

LAWS
OF THE
STATE OF DELAWARE

ONE HUNDRED AND THIRTY-SEVENTH

GENERAL ASSEMBLY

FIRST SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 7, A.D.
1993

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 11, A.D.
1994

VOLUME LXIX
Part I

CHAPTER 1

FORMERLY

SENATE BILL NO. 2

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 3326(g), Chapter 33, Title 19, Delaware Code by adding a subsection (6) to read as follows:

"The provisions of subsections (1), (2), (3) and (5) of this section shall not apply should at any time these provisions be temporarily or permanently suspended by Federal law. If these provisions are suspended by Federal law, the provisions of State law which apply to claims for or the payment of regular benefits shall apply to claims for and the payment of extended benefits."

Approved February 8, 1993.

CHAPTER 2

FORMERLY

SENATE BILL NO. 3

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE IV, §11 OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO CERTIFICATION OF QUESTIONS OF LAW TO THE SUPREME COURT.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 136th General Assembly, being Chapter 375, Volume 6B, Laws of Delaware, as follows:

"AN ACT PROPOSING AN AMENDMENT TO ARTICLE IV, §11 OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO CERTIFICATION OF QUESTIONS OF LAW TO THE SUPREME COURT.

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, §11 paragraph (9) of the Delaware Constitution of 1897, as amended, by striking said paragraph (9) in its entirety and substituting in lieu thereof a new paragraph (9) to read as follows:

'(9) To hear and determine questions of law certified to it by other Delaware courts, the Supreme Court of the United States, a Court of Appeals of the United States, a United States District Court, or the highest appellate court of any other state, where it appears to the Supreme Court that there are important and urgent reasons for an immediate determination of such questions by it. The Supreme Court may, by rules, define generally the conditions under which questions may be certified to it and prescribe methods of certification.'"

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 136th 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 January 28, 1993.

CHAPTER 3

FORMERLY

SENATE BILL NO. 12

AN ACT TO AMEND TITLE 21, DELAWARE CODE RELATING TO VEHICLES OWNED OR USED BY FIRE COMPANIES.

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

Section 1. Amend Section 2105, Title 21, of the Delaware Code by adding a new Subsection (k) thereto to read as follows:

"(k) The provisions of this section shall not apply to vehicles and fire apparatus which were manufactured prior to January 1, 1993 that are owned or used by an organized fire company within this state."

Approved February 8, 1993.

CHAPTER 4

FORMERLY

SENATE BILL NO. 16

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE, RELATING TO ALLOWABLE GROSS WEIGHTS ON COMMERCIAL MOTOR VEHICLES.

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

Section 1. Amend §2105, Chapter 21, Title 21 of the Delaware Code by striking paragraphs (a)(1) and (a)(2) in their entirety and inserting the following new paragraphs (a)(1) and (a)(2) to read as follows:

"(a)(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, 1998.

(a)(2) With respect to such vehicles which were lawfully registered in this State on December 31, 1990, as 1988 or newer model vehicles, 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 the following dates:

- A. 1988 year model - January 1, 1998
- 1989 year model - January 1, 1999
- 1990 year model - January 1, 2000
- 1991 year model - January 1, 2001."

Approved February 8, 1993.

CHAPTER 5

FORMERLY

SENATE BILL NO. 47
AS AMENDED BY SENATE AMENDMENT NO. 1

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" REGARDING THE DEBT CEILING.

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, Section 30, Chapter 276, Volume 65, Laws of Delaware, as amended, be and is hereby amended by adding a new sentence at the end of thereof as follows:

"Debt which has been advance refunded with proceeds of the advance refunding sufficient to pay principal and interest on the debt to the first allowable call date having been irrevocably deposited in trust with a Delaware bank irrevocably with instructions to make no investment of the funds deposited other than in guaranteed or direct obligations of the United States shall not be counted as indebtedness."

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 word "succeed" and replacing said word with the word "exceed".

Section 3. Subsection (b), Section 34, Chapter 276, Volume 65, Laws of Delaware, as amended, be and the same is hereby amended by adding a sentence at the end thereof as follows:

"Debt which has been advance refunded with proceeds of the advance refunding sufficient to pay principal and interest on the debt to the first allowable call date having been irrevocably deposited in trust with a Delaware bank irrevocably with instructions to make no investment of the funds deposited other than in guaranteed or direct obligations of the United States shall not be counted as indebtedness."

Approved March 19, 1993.

CHAPTER 6

FORMERLY

HOUSE BILL NO. 86
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 1, 5 AND 7 OF TITLE 4 OF THE DELAWARE CODE REGARDING A LICENSE FOR A MULTI-PURPOSE SPORTS FACILITY.

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 101 of Chapter 1, Title 4 of the Delaware Code by redesignating Sections 101(25) through (39) as Section 101(26) through (40) and inserting a new Section 101(25) as follows:

"(25) 'Multi-purpose sports facility' shall mean a stadium owned and/or operated by the State of Delaware featuring minor league baseball games where admission fees are charged to the public and having a seating capacity of at least four thousand (4,000) seats and excludes stadia which are operated and maintained by educational institutions, including by not limited to high schools, colleges or universities."

Section 2. Amend Section 512, Chapter 5, Title 4 of the Delaware Code by striking the heading in Section 512 and subsection 512(b) in its entirety and inserting in lieu thereof the following:

"Section 512. Licenses for taprooms, hotels, restaurants or clubs, food concessionaires at horse racetracks, multi-purpose sports facilities, dinner theater performances, bowling alleys, caterers, removal of partially consumed bottles from premises."

"(b) A food concessionaire dispensing food at a horse racetrack or multi-purpose sports facility may apply to the commission for a license to purchase spirits and wine from an importer, and to receive, keep and sell such spirits and wine to patrons in dining rooms, suites leased by patrons in the multi-purpose sports facility or at counters (except at multi-purpose sports facilities) for consumption on the premises as authorized by the Commission, subject, however, to such rules and regulations as may be promulgated by the Delaware Alcoholic Beverage Control Commission. The license issued to a food concessionaire dispensing food at a horse racetrack or multi-purpose sports facility pursuant to this Section and Section 513 of this Title, shall continue to be valid whether or not a race meet or minor league baseball game are in progress and such licenses shall be entitled to all of the rights and privileges granted to a restaurant licensee together with the rights and privileges authorized by a license issued pursuant to Section 709 of this Title upon payment of the license fee set forth in Section 709."

Section 3. Amend Section 513, Chapter 5, Title 4, Delaware Code by striking the heading in Section 513 in its entirety and designating the existing two paragraphs of Section 513 as Section 513(a) and (b) respectively and adding a new heading and subsection (c) which shall read as follows:

"Section 513 - Sale of beer for consumption on premises of tavern, horse racetrack or multi-purpose sports facility."

"(c) Any person in charge of dispensing food at a multi-purpose sports facility may apply to the Commission for a license to purchase and to receive, keep and sell beer only, for consumption on the premises, at bars, counters, or similar contrivances or through individual vendors employed by the licensee. The holder of such a license may sell beer only under the following circumstances:

(1) In plastic, styrofoam, or paper containers on the multi-purpose sports facility premises; and

(2) For consumption on the licensed premises."

Section 4. Amend Section 554, Chapter 5, Title 4, Delaware Code by adding new subsection (hh) and (ii) which shall read as follows:

"(hh) For a license to sell beer only at a multi-purpose sports facility, the biennial fee shall be \$1,000.00.

(ii) For a license to sell wine and spirits at a multi-purpose sports facility, the biennial fee shall be \$1,000.00."

Section 5. Amend Section 709(d), Chapter 7, Title 4, Delaware Code by striking Section 709(d) in its entirety and substituting new section 709(d) as follows:

"(d) No holder of a license for the sale of alcoholic liquor in a hotel, restaurant, club, tavern, taproom, horse racetrack, multi-purpose sports facility, dining room of a boat, passenger cars of a railroad or caterer shall sell the same between the hours of 1:00 a.m. and 9:00 a.m. The closing hour may be made earlier in any municipality by ordinance of the municipal corporation. The sale of alcoholic liquors shall be permitted in a licensed hotel, restaurant, club, horse racetrack, multi-purpose sports facility, dining room of a boat, passenger cars of a railroad or caterer on every day of the year; provided that no such licensee shall be required to be open to sell alcoholic liquors on any of the holidays specified in subsection (e) of this Section. Any holder of a license to sell alcoholic liquor in a licensed hotel, restaurant, horse race track, multi-purpose sports facility, dining room of a boat, passenger car of a railroad or caterer who wishes to sell alcoholic liquors on Sundays shall pay a fee of \$200.00 for the issuance of a special license to serve alcoholic liquors on Sundays, which shall be in addition to any other license fees which may be required of the licensee. The sale of alcoholic liquors shall be permitted in a licensed tavern or taproom on every day of the year except the holidays specified in subsection (e) of this Section, on which days said licensee shall not be permitted to sell alcoholic liquors."

Approved April 6, 1993.

CHAPTER 7

FORMERLY

SENATE BILL NO. 77

AN ACT ADJUSTING THE SALARY OF THE SECRETARY-SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES AND AUTHORIZING THE TRANSFER OF FUNDS TO ACCOMMODATE THE SALARY ADJUSTMENT.

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

Section 1. Provisions of Chapter 290, Volume 68, Laws of Delaware, to the contrary notwithstanding, effective February 1, 1993, the annual salary of the Secretary - Services for Children, Youth and Their Families (37-01-00) shall be equivalent to the salary for the Secretary - Health and Social Services (35-01-00).

Section 2. The Budget Director, with the concurrence of the Controller General, shall transfer sufficient funds as necessary from contingencies contained in (10-02-04) to fund said salary adjustment as contained in this act for the remainder of the fiscal year ending June 30, 1993.

Section 3. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Approved April 13, 1993.

CHAPTER 8
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR

SENATE BILL NO. 79

AN ACT SUPERSEDING PORTIONS OF CHAPTER 290, VOLUME 68, LAWS OF DELAWARE AND AMENDING CHAPTER 7, TITLE 29 OF THE DELAWARE CODE RELATING TO ADJUSTMENTS OF SALARIES FOR CERTAIN STATE OFFICIALS AND LEGISLATIVE STIPENDS AND AUTHORIZING THE TRANSFER OF FUNDS TO ACCOMMODATE SUCH ADJUSTMENTS.

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

Section 1. Provisions of Chapter 290, Volume 68, Laws of Delaware, to the contrary notwithstanding, effective March 1, 1993, the salaries for the listed positions are as follows:

Budget Unit	Line Item	General Funds	All Other Funds
(01-01-01)	Representative	\$ 24.9	
(01-02-01)	Senator	24.9	
(02-01-00)	Chief Justice - Supreme Court	106.7	
(02-01-00)	Justice - Supreme Court	103.0	
(02-02-00)	Chancellor - Court of Chancery	101.7	
(02-02-00)	Vice Chancellor - Court of Chancery	97.9	
(02-03-00)	President Judge - Superior Court	101.7	
(02-03-00)	Associate Judge - Superior Court	97.9	
(02-06-00)	Chief Judge - Court of Common Pleas	100.5	
(02-06-00)	Judge - Court of Common Pleas	95.4	
(02-08-00)	Chief Judge - Family Court	100.5	
(02-08-00)	Associate Judge - Family Court	95.4	
(02-13-00)	Chief Magistrate - Justice of the Peace Courts	70.2	
(02-13-00)	Magistrate - Justice of the Peace Courts	39.8	
(10-02-00)	Budget Director	84.7	
(10-03-01)	Director - Delaware Development Office	79.1	
(10-04-00)	Personnel Director	\$ 79.1	
(12-01-01)	Lieutenant Governor	37.6	
(12-02-01)	Auditor	64.7	
(12-03-01)	Insurance Commissioner	64.7	
(12-05-01)	State Treasurer	70.2	
(15-01-01)	Attorney General	87.2	
(15-02-01)	Public Defender	70.2	
(20-01-00)	Secretary - State	79.1	
(25-01-00)	Secretary - Finance	84.7	
(30-01-00)	Secretary - Administrative Services	73.7	
(35-01-00)	Secretary - Health and Social Services	84.7	
(38-01-00)	Commissioner - Correction	79.1	
(40-01-00)	Secretary - Natural Resources and Environmental Control	79.1	
(45-01-00)	Secretary - Public Safety	73.7	
(55-01-01)	Secretary - Transportation		\$ 79.1
(60-01-00)	Secretary - Labor	7.4	66.3
(65-01-00)	Secretary - Agriculture	67.9	
(76-01-01)	Adjutant General	65.0	

Section 2. Provisions of Chapter 290, Volume 68, Laws of Delaware, to the contrary notwithstanding, effective March 1, 1993, the additional yearly compensation for any member of the Senate and the House of Representatives by virtue of his or her appointment or election to any of the following positions shall be increased by three percent:

Budget Unit	
(01-02-01)	President Pro Tempore of the Senate;
(01-01-01)	Speaker of the House;
(01-02-01)	Majority and Minority Leader of the Senate;
(01-01-01)	Majority and Minority Leader of the House;
(01-02-01)	Majority and Minority Whip of the Senate;
(01-01-01)	Majority and Minority Whip of the House;
(01-01-01)	Chairman of the Joint Finance Committee;
(01-02-01)	Vice-Chairman of the Joint Finance Committee;

(01-02-01) Members of the Joint Finance Committee, Senate; and
(01-01-01) Members of the Joint Finance Committee, House.

