Inc.) for the payment of administrative costs. Of the sum that remains, no more than one-half may be used for subgrants for school-to-work transition activities.

(c) The special funds authorized by paragraphs (1), (2) and (3) of subsection (b) above shall be established pursuant to state accounting standards and balances on deposit at the end of any fiscal year shall not revert."

Approved October 5, 1990.

CHAPTER 449

FORMERLY

SENATE BILL NO. 427
AS AMENDED BY
SENATE AMENDMENT NOS. 9, 13, AND 14
AND
HOUSE AMENDMENTS NO. 2, 1 TO 2, 3, 6, 1 TO 6, 7, AND 8

AN ACT TO AMEND CHAPTER 80, TITLE 15, DELAWARE CODE, RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, AND TO AMEND CHAPTER 101, TITLE 29, DELAWARE CODE, RELATING TO ADMINISTRATIVE PROCEDURES.

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

Section 1. Amend Chapter 80, Title 15, Delaware Code by striking said Chapter in its entirety and inserting in lieu thereof new Chapter 80 to read as follows:

"CHAPTER 80. CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

SUBCHAPTER I. GENERAL PROVISIONS

§8001. Purpose.

The purpose of this Chapter is to protect the public interest by requiring full disclosure of the source of all funds used in political campaigns, providing reasonable limits on the amounts of contributions, and providing a manner to enforce this law.

§8002. Definitions.

As used in this chapter:

(a) "Candidate" means a person who seeks nomination for or election to public office, or who has taken action necessary under the law to qualify for nomination or election under the laws of the State, or has authorized the solicitation of any contribution or the making of any expenditure in his or her behalf.

(b) "Candidate committee" means each political committee formed on behalf of a candidate for public office.

(c) "Cash" includes currency, money orders, travelers checks and other negotiable instruments that do not disclose on their face the true name of the contributor.

(d) "Chapter" includes, in addition to the provisions of this chapter, the rules and regulations made by the Commissioner.

(e) "Commissioner" means the State Election Commissioner, or the designee of the Commissioner.

(f) "Contribution" means any advance, deposit, gift, expenditure or transfer, of money or any other thing of value, to or for the benefit of any candidate or political committee involved in an election, including without limitation any:

(1) Gift, subscription, advance, deposit, expenditure, or transfer of any thing of value;

(2) Discount or rebate not available to the general public (except a party's abatement or refund of a filing fee otherwise required under §3103 of this title),

(3) Loan (except a loan of money by a national or state bank, building and loan association or licensed lender made in the ordinary course of business),

(4) Purchase of tickets, goods or services sold to raise funds for a campaign, whether or not the tickets, goods or services are used by the buyer,

(5) Forgiveness of indebtedness or payment of indebtedness by another person,

CHAPTER 448

FORMERLY

HOUSE BILL NO. 758

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE DISBURSEMENT OF SPECIAL ASSESSMENT FUNDS.

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

Section 1. Amend Section 3402, Chapter 34, Title 19, of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"(a) All moneys collected under this chapter shall be deposited in the Special Administration Fund of the Department of Labor and shall be dedicated to the establishment and implementation of programs to provide for the counseling, training and placement of dislocated workers, to assist in school-to-work transition activities such as vocational guidance, training, placement and job development, to provide for industrial training, to provide for career advancement training for state employees and to pay the administrative costs of such programs.

(b) All moneys collected under this chapter shall, in a timely manner after deposit pursuant to subsection (a) of this section, be deposited to the following special funds in the following amounts and for the following purposes:

(1) Ten percent (10%) of the total amount collected retained by the Division of Unemployment Insurance for costs associated with the collection of the tax.

(2) Twenty-five percent (25%) of the funds that remain after the cost of collecting the tax has been deducted to a special fund of the State to be administered by the Delaware Development Office to be awarded to appropriate subgrantees for industrial training for economic development in accordance with subchapter V of Chapter 50 of Title 29 of the Delaware Code.

Of this 25% sum, not more than $100,000 shall be allocated for subgrants to fund career training for state employees. Appropriate regulations for the granting of these funds shall be developed by the Delaware Development Office, in cooperation with the State Personnel Office and a representative of a public employees' union representing state employees.

Of this same 25% sum, no more than 10% may be retained by the Delaware Development Office for the payment of administrative costs.

(3) Seventy-five percent (75%) of the funds remaining after the cost of collecting the tax has been deducted to a special fund to be administered by the Delaware Private Industry Council, Inc., to be awarded to appropriate subgrantees to provide for services to dislocated workers, to assist in school-to-work transition activities and to underwrite such other innovative training programs as the Council may approve, under regulations promulgated by the Council in coordination with the Department of Labor.

Of this same 75% sum, no more than 11% may be retained by the administrative entity (Delaware Division of Employment and Training and Delaware Private Industry Council, Inc.) for the payment of administrative costs. Of the sum that remains, no more than one-half may be used for subgrants for school-to-work transition activities.

(c) The special funds authorized by paragraphs (1), (2) and (3) of subsection (b) above shall be established pursuant to state accounting standards and balances on deposit at the end of any fiscal year shall not revert."

Approved October 5, 1990.

CHAPTER 449

FORMERLY

SENATE BILL NO. 427
AS AMENDED BY
SENATE AMENDMENT NOS. 9, 13, AND 14
AND
HOUSE AMENDMENTS NO. 2, 1 TO 2, 3, 6, 1 TO 6, 7, AND 8

AN ACT TO AMEND CHAPTER 80, TITLE 15, DELAWARE CODE, RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, AND TO AMEND CHAPTER 101, TITLE 29, DELAWARE CODE, RELATING TO ADMINISTRATIVE PROCEDURES.

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

Section 1. Amend Chapter 80, Title 15, Delaware Code by striking said Chapter in its entirety and inserting in lieu thereof new Chapter 80 to read as follows:

"CHAPTER 80. CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

SUBCHAPTER I. GENERAL PROVISIONS

§8001. Purpose.

The purpose of this Chapter is to protect the public interest by requiring full disclosure of the source of all funds used in political campaigns, providing reasonable limits on the amounts of contributions, and providing a manner to enforce this law.

§8002. Definitions.

As used in this chapter:

(a) "Candidate" means a person who seeks nomination for or election to public office, or who has taken action necessary under the law to qualify for nomination or election under the laws of the State, or has authorized the solicitation of any contribution or the making of any expenditure in his or her behalf.

(b) "Candidate committee" means each political committee formed on behalf of a candidate for public office.

(c) "Cash" includes currency, money orders, travelers checks and other negotiable instruments that do not disclose on their face the true name of the contributor.

(d) "Chapter" includes, in addition to the provisions of this chapter, the rules and regulations made by the Commissioner.

(e) "Commissioner" means the State Election Commissioner, or the designee of the Commissioner.

(f) "Contribution" means any advance, deposit, gift, expenditure or transfer, of money or any other thing of value, to or for the benefit of any candidate or political committee involved in an election, including without limitation any:

(1) Gift, subscription, advance, deposit, expenditure, or transfer of any thing of value;

(2) Discount or rebate not available to the general public (except a party's abatement or refund of a filing fee otherwise required under §3103 of this title),

(3) Loan (except a loan of money by a national or state bank, building and loan association or licensed lender made in the ordinary course of business),

(4) Purchase of tickets, goods or services sold to raise funds for a campaign, whether or not the tickets, goods or services are used by the buyer,

(5) Forgiveness of indebtedness or payment of indebtedness by another person,

(6) Service or use of property without full payment therefor (except the contribution of services by an individual, the use of an individual's residence, the contribution of such items as invitations, food and beverages by an individual volunteering personal services or the individual's residence, or the use of the telephone equipment of any person); or

(7) Any other thing of value (except an independent expenditure).

(g) "Election" means the action by qualified voters of the State either to nominate by vote a candidate for public office or to select a candidate to fill a public office, whether in a primary, general and special election.

(h) "Election Period" means:

(1) For a candidate committee:

(A) For a candidate for re-election to an office to which the candidate was elected in the most recent election held therefor, the period beginning on January 1 immediately after the most recent such election, and ending on the December 31 immediately after the general election at which the candidate seeks re-election to the office.

(B) For a candidate for re-election to an office which the candidate attained since the last election held therefor (whether the candidate attained the office by succession, appointment or otherwise), the period beginning on the day the candidate succeeded to or was appointed to the office, and ending on the December 31 immediately after the general election at which the candidate seeks re-election to the office.

(C) For a candidate for election to an office which the candidate does not hold, the period beginning on the day on which the candidate first receives any contribution from any person (other than from the candidate or from the candidate's spouse) in support of his or her candidacy for the office, and ending on the December 31 immediately after the general election at which the candidate seeks election to the office.

(D) Notwithstanding the foregoing, for purposes of the limitations under §8010 on contributions from persons other than political parties and political action committees, for a candidate in a general election who was nominated for such office in a primary election, the election period shall end on the day of the primary and the next election period shall begin on the day after the primary.

(2) For a political party and for a political action committee, the period beginning on the January 1 immediately after a general election, and ending on the December 31 immediately after the next general election.

(3) For a candidate committee for a person who does not hold public office and who has not taken action necessary under the law to qualify for nomination or election under the laws of the State, the period beginning on the date the first contribution is received or expenditure is made by the committee and ending on the fourth December 31 following such date; provided, however, that if such person takes action necessary under the law to qualify for nomination or election under the laws of the state, the period shall be determined under paragraph (1) of this subsection.

(4) For a person who makes independent expenditures, the election period shall begin and end at the same time as that of the candidate whose election is advocated or opposed by the independent expenditures, without regard to subparagraph 1(D) of this subsection.

(i) "Expenditure" means any payment made, or debt incurred by or on behalf of a candidate or political committee, or to assist in the election of any candidate, or in connection with any election campaign.

(j) "Independent Expenditure" means any expenditure made by any individual or other person (other than a candidate committee or a political party) expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or any committee or agent of such candidate.

(k) "Person" includes any individual, corporation, company, incorporated or unincorporated association, general or limited partnership, society, joint stock company, and any other organization or institution of any nature.

(l) "Political committee" means any organization or association, whether permanent or created for the purposes of a specific political campaign, which accepts contributions or makes expenditures for or against any candidate or candidates, and includes all political parties, political action committees, and any candidate committee.

(m) "Political action committee" means a political committee which is neither a political party nor a candidate committee.

(n) "Political party" means an organization eligible to be listed on any general election ballot under §3001 of this title, or any other organization which desires to be listed on any ballot on any election, and any constituent part of such party which receives contributions and makes expenditures. For purposes of the contribution limits of Subchapter II, a "political party" includes all constituent parts of such party, including the statewide, county, regional, municipal and district committees, all finance committees and all other committees, subdivisions and organizations related to the political party.

(o) "Public office" means an office of this State or any political subdivision thereof which is required by law to be determined by an election.

(p) "Treasurer" means the individual appointed by a candidate to assist the candidate with the duties imposed by this chapter.

§8003. Duties of a Candidate.

(a) A candidate shall establish a candidate committee. There shall only be one candidate committee for any candidate, although such candidate committee may have subcommittees. The candidate committee may continue in existance for more than one election period, and with respect to more than one elective office. Each candidate committee or subcommittee shall notify the Commissioner as required under §8005 of this Chapter, and shall comply with all the other requirements of this Chapter. A candidate shall be responsible for the lawful operation of his or her candidate committee and all subcommittees thereof.

(b) Except for independent expenditures that meet the requirements of this title, all contributions to or on behalf of a candidate shall be placed into the candidate committee, and all expenditures to or on behalf of a candidate shall be made from the candidate committee.

(c) A candidate shall cause his or her candidate committee to keep complete records of all contributions received and all expenditures made by or on behalf of his or her candidacy, and shall retain such records for three full years following the election in which he or she was a candidate; provided, however, that the candidate need not keep records of the names and mailing addresses of persons making contributions of $100 or less in an election period.

(d) A candidate shall file or cause to be filed with the Commissioner the reports required of his or her campaign committee under §8030 of this title.

(e) A candidate shall designate an individual as treasurer of his or her candidate committee, in order to assist with the duties under this chapter, but nothing shall relieve the candidate from the responsibility for keeping the records and filing the reports required by this chapter.

§8004. School Boards and Offices Paying Under $1,000.

(a) Notwithstanding anything provided elsewhere in this chapter, no candidate for election to any school board or to any other public office that pays less than $1,000 per year shall be required to form a candidate committee if he or she signs under penalty of perjury a statement in a form prepared by the Commissioner, certifying that such candidate does not intend nor expect that his or her campaign will receive nor spend, from the date of the first contribution or expenditure on behalf of such candidate's election until the end of the year in which the election for such office is held, more than $2,000. If notwithstanding the execution of such a statement, such candidate's campaign nevertheless receives more than $2,000 in contributions or expends more than $2,000 (including any contributions or expenditures by the candidate) before the end of the year in which the election for such office is held, the candidate shall

within 7 days thereafter, so notify the Commissioner, and shall cause to be filed all reports that would otherwise have been required theretofore under this chapter.

(b) No candidate who has filed the statement in subsection (a) of this section shall be required to file any reports with the Commissioner; provided, however, that if such candidates campaign receives more than $2,000 in contributions or expends more than $2,000 (including any contributions or expenditures by the candidate) before the end of the year in which the election for such office is held, such committee shall, within 7 days thereafter, so notify the Commissioner and shall file all reports that would otherwise have been required theretofore under this chapter.

§8005. Duties of a Political Committee.

A political committee shall:

(a) No later than 7 days after it first receives any contribution or makes any expenditure, file a complete list of its officers with the Commissioner, one of whom shall be an individual named as its treasurer. A political committee must report any change in its officers within 7 days after such change becomes effective.

(b) Keep complete records of all contributions received and all expenditures made by or on behalf of the political committee, and shall retain such records for 3 full years following the election in connection with which the contributions and expenditures were made.

(c) File with the Commissioner a concise statement of its purposes or goals as a political committee.

(d) File with the Commissioner the reports required under this title.

§8006. Prohibitions.

(a) No person shall, directly or through any other person, solicit or promise any contract, any vote, any employment or other service, or any official action or lack of action, in connection with any contribution.

(b) No person shall make, and no candidate, treasurer or other person acting on behalf of a candidate or political committee shall knowingly accept a contribution made in a fictitious name or in the name of another person. No person shall make, and no candidate, treasurer or other person acting on behalf of a candidate or political committee shall knowingly accept a contribution whose donor's true name and address is not made known to the political committee that receives it.

SUBCHAPTER II. CONTRIBUTION LIMITS.

§8010. Contribution Limits for Candidates.

(a) No person (other than a political party) shall make, and no candidate, treasurer or anyone acting on behalf of any candidate or candidate committee shall accept, any contribution which will cause the total amount of such person's contributions to or in support of such candidate to exceed, with respect to a statewide election, $1200 during an election period, or with respect to any election that is not statewide, $600 during an election period.

(b) No political party shall make, and no candidate, treasurer or anyone acting on behalf of any candidate or candidate committee shall accept, any contribution which will cause the total amount of contributions from any political party to or in support of a candidate in an election period of such candidate to exceed, for the following offices: Governor $75,000;

All other State Wide Offices $25,000;

N.C.C. Executives $25,000;

N.C.C. President $15,000;

All other County Offices $5,000;

State Senate $5,000;

State House of Representatives $3,000;

All other offices $3,000.

§8011. Contribution Limits for Parties.

No person shall make any contributions which will cause the total amount of such person's contributions to a political party to exceed $20,000 during an election period. No treasurer or other person acting on behalf of any political party shall accept any contribution which such person knows will cause the total amount of the donor's contributions to a political party to exceed $20,000 during an election period. The contribution limits set forth in this Chapter shall not be applicable to any contributions received by a political party from or on behalf of any national political party, any organization subordinate to such national political party or any other national political organization established for the purpose of supporting elections to national, state and local offices including but not limited to the Republican and Democratic Senatorial Campaign Committees, the Republican and Democratic Congresional Campaign Committees, the Republican and Democratic Victory Funds, the Republican and Democratic Governors' Associations.

§8012. Contribution Limits Generally.

(a) No person shall make -- and no candidate, treasurer or any other person acting on behalf of a political committee shall accept -- any contribution in excess of $50 in cash to a political committee during an election period.

(b) No political party shall make any contribution to any political action committee.

(c) Any contribution by a political action committee shall be by a check which discloses the full name and address of said political action committee.

(d) No agency of the State, no political subdivision of the State, no agency of any political subdivision of the State and no agency authorized by an Act of the General Assembly shall make any contribution to any political committee or candidate for any elective office. No candidate, treasurer or other person acting on behalf of a political committee shall accept any contribution from any agency of the State, any political subdivision of the State, any agency of any political subdivision of the State or any agency authorized by an Act of the General Assembly.

(e) A corporation, partnership or other entity (other than a political committee) which makes a contribution to a political committee shall notify such political committee in writing of the names and addresses of all persons who, directly or otherwise, own a legal or equitable interest of 50 percent or greater (whether in the form of stock ownership, percentage of partnership interest, liability for the debts of the entity, entitlement to the profits from the other entity or other indicia of interest) in such corporation, partnership or other entity, or that no such persons exist. The political committee may rely on such notification, and should the notification provided by the representative of the entity be inaccurate or misleading, the person or persons responsible for the notification, and not the political committee which received the contribution, shall be liable therefor. A ratable portion of the contribution by the corporation, partnership or other entity shall be deemed to be a contribution under this chapter to the political committee, by each such person who owns a 50 percent or greater interest in the entity, shall be included within the limit imposed by this section on individual contributions, and shall be so included in the reports filed by the candidate committee with the Commissioner under §8030 of this title.

(f) Any expenditure made by any political committee on behalf of or in connection with the campaign of any candidate (except an independent expenditure that meets the requirements of this title) shall be deemed a contribution under this chapter, shall be included within the limit imposed by §8010(a) of this Chapter on individual contributions, provided, however that such expenditures by political parties shall be included within the limit imposed by section 8010(b) of this chapter on contributions by political parties, and shall be so included in the reports filed by the candidate committee with the Commissioner under §8030 of this title. Where such an expenditure by any political committee benefits more than one candidate, such expenditure shall be prorated among the candidates benefitted for purposes of the limits on contributions. For example, if a billboard depicts two candidates' names and likenesses with equal prominence, each candidate is benefitted equally by the expenditure for the billboard.

(g) For purposes of this chapter:

(1) Amounts paid by a political party to compensate individuals working on behalf of all of the candidates of the party, and amounts incurred on behalf of or

within 7 days thereafter, so notify the Commissioner, and shall cause to be filed all reports that would otherwise have been required theretofore under this chapter.

(b) No candidate who has filed the statement in subsection (a) of this section shall be required to file any reports with the Commissioner; provided, however, that if such candidates campaign receives more than $2,000 in contributions or expends more than $2,000 (including any contributions or expenditures by the candidate) before the end of the year in which the election for such office is held, such committee shall, within 7 days thereafter, so notify the Commissioner and shall file all reports that would otherwise have been required theretofore under this chapter.

§8005. Duties of a Political Committee.

A political committee shall:

(a) No later than 7 days after it first receives any contribution or makes any expenditure, file a complete list of its officers with the Commissioner, one of whom shall be an individual named as its treasurer. A political committee must report any change in its officers within 7 days after such change becomes effective.

(b) Keep complete records of all contributions received and all expenditures made by or on behalf of the political committee, and shall retain such records for 3 full years following the election in connection with which the contributions and expenditures were made.

(c) File with the Commissioner a concise statement of its purposes or goals as a political committee.

(d) File with the Commissioner the reports required under this title.

§8006. Prohibitions.

(a) No person shall, directly or through any other person, solicit or promise any contract, any vote, any employment or other service, or any official action or lack of action, in connection with any contribution.

(b) No person shall make, and no candidate, treasurer or other person acting on behalf of a candidate or political committee shall knowingly accept a contribution made in a fictitious name or in the name of another person. No person shall make, and no candidate, treasurer or other person acting on behalf of a candidate or political committee shall knowingly accept a contribution whose donor's true name and address is not made known to the political committee that receives it.

SUBCHAPTER II. CONTRIBUTION LIMITS.

§8010. Contribution Limits for Candidates.

(a) No person (other than a political party) shall make, and no candidate, treasurer or anyone acting on behalf of any candidate or candidate committee shall accept, any contribution which will cause the total amount of such person's contributions to or in support of such candidate to exceed, with respect to a statewide election, $1200 during an election period, or with respect to any election that is not statewide, $600 during an election period.

(b) No political party shall make, and no candidate, treasurer or anyone acting on behalf of any candidate or candidate committee shall accept, any contribution which will cause the total amount of contributions from any political party to or in support of a candidate in an election period of such candidate to exceed, for the following offices: Governor $75,000;

All other State Wide Offices $25,000;

N.C.C. Executives $25,000;

N.C.C. President $15,000;

All other County Offices $5,000;

State Senate $5,000;

State House of Representatives $3,000;

All other offices $3,000.

§8011. Contribution Limits for Parties.

No person shall make any contributions which will cause the total amount of such person's contributions to a political party to exceed $20,000 during an election period. No treasurer or other person acting on behalf of any political party shall accept any contribution which such person knows will cause the total amount of the donor's contributions to a political party to exceed $20,000 during an election period. The contribution limits set forth in this Chapter shall not be applicable to any contributions received by a political party from or on behalf of any national political party, any organization subordinate to such national political party or any other national political organization established for the purpose of supporting elections to national, state and local offices including but not limited to the Republican and Democratic Senatorial Campaign Committees, the Republican and Democratic Congresional Campaign Committees, the Republican and Democratic Victory Funds, the Republican and Democratic Governors' Associations.

§8012. Contribution Limits Generally.

(a) No person shall make -- and no candidate, treasurer or any other person acting on behalf of a political committee shall accept -- any contribution in excess of $50 in cash to a political committee during an election period.

(b) No political party shall make any contribution to any political action committee.

(c) Any contribution by a political action committee shall be by a check which discloses the full name and address of said political action committee.

(d) No agency of the State, no political subdivision of the State, no agency of any political subdivision of the State and no agency authorized by an Act of the General Assembly shall make any contribution to any political committee or candidate for any elective office. No candidate, treasurer or other person acting on behalf of a political committee shall accept any contribution from any agency of the State, any political subdivision of the State, any agency of any political subdivision of the State or any agency authorized by an Act of the General Assembly.