Section 3. The Budget Director, with the concurrence of the Controller General, shall transfer sufficient funds as necessary from contingencies contained in (10-02-04) to fund said salary and legislative stipend adjustments as contained in this Act for the remainder of the fiscal year ending June 30, 1993.

Section 4. Any previous Act inconsistent with the provisions of this Act is hereby repealed to the extent of such inconsistency.

Section 5. This Act shall become effective upon enactment into law.

Approved April 13, 1993.

CHAPTER 9

FORMERLY

HOUSE BILL NO. 55

AN ACT TO AMEND CHAPTER 158, VOLUME 36, LAWS OF DELAWARE, AS AMENDED, BEING THE CHARTER OF THE CITY OF DOVER, RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR REFUNDING PURPOSES.

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 50(c), Chapter 158, Volume 36, Laws of Delaware, as amended, by striking Section 50(c) and substituting in lieu thereof a new Section 50(c) to read as follows:

"(c) Bonds may be authorized and issued pursuant to subsection (b), without a referendum vote, by a resolution of the Council which shall have the affirmative vote of three-fourths of the members thereof and the approval of the Mayor, for the following purposes:

(i) to finance public storm sewers, streets and appurtenances provided that no more than \$1,000,000 aggregate principal amount of bonds may be issued at any one time pursuant to this clause (i) and any new bonds issued pursuant to this clause (i) may not cause the total aggregate principal amount of bonds outstanding at any one time pursuant to this clause (i) to exceed one percent (1%) of the total taxable assessment for a general tax at the time such new bonds are issued; and

(ii) to refund bonds secured by the City's full faith and credit, prior to their stated maturity, provided that (A) the present value of the aggregate principal and interest payments of the refunding bonds are not greater 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, calculated based on the internal rate of return; and (B) at the time of issuance of the refunding bonds there are deposited in escrow, pledged to secure the refunded bonds, sufficient monies and/or direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States government, which, without regard to any reinvestment earnings, will be sufficient to pay when due all interest, principal and redemption price on the refunded bonds at maturity or upon earlier call for redemption."

Section 2. Amend Section 50, Chapter 158, Volume 36, Laws of Delaware, as amended, by adding a new Section 50(g) to read as follows:

"(g) For the purposes of the debt limitations prescribed in this section, (i) any bonds which have been refunded pursuant to subsection (c)(ii) shall be treated as no longer outstanding and (ii) bonded indebtedness, principal amount of bonds and bonds outstanding shall be determined without regard to original issue discount."

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

Approved April 13, 1993.

CHAPTER 10

FORMERLY

HOUSE BILL NO. 137

AN ACT TO AMEND CHAPTER 10 OF TITLE 14 AND CHAPTERS 50, 63, 66A, 69 AND 74 OF TITLE 29 OF THE DELAWARE CODE RELATING TO THE TRANSFER OF CAPITAL BUDGET RESPONSIBILITIES OF THE DELAWARE DEVELOPMENT OFFICE TO THE OFFICE OF THE BUDGET; AND AUTHORIZING THE TRANSFER OF RELATED POSITIONS AND FUNDING, AND THE ADVANCED PLANNING AND REAL PROPERTY ACQUISITION FUND.

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

Section 1. Amend Chapter 10, §1057(a)(7) and §1057(a)(11), Title 14 of the Delaware Code by deleting the words "Director of the Delaware Development Office" and substituting in lieu thereof "Budget Director".

Section 2. Amend Chapters 50 and 63, Title 29 of the Delaware Code by redesignating §5006(4) and §5006(5) respectively as new §6313(8) and §6313(9) of Title 29, and by renumbering §§5006(6)-(11) as §§5006(4)-(9).

Section 3. Amend Chapter 50, §5011, Title 29 of the Delaware Code by deleting said section in its entirety.

Section 4. Amend Chapter 63, Title 29 of the Delaware Code by adding a new Subchapter to read as follows:

"Subchapter III-A Capital Appropriations Act

§6342 Preparation of annual capital budget

The Budget Director shall prepare, and amend as necessary, a program of state public works, major capital improvement projects and other facilities undertaken or recommended to be undertaken by the State, or any of the authorities or other instrumentalities of the state government. Such program shall be submitted as the annual capital budget to the Governor at such time as it shall be deemed appropriate for submission to the General Assembly. The Budget Director shall maintain a report on the status of all capital projects funded by any debt offering issued by the State or by any of the authorities or other instrumentalities of state government. In fulfilling the responsibilities of this Subchapter, the Budget Director shall consult and coordinate with the Secretary of Administrative Services in order to assure that the various agency requests are fully assessed from the standpoint of need, capacity, condition and relative priority."

Section 5. Amend Chapter 50, Title 29 of the Delaware Code by deleting Subchapter II - Advanced Planning and Real Property Acquisition Fund, §§5030 through 5033 (inclusive) in their entirety.

Section 6. Amend Chapter 50, §5044 and §5045, Title 29 of the Delaware Code by deleting said sections in their entirety.

Section 7. Amend Chapter 63, Title 29 of the Delaware Code by adding a new Subchapter to read as follows:

"Subchapter III-B Advanced Planning and Real Property Acquisition Fund

§6343. Advanced Planning and Real Property Acquisition Fund.

(a) A special fund is created in the State Treasury to be known as the "Advanced Planning and Real Property Acquisition Fund," hereafter referred to in this subchapter as "Fund."

(b) The Fund shall be expended for the advanced planning of proposed facilities in the State, including, but not limited to, the cost of architectural sketches, general site plans, preliminary engineering, general design services, legal, accounting and consulting services or such other services as may be deemed appropriate.

(c) The Fund shall be expended for earnest money of up to 10 percent 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.

§6344. Withdrawals from the Fund.

(a) Before any sum is withdrawn from the Fund for advanced planning or advanced real property acquisition, a request shall be made by the agency desiring to erect a state facility or desiring real property to the Budget Director who shall report to the Budget Commission whether the request is consistent with the capital program provided for by §6342 of this title.

(b) If an agency requests moneys from the Fund to erect a state facility, the Budget Director 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 Budget Director 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.

(c) If an agency requests moneys from the Fund for real property acquisition, the Budget Director 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 Budget Director 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.

§6345. Reversion of unused funds.

Any moneys for advanced planning or for advanced real property acquisition provided by the Budget Commission to a state agency which shall not be used by the agency within 12 months shall be refunded to the Budget Commission to be redeposited in the Fund.

§6346. Reimbursement of the Fund.

(a) Upon the funding of a capital project for which advance planning funds or advance real property acquisition funds have been provided from the Fund, a refund shall be made to the Fund from such funding by the State Treasurer from the appropriation made or other source of funds provided for the facility or real property.

(b) In the event that a capital project, for which advanced planning funds have been provided from the Fund is not included in a capital improvement act within 3 years, the Budget Commission may declare the project inactive and request the state's bond issuing officers to reimburse the Fund from the Bond Reversion Account, §7418 of this title notwithstanding.

(c) If federal funds are received as reimbursement for any real property purchased with the Fund, such moneys 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.

§6347. Idle moneys to be held in Capital Investment Fund.

Any moneys allocated to the Fund under this subchapter which are not immediately needed for the purposes of this subchapter may be held by the Budget Commission in the Capital Investment Fund until needed in the Advanced Planning and Real Property Acquisition Fund.

§6348. Authorization for sale of school district bonds.

In the case of a school district, use of funds authorized by this subchapter to purchase real property shall constitute authorization for

the sale of district bonds after referendum as provided in §7507 of this title."

Section 8. Amend Chapter 66A, §6604A, Title 29 of the Delaware Code by deleting the words "Delaware Development Office" each time they appear and substituting in lieu thereof the words "Budget Director".

Section 9. Amend Chapter 66A, §6605A, Title 29 of the Delaware Code by deleting the words "Delaware Development Office", as part of its annual capital budget responsibilities set forth in §5011" and substitute in lieu thereof the words "Budget Director", as part of the annual capital budget responsibilities set forth in §6342".

Section 10. Amend Chapter 69, 6903(e), Title 29 of the Delaware Code by deleting the words "and the Director of the Delaware Development Office" as they appear in the first sentence.

Section 11. Amend Chapter 74, §7419(a), Title 29 of the Delaware Code by deleting the words "and the Delaware Development Office" as they appear in the fourth sentence between the words "Office" and "to".

Section 12. Amend Chapter 74, §7419(b), Title 29 of the Delaware Code by deleting the words "Delaware Development Office" and substituting in lieu thereof the words "Budget Director".

Section 13. Amend Chapter 74, §7420(d), Title 29 of the Delaware Code by deleting the words "Delaware Development Office" and substituting in lieu thereof the words "Budget Director".

Section 14. Amend Chapter 74, §7422(e), Title 29 of the Delaware Code by deleting the words "Delaware Development Office" and substituting in lieu thereof the words "Budget Director".

Section 15. All remaining Personnel Costs associated with Budgeted Position #9307 for the remainder of the Fiscal Year 1993 shall be transferred from the Delaware Development Office, Delaware Economic Development Authority (10-03-03) to the Office of the Budget, Office of the Budget Administration (10-02-01). The position shall, upon enactment of this legislation, be transferred to the Office of the Budget, Office of the Budget Administration (10-02-01) and shall become part of the classified service. Notwithstanding Merit Rule 7.0100, any current incumbent in the aforementioned position shall be accorded Merit System status.

Approved April 19, 1993.

CHAPTER 11

FORMERLY

HOUSE BILL NO. 90

AN ACT TO AMEND CHAPTER 26, TITLE 14 OF THE DELAWARE CODE RELATING TO THE POWER OF COUNTY VOCATIONAL HIGH SCHOOL DISTRICTS AND COUNTY VOCATIONAL-TECHNICAL SCHOOL DISTRICTS TO LEVY TAXES FOR SCHOOL PURPOSES.

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

Section 1. Amend Chapter 26, Title 14, Delaware Code by striking §2601(a)(1) in its entirety and substituting in lieu thereof the following:

"(1) The amount to be raised by taxation shall not exceed 19.71 cents on each \$100 of value of real property in Sussex County for the tax year 1993 and all years thereafter."

Approved April 19, 1993.

CHAPTER 12

FORMERLY

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

AN ACT TO AMEND CHAPTER 504, VOLUME 57, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF HENLOPEN ACRES" TO PERMIT THE SALE OF BONDS BY THE TOWN OF HENLOPEN ACRES AT PRIVATE SALE.

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

Section 1. Amend Subsection (i), Section 32, Chapter 504, Volume 57, Laws of Delaware, as amended, by striking said Subsection (i) in its entirety and substituting in lieu thereof a new Subsection (i) to read as follows:

"(i) The form of bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the Commissioners of Henlopen Acres after the public hearing. Bonds or certificates of indebtedness may be sold at either public or private sale as determined by the Commissioners of Henlopen Acres."

Approved April 19, 1993.

CHAPTER 13

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 15

AN ACT TO AMEND SUBCHAPTER II, CHAPTER 81, TITLE 9, DELAWARE CODE, RELATING TO PROPERTY TAX EXEMPTION FOR CERTAIN PERSONS OVER 65 YEARS OF AGE.

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

Section 1. Amend §8136, Subchapter II, Chapter 81, Title 9, Delaware Code, by striking the first sentence of said section in its entirety.

Section 2. Amend §8141, Subchapter II, Chapter 81, Title 9, Delaware Code, by striking the period at the end of said section and substituting in lieu thereof the following:

; provided, however, that any such ordinance adopted shall include language substantially similar to that of §8133(b) of this subchapter."

Section 3. Amend §8133(b), Chapter 81, Title 9, Delaware Code, by striking the words "at any time prior to the last day of the pre-tax year" as they appear therein and substituting in lieu thereof the following:

"by a date determined by the taxing district, which shall not be earlier than 45 days prior to the last date of the pre-tax year."

April 19, 1993.

CHAPTER 14

FORMERLY

SENATE BILL NO. 41

AN ACT TO AMEND THE LAWS OF DELAWARE, VOLUME 66, CHAPTER 291, AS AMENDED, BEING THE CHARTER OF THE TOWN OF CLAYTON, TO CHANGE THE FISCAL YEAR.

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

Section 1. Amend Article XI, §11.1 of Chapter 291, Volume 66, Laws of Delaware by striking said section in its entirety and substituting in lieu thereof a new §11.1 to read as follows:

"The fiscal year of the Town of Clayton shall begin on the first day of January in each year and shall end with the next succeeding thirty-first day of December. Such fiscal year shall also constitute the budget and accounting year."

Approved April 19, 1993.

CHAPTER 15

FORMERLY

SENATE BILL NO. 59

AN ACT TO AMEND CHAPTER 138, VOLUME 68, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF DAGSBORO" AS AMENDED, TO REVISE THE PROCEDURES FOR REGISTRATION OF VOTERS.

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

Section 1. Subsection (G) of Section 7, Chapter 138, Volume 68, Laws of Delaware, as amended, is amended by striking word for word "on the second Friday in January in any year" as they appear in the last sentence of said Subsection (G) and substituting in lieu thereof the words "on the third Friday in November in any year".

Approved April 19, 1993.

CHAPTER 16

FORMERLY

HOUSE BILL NO. 17

AN ACT TO AMEND CHAPTER 1, TITLE 14 OF THE DELAWARE CODE RELATING TO THE STATE BOARD OF EDUCATION.

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

Amend §101(c), Chapter 1, Title 14 of the Delaware Code by deleting the phrase "At least 4 members of the Board" as it appears in the first sentence of said subsection and substitute in lieu thereof the phrase "At least 2 members of the Board."

Approved April 19, 1993.

CHAPTER 17

FORMERLY

HOUSE BILL NO. 139

AN ACT TO AMEND CHAPTER 237, §29, VOLUME 51, LAWS OF DELAWARE, AS AMENDED BY CHAPTER 165, §1, VOLUME 53, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BRIDGEVILLE" RELATING TO THE POWER TO BORROW MONEY.

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 237, §29, Volume 51, Laws of Delaware, as amended by Chapter 165, §1, Volume 53, Laws of Delaware, by striking out the symbol and number "\$1,000,000," as they now appear in the first paragraph and inserting in lieu thereof the symbol and number "\$4,000,000...

Approved May 4, 1993.

CHAPTER 18

FORMERLY

HOUSE BILL NO. 23

AN ACT TO AMEND CHAPTER 1, TITLE 4, OF THE DELAWARE CODE, RELATING TO ALCOHOLIC LIQUORS.

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

Section 1. Amend Title 4, Chapter 1, Section 101, of the Delaware Code, by deleting Sub-Section (19) in its entirety and substituting in lieu thereof a new sub-section which shall read as follows:

"(19) 'Importer' means the person transporting or ordering, authorizing, or arranging the transportation or shipment of alcoholic liquors into this State, whether the person is a resident or citizen of this State or not, said person being permitted to sell said alcoholic liquors only to those persons licensed to resell alcoholic liquors, provided, however, that nothing contained in this definition shall be construed as prohibiting an importer from selling such alcoholic liquors to either an active owner of that business for that person's use and not for resale, or to a full-time, bona fide employee of that business for that person's use and not for resale; and provided further that nothing contained in this definition shall be construed as prohibiting an importer from selling "beer" in "half-barrel" or "quarter-barrel" containers to the holders of a personal license. The Commission may enact such rules regulating the sale of alcoholic liquor to active owners and employees of licensed importers as it deems necessary."

Approved May 4, 1993.

CHAPTER 19

FORMERLY

HOUSE BILL NO. 9

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

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO LIMITATIONS UPON THE TIMES CERTAIN ESTABLISHMENTS ARE PERMITTED TO BE OPEN TO THE PUBLIC.

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

Section 1. Amend §1625, Chapter 16, Title 24 of the Delaware Code by adding, at the end of subsection (b), the following:

"The provisions of this subsection shall not apply to any business, regulated under both Title 24, Chapter 16 and Title 4 of the Delaware Code, which is not an adult book store, conversation parlor or adult motion picture theatre as the same are defined in this chapter."

Approved May 4, 1993.

CHAPTER 20

FORMERLY

SENATE BILL NO. 28
AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 1, TITLE 23, DELAWARE CODE RELATING TO PILOTS.

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

Section 1. Amend Subsection (a), §101, Chapter 1, Title 23, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) The Board of Pilot Commissioners for the State shall consist of 7 members, residents of the State, appointed by the Governor, for a term of 5 years, composed as follows: 3 state-licensed pilots and 4 other members, at least two of whom shall be public members and at least one of whom shall be a shipping industry representative. No public member shall be a former pilot, related to a pilot by blood or affinity, nor ever have been employed by any pilot association or individual pilot. No shipping industry representative shall be a former pilot. The Board shall consist of the members presently serving unexpired terms on the Board as it existed prior to January 1, 1993, together with those members necessary to bring the total number of members up to 7. Upon the expiration of the terms of office of those presently serving, the Governor shall appoint new members until such time as the board is composed of members meeting the requirements of this subsection. No member shall serve more than two (2) complete consecutive terms."

Section 2. Amend Subsection (e), §101, Chapter 1, Title 23, Delaware Code by striking the word "Three" and inserting in lieu thereof the word "Four".

Section 3. Amend §102, Chapter 1, Title 23, Delaware Code by inserting in subparagraph (1) thereof the phrase "the administration of the apprenticeship program," between the word "examination," and the word "rosters".

Section 4. Amend §102, Chapter 1, Title 23, Delaware Code by striking the period "." at the end of subparagraph 12, substituting in lieu thereof a semicolon ";" and by adding thereto a new subparagraph (13) to read as follows:

"(13) Grant an inactive license to (a) a pilot with health problems documented to the Board's satisfaction, or (b) a pilot on terminal leave, i.e., a pilot on approved time-off prior to and in contemplation of retirement. If a pilot seeks to return to active status after being granted an inactive license pursuant to (a) or (b) of this subsection, the Board shall first impose as a condition of return to active status that the pilot undertake a number of refresher trips, to be determined by the Board."

Section 5. Amend §104, Chapter 1, Title 23, Delaware Code, by striking said section in its entirety, substituting in lieu thereof a new §104 to read as follows:

"§104. Complaint and Hearing Procedures.

(a) Complaints pertaining to the subject matter of this Chapter shall be filed and processed in accordance with the provisions of §8810, Title 29, Delaware Code.

(b) The Board shall conduct hearings in accordance with the provisions of Chapter 101, Title 29, Delaware Code."

Section 6. Amend §106, Chapter 1, Title 23, Delaware Code by striking the phrase "pay to the Board" as the same appears therein and inserting in lieu thereof the phrase "pay to the Division of Professional Regulation" and also by striking the phrase "by the Board" as the same appears at the end of said section, inserting in lieu thereof the phrase "by the Secretary of Administrative Services."

Section 7. Amend §111, Chapter 1, Title 23, Delaware Code by striking the number "3" as the same appears in the second sentence and inserting in lieu thereof the number "4"; by striking the phrase "by the Board" as the same appears therein and inserting in lieu thereof the phrase "by the Secretary of Administrative Services"; and by striking the phrase "pay to the Board" and inserting in lieu thereof the phrase "pay to the Division of Professional Regulation".

Section 8. Amend §112, Chapter 1, Title 23, Delaware Code by striking said section in its entirety and substituting a new §112 to read as follows:

"§112. Classes of Licenses.

Six classes of licenses shall be granted:

- (1) First class, to persons capable of piloting ships or vessels of any practical draft of water;
- (2) Second class, to persons capable of piloting ships or vessels drawing 45 feet or under;
- (3) Third class, to persons capable of piloting ships or vessels drawing 40 feet or under;
- (4) Fourth class, to persons capable of piloting ships or vessels drawing 35 feet or under;
- (5) Fifth class, to persons capable of piloting ships or vessels drawing 30 feet or under; and
- (6) Sixth class, to persons capable of piloting ships or vessels drawing 25 feet or under."

Section 9. Amend §113, Chapter 1, Title 23, Delaware Code by striking the existing section in its entirety and substituting in lieu thereof a new §113 to read as follows:

"§113. Qualifications for Licenses: Limitation on Numbers of Pilots: Maximum Age of Licensees: Neglect of Duties.

(a) No license of the first, second, third, fourth, fifth or sixth class shall be granted to any person unless he or she has heretofore held or does now hold such license under the laws of this State or shall have served an apprenticeship as specified herein and by the Board, nor shall any license be granted until the person applying shall have arrived at the age of 21 years, nor shall any first class license be granted to any person until the number of first class pilots licensed under the laws of this state, excluding those pilots holding inactive licenses issued per §102(13) of this Title, shall have been reduced to less than 42, and thereafter such number shall not be exceeded. The whole number of second, third, fourth, fifth or sixth class licensed pilots, excluding those pilots holding inactive licenses issued per §102(13) of this Title, shall not exceed ten at any one time. Whenever and as often as a vacancy shall occur by reason of the number of first class pilots being reduced to less than 42, a first-class license shall be granted to the senior second-class pilot who is duly qualified under the laws of this state.

(b) No person shall be entitled to a license of the first class until that person has served for at least one year in each of the lower classes.

(c) Any license issued under this Chapter shall become void when the licensee reaches the age of seventy years, and shall not be renewed.

(d) Except as allowed by the Board or its rules, no pilot shall be entitled to a renewal of his or her license if he or she fails to pilot at least fifty-two (52) vessels over the route during the one year term of his or her license.

(e) Any pilot who fails to exercise his or her profession for any consecutive ninety (90) day period is forbidden from piloting vessels. Such pilot may resume piloting vessels only upon certification to the Board that he or she has made such refresher trips over the route as shall be

deemed necessary by the Board to assure that he or she is fully familiar with conditions along the route. Refresher trips shall be made in the company of a first class pilot."

(f) The provisions of subsection (a) and (b) of this Section shall not apply to any person who holds a valid first or second class State license as of April 8, 1993.

Section 10. Amend §114, Chapter 1, Title 23, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §114 to read as follows:

"§114. Apprenticeship Program.

(a) According to the needs and dictates of commerce and the interests of public safety, the Board shall from time to time solicit applications for and make appointments of apprentice pilots. No person shall be appointed to be an apprentice who does not hold either a baccalaureate degree from either a recognized and duly certified college or university, or from a maritime academy operated by the United States or a state, or a U.S. Coast Guard issued license to serve as third-mate on all oceans or master in near coastal waters aboard vessels of no less than 1600 tons, or a higher class of license. The number of apprentices at any one time shall be under the control and within the discretion of the Board of Pilot Commissioners. Apprenticeship openings, as they occur, shall be advertised for a period of not less than 1 week in a daily paper of general circulation.

(b) No person shall be entitled to a license in any class without first having completed the apprenticeship program enacted by regulation of the Board. The period of apprenticeship shall be four (4) years, excepting those apprentices who, at the time of appointment, held the above-described third-mate's or master's license, whose apprenticeship need be no longer than three (3) years. Apprentices must make a total of at least five hundred (500) trips over the route during their apprenticeship in vessels with first or second class pilots.

(c) The provisions of this section shall apply to all apprentices appointed after the effective date of this Act."

Section 11. Amend §115, Chapter 1, Title 23, Delaware Code by striking the phrase "paying to the Board of Pilot Commissioners" as the same appears therein and inserting in lieu thereof the phrase "paying to the Division of Professional Regulation" and by striking the phrase "by the Board" as the same appears therein and inserting in lieu thereof the phrase "by the Secretary of Administrative Services".

Section 12. Amend §116, Chapter 1, Title 23, Delaware Code by striking said section in its entirety.

Section 13. Amend §117, Chapter 1, Title 23, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §117 to read as follows:

"§117. Piloting Without License; Penalty.

(a) Whoever exercises the profession of pilot in the Bay or River Delaware, the navigable tributaries thereof, including the C&D Canal, or upon any other waters designated as pilotage waters by the Board, without a current license granted under this Chapter or under the laws of Pennsylvania shall be liable for a civil penalty equal to twice the amount of pilotage, as determined in accordance with this Chapter, for each such vessel piloted. Such penalty shall be payable to the State.

(b) Any person who provides pilotage to a vessel in distress shall not be deemed to have violated this section if he or she turns the vessel over to a duly licensed pilot who subsequently offers his or her services.