(e) A corporation, partnership or other entity (other than a political committee) which makes a contribution to a political committee shall notify such political committee in writing of the names and addresses of all persons who, directly or otherwise, own a legal or equitable interest of 50 percent or greater (whether in the form of stock ownership, percentage of partnership interest, liability for the debts of the entity, entitlement to the profits from the other entity or other indicia of interest) in such corporation, partnership or other entity, or that no such persons exist. The political committee may rely on such notification, and should the notification provided by the representative of the entity be inaccurate or misleading, the person or persons responsible for the notification, and not the political committee which received the contribution, shall be liable therefor. A ratable portion of the contribution by the corporation, partnership or other entity shall be deemed to be a contribution under this chapter to the political committee, by each such person who owns a 50 percent or greater interest in the entity, shall be included within the limit imposed by this section on individual contributions, and shall be so included in the reports filed by the candidate committee with the Commissioner under §8030 of this title.

(f) Any expenditure made by any political committee on behalf of or in connection with the campaign of any candidate (except an independent expenditure that meets the requirements of this title) shall be deemed a contribution under this chapter, shall be included within the limit imposed by §8010(a) of this Chapter on individual contributions, provided, however that such expenditures by political parties shall be included within the limit imposed by section 8010(b) of this chapter on contributions by political parties, and shall be so included in the reports filed by the candidate committee with the Commissioner under §8030 of this title. Where such an expenditure by any political committee benefits more than one candidate, such expenditure shall be prorated among the candidates benefitted for purposes of the limits on contributions. For example, if a billboard depicts two candidates' names and likenesses with equal prominence, each candidate is benefitted equally by the expenditure for the billboard.

(g) For purposes of this chapter:

(1) Amounts paid by a political party to compensate individuals working on behalf of all of the candidates of the party, and amounts incurred on behalf of or

in connection with 5 or more candidates shall not be deemed to be contributions to the candidates of such political party; and

(2) Any reimbursement paid by one political committee to another political committee for costs actually incurred by the other political committee on behalf of the political committee that makes the reimbursement shall not be deemed to be a contribution to such other political committee.

(3) If two or more candidate committees share the amount of any expenditure permitted under this chapter, no contribution is made, so long as the amounts respectively paid by the respective candidate committees reasonably reflects the amount of the use made by each candidate committee of goods or services for which the expenditure was made.

(4) Costs incurred by political parties for voter registration and get out the vote activities conducted by a political party shall not be considered contributions to any candidate.

SUBCHAPTER III. EXPENDITURES.

§8020. Authorized Campaign Expenditures.

No political committee may make any expenditure except for the following purposes:

(a) Wages of full-time or part-time campaign staff (but no salary nor wage for a candidate or a candidate's spouse);

(b) Travel expenses of the candidate and campaign staff;

(c) Payment of fees or charges for placing the name of the candidate on the ballot, and for collecting the returns of the election;

(d) Costs of telephone and other communications services;

(e) Costs of postage and other delivery services;

(f) Printing and stationery;

(g) Food, refreshments and related supplies;

(h) Purchase and preparation of lists of voters;

(i) Taking polls and making canvasses of voters;

(j) Payment for election watchers;

(k) Rental of office and rental and purchase of equipment;

(l) Advertising and publicity;

(m) In the case of a candidate committee, purchase of tickets to permit the candidate's attendance at civic or political events; and in the case of a political action committee,contributions within authorized limits, to any other political committee;

(n) Holding, promoting and furnishing meetings, demonstrations, conventions, and paying musicians and others rendering services thereto;

(o) Employing attorneys, accountants and other professional advisors.

(p) In the case of a candidate committee, contributions, within the limits set forth in section 8010(a) of this chapter, to another candidate committee, or as otherwise provided in §8022 of this chapter.

(q) In the case of a political party or a political action committee, contributions, within authorized limits, to a candidate committee.

(r) In the case of any political action committee, in addition to any other expenditure authorized by this chapter, contributions to a political party within the limits set forth in section 8011 of this chapter.

§8021. Identification of Purchaser.

All campaign literature or advertising, except on items with a surface of less than 9 square inches, shall display prominently the statement: "Paid for by (Name of Political Committee or other person paying for such literature or advertising)."

§8022. Leftover Funds.

Any funds remaining in any political committee which has completed its activities and paid all its creditors shall be paid to a successor committee or committees without being subject to the contribution limits set forth in this chapter or shall be donated to any religious, charitable, educational or scientific organization exempt from Delaware income tax under 30 Del. C. §1902(b)(2) or to any volunteer fire company, and to no other person, except that an amount not in excess of the amount listed in §8011 of this title may be given to the political party eligible to be listed on any general election ballot under §3001 of this Title. For purposes of this section, the term 'successor committee' shall include any political committee, or committees, as that term is defined by section 8002(1) of this Chapter, provided however that where the successor committee is one other than a candidate committee formed to promote the election of the same candidate to a different office than that for which the candidate's original candidate committee was formed, the contribution limits set forth in this Chapter shall apply.

§8023. Independent Expenditures.

(a) All campaign literature, advertising (except on items with a surface of less than 9 square inches) or other message paid for by independent expenditures shall prominently and at all times display the following statement: "Paid for by (name of person paying for the literature, advertising or other message). Not authorized nor paid for by any candidate or by any committee of any candidate. The cost of presenting this message is not subject to any campaign contribution limits." If the independent expenditure is made or reimbursed by a political action committee or other person other than an individual, the names of the president (or other chief officer) and treasurer of such organization shall be prominently displayed with the rest of the above statement.

(b) An expenditure shall constitute an expenditure in coordination, consultation or concert with a candidate and shall not constitute an independent expenditure where:

(1) there is any arrangement, coordination or direction with respect to the expenditure between the candidate or the candidate's agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

(2) the person making the expenditure (including any officer, director, employee or agent of such person) has advised, or counseled the candidate or the candidate's agents on the candidate's plans, projects or needs relating to the candidate's pursuit of nomination or election, in the same election period, including any advice relating to the candidate's decision to seek office;

(3) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures advocating the candidate's election.

SUBCHAPTER IV. PUBLIC DISCLOSURE.

§8030. Reports of Political Committees.

(a) Each candidate (except a candidate who is excused from filing a report under §8004) and every treasurer (except of a candidate excused from filing a report under §8004) shall be responsible for filing with the Commissioner reports of contributions and expenditures on forms prescribed by the Commissioner for every reporting period during which a political committee is in existence. A candidate shall be jointly responsible with the treasurer for the filing of the report of a candidate committee.

(b) A reporting period shall begin on the day after the previous reporting period (except that for a newly-formed committee, the reporting period begins on the date the

first contribution is received or expenditure made by or on behalf of such committee) and shall end on the following dates:

(1) December 31 of every year, before or after an election, from the time the committee receives its first contribution or makes its first expenditure, until and including the year in which contributions and expenditures are balanced and the political committee terminates;

(2) 20 days before any election (except for committees of candidates not on the ballot at such election).

(c) Each report required by this section shall be filed by the political committee and received by the Commissioner by 4:30 p.m. of the second day after the end of the reporting period which is not a state holiday under Title 1, Chapter 5.

(d) Each report under this section shall disclose all of the following information, for the entire reporting period:

(1) Amount of cash and other intangible assets on hand at the beginning of the reporting period;

(2) Full name and mailing address of each person who has made contributions to such political committee (including the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events, whether or not the tickets were used by the person who paid for them) during the election period in an aggregate amount or value in excess of $100, the total of all contributions from such person during the election period, and the amount and date of all contributions from such person during the reporting period;

(3) Total of contributions made to such political committee during the reporting period and not reported under paragraph (2);

(4) Name and address of each political committee from which the political committee received, or to which the political committee made, any transfer of funds, together with the amounts and dates of all transfers, no matter what the amount;

(5) The amount of each debt in excess of $50, owed to or owing by such political committee at the end of the reporting period, the full names and mailing addresses of any lender, borrower and endorser of such debt, the date and the interest rate of such loan, and a description of any security given therefor;

(6) Total amount of proceeds from:

(A) sale of tickets to each reception, meal, rally or other fund-raising event;

(B) collections made at such events; and

(C) sales of items such as campaign pins, buttons, badges, and similar materials; provided, however, that all payments and contributions by any person, whether as gifts, as purchases of tickets or other goods or services, or partially as gifts and partially as purchases, by any person during any election period, shall be aggregated and, if such aggregate total exceeds $50 during such election period, shall be reported under paragraph (2) of this subsection.

(7) Each contribution or other receipt in excess of $100 not otherwise listed under paragraphs (2) through (6) of this section;

(8) Total receipts by such political committee or candidate during the reporting period;

(9) Full name and mailing address of each person to whom any expenditure has been made by such political committee during the reporting period in an aggregate amount in excess of $100, the amount, date and purpose of each such expenditure and the name of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) Total expenditures made by such political committee or candidate in connection with such campaign; and

(11) All goods and services that are contributed in kind, or at no charge or at a cost less than fair market value (except for services excluded from the definition of "contribution" under §8002) to the extent that the fair market value, less any amount paid by the candidate or committee, exceeds $100.

(e) The reports required to be filed by this section shall be cumulative for the election period to which they relate, but where there has been no change in an item previously reported, only the amount need be carried forward.

(f) Each statement shall be accompanied by an affidavit verified by the candidate or the treasurer of the political committee, which states as follows:

"I solemnly swear [or affirm] that the foregoing statement is in every respect true and correct, and discloses all contributions received and expenditures required by me under Title 15, Chapter 80 of the Delaware Code."

§8031. Reports of Independent Expenditures.

(a) Any person who makes any independent expenditure that causes the aggregate amount of independent expenditures made by such person in an election period to exceed $100 during such election period shall file a report with the Commissioner. Such report shall be filed in accordance with the deadlines provided under §8030 of this title, and shall contain the information required under §8030 of this title for all contributions received by and made by such person. Such report shall also include a list of every person to whom any disbursement has been made during the election period in connection with an independent expenditure, together with the date, amount and purpose of such independent expenditure and a statement under penalty of perjury whether each such expenditure has been made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or any candidate committee or agent of either.

(b) Any person who makes an independent expenditure aggregating more than $100 after the twentieth day, but more than 1 day, before any election shall, within 24 hours after such independent expenditure is made, shall file with the Commissioner a report under oath or affirmation with respect to such independent expenditure that contains the information required by §8030 and by this section.

§8032. Public Disclosure.

All reports made to the Commissioner and all rulings made by the Commissioner under this chapter shall be public and shall immediately upon their filing, be made available by the office of the Commissioner for inspection and copying at reasonable cost by the public, except that the identity of the candidate or committee which requested a ruling shall not be disclosed without the candidate's or committee's consent. The Office of the Election Commissioner shall remain open beyond the ordinary close of business on the day the reports are due to be received under §8030(b)(3), until all persons who are present at said office at the time of the ordinary close of business have had an opportunity to make reasonable inspection and copying of said reports.

SUBCHAPTER V. ENFORCEMENT.

§8040. Certificates of Election.

No certificate of election shall be granted to any candidate until the Superior Court has certified that such candidate has caused to be filed all reports required by §8030 of this title to be filed prior to the election.

§8041. Duties and Powers of Commissioner.