(c) No tugboat shall undertake to tow any vessel obligated by this Chapter to employ a pilot unless such vessel has a pilot on board who is licensed under this Chapter or by the Commonwealth of Pennsylvania. The master or person in charge of a tugboat which violates this section shall

be deemed to be piloting without a license and shall be liable for the civil penalty described in paragraph (a) of this section.

(d) Any master, owner, charterer, operator, consignee, manager, or agent of a vessel required under this Chapter to take a pilot, who hires or allows a person to act as a pilot in violation of paragraph (a) hereof while knowing that the person does not hold a valid license issued under this Chapter or by the Commonwealth of Pennsylvania, shall be jointly and severally liable for the civil penalty described in paragraph (a) of this section.

(e) The State Attorney General on behalf of the Board may bring an action in the courts of this state or any other court of competent jurisdiction to enforce the provisions of this section."

Section 14. Amend §120, Chapter 1, Title 23, Delaware Code by redesignating subparagraphs (4) and (5) of paragraph (a) thereof as subparagraphs (5) and (6) respectively, and by inserting a new subparagraph (4) to read as follows:

"(4) levy a fine not to exceed \$1,000;"

Section 15. Amend §121, Chapter 1, Title 23, Delaware Code by striking said section in its entirety and substituting a new §121 to read as follows:

"§121. Receipt of Pilots by Vessels; Penalties for Refusal; Jurisdiction.

(a) Except vessels of less than 100 gross tons, every foreign vessel and every vessel engaged in foreign commerce or trade entering, departing or underway upon the Delaware Bay or River, the navigable tributaries thereof, including the C. & D. Canal, or upon such other waters designated pilotage waters by the Board, shall be obliged to receive and employ a pilot licensed under this Chapter or by the Commonwealth of Pennsylvania;

(b) As used in this section, "vessel engaged in foreign trade" shall be defined as any vessel carrying any cargo loaded in a foreign port, or destined for a foreign port, as well as any vessel in ballast, having discharged its cargo of foreign origin, unless such vessel has specific orders to a port in the United States at which it is to load cargo. Orders to a vessel to proceed to Delaware Bay, to sea, or any other place for orders or instructions shall not be deemed such specific orders.

(c) If the Master of any vessel refuses or neglects to take a pilot, the master, owner, charterer, operator, manager, consignee, or agent of such vessel shall:

(i) forfeit and pay to any such pilot suing for the same a sum equal to the pilotage of such vessel plus attorney fees and costs to be recovered by a suit in the courts of this state or before a Justice of the Peace, or such pilot may pursue his or her remedy therefore by a suit in admiralty in any United States court either in personam or by proceeding in rem, to enforce the lien given him on such ship or vessel, as such pilot may see fit and proper to do; and

(ii) be liable to pay a civil penalty of up to \$25,000, payable to the State, which penalty shall be enforceable via an action to be brought by the Attorney General in the courts of this State."

Section 16. Amend §124, Chapter 1, Title 23, Delaware Code by striking said section in its entirety.

Section 17. Amend §125, Chapter 1, Title 23, Delaware Code by striking said section in its entirety.

Section 18. Amend §126, Chapter 1, Title 23, Delaware Code by striking the figure "\$800" as the same appears in the second sentence of said section and inserting in lieu thereof the phrase:

"the applicable pilotage rate".

Section 19. Amend Subchapter IV, Chapter 1, Title 23, Delaware Code by adding thereto a new §130 to read as follows:

"§130. Definitions.

As used in this Chapter:

(a) 'Deep draft vessel' shall mean any vessel which by virtue of its draft is limited in its ability to navigate such that its navigation will be of extraordinary duration or will occasion its pilot extraordinary care or trouble.

(b) 'Piloting' is defined as the work of directing a ship or vessel's movement on the waters of the Bay and River Delaware, all navigable tributaries thereof, the C. & D. Canal, and such other waters as may, from time to time be designated as pilotage waters by the Board.

(c) 'Vessel' is defined as any ship, however powered, barge, or tug and barge, or other craft used or capable of being used in navigation for the transportation of cargo or passengers.

(d) 'Underway' is the condition of any vessel which is not at anchor, aground or attached by one or more lines ashore."

Section 20. Amend §131, of Chapter 1, Title 23, Delaware Code by striking subparagraph (a)(2) in its entirety and substituting in lieu thereof a new subparagraph (a)(2) to read as follows:

"(2) The charges per unit shall be as follows:

Effective January 1, 1993.....\$4.74 per unit.

Effective January 1, 1994.....\$5.02 per unit.

Effective January 1, 1995.....\$5.32 per unit."

Section 21. Amend §131, Chapter 1, Title 23, Delaware Code by striking subparagraph (b)(2) in its entirety and substituting in lieu thereof a new subparagraph (b)(2) to read as follows:

"(2) The charges per unit shall be as follows:

Effective January 1, 1993.....\$4.74 per unit.

Effective January 1, 1994.....\$5.02 per unit.

Effective January 1, 1995.....\$5.32 per unit."

Section 22. Amend §131, Chapter 1, Title 23, Delaware Code by striking paragraph (c) in its entirety and substituting in lieu thereof a new paragraph (c) to read as follows:

"(c) The Board shall establish and enforce charges for additional services, including, but not limited to, provisions for transporting charges and a credit policy, including carrying charges and attorney's fees."

Section 23. Amend §134, Chapter 1, Title 23, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §134, to read as follows:

"§134. Compensation for Extraordinary Piloting Services.

Any vessel which has suffered any casualty limiting the capabilities of its steering, propulsion or navigational equipment or which is otherwise limited by its speed, draft, or other factor in its ability to navigate such that its navigation will be of extraordinary duration or will occasion its pilot extraordinary care or trouble shall be obliged to receive two (2) licensed pilots and to pay to each the full amount of pilotage required by this Chapter; in the event that such services are provided by a single pilot he or she may charge up to double the pilotage amount calculated in accordance with the rates of this Chapter."

Section 24. Amend §135, Chapter 1, Title 23, Delaware Code by striking the number "15" as the same appears in said section and substituting in lieu thereof the number "100".

Section 25. Amend §136, Chapter 1, Title 23, Delaware Code by striking the number "15" as the same appears in the first sentence of said section and substituting in lieu thereof the number "100".

Section 26. Amend Subchapter IV, Chapter 1, Title 23, Delaware Code by adding thereto a new §138 to read as follows:

"138. Pilotage for Outbound Deep Draft Vessels. "

Outbound deep draft vessels shall be assigned two pilots for the outbound passage, and the vessel's pilotage rate for such passage shall be doubled to account for the use of the two pilots."

Approved May 4, 1993.

CHAPTER 21

FORMERLY

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

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE REGARDING WAIVER OF REQUIREMENT FOR REGISTRATION OF FARM VEHICLES.

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

Section 1. Amend §2113(2), Chapter 21, Title 21, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following new subsection (2):

"(2) Farm vehicles exempt from inspection and registration:

The requirement for registration and inspection of farm motor vehicles, vehicles, or trailers is waived for those motor vehicles, vehicles, or trailers if they are:

(a) Not used for hire;

(b) Operated or towed upon the public highways or roads within a five mile radius of a farm owned or managed by the owner of the vehicles; and

(c) Properly equipped with a stop light, turn signals and brakes which are in a safe operating condition."

Approved May 6, 1993.

CHAPTER 22

FORMERLY

HOUSE BILL NO. 104
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE, RELATING TO SPECIAL LICENSE PLATES FOR RECIPIENTS OF THE PURPLE HEART.

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 21, Title 21, Delaware Code, by adding thereto a new §2139B to read as follows:

"§2139B. Special License Plates for Recipients of the Purple Heart.

(a)(1) The owner of any vehicle described in (2) of this subsection may apply to the Department for assignment to that vehicle of a special purple heart registration number; provided however, that the owner of the vehicle must possess official documentation which indicates that such owner is the recipient of the purple heart medal.

(2) This Section applies only to:

(a) A private passenger vehicle; or

(b) A truck with a three-fourth ton or less manufacturer's rated capacity.

(b) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant is a veteran of World War I, World War II, the Korean Conflict, Vietnam Conflict, Operation Desert Storm, or other military conflict on foreign soil in which United States armed forces were formally engaged in battle.

(c) No fee in addition to the annual registration fee otherwise required by this Title is required for registration under this Section; provided; however, that an original application under this Section shall be subject to a \$10 administrative fee.

(d) Only 1 such plate shall be issued to an applicant.

(e) The Department shall reserve sufficient special license plates including the letters P H and numbered consecutively beginning with the numeral 1 as are necessary to implement this Section.

(f) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within ninety days."

Approved May 12, 1993.

CHAPTER 23

FORMERLY

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

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE, RELATING TO THE OFFENSE OF PATRONIZING A PROSTITUTE.

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 §1343, Chapter 5, Title 11 of the Delaware Code by striking the words "Patronizing a prostitute is a violation;" and by re-designating all of said section as new subsection (a).

Section 2. Amend §1343, Chapter 5, Title 11 of the Delaware Code by adding thereto the following subsections:

"(b) Patronizing a prostitute is a misdemeanor.

(c) Whenever any vehicle, as defined in Section 2321 of this title, has been used in, or in connection with, the offense of patronizing a prostitute, it shall forthwith be seized and taken into custody by the peace officer or officers having knowledge of the facts of such use."

Section 3. Amend Subchapter II, Chapter 23, Title 11 of the Delaware Code by adding, immediately after the words "of Title 30" as they appear in §2322, the following:

", or in a violation of §1343 of this Title,"

Section 4. Amend Subchapter II, Chapter 23, Title 11 of the Delaware Code by adding, immediately after the words "of Title 30" as they appear in §2326, the following:

", or in a violation of §1343 of this Title."

Section 5. Amend Section 2, paragraph (b) by adding the following additional sentences:

"The minimum mandatory fine shall be \$500.00. This fine shall not be suspended."

Section 6. Amend Section 2 by adding a new paragraph (d) to read as follows:

"Vehicle seizure shall apply in the case of a defendant who has a previous conviction for the same offense in the previous 5 years. For the purpose of this Section, prior offense shall be defined as a conviction of 11 Del. C. §1343."

Approved May 19, 1993.

CHAPTER 24

FORMERLY

HOUSE BILL NO. 89

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

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMES; AND PROVIDING PENALTIES FOR CARJACKING.

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

Section 1. Amend §222, Chapter 2, Title 11 of the Delaware Code by re-designating present subsection (2) as new subsection (3); by re-designating each succeeding section accordingly; and by adding thereto the following new subsection:

"(2) 'Carjack' or 'carjacking' shall mean unlawfully taking possession or control of a motor vehicle by coercion, by duress, or without the permission of the owner or any occupant of such vehicle, while such owner or other person is in or within ten (10) feet of the vehicle, whether or not anyone is injured by the offender in taking possession or control of the vehicle, and whether or not the offender physically drove or operated the vehicle."

Section 2. Amend §604, Chapter 5, Title 11 of the Delaware Code by designating the first paragraph of said section as new subsection (a), by striking the last sentence of said section; and by adding thereto the following:

"(b) Where a person unlawfully takes possession or control of a motor vehicle by duress or without permission of the owner, occupant or former occupant who is within 10 feet of the motor vehicle, or otherwise commits an act of carjacking as the same is defined in §222 of this Title, such person is guilty of reckless endangering in the first degree.

(c) Reckless endangering in the first degree is a Class E felony."

Section 3. Amend §612, Chapter 5, Title 11 of the Delaware Code by striking the period (.) at the end of subsection (6), and substituting "; or" in lieu thereof; and by adding, thereto a new subsection, designated as subsection (7), which new subsection shall read as follows:

"(7) such person carjacks a motor vehicle as carjacking is defined in §222, whether or not such person intends to permanently deprive the owner of the use of the vehicle; and while in possession or control of such vehicle the offender:

a. commits the crime of reckless endangering in the first degree as defined in 11 Del. C. §604(a);

b. compels a lawful occupant of the vehicle to leave the vehicle;

or

c. causes the vehicle to be operated recklessly."

Section 4. Amend §612, Chapter 5, Title 11 of the Delaware Code by striking the first three words of said section ("A person is"), and substituting the words "(a) A person is" in lieu thereof; by designating the second-to-last sentence of said section (beginning with the word "Assault") as new subsection (c); and by striking the first four words of the last sentence of said section, and substituting "(b) It is no defense, for an offense under (a)(6) of this section" in lieu thereof.

Section 5. Amend §613, Chapter 5, Title 11 of the Delaware Code by striking the period at the end of subsection (7), and substituting "; or" in lieu thereof; and by adding thereto a new subsection, designated as subsection (8) which new subsection shall read as follows:

"(8) such person carjacks a motor vehicle as carjacking is defined in §222, and while in possession or control of such vehicle the person:

- a. commits or attempts to commit a Class D or greater felony;
- b. operates the vehicle while under the influence of alcohol and/or drugs as defined in 21 Del. C. §4177;
- c. has possession of a 'controlled substance' as that term is defined in 16 Del. C. §4701 (7);
- d. has possession of a 'deadly weapon' as that term is defined in 11 Del. C. §222 (5); or
- e. intentionally or unintentionally causes 'physical injury,' as that term is defined in 11 Del. C. §222 (20), to another person."

Section 6. Amend §613, Chapter 5, Title 11 of the Delaware Code by striking the first three words of said section ("A person is"), and substituting the words "(a) A person is" in lieu thereof, by designating the second-to-last sentence of said section (beginning with the word "Assault") as new subsection (c); and by striking the first four words of the last sentence of said section, and substituting "(b) It is no defense, for an offense under (a)(7) of this section" in lieu thereof.

Approved May 19, 1993.

CHAPTER 25

FORMERLY

HOUSE BILL NO. 115

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

AN ACT TO AMEND 68 LAWS OF DELAWARE, CHAPTER 156, BEING THE 1992 BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND 68 LAWS OF DELAWARE, CHAPTER 405, BEING THE 1993 BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE.

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 68 Laws of Delaware, Chapter 156, Section 19, by striking the language "None of the aforementioned appropriated funds may be expended for the Hockessin Library until New Castle County has purchased replacement land to protect the aquifer" and insert in lieu thereof the following language "None of the aforementioned appropriated funds may be expended for the Hockessin Library until New Castle County has received a written confirmation that replacement lands to protect the aquifer can be acquired from another public agency."

Section 2. Amend 68 Laws of Delaware, Chapter 405, Section 3, by striking the following language as it appears therein:

"NCCO. Vo-Tech (60%-40%)	125,000	83,333	208,333"
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and by substituting in lieu thereof the following language:

"NCCO. Vo-Tech (100%)	125,000	0	125,000"
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Section 3. Further amend 68 Laws of Delaware, Chapter 405, Section 3, by striking the following language as it appears therein:

"Sub-totals	\$5,951,900	\$2,966,310	\$8,918,210"
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and by substituting in lieu thereof the following language:

"Sub-totals	\$5,951,900	\$2,882,977	\$8,834,877."
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Approved May 19, 1993.

CHAPTER 26

FORMERLY

HOUSE BILL NO. 163
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 7, DELAWARE CODE RELATING TO EXEMPTIONS FOR LICENSE REQUIREMENTS.

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

Section 1. Amend Chapter 5, Title 7 of the Delaware Code by adding a new Section to read as follows:

"§590. Free Sport Fishing Days.

The Secretary of the Department of Natural Resources and Environmental Control may designate up to two (2) days within national fishing week, which may or may not be consecutive, during each calendar year as "free sport fishing days". On the designated "free sport fishing days", residents and non-residents are exempt from the fishing requirements of Section 501, 505 and 506 of this Chapter but are subject to all other statutory and regulatory provisions that pertain to fishing."

Approved May 19, 1993.

CHAPTER 27

FORMERLY

HOUSE BILL NO. 44

AN ACT TO AMEND CHAPTER 26, TITLE 9, DELAWARE CODE RELATING TO NEW CASTLE COUNTY ZONING.

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

Section 1. Amend §2614, Chapter 26, Title 9, Delaware Code by designating the existing paragraph as subsection (a) and by adding a new subsection to read as follows:

"(b) Any rezoning which is approved subject to restrictions shall require a two-thirds vote of all members elected to the County Council to release, remove or change such restrictions, unless the Planning Department recommends approval of the release, removal or change of said restrictions, in which case a simple majority of all members elected to the County Council shall be required."

Approved May 19, 1993.

CHAPTER 28

FORMERLY

HOUSE BILL NO. 63

AN ACT TO AMEND CHAPTERS 2 AND 27, TITLE 14, DELAWARE CODE RELATING TO MANDATORY AGE OF ATTENDANCE IN PUBLIC SCHOOLS.

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

Section 1. Amend §202(a), Title 14, Delaware Code by striking the words "grades 1 through 12" as they appear in said subsection and by substituting in lieu thereof the words "kindergarten through grade 12."

Section 2. Amend §2702(a), Title 14, Delaware Code by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(a) Except as otherwise set forth in this Section, every person in the State having control of a child between 5 years of age and 16 years of age shall send such child to a free public school, in the district of residence of the parents, except as determined in accordance with Chapter 6 of this Title, and shall send the child to such school each day of the minimum school term of 180 days. For purposes of this Section, a child shall be considered 5 years of age if he or she celebrates his or her fifth birthday according to the following schedule:

1993-94 school year	fifth birthday on or before November 30, 1993.
1994-95 school year	fifth birthday on or before October 31, 1994.
1995-96 school year	fifth birthday on or before September 30, 1995.
1996-97 school year	fifth birthday on or before August 31, 1996.
Subsequent school years	fifth birthday on or before August 31 of the respective year.

Local school authorities may grant exceptions to the above schedule for entry into school if they determine that such exception is in the best interest of the child."

Approved May 20, 1993.

CHAPTER 29

FORMERLY

HOUSE BILL NO. 76

AN ACT TO AMEND §7101, CHAPTER 71, PART IV, TITLE 14 OF THE DELAWARE CODE RELATING TO DISTRICT LIBRARIES.

Section 1. Amend §7101, Chapter 71, Part IV, Title 14 of the Delaware Code by deleting the period "." which appears at the end of §7101 and substituting in lieu thereof the following:

"; provided, however, that the Lewes Public Library may request exemption as provided herein after August 31, 1975."

Approved May 20, 1993.

CHAPTER 26

FORMERLY

HOUSE BILL NO. 163
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 7, DELAWARE CODE RELATING TO EXEMPTIONS FOR LICENSE REQUIREMENTS.

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

Section 1. Amend Chapter 5, Title 7 of the Delaware Code by adding a new Section to read as follows:

"§590. Free Sport Fishing Days.

The Secretary of the Department of Natural Resources and Environmental Control may designate up to two (2) days within national fishing week, which may or may not be consecutive, during each calendar year as "free sport fishing days". On the designated "free sport fishing days", residents and non-residents are exempt from the fishing requirements of Section 501, 505 and 506 of this Chapter but are subject to all other statutory and regulatory provisions that pertain to fishing."

Approved May 19, 1993.

CHAPTER 27

FORMERLY

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AN ACT TO AMEND CHAPTER 26, TITLE 9, DELAWARE CODE RELATING TO NEW CASTLE COUNTY ZONING.

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

Section 1. Amend §2614, Chapter 26, Title 9, Delaware Code by designating the existing paragraph as subsection (a) and by adding a new subsection to read as follows:

"(b) Any rezoning which is approved subject to restrictions shall require a two-thirds vote of all members elected to the County Council to release, remove or change such restrictions, unless the Planning Department recommends approval of the release, removal or change of said restrictions, in which case a simple majority of all members elected to the County Council shall be required."

Approved May 19, 1993.

CHAPTER 28

FORMERLY

HOUSE BILL NO. 63

AN ACT TO AMEND CHAPTERS 2 AND 27, TITLE 14, DELAWARE CODE RELATING TO MANDATORY AGE OF ATTENDANCE IN PUBLIC SCHOOLS.

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

Section 1. Amend §202(a), Title 14, Delaware Code by striking the words "grades 1 through 12" as they appear in said subsection and by substituting in lieu thereof the words "kindergarten through grade 12."

Section 2. Amend §2702(a), Title 14, Delaware Code by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(a) Except as otherwise set forth in this Section, every person in the State having control of a child between 5 years of age and 16 years of age shall send such child to a free public school, in the district of residence of the parents, except as determined in accordance with Chapter 6 of this Title, and shall send the child to such school each day of the minimum school term of 180 days. For purposes of this Section, a child shall be considered 5 years of age if he or she celebrates his or her fifth birthday according to the following schedule:

1993-94 school year	fifth birthday on or before November 30, 1993.
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1996-97 school year	fifth birthday on or before August 31, 1996.
Subsequent school years	fifth birthday on or before August 31 of the respective year.

Local school authorities may grant exceptions to the above schedule for entry into school if they determine that such exception is in the best interest of the child."

Approved May 20, 1993.

CHAPTER 29

FORMERLY

HOUSE BILL NO. 76

AN ACT TO AMEND §7101, CHAPTER 71, PART IV, TITLE 14 OF THE DELAWARE CODE RELATING TO DISTRICT LIBRARIES.

Section 1. Amend §7101, Chapter 71, Part IV, Title 14 of the Delaware Code by deleting the period "." which appears at the end of §7101 and substituting in lieu thereof the following:

"; provided, however, that the Lewes Public Library may request exemption as provided herein after August 31, 1975."

Approved May 20, 1993.

CHAPTER 30

FORMERLY

HOUSE BILL NO. 61
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REINCORPORATE THE VILLAGE OF ARDEN" AS AMENDED RELATING TO REGISTRATION COMMITTEES.

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 §9(a), Chapter 125, Volume 56, Laws of Delaware by deleting paragraph (1) thereof in its entirety and by inserting in lieu thereof the following:

"(1) five residents of the Village elected by the Town Assembly. Two members of the Committee shall be elected by the Town Assembly at its regular March meeting in each odd-numbered year. Three members of the Committee shall be elected by the Town Assembly at its regular March meeting in each even-numbered year. Each member, so elected, shall serve in office for two years or until his/her successor is duly elected; and"

Section 2. The first election after the enactment of this Act will be the transition election. In this election five members will be elected to the registration committee. If the transition election falls in an odd year, the 2 nominees with the two highest number of votes will serve for a two year term and the 3 nominees with the next three highest number of votes will serve for a one year term. If the transition election falls in an even year, the 3 nominees with the three highest number of votes will serve for a two year term and the 2 nominees with the two next highest number of votes will serve for a one year term.

Approved June 1, 1993.

CHAPTER 31

FORMERLY

HOUSE BILL NO. 105
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE CHARTER OF THE CITY OF DOVER, BEING CHAPTER 158, VOLUME 36 OF THE LAWS OF DELAWARE, AS AMENDED, RELATING TO REAL PROPERTY REASSESSMENTS.

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 47, Chapter 158, Volume 36, Laws of Delaware, as amended by Chapter 283, Volume 46, Laws of Delaware; as amended by Chapter 314, Volume 47, Laws of Delaware; as amended by Chapter 93, Volume 51, Laws of Delaware; as amended by Chapter 100, Volume 62, Laws of Delaware; as amended by Chapter 5, Volume 64, Laws of Delaware; as amended by Chapter 365, Volume 66, Laws of Delaware; and as amended by Chapter 7, Volume 67, Laws of Delaware, by striking the ninth paragraph of said Section 47, and substituting in lieu thereof the following sentences:

"Whenever Council shall so direct, all real property in the City of Dover shall be reassessed by a certified independent outside appraiser chosen by Council. This reassessment shall be in lieu of the valuation and assessment made by the assessor chosen by Council as described hereinabove and in lieu of the assessor's duties described hereinabove."

Approved June 1, 1993.

CHAPTER 32

FORMERLY

HOUSE BILL NO. 197

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF §107(a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF KEVIN PATRICK O'BRIEN AND MICHELLE ANN TAYLOR.

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

Section 1. Kevin Patrick O'Brien and Michelle Ann Taylor are hereby exempted from the provisions of 13 Del. C., §107(a) and are specifically authorized to marry on June 6, 1993, or within 30 days thereafter; the Clerk of the Peace for Sussex County shall issue to Kevin Patrick O'Brien and Michelle Ann Taylor one official marriage license pursuant to this Act, the provisions of 13 Del. C., §107(a) to the contrary notwithstanding.

Approved June 2, 1993.

CHAPTER 33

FORMERLY

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

AN ACT TO AMEND TITLE 21, DELAWARE CODE RELATING TO SPECIAL LICENSE PLATES FOR MEMBERS OF DUCKS UNLIMITED.

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 21 Delaware Code by adding thereto a new §2139B to read as follows:

§2139B. Special License Plates For Members of Ducks Unlimited.

(a) The owner of any vehicle described in paragraph (1) of this subsection may apply to the Department for the assignment to that vehicle of a special Ducks Unlimited registration.

(1) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a three-fourth ton or smaller manufacturer's rated capacity.

(b) Special registration may be issued under this section only if:

(1) The applicant states that he is a member of the Delaware Chapter of Ducks Unlimited; and

(2) The Delaware Chapter of Ducks Unlimited certifies that the applicant is an active member of that organization.