The Commissioner shall:

(a) Make and publish such rules and regulations not inconsistent with the provisions of this Chapter as are necessary to implement and enforce this Chapter. Upon their adoption under the provisions of the Administrative Procedures Act, such rules and regulations shall have the force and effect of law.

(b) At the request of any person, make a ruling that applies this Chapter to a set of facts specified by the person. The entire such ruling shall be made in writing, and a copy thereof shall be made available to any person, except that the identity of the person that requested the ruling shall not be disclosed without the person's consent. Copies of the ruling shall be mailed immediately to the Governor, the Attorney General and the chair of each political party entitled to be

listed on any general election ballot under §3001 of this Title. Within 7 days after any such ruling is made, a summary thereof shall be mailed to each candidate having a committee which has not completed its activities on file in the Office of the Commissioner and shall be distributed to any person who has, within the previous 12 months, requested distribution of such summaries. Any candidate or treasurer who reasonably and in good faith acts in reliance upon any ruling requested by that candidate or treasurer pursuant to this section, shall not be liable nor subject to any penalty with respect to conduct conforming to the ruling, provided there was a full disclosure to the Commissioner of all material facts necessary for the ruling.

(c) Mail to the treasurer of every political committee, to every candidate for whom a political committee has been formed, and to every candidate who has notified the Commissioner of his or her candidacy under §3101 of this title, a copy of this chapter, the rules and regulations thereunder and a concise explanation of their terms, responsibilities and penalties, not later than 15 days after such political committee has been formed or such candidate has filed for office. In January of every election year, the Commissioner shall send similar documents to the chairs of all political parties' legally recognized political party subdivisions, down to the local organizing district level.

(d) Retain and permit public inspection of all reports required to be filed under this Chapter for ten (10) years after the end of the calendar year to which they pertain.

§8042. Civil Remedies.

For purposes of any civil remedy on behalf of any injured person, the Court of Chancery shall have jurisdiction.

§8043. Violations; Penalties; Jurisdiction in Superior Court.

(a) Any person who knowingly violates any provision of §§8003, 8004 or 8005 of this title shall be guilty of a Class B misdemeanor.

(b) Any person who knowingly accepts or knowingly makes an unlawful contribution or expenditure in violation of any provision of Subchapters II or III of this title shall be guilty of a Class A misdemeanor.

(c) Any candidate or treasurer who knowingly files any report required by §8023 or Subchapter IV of this chapter that is false in any material respect, or fails to file any such report shall be guilty of a class A misdemeanor.

(d) Any person who knowingly violates any provision of §8006 of this title shall be guilty of a Class G felony.

(e) A candidate or treasurer who reasonably relies upon information provided by another person which is inaccurate, false or misleading and who has no reason to know that such information was inaccurate, false or misleading, shall not be liable for any report filed by such candidate or treasurer which is inaccurate, false or misleading as a result of such information, if such candidate or treasurer, within thirty (30) days after learning that such information was inaccurate, false or misleading, files an amended report with the Commissioner that corrects the inaccurate, false or misleading aspects of the report filed by the candidate or treasurer. Where a candidate or treasurer files an amended report later than 30 days after learning that such information was inaccurate, false or misleading, the candidate or treasurer shall not be liable if the candidate or treasurer shows good cause for filing the amended report beyond the 30 day period.

(f) The Superior Court shall have jurisdiction over all offenses under this chapter.

(g) A candidate and a treasurer shall report immediately to the Commissioner and the Attorney General any attempt to make a prohibited contribution, or to demand a prohibited expenditure, where such attempt is made with intent to violate this chapter.

(h) A candidate or a treasurer who receives a prohibited contribution or makes a prohibited expenditure without any intention to violate this chapter, but who returns the contribution or reimburses the political committee for such expenditure within seven (7) days after learning that the contribution or expenditure was prohibited, shall not be liable for any violation of this Chapter.

§8044. Tardy Reports.

Any candidate, political committee or other person that fails to file or deliver to the Commissioner any report required by §§8023 or 8030 of this title shall be assessed a fine by the Commissioner of 50 dollars per month, or fraction thereof, that such report is tardy in delivery to the Commissioner. Within 30 days after the Commissioner assesses such a fine, such person shall have the opportunity to show the Commissioner that such tardiness was due to reasonable cause and not willful neglect. Such fine shall constitute a debt due and owing the State, assessable by the Commissioner and recoverable against the committee, its treasurer or, in the case of a candidate committee, the candidate, or in the case of an independent expenditure, the person making such expenditure.

§8045. Attorney General Candidates.

Whenever it shall be alleged that an offense under this chapter has been committed by a candidate for the office of Attorney General of Delaware, if the Chancellor of the State of Delaware finds probable cause, based on sworn information, to believe this Chapter has been violated, a member of the Bar of the Supreme Court of the State of Delaware shall be appointed as independent counsel by the Chancellor. Such independent counsel shall have the authority to prosecute any violation of this chapter that has been committed by any candidate for the office of Attorney General.

§8046. Short Title.

This Chapter shall be known as the Campaign Financing and Disclosure Act of 1990.

Section 2. Amend Chapter 101, Title 29 by adding subsection (43) to §10161 thereof, to read as follows:

"(43) Election Commissioner."

Section 3. If any provision of this Act, any amendment made to this Act or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision and the application of such provision to other persons and circumstances shall not be affected thereby.

Section 4. This Act shall become effective on January 1, 1991, except that any reports which, under this Chapter before the enactment of this Act, were required to be filed in January, 1991, shall be filed pursuant to this Chapter as it existed before the enactment of this Act.

Approved October 11, 1990.

listed on any general election ballot under §3001 of this Title. Within 7 days after any such ruling is made, a summary thereof shall be mailed to each candidate having a committee which has not completed its activities on file in the Office of the Commissioner and shall be distributed to any person who has, within the previous 12 months, requested distribution of such summaries. Any candidate or treasurer who reasonably and in good faith acts in reliance upon any ruling requested by that candidate or treasurer pursuant to this section, shall not be liable nor subject to any penalty with respect to conduct conforming to the ruling, provided there was a full disclosure to the Commissioner of all material facts necessary for the ruling.

(c) Mail to the treasurer of every political committee, to every candidate for whom a political committee has been formed, and to every candidate who has notified the Commissioner of his or her candidacy under §3101 of this title, a copy of this chapter, the rules and regulations thereunder and a concise explanation of their terms, responsibilities and penalties, not later than 15 days after such political committee has been formed or such candidate has filed for office. In January of every election year, the Commissioner shall send similar documents to the chairs of all political parties' legally recognized political party subdivisions, down to the local organizing district level.

(d) Retain and permit public inspection of all reports required to be filed under this Chapter for ten (10) years after the end of the calendar year to which they pertain.

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(a) Any person who knowingly violates any provision of §§8003, 8004 or 8005 of this title shall be guilty of a Class B misdemeanor.

(b) Any person who knowingly accepts or knowingly makes an unlawful contribution or expenditure in violation of any provision of Subchapters II or III of this title shall be guilty of a Class A misdemeanor.

(c) Any candidate or treasurer who knowingly files any report required by §8023 or Subchapter IV of this chapter that is false in any material respect, or fails to file any such report shall be guilty of a class A misdemeanor.

(d) Any person who knowingly violates any provision of §8006 of this title shall be guilty of a Class G felony.

(e) A candidate or treasurer who reasonably relies upon information provided by another person which is inaccurate, false or misleading and who has no reason to know that such information was inaccurate, false or misleading, shall not be liable for any report filed by such candidate or treasurer which is inaccurate, false or misleading as a result of such information, if such candidate or treasurer, within thirty (30) days after learning that such information was inaccurate, false or misleading, files an amended report with the Commissioner that corrects the inaccurate, false or misleading aspects of the report filed by the candidate or treasurer. Where a candidate or treasurer files an amended report later than 30 days after learning that such information was inaccurate, false or misleading, the candidate or treasurer shall not be liable if the candidate or treasurer shows good cause for filing the amended report beyond the 30 day period.

(f) The Superior Court shall have jurisdiction over all offenses under this chapter.

(g) A candidate and a treasurer shall report immediately to the Commissioner and the Attorney General any attempt to make a prohibited contribution, or to demand a prohibited expenditure, where such attempt is made with intent to violate this chapter.

(h) A candidate or a treasurer who receives a prohibited contribution or makes a prohibited expenditure without any intention to violate this chapter, but who returns the contribution or reimburses the political committee for such expenditure within seven (7) days after learning that the contribution or expenditure was prohibited, shall not be liable for any violation of this Chapter.

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§8045. Attorney General Candidates.

Whenever it shall be alleged that an offense under this chapter has been committed by a candidate for the office of Attorney General of Delaware, if the Chancellor of the State of Delaware finds probable cause, based on sworn information, to believe this Chapter has been violated, a member of the Bar of the Supreme Court of the State of Delaware shall be appointed as independent counsel by the Chancellor. Such independent counsel shall have the authority to prosecute any violation of this chapter that has been committed by any candidate for the office of Attorney General.

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Section 3. If any provision of this Act, any amendment made to this Act or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision and the application of such provision to other persons and circumstances shall not be affected thereby.

Section 4. This Act shall become effective on January 1, 1991, except that any reports which, under this Chapter before the enactment of this Act, were required to be filed in January, 1991, shall be filed pursuant to this Chapter as it existed before the enactment of this Act.

Approved October 11, 1990.

CHAPTER 450

FORMERLY

HOUSE BILL NO. 502
AS AMENDED BY
HOUSE AMENDMENT NOS. 1, 2, AND 3

AN ACT TO AMEND SUBCHAPTER VI, CHAPTER 47, TITLE 16 OF THE DELAWARE CODE RELATING TO CONTROLLED SUBSTANCES.

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

Section 1. Amend Section 4784, Subchapter VI, Chapter 47, Title 16 of the Delaware Code by striking said section in its entirety and by substituting in lieu thereof the following:

"(a) The following shall be subject to forfeiture to the State of Delaware and no property rights shall exist in them:

(1) All controlled substances which have been manufactured, distributed, possessed, dispensed, or acquired in violation of this subchapter;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) Any property which is used, or intended for use, as a container for property described in paragraphs (1), (2), or (6);

(4) Any conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, trafficking in or possession with intent to deliver property described in paragraph (1), or (2) except that

a. no vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the owner or other person in charge of the vehicle is a consenting party or privy to a violation of the Uniform Controlled Substances Act;

b. no vehicle is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

c. a vehicle is not subject to forfeiture for a violation of Section 4753, 4754, 4757, and 4758 of Title 16; and

d. a forfeiture of a vehicle encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

(5) All books, records, and research products and materials including formulas, microfilm, tapes and data which are used or intended for use in violation of this chapter;

(6) All drug paraphernalia as defined in sec. 4701 of this title;

(7) All moneys, negotiable instruments, securities or any other thing of value furnished, or intended to be furnished, in exchange for a controlled substance, or drug paraphernalia in violation of this chapter; all profits or proceeds traceable to securities, assets or interest used, or intended to be used, to facilitate any violation of this chapter. However, no property interest of an owner, by reason or any act or omission established by him to be committed or omitted without his knowledge or consent shall be forfeited in the items listed in this paragraph;

a. All moneys, negotiable instruments or securities found in close proximity to forfeitable controlled substances, or to forfeitable records of the importation, manufacture or distribution of controlled substances are presumed to be forfeitable under this paragraph. The burden of proof is upon claimant of the property to rebut this presumption.

b. All moneys, negotiable instruments or securities found to have trace amounts of controlled substances on them are presumed to be forfeitable under this paragraph. The burden of proof is upon the claimant of the property to rebut this presumption.

c. To the extent that assets, interests, profits and proceeds forfeitable under this paragraph; (i) cannot be located, (ii) have been transferred, sold to or deposited with third parties, or (iii) have been placed beyond the jurisdiction of the State, the court, following conviction of the individual charged, may direct forfeiture of such other assets of the defendant as may be available, limited in value to those assets that would otherwise be forfeited under this paragraph. Upon petition of the defendant, the court may authorize redemption of assets forfeited under this paragraph, provided the assets described in this paragraph are surrendered or otherwise remitted by such defendant to the jurisdiction of the court;

(8) Any real property which is used, or is intended for use, to store, grow, manufacture, compound, process, deliver, import or export any controlled substance in violation of this chapter except that:

a. No real property is subject to forfeiture under this section by reason of any act or omission established by any owner thereof to have been committed or omitted without his knowledge or consent;

b. No real property being leased out by its owner shall be subject to forfeiture under this section unless the owner of the real property is a consenting party or privy to the violation of the Controlled Substances Act; and

c. No real property shall be subject to forfeiture for a violation of §4753, §4754, §4754A, §4755, §4757 or §4758 of Title 16; and

d. A forfeiture of real property encumbered by a bona fide security interest of the secured party if he neither had knowledge of nor consented to the act or omission.