(c) No fee in addition to the annual registration fee required by this title is required for registration under this section; however, the original application under this section shall be subject to a \$10 administrative fee, which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this Section and to fund Department of Motor Vehicle projects notwithstanding the provisions of Chapter 13 and 14 of Title 2, Delaware Code to the contrary.

(d) Only 1 such plate shall be issued to an applicant.

(e) The Department shall reserve sufficient license plates including the letters D.U. and numbered consecutively beginning with the numeral 1 as are required for this section.

(f) Upon notification from the Delaware Chapter of Ducks Unlimited that an individual is no longer an active member of that organization, the Department shall notify the license plate holder to surrender the license plate to the Department within thirty (30) days.

Approved June 3, 1993.

CHAPTER 34

FORMERLY

SENATE BILL NO. 114

AN ACT TO AMEND AN ACT, BEING CHAPTER 128, VOLUME 33, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MIDDLETOWN" REGARDING THE DEBT CEILING.

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

Section 1. Section 21, Chapter 128, Volume 33, Laws of Delaware, as amended, be and is hereby amended by striking the section in its entirety and inserting in lieu thereof the following:

"Section 21. Debt which has been refunded or advance refunded with proceeds of the advance refunding sufficient to pay principal and interest on the debt to the first allowable call date having been irrevocably deposited in trust with a Delaware bank irrevocably with instructions to make no investment of the funds deposited other than in guaranteed or direct obligations of the United States shall not be counted as indebtedness, and shall not require a referendum."

Approved June 3, 1993.

CHAPTER 35

FORMERLY

SENATE BILL NO. 25

AN ACT TO AMEND CHAPTER 99, 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 §9902(a) subsections 1 and 2 of Title 16, Delaware Code by deleting said subsections and substituting in lieu thereof the following:

"§9902. 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 10 members, 4 of whom shall be appointed by the Governor, 1 of whom shall be appointed by the President Pro Tempore of the State Senate and 1 of whom shall be appointed by the Speaker of the House of Representatives. Of the 6 appointed members, at least 1 member shall be a resident of each county. The Insurance Commissioner, the Secretary of Finance, the Secretary of Health and Social Services, and the Secretary of Services for Children, Youth and Their Families 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 6 of the Commission members shall be of the same political party."

Section 2. Amend §9902(b) by inserting after the word "Services," and before the word "the" in the first sentence of said subsection "the Department of Services for Children, Youth and Their Families,".

Approved June 3, 1993.

CHAPTER 36
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR
HOUSE BILL NO. 1B

AN ACT TO AMEND CHAPTER 55, TITLE 15, DELAWARE CODE RELATING TO ABSENTEE
BALLOTS FOR THE PHYSICALLY DISABLED.

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

Section 1. Amend §5503, Chapter 55, Title 15, Delaware Code by adding a
new sentence after the first sentence thereof to read as follows:

"The affidavit for any voter qualifying due to being physically
disabled pursuant to §5502(4) of this Title shall be deemed sufficient to
receive an absentee ballot for all elections which are held within that
calendar year, unless the elector indicates at the time the request is made
the elections for which the elector desires to receive an absentee ballot."

Approved June 11, 1993.

CHAPTER 37
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR
HOUSE BILL NO. 32
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 15, TITLE 28 OF THE DELAWARE CODE RELATING TO THE
DELAWARE GAMING CONTROL BOARD.

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

Section 1. Amend Chapter 15, Title 28, Delaware Code, by adding thereto a
new §1504 to read as follows:

"§1504. Poker Games

The Gaming Control Board shall promulgate rules and regulations
concerning the game of poker; provided, however, a licensed organization
shall not be prohibited from utilizing monitors and/or engaging the use of
dealers at any poker game."

Approved June 11, 1993.

CHAPTER 38

FORMERLY

HOUSE BILL NO. 145
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 51, TITLE 29, DELAWARE CODE, RELATING TO LEAVE FOR VOLUNTEER EMERGENCY SERVICE.

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

Section 1. Amend Chapter 51, Title 29, Delaware Code, by adding thereto a new §5119 to read as follows:

"§5119. Leave for Volunteer Emergency Duty.

Any State employee, who is an active volunteer firefighter or active auxiliary member may, with the approval of the agency which employs such person be permitted to respond to fire, rescue, ambulance, or other emergency calls during his or her regular hours of employment without loss of pay, vacation, sick leave, or personal leave credit."

Approved June 11, 1993.

CHAPTER 39

FORMERLY

HOUSE BILL NO. 68
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 15, TITLE 14, DELAWARE CODE, RELATING TO SCHOOL DISTRICT QUARTERLY REPORTS.

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

Section 1. Amend §1509, Chapter 15, Title 14, Delaware Code, by striking the period "." immediately following the words "percent level" in the fifth sentence thereof and inserting the following:

"; provided, however, that if the unobligated balance is in excess of the 20 percent level or \$100,000 whichever is more, all reorganized school districts shall submit in their August 31 report how they propose to expend and/or dispose of the excess unobligated balance above the 20 percent level or \$100,000 whichever is more. This report shall have been reviewed and approved by the school board of each reorganized school district and be made a part of the public record of that school district."

Approved June 11, 1993.

CHAPTER 40

FORMERLY

SENATE BILL NO. 5B

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO BUILDING AND LOAN ASSOCIATIONS.

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

Section 1. Amend §1727, Title 5 of the Delaware Code by deleting the numerals "\$3,000,000" and replacing said numerals with "\$4,000,000".

Section 2. Amend §1727, Title 5 of the Delaware Code by adding at the end of the present section the following:

"Before an institution which is not federally insured receives funds from a new shareholder, investor, member, subscriber, and or depositor the institution shall obtain the signature of such person upon a disclosure, on a form approved by the State Bank Commissioner, advising such person that the funds deposited with that institution are not federally insured."

Approved June 17, 1993.

CHAPTER 41

FORMERLY

HOUSE BILL NO. 120
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 14, DELAWARE CODE, RELATING TO THE PARENTS AS TEACHERS PROGRAM.

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

Section 1. Amend Chapter 41, Title 14, of the Delaware Code by adding thereto a new section designated as Section 4118 to read as follows:

"Section 4118. Parents as Teachers Program.

(a) The General Assembly finds and declares as follows:

(1) The home environment and parental attitudes about the value of education can have a significant effect on a child's ability or desire to learn.

(2) A well-substantiated body of research on how children learn and grow clearly indicates that a child's most productive and influential years of learning occur before the age of five.

(3) Experts in child development generally agree that 50 percent of intelligence, and the great majority of language skills, are developed by age four, and that these, along with the establishment of curiosity and social skills, lay the foundation for all further learning.

(4) Failure in the early years to develop adequately in these areas has been shown to lead directly to under achievement and failure in the elementary grades and beyond.

(5) Most of the children headed for academic difficulty at age six and beyond are, by age three, already significantly behind their peers.

(6) The potential dropout often comes from a home in which well-intentioned but untrained parents have not gained, or do not use effectively, their personal resources to adequately nurture in their child the intellectual and social skills required for success in the early grades.

(7) Parents are the first and most influential teachers in their child's life and a free developmental resource for their child.

(8) Neither public nor private institutions are systematically providing a meaningful number of Delaware parents with research-based, up-to-date instructions in giving their children the best possible beginning.

(9) Delaware's current Parent As Teachers Program was first initiated approximately 15 years ago by Joe Cobb, an elementary school principal and long-time Delaware educator, who recognized such in-home early education efforts as investments in our children's futures.

(10) The family is the proper and most influential first educational delivery system for the child.

(11) Evidence exists that a child's early experiences can significantly enhance or inhibit development and learning. It is both educationally sound and most cost-effective for schools to work cooperatively with the home during the crucial first years.

(12) High quality parenting can be one of this country's greatest national resources. It is a learned skill that can be improved for the benefit of the individual family and for our society.

(b) The Parents as Teachers Program is hereby established under the auspices of the State Board of Education and shall be coordinated through one or more local school boards. The State Board of Education shall establish programs to train parents as teachers. The program shall address the educational needs of targeted parents of children and shall contain the following elements:

- (1) The use of individuals who are professionally trained in child development and parenting.
- (2) The provision by participating school systems of instruction in child development and parenting, on a voluntary enrollment basis, to targeted parents of children from infancy through age three. The program shall be provided in homes and other appropriate community settings in a cost-effective, accessible and convenient manner.
- (3) The program shall include all of the following:
 - (i) Timely and practical information and guidance on development in language, cognitive and social skills.
 - (ii) Instruction in the effective use of community parenting resources, including developmental and medical screening and, as needed, early intervention for children through the first three years of life, contingent on the availability of resources and the level of voluntary parental participation.
 - (iii) Regular visits to the home of each participating parent, as part of that course of instruction by one or more of the qualified educators administering the course.
 - (iv) Services shall be focused and targeted, to the extent possible, to parents of at risk children.
 - (v) Coordination, where appropriate, with other programs in other State agencies, which serve this population.

(c) Each year as provided in the Annual Operating Budget, the Delaware State Board of Education shall solicit proposals and shall select participants for the program. The request for proposals shall require participants to demonstrate all of the following:

- (1) Ability to provide training for the Parents as Teachers Program.
- (2) Evidence of significant local support for the project from school system administrators and local school boards and local parent and children advocacy organizations.
- (3) Evidence that services will be provided to a racially, culturally, geographically and economically diverse targeted population.
- (d) The State Board of Education shall evaluate proposals to insure that the development of parenting skills provided by the program increases:
 - (1) Intellectual and language development.
 - (2) Knowledge level of child development and child rearing practices by parents.
 - (3) Positive feelings about the usefulness of the program.
 - (4) Positive attitudes toward the school system.

(e) The State Board of Education shall require applicants selected for the grant program, as condition for the receipt of grant proceeds, to participate in in-service training programs.

(f) The implementation of the Parents As Teachers Program shall be subject to specific annual appropriation in the Annual Appropriations Act."

Approved June 24, 1993.

CHAPTER 42

FORMERLY

SENATE BILL NO. 161
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 15, TITLE 6 OF THE DELAWARE CODE BY PROVIDING FOR THE FORMATION, REGISTRATION, AND REGULATION OF REGISTERED LIMITED LIABILITY 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 §1502, Chapter 15, Title 6 of the Delaware Code by adding a new subsection (6) to read as follows:

"(6) 'Registered limited liability partnership' means a partnership formed pursuant to an agreement governed by the laws of this state, registered under §1544 of this title and complying with §§1545 and 1546 of this title."

Section 2. Amend §1506(a), Chapter 15, Title 6 of the Delaware Code by adding the phrase "and includes, for all purposes of the laws of this state, a registered limited liability partnership" after the word "profit".

Section 3. Amend §1515, Chapter 15, Title 6 of the Delaware Code by deleting the phrase "All partners are liable:" as said phrase appears therein and substituting in lieu thereof the phrase "(a) Except as provided in subsection (b) of this section, all partners are liable:", and by adding new subsections (b), (c), and (d) to read as follows:

"(b) Subject to subsection (c) of this section, a partner in a registered limited liability partnership is not liable for debts and obligations of the partnership arising from negligence, wrongful acts, or misconduct committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(c) Subsection (b) of this section shall not affect the liability of a partner in a registered limited liability partnership for his own negligence, wrongful acts, or misconduct, or that of any person under his direct supervision and control.

(d) The ability of an attorney-at-law, admitted to the practice of law in Delaware, to practice law in a registered limited liability partnership, shall be determined by the Rules of the Supreme Court of this state."

Section 4. Amend §1518(1), Chapter 15, Title 6 of the Delaware Code by adding the phrase "except as provided in §1515(b) of this title, each partner" after the phrase "are satisfied; and".

Section 5. Amend §1534, Chapter 15, Title 6 of the Delaware Code by deleting the word "or" appearing at the end of §1534(1), by deleting the period appearing at the end of §1534(2) and substituting in lieu thereof the phrase "; or", and by adding a new subsection (3) to read as follows:

"(3) The liability is for a debt or obligation for which the partner is not liable as provided in §1515(b) of this title."

Section 6. Amend §1536(d), Chapter 15, Title 6 of the Delaware Code by deleting the word "all" appearing in the subsection and substituting in lieu thereof the word "those", and by adding the phrase "and for which he was liable under §1515 of this title," after the words "while he was a partner".

Section 7. §1540(1)(b), Chapter 15, Title 6 of the Delaware Code by deleting the phrase "necessary for the payment of all the liabilities", and by substituting "(4)" for "(2)" appearing in the subsection.

Section 8. Amend §1540(4), Chapter 15, Title 6 of the Delaware Code by adding at the beginning of the subsection, following "(4)", the phrase "Except

as provided in §1515(b) of this title: (a)", and by deleting the phrase "but if" which appears after the phrase "liabilities;" and substituting in lieu thereof the phrase "and (b) if".