(b) Notwithstanding any other provisions of the laws of this State or rules of court, the procedures listed in subsection (c) through (j) of this section are applicable to the administrative forfeiture of property subject to forfeiture under this section.

(c) Property subject to forfeiture under this chapter may be seized by the Secretary upon process issued by any Superior Court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure made is pursuant to subchapter I, Chapter 23, Title 11 or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgement in favor of the State in a criminal, injunction or forfeiture proceeding based upon this chapter;

(3) The Secretary has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The Secretary has probable cause to believe that the property was used or intended to be used in violation of this chapter.

(d) In the event of seizure pursuant to subsection (c), proceedings under subsections (e) and (j) shall be instituted promptly.

(e) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the Secretary subject only to the orders and decrees of the Superior Court. When property is seized under this chapter, the Secretary may:

(1) Place the property under seal;

(2) Remove the property to a place designated by him; or

(3) Require the Department of Health and Social Services to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(f) When property is forfeited under this chapter the Secretary may:

(1) Retain it for official use;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(3) Allow the arresting agency or any other law enforcement division to use the property for the purpose of law enforcement provided that

any proceeds remaining after the payment of expenses and any other money forfeited or realized from forfeited property shall be deposited to the Special Law Enforcement Assistance Fund for the use of the State for any purpose deemed by the Attorney General to be in the interest of law enforcement;

(4) Require the Department of Health and Social Services to take custody of the property and remove it for disposition in accordance with law; or

(5) Forward it to the Bureau for disposition.

(g) Controlled substances listed in Schedule I that are possessed, transferred, sold or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the State. Controlled substances listed in Schedule I, the owners of which are unknown, which are seized or come into the possession of the State are contraband and shall be summarily forfeited to the State.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter or of which the owners or cultivators are unknown or which are wild growths may be seized and summarily forfeited to the State.

(i) The failure upon demand by the Secretary, or his authorized agent of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(j) Property seized pursuant to this section that is not summarily forfeited pursuant to subsection (f) shall be automatically forfeited to the State upon application to the Superior Court if, within 45 days of notification of seizure to all known parties having possessory interest in the seized property by registered or certified mail to the last known post-office address of the parties in interest and by publication in a newspaper of general circulation in this State, the person or persons claiming title to the seized property do not institute proceedings in the Superior Court to establish:

(1) That they have the lawful possessory interest in the seized property; and

(2) The property was unlawfully seized or not subject to forfeiture pursuant to this section.

Approved October 12, 1990.

CHAPTER 451

FORMERLY

HOUSE BILL NO. 662
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 7, DELAWARE CODE, RELATING TO THE QUOTA OF DEER THAT CAN BE TAKEN BY RESIDENTIAL HUNTERS DURING THE REGULAR SHOTGUN SEASON, EXCLUSIVE OF THE SPECIAL SEASONS.

WHEREAS, the hunting of deer in this State was given by the legislature to the Division of Fish and Wildlife by authorizing the Division to promulgate rules and regulations which establishes the seasons, the bag limits, and the localities, etc; and

WHEREAS, the population of deer has increased and created the potential for over population that may damage both wildlife habitat and agricultural crops; and

WHEREAS, the deer population may be able to sustain more harvest by liberalizing the bag limit under certain conditions.

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 §504, Chapter 5, Title 7, Delaware Code, by striking the period "." after the word "residents" in the caption and inserting the following:

"; Additional Permits".

Section 2. Amend §504, Chapter 5, Title 7, Delaware Code, by designating all of the existing section as subsection (a) and by adding thereto a new subsection (b) to read as follows:

"(b) During regular shotgun season the Division may issue an additional permit to kill a single deer. The criteria for issuing the permit shall be established by the Department pursuant to the provisions of §103, Chapter 1, of this Title. The amount charged for each permit shall be $10.00."

Approved October 12, 1990.

CHAPTER 452

FORMERLY

HOUSE BILL NO. 712
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO UNFAIR PRACTICES IN INSURANCE.

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

Section 1. Amend Chapter 23, Title 18 of the Delaware Code by adding a new section to be designated as "§2318" to read as follows:

"§2318. Care by advanced registered nurses.

No health insurer, health service corporation, or health maintenance organization shall deny benefits for eligible services when the services are rendered or performed by an advanced registered nurse practitioner as long as said advanced registered nurse practitioner acts within his or her scope of practice and/or definitions pursuant to Title 24. Any contract of insurance issued or issued for delivery in this State by health insurers, health service corporations, or health maintenance organizations shall not exclude advanced registered nurse practitioners as providers of services covered in the contract."

Section 2. This Act shall become effective January 1, 1991.

Approved October 17, 1990.

CHAPTER 453

FORMERLY

SENATE JOINT RESOLUTION NO. 11

HONORING THE LATE GENERAL RICHARD H. ELLIS, A NATIVE OF LAUREL, DELAWARE, FOR HIS OUTSTANDING CONTRIBUTIONS AND APPOINTING A COMMITTEE TO RAISE THE NECESSARY FUNDS TO COMMISSION AN ARTIST TO DO A PORTRAIT OF GENERAL RICHARD H. ELLIS TO BE HUNG IN THE GALLERY OF LEGISLATIVE HALL AMONG OTHER DISTINGUISHED DELAWARE MILITARY HEROES.

WHEREAS, General Richard H. Ellis, a native of Laurel, rose to the highest levels of command in the United States Air Force and also by designation of President Reagan, became U. S. Commissioner on the US-USSR Consultative Commission with the rank of ambassador following his retirement from the service; and

WHEREAS, General Ellis was an American hero in both World War II and the Korean Conflict receiving the Distinguished Service Cross; the Distinguished Service Medal with four oak leaf clusters; the Silver Star; the Legion of Merit with two oak leaf clusters; the Distinguished Flying Cross; the Air Medal with four oak leaf clusters; the Purple Heart, and numerous other honors from the grateful people of the United States and many foreign governments; and

WHEREAS, during his distinguished and brilliant military career, which ended with his retirement from active duty as a Four Star General in 1981, he was Commander, Allied Air Forces Central Europe and Commander in Chief, United States Air Forces in Europe and Commander in Chief of the Strategic Air Command; and

WHEREAS, Richard Ellis was also a practicing member of the Delaware Bar with offices in Wilmington between his service in World War II and his recall to active duty in 1950 for service in the Korean Conflict; and

WHEREAS, General Ellis flew more than 200 combat missions during his illustrious military career and was credited with shooting down great numbers of enemy aircraft; and

WHEREAS, it is appropriate that the State of Delaware honor and cherish the memory of this outstanding native son who died March 28, 1989 at the age of 69.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 135TH General Assembly of the State of Delaware, with the approval of the Governor, that a special committee be authorized to commission a portrait of General Ellis which, when completed, will be hung with appropriate ceremonies, in the gallery of Delaware military heroes in Legislative Hall.

BE IT FURTHER RESOLVED that this Committee will be chaired by former Governor Elbert N. Carvel and will also include, at his request, Secretary of State, Michael E. Harkins and Ned Davis of Dover, also a native of Laurel, who will raise funds to pay for the portrait from the private sector with the good will and approval of the General Assembly and Governor Michael N. Castle; and

BE IT FURTHER RESOLVED that the Committee, upon completion of the portrait, in consultation with the Governor, the President Pro Tempore of the Senate and the Speaker of the House, will arrange appropriate ceremonies for its dedication and that the widow of General Ellis, the former Margaret Parry Wolcott, his three children and other members of the family, will all be invited to attend as well as such other members of the United States government and military services and citizens of the State of Delaware that are deemed appropriate for an occasion of this magnitude, honoring one of the bravest and most distinguished Delawareans in the glorious history of our Statehood.

Approved April 10, 1990.

CHAPTER 454

FORMERLY

SENATE JOINT RESOLUTION NO. 15

ESTABLISHING A BI-PARTISAN COMMISSION TO EXAMINE THE PROMULGATION AND IMPLEMENTATION OF STATE REGULATIONS AND FEES AND TO RECOMMEND LEGISLATION TO PROVIDE FOR LEGISLATIVE AND EXECUTIVE OVERSIGHT OF THIS PROCESS.

WHEREAS, Agencies and departments of state government derive their authority to promulgate and implement rules and regulations governing and limiting the activities of citizens of this state from statutes enacted by the General Assembly for specific purposes which that body believes to be in the public interest; and

WHEREAS, in certain instances regulations which are promulgated by an agency or a department pursuant to the provisions of a statute enacted by the General Assembly do not accurately reflect the original legislative intent of the statute; and

WHEREAS, in other cases regulations prove in practice to impose an unnecessarily harsh or onerous burden on an individual, group or class of citizens; and

WHEREAS, while agencies and departments have, in most cases, established appeal periods before new regulations are adopted or fees imposed, thus affording citizens an opportunity to voice concerns and objections, the precise impact of such measures often does not become clear until such appeal periods have expired and the regulations or fees have been put into effect; and

WHEREAS, most regulations and fees may be challenged in the courts, this process is both lengthy and expensive and such a solution is often beyond the means of average citizens; and

WHEREAS, in recent years the revenue base of Delaware State government has begun to shift from its historic emphasis on income and other tax revenues to greater reliance on user fees; and

WHEREAS, at the present time the State of Delaware has hundreds of different permit and user fees in place in a fee system which has grown piecemeal over many years in concert with the growth of the state's body of regulations, with some fee revenues flowing directly into the general fund and others being diverted into various types of appropriated special funds to fund a wide variety of governmental activities and operations; and

WHEREAS, this body of regulations and fees has never been subjected to broad oversight to examine the issues of how closely our body of regulations reflects the laws under which the various rules and regulations were established, whether fees are at the proper level, whether the present disposition of fee revenues is proper to best further the purposes for which they were established; and

WHEREAS, as the burden of fees and regulations has grown heavier on the citizens of this state, little scrutiny has been given to the issue of whether the intent of the laws under which the fees and regulations were implemented could be served in a manner less restrictive and burdensome; and

WHEREAS, forty-one (41) states of the United States have already responded to the rapid proliferation of fees and regulations by establishing some form of permanent legislative oversight process to insure that state departments and agencies go about their constitutional responsibility as components of the executive branch of government to faithfully execute the laws enacted by the legislature;

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 135th General Assembly of the State of Delaware, with the approval of the Governor, that the General Assembly hereby establishes a Commission to be known as the Commission on Regulations and Permits.

BE IT FURTHER RESOLVED that the membership of the Commission shall consist of twelve (12) members to be selected as follows: three members of the Senate appointed by the President Pro Tempore, representing each county and both the majority and minority parties;

three members of the House of Representatives appointed by the Speaker of the House representing each county and both the majority and minority parties; the Secretary of Finance, the State Budget Director, the Legal Counsel to the Governor; and three persons

drawn from the private sector who reside one in each county appointed by the Governor after first receiving the concurrence of the President Pro Tempore and the Speaker of the House.

BE IT FURTHER RESOLVED that the Commission shall have two co-chairmen to be appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House and that said co-chairmen shall convene the Commission no later than August 1, 1990.

BE IT FURTHER RESOLVED that the Commission, in undertaking its study, may establish additional interest-specific committees that can draw members from the Commission, impacted agencies, private sector corporations and agencies, as well as the public at large.

BE IT FURTHER RESOLVED that the Commission shall, through public hearings, regularly scheduled open meetings, publications, and the efforts of its individual members, solicit the thoughts and opinions of the citizens of Delaware regarding the process of state regulation creation and enactment as well as the appropriateness of fee and permit levies and the disposition of such funds.

BE IT FURTHER RESOLVED that the Commission, after thorough examination of these issues with members of the Governor's cabinet, the impacted and regulated communities, and the public at large, will provide a written report together with proposed draft legislation to the 136th General Assembly and the Governor of the State of Delaware no later than February 1, 1991.

BE IT FURTHER RESOLVED that said draft legislation shall include, but not be limited to, mechanisms for the creation of a system of legislative oversight and review of rules, regulations and license conditions.

BE IT FURTHER RESOLVED that said draft legislation shall include mechanisms whereby the Governor and the General Assembly may regularly be provided with assessments of the manner in which new rules, regulations and license conditions would balance benefits and economic costs of compliance, as well as analyses of the technical and economic feasibility of compliance after such rules, regulations and license conditions have been promulgated but before a final order for their implementation has been issued.

BE IT FURTHER RESOLVED that those affected state agencies, the President Pro Tempore and the Speaker of the House are requested to provide sufficient staff and other resources at the request of the Committee to carry out their task.

Approved July 13, 1990.

CHAPTER 454

FORMERLY

SENATE JOINT RESOLUTION NO. 15

ESTABLISHING A BI-PARTISAN COMMISSION TO EXAMINE THE PROMULGATION AND IMPLEMENTATION OF STATE REGULATIONS AND FEES AND TO RECOMMEND LEGISLATION TO PROVIDE FOR LEGISLATIVE AND EXECUTIVE OVERSIGHT OF THIS PROCESS.

WHEREAS, Agencies and departments of state government derive their authority to promulgate and implement rules and regulations governing and limiting the activities of citizens of this state from statutes enacted by the General Assembly for specific purposes which that body believes to be in the public interest; and

WHEREAS, in certain instances regulations which are promulgated by an agency or a department pursuant to the provisions of a statute enacted by the General Assembly do not accurately reflect the original legislative intent of the statute; and

WHEREAS, in other cases regulations prove in practice to impose an unnecessarily harsh or onerous burden on an individual, group or class of citizens; and

WHEREAS, while agencies and departments have, in most cases, established appeal periods before new regulations are adopted or fees imposed, thus affording citizens an opportunity to voice concerns and objections, the precise impact of such measures often does not become clear until such appeal periods have expired and the regulations or fees have been put into effect; and

WHEREAS, most regulations and fees may be challenged in the courts, this process is both lengthy and expensive and such a solution is often beyond the means of average citizens; and

WHEREAS, in recent years the revenue base of Delaware State government has begun to shift from its historic emphasis on income and other tax revenues to greater reliance on user fees; and

WHEREAS, at the present time the State of Delaware has hundreds of different permit and user fees in place in a fee system which has grown piecemeal over many years in concert with the growth of the state's body of regulations, with some fee revenues flowing directly into the general fund and others being diverted into various types of appropriated special funds to fund a wide variety of governmental activities and operations; and

WHEREAS, this body of regulations and fees has never been subjected to broad oversight to examine the issues of how closely our body of regulations reflects the laws under which the various rules and regulations were established, whether fees are at the proper level, whether the present disposition of fee revenues is proper to best further the purposes for which they were established; and

WHEREAS, as the burden of fees and regulations has grown heavier on the citizens of this state, little scrutiny has been given to the issue of whether the intent of the laws under which the fees and regulations were implemented could be served in a manner less restrictive and burdensome; and

WHEREAS, forty-one (41) states of the United States have already responded to the rapid proliferation of fees and regulations by establishing some form of permanent legislative oversight process to insure that state departments and agencies go about their constitutional responsibility as components of the executive branch of government to faithfully execute the laws enacted by the legislature;

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 135th General Assembly of the State of Delaware, with the approval of the Governor, that the General Assembly hereby establishes a Commission to be known as the Commission on Regulations and Permits.

BE IT FURTHER RESOLVED that the membership of the Commission shall consist of twelve (12) members to be selected as follows: three members of the Senate appointed by the President Pro Tempore, representing each county and both the majority and minority parties;

three members of the House of Representatives appointed by the Speaker of the House representing each county and both the majority and minority parties; the Secretary of Finance, the State Budget Director, the Legal Counsel to the Governor; and three persons

drawn from the private sector who reside one in each county appointed by the Governor after first receiving the concurrence of the President Pro Tempore and the Speaker of the House.

BE IT FURTHER RESOLVED that the Commission shall have two co-chairmen to be appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House and that said co-chairmen shall convene the Commission no later than August 1, 1990.

BE IT FURTHER RESOLVED that the Commission, in undertaking its study, may establish additional interest-specific committees that can draw members from the Commission, impacted agencies, private sector corporations and agencies, as well as the public at large.

BE IT FURTHER RESOLVED that the Commission shall, through public hearings, regularly scheduled open meetings, publications, and the efforts of its individual members, solicit the thoughts and opinions of the citizens of Delaware regarding the process of state regulation creation and enactment as well as the appropriateness of fee and permit levies and the disposition of such funds.

BE IT FURTHER RESOLVED that the Commission, after thorough examination of these issues with members of the Governor's cabinet, the impacted and regulated communities, and the public at large, will provide a written report together with proposed draft legislation to the 136th General Assembly and the Governor of the State of Delaware no later than February 1, 1991.

BE IT FURTHER RESOLVED that said draft legislation shall include, but not be limited to, mechanisms for the creation of a system of legislative oversight and review of rules, regulations and license conditions.

BE IT FURTHER RESOLVED that said draft legislation shall include mechanisms whereby the Governor and the General Assembly may regularly be provided with assessments of the manner in which new rules, regulations and license conditions would balance benefits and economic costs of compliance, as well as analyses of the technical and economic feasibility of compliance after such rules, regulations and license conditions have been promulgated but before a final order for their implementation has been issued.

BE IT FURTHER RESOLVED that those affected state agencies, the President Pro Tempore and the Speaker of the House are requested to provide sufficient staff and other resources at the request of the Committee to carry out their task.

Approved July 13, 1990.

CHAPTER 455

FORMERLY

SENATE JOINT RESOLUTION NO. 18

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1990.

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 135th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1990 is $1,220.8 million, estimated revenue refunds are $88.5 million, estimated net State general fund revenue is $1,132.3 million and estimated unencumbered funds are $83.1 million.

Approved July 2, 1990.

CHAPTER 456

FORMERLY

SENATE JOINT RESOLUTION NO. 19

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1991.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "No appropriation, supplemental appropriation, or Budget Act shall cause the aggregate State eneral 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 135th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1991 is $1,302.1 million, estimated revenue refunds are $95.0 million, estimated net State general fund revenue is $1,207.1 million and estimated unencumbered funds are $48.1 million.

Approved July 2, 1990.

CHAPTER 457

FORMERLY

HOUSE JOINT RESOLUTION NO. 11
AS AMENDED BY HOUSE AMENDMENT NO. 1

ESTABLISHING A COMMITTEE TO STUDY AND DRAFT LEGISLATION REGARDING THE CONSOLIDATION OF THE MUNICIPAL COURT OF THE CITY OF WILMINGTON WITH THE COURT OF COMMON PLEAS.

WHEREAS, the Court Consolidation Committee, created in 1985 pursuant to Senate Bill No. 130, issued a report on December 22, 1986 wherein it recommended consolidation of the three state trial courts; and

WHEREAS, the Court Consolidation Committee further recommended that "the Municipal Court of the City of Wilmington either be merged into the consolidated court or be abolished and its personnel and functions transferred to the Justice of the Peace Courts and the then consolidated Superior Court."; and

WHEREAS, the Court Consolidation Committee anticipated several problems with the consolidation of the Municipal Court, but expressed hope that the Municipal Court would shortly become a part of the consolidated Superior Court; and

WHEREAS, the general idea of consolidating the Municipal Court of the City of Wilmington into the state court system is supported by the Governor, the Chief Justice of the Supreme Court of the State of Delaware, the Chief Judge of the Court of Common Pleas, and the Chief Judge of the Municipal Court of the City of Wilmington, among others; and

WHEREAS, the Long Range Courts Planning Committee, on May 25, 1989, suggested that further studies be conducted regarding the consolidation of the Municipal Court with the Court of Common Pleas to aid in overcoming the financial burden on the City of Wilmington resulting from a separate court system; and

WHEREAS, since the Court Consolidation Committee report was issued in 1986, significant changes in the courts have occurred, including: a dramatic increase in the criminal case load in the Court of Common Pleas, where criminal dispositions rose by 50.1% during the period between Fiscal Year 1986 and Fiscal Year 1988 suggesting consideration of additional personnel; significant increases in the case load of Municipal Court; a dramatic increase in the cost to the City of Wilmington to support Municipal Court due to the expiration of the City's rent credits for the Public Building in Fiscal Year 1991; the increasingly adverse effects on the administration of justice and employee morale in Municipal Court due to persistent questions about the court's status in light of promises of eventual consolidation in the indefinite future; the inequitable and increasingly dramatic difference between the salary and pension benefits of the judges of the Court of Common Pleas and the judges of the Municipal Court, which serves a comparable role in the administration of justice; and

WHEREAS, there remains disagreement concerning the best manner in which to implement the consolidation as well as disagreement concerning the distribution of the Municipal Court case load between the Court of Common Pleas and the Justice of the Peace Courts and the resulting need for additional personnel in those courts; and

WHEREAS, any proposal to abolish the Municipal Court must take into account the concerns and needs of the current employees of the Municipal Court.

NOW, THEREFORE:

BE IT RESOLVED, that a committee is hereby created to study the best manner by which to effectuate consolidation of the Municipal Court of the City of Wilmington with the Court of Common Pleas and to prepare a draft Municipal Court consolidation bill for introduction into the General Assembly on or before January 31, 1991.