Section 9. Amend Chapter 15, Title 6 of the Delaware Code by adding thereto new §§1544 through 1547, to read as follows:

"§1544. Registered Limited Liability Partnerships.

(a) To become and to continue as a registered limited liability partnership, a partnership shall file with the Secretary of State an application or a renewal application, as the case may be, stating the name of the partnership; the address of its principal office; if the partnership's principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state which the partnership shall be required to maintain; the number of partners; a brief statement of the business in which the partnership engages; and that the partnership thereby applies for status or renewal of its status, as the case may be, as a registered limited liability partnership.

(b) The application or renewal application shall be executed by a majority in interest of the partners or by one or more partners authorized to execute an application or renewal application.

(c) The application or renewal application shall be accompanied by a fee of \$100 for each partner, but in no event shall the fee payable for any year with respect to a registered limited liability partnership under this section be more than the maximum annual corporation franchise tax as specified in 8 Del. C. §503(c).

(d) The Secretary of State shall register as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, any partnership that submits a completed application or renewal application with the required fee.

(e) Registration is effective for one year after the date an application is filed, unless voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one or more partners authorized to execute a withdrawal notice. Registration, whether pursuant to an original application or a renewal application, as a registered limited liability partnership is renewed if, during the sixty-day period preceding the date the application or renewal application otherwise would have expired, the partnership files with the Secretary of State a renewal application. A renewal application expires one year after the date an original application would have expired if the last renewal of the application had not occurred.

(f) The status of a partnership as a registered limited liability partnership shall not be affected by changes after the filing of an application or a renewal application in the information stated in the application or renewal application.

(g) The Secretary of State may provide forms for application for or renewal of registration.

§1545. Name of Registered Limited Liability Partnerships.

The name of a registered limited liability partnership shall contain the words 'Registered Limited Liability Partnership' or the abbreviation 'L.L.P.' as the last words or letters of its name.

§1546. Insurance or Financial Responsibility of Registered Limited Liability Partnerships.

(a) A registered limited liability partnership shall carry at least \$1,000,000 of liability insurance of a kind that is designed to cover the kinds of negligence, wrongful acts, and misconduct for which liability is limited by §1515(b) of this title and which insures the partnership and its partners.

(b) If, in any proceeding, compliance by a partnership with the requirements of subsection (a) of this section is disputed, (1) that issue shall be determined by the court, and (2) the burden of proof of compliance shall be on the person who claims the limitation of liability in §1515(b) of this title.

(c) If a registered limited liability partnership is in compliance with the requirements of subsection (a) of this section, the requirements of this section shall not be admissible or in any way be made known to a jury in determining an issue of liability for or extent of the debt or obligation or damages in question.

(d) A registered limited liability partnership is considered to be in compliance with subsection (a) of this section if the partnership provides \$1,000,000 of funds specifically designated and segregated for the satisfaction of judgments against the partnership or its partners based on the kinds of negligence, wrongful acts, and misconduct for which liability is limited by §1515(b) of this title by:

(1) deposit in trust or in bank escrow of cash, bank certificates of deposit, or United States Treasury obligations; or

(2) a bank letter of credit or insurance company bond.

§1547. Applicability of Chapter to Foreign and Interstate Commerce.

(a) A partnership, including a registered limited liability partnership, formed and existing under this chapter, may conduct its business, carry on its operations, and have and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

(b) It is the policy of this state that the internal affairs of partnerships, including registered limited liability partnerships, formed and existing under this chapter, including the liability of partners for debts and obligations of partnerships, shall be subject to and governed by the laws of this state."

Section 10. This Act shall become effective on August 1, 1993.

Approved June 24, 1993.

CHAPTER 43

FORMERLY

HOUSE BILL NO. 67

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND 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 subsection (6), §2803, Chapter 28, Title 24, Delaware Code, by striking said subsection in its entirety and substituting the following in lieu thereof:

"(6) 'Engineer intern' shall mean a person certified as an engineer intern by the Council."

Section 2. Amend §2804, Chapter 28, Title 24, Delaware Code, by striking the words "engineer-in-training" as the same appear in said section, and substituting the words "engineer intern" in lieu thereof; and by striking the words "engineers-in-training" as the same appear in said section, and substituting the words "engineer interns" in lieu thereof.

Section 3. Amend subsection (c), §2806, Chapter 28, Title 24, Delaware Code, by striking the words "engineers-in-training" as the same appear in said subsection, and substituting the words "engineer interns" in lieu thereof.

Section 4. Amend subparagraph b., paragraph (1), subsection (d), §2806, Chapter 28, Title 24, Delaware Code, by striking the word "engineer-in-training" as the same appear in said subparagraph, and substituting the words "engineer intern" in lieu thereof.

Section 5. Amend subparagraph f., paragraph (1), subsection (d), §2806, Chapter 28, Title 24, Delaware Code, by striking the words "engineer-in-training" as the same appear in said subparagraph, and substituting the words "engineer intern" in lieu thereof.

Section 6. Amend paragraph (3), subsection (d), §2806, Chapter 28, Title 24, Delaware Code, by striking the words "engineers-in-training" as the same appear in said paragraph, and substituting the words "engineer interns" in lieu thereof.

Section 7. Amend paragraph (3), subsection (e), §2806, Chapter 28, Title 24, Delaware Code, by striking said paragraph in its entirety and substituting the following in lieu thereof:

"(3) Any member, associate member, or holder of certificate of authorization on the active roster, who intends to withdraw from the practice of engineering in the State, shall notify the Secretary of the Council in writing. That name will then be removed from the active roster and be placed in an inactive file. That name may be reinstated to active status by a request for reinstatement, in writing, within ten years of that removal from the active roster, to the Secretary of the Council and by payment of a reinstatement fee. After the expiration of the ten year period, reinstatement may be obtained only by reapplying for registration pursuant to §2817 of this Title. Any member, associate member, or holder of a certificate of authorization in inactive status shall be ineligible to practice engineering in the State."

Section 8. Amend paragraph (4), subsection (e), §2806, Chapter 28, Title 24, Delaware Code, by striking said paragraph in its entirety and substituting the following in lieu thereof:

"(4) Any member, associate member, or holder of a certificate of authorization, who has not given notice of withdrawal, and whose name has been removed from the active roster because of a delinquency in payment of fees, may be reinstated upon petition to the Council within ten years of the removal from the active roster and by payment of the reinstatement fees plus any delinquency fees. After the expiration of the ten-year period,

reinstatement may be obtained only by reapplying for registration pursuant to §2817 of this Title."

Section 9. Amend subsection (1), §2817, Chapter 28, Title 24, Delaware Code, by striking subsection (1) through paragraph a., beginning with the words "(1) Graduates from ABET or CEAB" through "or by the Canadian Engineering Accreditation Board (CEAB); and"

and substituting in lieu thereof the following:

"(1) Graduates from engineering curriculum approved by the Accreditation Board for Engineering and Technology (ABET) or from an ABET recognized foreign accreditation agency approved curriculum.

a. Graduation with a baccalaureate degree from an engineering curriculum accredited by the Accreditation Board for Engineering and Technology (ABET) or by a foreign curriculum accreditation agency adjudged by ABET to use substantially equivalent accreditation procedures; and."

Section 10. Amend paragraph a., subsection (4), §2817, Chapter 28, Title 24, Delaware Code, by adding a new subparagraph 3., which new subparagraph shall read as follows:

"3. The professional engineering qualifications of the applicant include successful passing of written examinations totaling 16 hours, meeting the additional requirements of subsection (5), §2817, of this Title, and having a minimum of 10 years of professional experience in engineering work of a character satisfactory to the Council, such experience indicating that the applicant is competent to practice as an engineer. Such experience shall have been obtained in states, territories or possessions of the United States, the District of Columbia, or provinces or territories of Canada, and at least 8 years of it shall have been obtained after the applicant has received the said valid certificate of registration."

Section 11. Amend §2817, Chapter 28, Title 24, Delaware Code, by renumbering present subsection (6) as new subsection (7) and present subsection (7) as new subsection (8), and by adding a new subsection (6), which new subsection shall read as follows:

"(6) Applicants for registration as a professional engineer shall be exempt from the requirement to pass the written 8 hour Fundamentals of Engineering Examination, if they are qualified as follows:

a. An individual holding an earned doctoral degree in engineering from a university, which had an ABET accredited undergraduate program in that discipline at the time that individual earned his/her doctoral degree, providing that doctoral degree required the passing of a Ph.D. qualifying examination from that university; or,

b. An individual holding a baccalaureate degree from a Council-approved 4 year engineering curriculum, who has at least twenty (20) years of professional experience in the lawful practice of engineering of a character satisfactory to the Council, and which experience indicates that the applicant is competent to practice as a professional engineer."

Section 12. Amend §2819, Chapter 28, Title 24, Delaware Code, by striking said section in its entirety and substituting the following in lieu thereof:

"§2819. Requirements for Certification as an Engineer Intern

The following shall be considered as minimum satisfactory evidence that the applicant has qualified for certification as an engineer intern:

(1)a. Graduation with a baccalaureate degree from an engineering curriculum accredited by the Accreditation Board of Engineering and Technology (ABET), or by a foreign curriculum accreditation agency adjudged by ABET to use substantially equivalent accreditation procedures, or from a Council-approved curriculum in engineering not

accredited by ABET or an ABET-approved curriculum accreditation agency, engineering technology or science related to engineering; or

b. Age 45 and Council-approved professional experience of 20 years or more; and

(2) Successful passing of an 8-hour examination in the fundamentals of engineering."

Approved June 25, 1993.

CHAPTER 44

FORMERLY

HOUSE BILL NO. 146

AN ACT TO AMEND CHAPTER 5, SUBCHAPTER II, SUBPART D, TITLE 11 OF THE DELAWARE CODE RELATING TO THE DEFINITION OF VOLUNTARY SOCIAL COMPANION.

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

Section 1. Amend Chapter 5, Subchapter II, Subpart D, Title 11, Delaware Code by adding a new sentence to the end of present Section 761(h) as follows:

"A victim who is less than 12 years of age is not the voluntary social companion of a defendant 18 years of age or older."

Approved June 25, 1993.

CHAPTER 45

FORMERLY

HOUSE BILL NO. 191

AN ACT TO AMEND CHAPTER 59, VOLUME 63 LAWS OF DELAWARE, AS AMENDED, ENTITLED AN ACT TO INCORPORATE THE TOWN OF DEWEY 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):

AMEND Section 26(a), Chapter 59, Volume 63, Laws of Delaware, by deleting therefrom the words "thirty-five thousand dollars (\$35,000)", and substituting in lieu thereof the words:

"One million five hundred thousand dollars (\$1,500,000)"

Approved June 25, 1993.

CHAPTER 46

FORMERLY

SENATE BILL NO. 24
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 82, TITLE 29, DELAWARE CODE, RELATING TO BOILER SAFETY.

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

Section 1. Amend §8203(2)b, Chapter 82, Title 29, Delaware Code, by striking such subsection in its entirety and substituting in lieu thereof the following new §8203(2)b to read as follows:

"b. A Director of the Division of Boiler Safety, who shall be known as the Director of Boiler Safety and who shall have at the time of such appointment a valid Commission as an Inspector of boilers and pressure vessels with "B" and "N" endorsements by the National Board of Boiler and Pressure Vessel Inspectors. In addition, this person must have not fewer than five years of experience in the construction, installation, inspection, operation, maintenance, or repair of high pressure boilers and pressure vessels as a mechanical engineer, steam operating engineer, or boiler inspector."

Section 2. Amend §8211(c), Chapter 82, Title 29, Delaware Code, by striking the words "professor of mechanical engineering" as they appear therein and substituting in lieu thereof the words "a representative of a company licensed to insure boilers and pressure vessels in Delaware"

Approved June 25, 1993.

CHAPTER 47

FORMERLY

SENATE BILL NO. 70

AN ACT TO AMEND CHAPTER 101, TITLE 3, DELAWARE CODE, RELATING TO THE DELAWARE THOROUGHBRED RACING COMMISSION.

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

Section 1. Amend Section 10128(b), Chapter 101, Title 3 of the Delaware Code by deleting it in its entirety and inserting in lieu thereof the following:

"The Commission may use the services of the Thoroughbred Racing Protection Bureau and county, state, or federal law-enforcement agencies. An individual making application to a licensee for a permit to participate in or be employed at a meet held by a licensee shall be fingerprinted by the Thoroughbred Racing Protection Bureau for purposes of a criminal record check on the applicant."

Section 2. This amendment shall become effective 90 days after becoming law.