BE IT FURTHER RESOLVED that the committee shall consist of eleven (11) persons with one person appointed by the majority leader of the House, one person appointed by the minority leader of the House, one person appointed by the majority leader of the Senate, one person appointed by the minority leader of the Senate, and the remaining members appointed by the Supreme Court of the State of Delaware including at least one judge of the Court of Common Pleas, one judge of the Municipal Court of the City of Wilmington, the Chief Magistrate or his designee, one representative of the State Budget Office and one representative from the certified bargaining agent for the Municipal Court employees.

Approved June 27, 1990.

CHAPTER 458

FORMERLY

HOUSE JOINT RESOLUTION NO. 24
AS AMENDED BY HOUSE AMENDMENT NO. 1

ESTABLISHING A PENSION TASK FORCE TO STUDY FIREFIGHTER AND LAW ENFORCEMENT PENSION SYSTEMS AND PROVIDING FOR A FINAL REPORT.

WHEREAS, for many years there has been a concern that all pensions be properly funded; and

WHEREAS, retired individuals often rely on their pensions as one of their sole means of support; and

WHEREAS, County and Municipal firefighters and law enforcement officers are instrumental in providing needed services to all of our State's citizens; and

WHEREAS, the continued welfare of County and Municipal firefighters and law enforcement officers upon their retirement is a great concern to the State.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 135th General Assembly of the State of Delaware, with the approval of the Governor, that the Pension Task Force is hereby established. Among other things, the Pension Task Force shall study methods of pension enhancement to prevent any present and future funding inadequacies for pension systems established by the counties and municipalities of the State for their firefighters and law enforcement officers, which study shall include:

(a) whether pension funds within such systems are properly funded;

(b) estimates on the funding needed to properly fund such systems over the next year, next 2 years and next 5 years;

(c) methods of pension enhancement to prevent any present and future funding inadequacies in such pension systems; and

(d) suggestions and recommendations by the Pension Task Force.

BE IT FURTHER RESOLVED that the Pension Task Force shall consist of the following persons, or their designee:

(a) the Speaker of the House of Representatives, who shall serve as the Chairperson of the Pension Task Force;

(b) the Mayor of Wilmington;

(c) the Mayor of Dover;

(d) the New Castle County Executive;

(e) the President of Kent County Levy Court;

(f) the President of Sussex County Council;

(g) the Governor of the State;

(h) the State Pension Administrator;

(i) the President Pro Tempore of the State Senate;

(j) the State Insurance Commissioner;

(k) the Chairperson of the State Pension Advisory Council;

(l) a representative to be appointed by the Delaware State Fraternal Order of Police;

(m) the Mayor of Newark;

(n) the State Treasurer; and

(o) a consultant, who is to serve without compensation, to be appointed by the Speaker of the House of Representatives, if he or she deems the services of such a consultant necessary.

BE IT FURTHER RESOLVED that the Pension Task Force shall make its report to the General Assembly on June 1, 1991. If the task force is not unanimous in its recommendations, a majority report and a minority report shall be issued. If it appears that the task force will be unable to meet the deadline for its final report, or to formulate recommendations by that time, any member or members may issue individual findings and recommendations.

BE IT FURTHER RESOLVED that the Pension Task Force is authorized to hold such hearings at such locations as it deems necessary, to require by subpoena or otherwise the attendance of such witnesses, and the production of such books and documents, as it deems necessary, and to administer oaths and take testimony when necessary.

Approved July 10, 1990.

CHAPTER 459

FORMERLY

HOUSE JOINT RESOLUTION NO. 29

REQUESTING THE STATE LEGISLATURE OF NEW JERSEY TO JOINTLY ESTABLISH A BI-STATE COMMISSION TO INVESTIGATE THE STATUS AND MANAGEMENT OF WEAKFISH PROBLEMS IN THE DELAWARE BAY AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLIES AND GOVERNORS OF BOTH STATES.

WHEREAS, the Delaware Bay is generally divided in the middle by the boundary between Delaware and New Jersey; and

WHEREAS, both Delaware and New Jersey independently manage the harvest of Weakfish by widely different laws and regulations within their portion of the Delaware Bay; and

WHEREAS, the Weakfish has been the most significant recreational and commercial fish of the last two decades in Delaware Bay; and

WHEREAS, the Weakfish harvest in the Delaware Bay has dramatically declined in 1989 and there are similar indications for 1990; and

WHEREAS, a recent report was quoted by the newspapers identifying the impingement and entrainment of juvenile Weakfish at the Salem Nuclear Power Plant as a potential cause of the declining Weakfish populations; and

WHEREAS, there is a concern that overharvesting within the Delaware Bay is another potential cause of the declining Weakfish population; and

WHEREAS, the Delaware Bay is recognized as a prime spawning area for Weakfish; and

WHEREAS, there is a concern that the lack of uniform management of the harvest of Weakfish within the Delaware Bay is another potential cause of the declining Weakfish population; and

WHEREAS, a large by-catch mortality of juvenile Weakfish in the North Carolina inshore shrimp trawl fishery is another potential cause of the declining Weakfish populations; and

WHEREAS, the very large ocean harvest of Weakfish off the North Carolina Coast winter trawl fishery is another potential cause of the declining Weakfish population; and

WHEREAS, recent evidence indicates the winter trawl fishery for Weakfish is harvesting the same stocks of Weakfish that migrate into Delaware Bay during the spring and summer; and

WHEREAS, the decline of Weakfish in the Delaware Bay is causing significant negative economic impact for Delaware and New Jersey businesses that support recreational and commercial fishing; and

WHEREAS, it is imperative that legislative be implemented before the beginning of the 1991 spawning season (recognize to start approximately April 1st) to ensure for the conservation of the weak fish"s existence; and

WHEREAS, this is a major bi-state concern.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 135th General Assembly of the State of Delaware:

1. That the Delaware Senate Pro Temp and the Delaware Speaker of the House of Representatives jointly request the New Jersey Speaker of the Assembly and the New Jersey President of the Senate adopt a similar resolution to create a bi-state legislative commission to be known as the Delaware Bay Weakfish Commission to review the probable causes of the decline of the Weakfish population in the Delaware Bay.

2. That the Delaware Bay Weakfish Commission is to submit a preliminary report and recommendations to the Governors and the legislatures of the respective states by January 15, 1991 and submit a final report with recommendations by March 1, 1991.

3. That the Delaware Bay Weakfish Commission be made of up to twenty-two members. The co-chairman will be selected by the appointed members of the two respective states.

4. That there will be eleven members from each state on the Delaware Bay Weakfish Commission. From each state, one will be the Secretary of the Department of Natural Resources and Environmental Control or the Commissioner of the Department of Environmental Protection or their designee; two will be state senators to be appointed by the Senate Pro Temp or President of the Senate; two will be members of the House of Representatives or State Assemblymen to be appointed by the Speaker of the House or Assembly; two will be licensed commercial fishermen who net Weakfish in the Delaware Bay, one to be appointed by the Senate Pro Temp or President of the Senate and one to be appointed by the Speaker of the House or Assembly; and four will be recreational fishermen who use hook and line to harvest Weakfish in the Delaware Bay, two to be appointed by the Senate Pro Temp or President or the Senate and two to be appointed by the Speaker of the House or Assembly. The Department of Natural Resources and Environmental Control for Delaware shall provide appropriate staff needs to the delegation from Delaware and the Department of Environmental Protection in New Jersey shall provide appropriate staff eds to the delegation from New Jersey.

5. In addition there shall be two non-voting members from each state appointed to the commission to assist in the study. These members shall be from an institution of higher education in the respective states with technical expertise in the field of marine studies. In each state one non-voting member shall be appointed by the Senate Pro Temp or President of the Senate and one member shall be appointed by the Speaker of the House or Assembly.

6. Recommendations submitted in the final report must be approved by at least twelve members of the commission.

7. Meetings of the commission will be held alternately in each state.

Approved July 26, 1990.

CHAPTER 460

FORMERLY

HOUSE JOINT RESOLUTION NO. 30

MOURNING THE DEATH OF ONE OF DELAWARE'S GREATEST CITIZENS, MR. R. R. M. "BOB" CARPENTER, JR., WHO DIED ON SUNDAY, JULY 8, 1990 AT THE AGE OF 74.

WHEREAS, the members of the 135th General Assembly of the State of Delaware and the Governor of the State of Delaware were saddened to learn that on Sunday evening, July 8, 1990, one of Delaware's greatest citizens, Mr. R. R. M. "Bob" Carpenter, Jr., died at the age of 74; and

WHEREAS, the moment the human ear heard the name "Carpenter", Delawarean's from every walk of life and every part of the State either associated it with the Philadelphia Phillies, a national league baseball team his father purchased for him at the age of 28, and a team he owned for 29 seasons, followed closely by massive numbers of Delawareans; or with the University of Delaware, College of Physical Education which he devoted endless hours of time and personal resources in seeing the University's athletic program culminate into the success story it has shown over the years, especially football, one of his favorite sports; and

WHEREAS, Bob Carpenter as he was frequently identified by most Delawarean's, leaves a legacy of athletic events, projects, programs and institutions that he either personally established or was instrumental in initiating, that Delawarean's and especially athletes will long remember; and

WHEREAS, athletics and sports in general have been Bob Carpenter's whole life, he participated in sports, playing football for two years at Duke University; he preached and advocated it in his every day contacts with Governor's, corporate executives and community leaders, persuading them to financially underwrite meaningful athletic programs at the University, to include the Delaware All-Star Football Game played annually at the University to benefit the retarded children of our State; and

WHEREAS, Mr. Carpenter's interest and devotion to sports over his life time went far beyond baseball and football, other hobbies included wildlife hunting on the 17,000 acre family plantation in South Carolina, and dog breeding, winning him national acclaims from the nationally known magazine, 'Field and Stream', for having the nation's most outstanding retriever; and

WHEREAS, Mr. Carpenter and his father, along with Connie Mack were co-owners of the Interstate Baseball League's Wilmington Blue Rocks, which included such well known names as Robin Roberts, Curt Simmons, and Jack Sanford, who went on to the majors (Class A baseball) to become outstanding players with the Phillies; and

WHEREAS, Mr. Carpenter's diverse interest in sports also included pro-basketball which he was instrumental in bringing to Wilmington, Delaware in the early 1940's, the American League Blue Bombers; and

WHEREAS, also in the early 940's, Mr. Carpenter showed his multiple interest in sports by supporting and backing pro-boxing ventures, two of whom were Al Trebaune and Lou Brooks, allowing them to stay in physical condition by exercising on his Montchanin estate in Wilmington; and

WHEREAS, Mr. Carpenter found time to devote his talents to other worthwhile causes, to include Chairmanship of the Delaware Racing Commission for two terms, a member of the Board of Directors of the News Journal Company before it was purchased from Christiana Securities by Gannett Company, and a member of the Board of Trustees of the University of Delaware succeeding his father who served before him, a responsibility and duty he sacredly honored and devoted tireless time to; and

WHEREAS, the citizens of Delaware, and most particularly those intimately involved with the various sports, and above all, the University of Delaware, the College of Physical Education, Athletics and Recreation, will no doubt experience a deep void as a result of the passing of Mr. Carpenter who was not only an outstanding enthusiastic supporter of athletes, but was a philanthropist in the widest meaning of the word, morally, socially and financially; and

WHEREAS, the News Journal Papers, in eulogizing Mr. Carpenter's many contributions to athletics, put it succinctly and aptly when they said, "he had a great love for victory, but he never lost sight of his primary objective, and that was, assisting youngsters to

play football and receive a first class education", for it is true, he loved collegiate sports and gave tremendously to its success, but he also contributed enormously to the entire University of Delaware for which all Delawareans are most grateful; and

WHEREAS, when Mr. Carpenter owned the Phillies, the Delaware legislature looked forward every year to being the guest of Mr. Carpenter at a home game where the evening was enjoyed by all, the delicious food and the jovial, down to earth talk Mr. Carpenter would exchange with all his guests, moving from table to table to exchange a few words of wisdom.

NOW, THEREFORE:

BE IT RESOLVED by the members of the 135th General Assembly of the State of Delaware, the Governor concurring therein, that the entire State of Delaware hereby mourns the death of Mr. R. R. M. Carpenter, Jr., who passed away on Sunday evening, July 8, 1990 at age 74, and expresses its deepest sympathy to the family during their bereavement, and further expressing the State's profound loss which will leave a void in all our lives, but his long legacy of institutional contributions will live on by which we shall long remember him.

BE IT FURTHER RESOLVED that upon enactment of this Joint Resolution, suitably prepared copies be forwarded to Mrs. Mary Kaye Carpenter, wife of Mr. Carpenter; to Ruly and Keith, sons, and to Mary Kaye Murray, the daughter, all of Wilmington, Delaware.

Approved July 25, 1990.

CHAPTER 461

FORMERLY

HOUSE JOINT RESOLUTION NO. 3

OPPOSING THE RECENT PROPOSAL BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM TO INTRUDE UPON THE HISTORIC AUTHORITY OF STATE LEGISLATURES AND BANK REGULATORY AUTHORITIES TO MONITOR AND REGULATE THE ACTIVITIES OF STATE BANKS.

WHEREAS, the strength and vitality of this country's financial marketplace has depended in large part upon the separate state and federal regulation of this country's state and federally chartered banks, respectively; and

WHEREAS, the General Assembly and Governor of the State of Delaware and regulatory officers acting in accordance with Delaware law have historically had authority over the activities of banks and other financial institutions organized under the laws of this State; and

WHEREAS, in exercising their responsibilities pursuant to such authority, the General Assembly and Governor of this State and Delaware banking regulators have always acted to promote the safety and soundness of Delaware's financial institutions while simultaneously recognizing that such institutions must evolve to meet the needs of a dynamic, rapidly changing marketplace for financial services; and

WHEREAS, the General Assembly and Governor of this State and Delaware banking regulators have balanced the competing goals of bank regulation with great success, as evidenced by the tremendous growth in Delaware of safe and sound financial institutions which provide the public with a wide array of needed financial services; and

WHEREAS, under our nation's "dual banking system", the President and Congress of the United States and federal regulatory officials have traditionally limited their direct regulation of financial institutions to those organized under federal law; and

WHEREAS, in recognition of the primacy of state legislatures and bank regulators with respect to the regulation of state chartered financial institutions, federal law has historically been drafted and interpreted so as not to intrude upon the regulatory authority of state legislatures and bank regulators; and

WHEREAS, the Federal Reserve Board has recently proposed to amend the provisions of its Regulation Y, enacted pursuant to the Bank Holding Company Act, which amendments would prohibit state chartered financial institutions from engaging in various activities otherwise permissible under state law; and

WHEREAS, the Amendments to Regulation Y proposed by the Federal Reserve Board would directly interfere with and usurp the historic authority of the states to determine the range of activities in which state chartered financial institutions may engage; and

WHEREAS, the Amendments to Regulation Y proposed by the Federal Reserve Board wrongly presume that the states are incapable of monitoring the continued safety and soundness of state chartered financial institutions; and

WHEREAS, the Amendments to Regulation Y proposed by the Federal Reserve Board wrongly presume that the Federal Reserve Board is better able to assess the financial service needs of the citizens of this State than the General Assembly and Governor of this State; and

WHEREAS, the Amendments to Regulation Y proposed by the Federal Reserve Board threaten the continued viability of our nation's dual federal and state banking systems; and

WHEREAS, the Amendments to Regulation Y proposed by the Federal Reserve Board threaten the continued ability of Delaware to ensure the provision of financial services in a prudent manner within a pro-competitive environment; and

WHEREAS, the Federal Reserve Board has provided parties that would be affected by its proposed amendments to Regulation Y with the opportunity to comment on these proposed amendments.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 135th General Assembly of the State of Delaware, with the approval of the Governor, that the amendments to Regulation Y proposed by the Federal Reserve Board constitute a legally and historically

unjustifiable interference with the prerogatives of the General Assembly and Governor of the State of Delaware to determine the range of activities in which financial institutions organized under the laws of this State may engage consistent with safe and sound banking practices.

BE IT FURTHER RESOLVED that upon passage of this Resolution, a suitably prepared copy be forwarded to the Board of Governors of the Federal Reserve System and to each member of the United States Congressional delegation of the State of Delaware as an expression of our opposition to the Federal Reserve Board's proposed Amendments to Regulation Y.

Approved February 8, 1989.

CHAPTER 462

FORMERLY

HOUSE JOINT RESOLUTION NO. 7
AS AMENDED BY SENATE AMENDMENT NO. 1

URGING THE DELAWARE CONGRESSIONAL DELEGATION TO PURSUE LEGISLATION WHICH WOULD GRANT SERVICE CONNECTED DISABILITY TO THOSE VETERANS WHO ARE AFFECTED BY THE EFFECTS OF EXPOSURE TO HERBICIDES, PRIMARILY AGENT ORANGE, USED BY THE MILITARY IN AND AROUND VIETNAM.

WHEREAS, the medical and scientific community have recognized the effects of dioxin on human beings; and

WHEREAS, dioxin is a by-product of compounds used in many products including herbicides; and

WHEREAS, the effects have been documented by literally hundreds of studies in both the public and private sector; and

WHEREAS, one of the herbicides, Agent Orange, used in South East Asia during the Vietnam War, has been recognized as containing dioxin; and

WHEREAS, of particular note are the most recent studies; the New Jersey Agent Orange Commissions' "Point Man Study", and the American Legion-Columbia University Vietnam Veteran Study; and

WHEREAS, those two, and countless other studies have indicated a direct correlation between exposure to Agent Orange and a host of illnesses; and

WHEREAS, the Veterans Administration (now the Department of Veterans Affairs) has not accepted the results of those studies as proof that exposure to Agent Orange, and illnesses incurred therefrom, are grounds for filing a claim for a Service Connected Disability; and

WHEREAS, as many as 8,000 Delaware veterans, who served in South East Asia, have been, or potentially may be affected by the health hazards attributed to exposure to various levels of dioxin.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 135th General Assembly of the State of Delaware, with the approval of the Governor, that we encourage Delaware's U.S. Congressional delegation to support current pending legislation or introduce legislation which would amend Title 38, United States Code to compensate, those affected by exposure to this potentially deadly compound, as a Service Connected Disability.

BE IT FURTHER RESOLVED that upon passage and enactment of this Joint Resolution, suitably prepared copies be forwarded to Senators William V. Roth, Joseph R. Biden, Jr., Representative Thomas R. Carper; Senator Alan Cranston, Chairman of the Senate Veterans Committee, Representative G. V. (Sonny) Montgomery, Chairman of the House Veterans Affairs Committee; Secretary Derwinski, Secretary of the Department of Veterans Affairs; and President Bush.

Approved June 29, 1989.

CHAPTER 463

FORMERLY

SENATE CONCURRENT RESOLUTION NO. 88

URGING THE STATE ELECTIONS COMMISSIONER AND COUNTY BOARDS OF ELECTION TO LOCATE POLLING PLACES IN FACILITIES THAT ARE ACCESSIBLE TO PEOPLE WITH DISABILITIES, AND THAT EVERY EFFORT BE MADE TO ACCOMPLISH THIS IN THE 1990 ELECTIONS.

WHEREAS, the number of elderly and handicapped citizens of voting age is the fastest growing segment of our State's population; and

WHEREAS, people with disabilities each election year express the strong desire to participate equally in the electoral process; and

WHEREAS, the Federal Voting Accessibility for the Elderly and Handicapped Act, (Public Law 98-435) signed into law on September 28, 1984, charges state elections officials with assuring that all polling places for Federal elections are accessible to the handicapped and elderly voters; and

WHEREAS, there are now throughout the State numerous accessible facilities that are available, and meet all polling place criteria; and

WHEREAS, the re-apportionment scheduled to be in place for the 1992 elections should not be the target date for accessible polling places since the re-apportionment process will consume elections officials time; and, historically although election district lines may change, facilities used for polling places rarely do,

NOW, THEREFORE:

BE IT RESOLVED by the Senate of the 135th General Assembly of the State of Delaware, the House of Representatives concurring therein, that the State Elections Commissioner and County Boards of Election are hereby urged to locate all polling places in buildings that are accessible to older people and others with disabilities and that this be accomplished in time for the 1990 general elections.

BE IT FURTHER RESOLVED that, upon passage, suitable copies of this Resolution be forwarded to the State Elections Commissioner and to the Administrative Directors of each of the County Boards of Election.

I N D E X

Administrative Procedures Act, Chapter 449

adoption, Chapter 106

adult corrections, Chapter 436

adult protective services, Chapter 185

aesthetician certification, Chapter 299

AGRICULTURAL AND SOIL CONSERVATION

drainage and reclamation of lowlands, Chapters 188 & 359

erosion and sedimentation control, Chapter 234

soil and water conservation districts, Chapter 306

AGRICULTURE

aquaculture, Chapter 439

conservation, Chapters 188 & 234

domestic and foreign animals, Chapters 50, 195, 276 & 277

pesticides, Chapters 51, 137, 275 & 311

rules and regulations, Chapter 344

Secretary of the Department of Agriculture, Chapter 52

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ALCOHOLIC BEVERAGE CONTROL COMMISSION

duties and powers, Chapter 110

Office of Commissioner, Chapter 109

rules and regulations, Chapter 344

ALCOHOLIC BEVERAGE LICENSES AND TAXES

certificate of license, Chapter 273

multiple activity clubs, Chapter 122

purchase and sale of alcoholic liquors, Chapter 118

rates of tax, Chapter 258

ALCOHOLIC LIQUORS

Alcoholic Beverage Control Commission, Chapter 110

criminal offenses and penalties, Chapters 23, 91 & 425

licenses and taxes, Chapters 48, 118, 122 & 273

seizure and confiscation, Chapter 109

ANIMALS

possession of animals not native to the United States, Chapter 277

rabies control, Chapter 338

registration of livestock dealers, Chapters 50 & 276

stray livestock, Chapter 195

APPROPRIATIONS

budget appropriation bills, Chapter 250

dredging projects, Chapter 225

education, Chapters 26 & 393

supplementary appropriations, Chapter 139

archaeological and geological resources, Chapter 107

Artisans' Savings Bank, Chapter 326

Attorney General, Chapter 181

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CAMERA OPERATOR'S REPORT
Division of Historical and Cultural Affairs
Department of State

Title of Records Delaware Laws - 1989

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CORRECTION

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