Approved June 25, 1993.

CHAPTER 48

FORMERLY

SENATE BILL NO. 97

AN ACT TO AMEND VOLUME 27, CHAPTER 216, LAWS OF DELAWARE, AS AMENDED, BEING THE CHARTER OF THE CITY OF NEW CASTLE, AND RELATING TO THE DAY ON WHICH THE CITY COUNCIL SHOULD MEET FOR THE TRANSACTION OF BUSINESS.

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

Amend Volume 27, Laws of Delaware, Chapter 216, Section 15, as amended by Volume 29, Laws of Delaware, Chapter 142 by striking the phrase "first Tuesday of every month", as it appears in paragraph 1 thereof and inserting in lieu thereof the phrase "second Tuesday of every month."

Approved June 25, 1993.

CHAPTER 49

FORMERLY

SENATE BILL NO. 102

AN ACT TO AMEND CHAPTER 59, TITLE 29, SECTION 5903 (17) RELATING TO THE TERM OF EMPLOYMENT OF TEMPORARY, CASUAL AND SEASONAL EMPLOYEES.

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

Section 1. Amend Section 5903, Item number 17, Chapter 59, Title 29 by adding the following:

"Temporary, casual and seasonal employees of the Delaware Department of State may be allowed to work more than 130 days upon the approval of the Secretary of State."

Approved June 25, 1993.

CHAPTER 50

FORMERLY

SENATE BILL NO. 98

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO PUBLIC HEARINGS FOR PERMITS RELATING TO USE OF SUBAQUEOUS LANDS.

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

AMEND §7208 (a) (1) of Title 7 of the Delaware Code by deleting the phrase "permit," from said subsection.

Approved June 25, 1993.

CHAPTER 51

FORMERLY

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

AN ACT TO AMEND AN ACT BEING CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO" TO AUTHORIZE EXEMPTIONS FROM TAXATION UNDER CERTAIN CIRCUMSTANCES AND 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. Section 30, Chapter 457, Volume 60, Laws of Delaware, as amended, be and the same is hereby further amended by adding at the end thereof a new Subsection to be designated as Subsection (44) to read as follows:

"44. Notwithstanding any other provision of this Charter, the Town Council is authorized to exempt from taxation any industry which contemplates locating within said Town and is required to extend water transmission lines or sewer collection or interceptor lines, or any or all of them, to a maximum amount of twenty percent (20%) of the amount actually expended for the extension of the said water or sewer lines, or both."

Approved June 25, 1993.

CHAPTER 52

FORMERLY

SENATE BILL NO. 165

AN ACT TO AMEND TITLE B OF THE DELAWARE CODE RELATING TO GENERAL CORPORATION LAW.

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 391, Subsection (h), Subchapter XVII, Title 8 of the Delaware Code by changing the number of paragraph "(1)" to "(2)", by changing the number of paragraph "(2)" to "(3)", and by adding a new paragraph "(1)" to read:

"For all services described in subsections (a) and (c) of this section that are requested to be completed within 2 hours on the same day as the day of the request, an additional sum of up to \$500; and"

Approved June 25, 1993.

CHAPTER 53

FORMERLY

SENATE BILL NO. 104

AN ACT TO AMEND CHAPTER 5, TITLE 8, OF THE DELAWARE CODE RELATING TO CORPORATION FRANCHISE TAX.

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

Section 1. Amend Section 502(a), Chapter 5, Title 8, of the Delaware Code (i) by deleting the words "the names and addresses of all the directors and officers of the corporation" as they appear in the fourth sentence thereof and by replacing them with the words "the names and addresses of all the directors and the names and addresses of not more than two officers of the corporation, including any officer who signs the report,"; and (ii) by deleting the words "the date appointed for the next annual meeting of the stockholders for the election of directors;" as they appear later in the fourth sentence thereof.

Approved June 30, 1993.

CHAPTER 54

FORMERLY

SENATE BILL NO. 105

AN ACT TO AMEND CHAPTER 5, TITLE 8, OF THE DELAWARE CODE RELATING TO CORPORATION FRANCHISE TAX.

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

Section 1. Amend Section 502(f), Chapter 5, Title 8, of the Delaware Code by deleting the word "blank" in the first line thereof.

Section 2. Amend Section 504(a), Chapter 5, Title 8, of the Delaware Code by deleting the words "exceed \$5,000," in the third and fourth lines thereof and by replacing them with the words "be \$5,000 or more,".

Approved June 30, 1993.

CHAPTER 55

FORMERLY

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

AN ACT TO AMEND CHAPTER 15 OF TITLE 13 OF THE DELAWARE CODE RELATING TO THE DISPOSITION OF MARITAL PROPERTY.

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

Section 1. Amend §1513, Chapter 15, Title 13, Delaware Code by striking paragraph (9) of subsection (a) of §1513 in its entirety and substituting in lieu thereof a new paragraph (9) to read as follows:

"(9) Whether the property was acquired by gift except those gifts excluded by subsection (b)(1) of this section;"

Section 2. Amend §1513, Chapter 15, Title 13, Delaware Code by striking paragraph (1) of subsection (b) of §1513 in its entirety and substituting in lieu thereof a new paragraph (1) to read as follows:

"(1) Property acquired by an individual spouse by bequest, devise or descent or by gift, except gifts between spouses, provided the gifted property is titled and maintained in the sole name of the donee spouse, or a gift tax return is filed reporting the transfer of the gifted property in the sole name of the donee spouse or a notarized document, executed before or contemporaneously with the transfer, is offered demonstrating the nature of the transfer."

Section 3. Amend §1513, Chapter 15, Title 13, Delaware Code by adding at the end of subsection (c) of §1513 the following additional sentence:

"Property transferred by gift from one spouse to the other during the marriage is marital property."

Section 4. This act shall become effective with respect to petitions for divorce filed on or after May 1, 1993.

Approved June 30, 1993.

CHAPTER 56

FORMERLY

SENATE BILL NO. 93
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 5, TITLE 7, DELAWARE CODE, RELATING TO MANDATORY TRAPPER EDUCATION TRAINING BEFORE ISSUANCE OF A LICENSE.

WHEREAS, inexperienced outdoorsmen are venturing into the field of trapping; and

WHEREAS, the risk of confrontations with land owners, the general public, are a genuine concern; and

WHEREAS, experienced trappers and Division of Fish and Wildlife, D.N.R.E.C. have concluded three Trapper Education courses; and

WHEREAS, instructors in Trapper Education have received accreditation from the State of Delaware.

NOW, THEREFORE:

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

Section 1. Amend §501(b) of Subchapter I, Chapter 5, Title 7, Delaware Code, by adding at the end of subsection (b) the following:

"Every resident required to obtain a trapping license who was born after January 1, 1978, shall have satisfactorily completed a course in trapping education approved by the Department before such person makes application for a trapping license."

Section 2. Amend §506 of Subchapter I, Chapter 5, Title 7, Delaware Code by adding at the end of subsection (b) the following:

"Every non-resident required to obtain a trapping license who was born after January 1, 1978, shall have satisfactorily completed a course in trapping education approved by the Department before such person makes application for a trapping license."

Approved June 30, 1993.

CHAPTER 57

FORMERLY

SENATE BILL NO. 167

AN ACT TO AMEND CHAPTER 5, TITLE 31, DELAWARE CODE, RELATING TO THE STATE PUBLIC ASSISTANCE CODE.

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

Section 1. Amend §521, Chapter 5, Title 31, Delaware Code, by striking the word "Economic" as it appears on line 2 thereof and substituting in lieu thereof the word "Social".

Section 2. Amend §521, Chapter 5, Title 31, Delaware Code, by placing a period (.) after the word "county" in the third sentence thereof and striking the remaining language of said section.

June 30, 1993.

CHAPTER 58

FORMERLY

SENATE BILL NO. 158

AN ACT TO AMEND CHAPTER 23 OF TITLE 5, DELAWARE CODE, RELATING TO REGULATING THE SALE OF CHECKS, DRAFTS AND MONEY ORDERS.

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

Section 1. Amend subparagraph (1) of subsection (a) of Section 2304 of Title 5, Delaware Code, by deleting existing subparagraph (1) in its entirety and substituting in lieu thereof a new subparagraph (1) to read as follows:

"(1) Banks, trust companies, building and loan associations, and savings and loan associations, organized under the laws of any state in the United States of America or the United States of America, which either are authorized to do business in this State, or which act through a contractor or agent authorized to do business in this State;"

Section 2. This Act shall be effective immediately upon its enactment.

Approved June 30, 1993.

CHAPTER 59

FORMERLY

SENATE BILL NO. 54

AN ACT TO AUTHORIZE AND APPROVE THE TRANSFER OF CERTAIN REAL PROPERTY IN GEORGETOWN HUNDRED, SUSSEX COUNTY, TO MR. & MRS. ALFRED CHAVEZ.

WHEREAS, Alfred Chavez and Bettye Arnold Chavez, his wife, purchased in April, 1987, a poultry farm extending along both sides of County Road 431 bordering a large tract of land owned by the State of Delaware, on which is located the Sussex Correctional Institution and certain other state facilities; and

WHEREAS, the State land in question, now known as the Sussex Correctional Institution "Prison Farm", had, prior to the State's acquisition of the 331 acre parcel in 1933, been public lands of the Sussex County Almshouse, overseen by the Sussex County Trustees of the Poor, since the early 19th century; and

WHEREAS, Mr. and Mrs. Chavez discovered at the time that they had their property surveyed that a small tract of land totalling some seven-tenths of an acre more or less, which had long been assumed to be a part of the farm they were purchasing, and about which the previous owners of the farm stated that "they had farmed it forever", was in fact connected to the "prison farm" although separated from the rest of the state-owned property by the Almshouse Tax Ditch and by a hedgerow; and

WHEREAS, Mr. and Mrs. Chavez, desiring to make this small tract of land a part of their farm, as most had always assumed it to be, approached the Delaware Department of Transportation (DeDOT), having been told by local officials that it was part of an old highway right-of-way; and

WHEREAS, they were told by DeDOT officials that while a portion of the seven-tenths acre parcel was, in fact, old right-of-way for a bridge which had once spanned the ditch in an earlier highway configuration, the remainder of the parcel was owned by the Delaware Dept. of Corrections, and that if the Chavezes would approach Corrections Department officials about transferring their part of the property, DeDOT would transfer its part; and

WHEREAS, after finally being put into contact with the proper officials at the Department of Corrections, Mr. and Mrs. Chavez walked the property with them in the fall of 1987 and were assured that the department was agreeable to selling the property to them since the department had no use for it, and the poorly-drained land did not lend itself readily to use by any other state agency; and

WHEREAS, after waiting unsuccessfully until March of 1988 for the Department of Corrections to take action on the matter, Mr. and Mrs. Chavez contacted the office of State Senator Richard S. Cordrey for assistance in expediting the matter; and

WHEREAS, in the five years since that time, the case has gone back and forth between the Departments of Corrections, Administrative Services and Transportation without final resolution, and has been presented on two occasions to the Delaware Surplus Property Commission, which has declared the property surplus and indicated its willingness to see the land sold to Mr. and Mrs. Chavez; and

WHEREAS, one major problem in resolving this matter is the fact that, even where present state law authorizes the sale of surplus state lands, it is required that bids be accepted and the land be sold to the highest bidder, a procedure which clearly is not well-suited to this case since, after all their efforts, Mr. and Mrs. Chavez could see the land sold to someone else who submitted a slightly higher bid; and

WHEREAS, Mr. and Mrs. Chavez have within the past year obtained three independent appraisals of the tract of land from three separate Sussex County realty firms, which appraised the property at \$3,000, \$2,000 and \$2,150 respectively; and

WHEREAS, the sum of \$2,383 represents the average of these three appraisals;

NOW, THEREFORE:

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

Section 1. Notwithstanding any provisions to the contrary, including those contained in Chapter 94, Title 29, Delaware Code, the transfer and conveyance of all the State's interest in the following described real property to Mr. and Mrs. Alfred Chavez of Georgetown Hundred, Sussex County, Delaware, for the consideration of \$2,383.00, is hereby specifically approved:

All that certain triangular-shaped tract, piece or parcel of land, without improvements, bounded on the west by County Road 431, bounded on the northeast by Almshouse Ditch, and bounded on the south by the lands of Alfred Chavez and Bettye Arnold, husband and wife, totalling seven-tenths (.7) of an acre, more or less, and being a portion of the same lands which were transferred to the State of Delaware for the use of Sussex County by deed from Leroy B. Tyndall, Oscar P. Johnson, Arthur B. Campbell, Herman R. Baker and William H. Long, Trustees of the Poor of Sussex County, dated December 10, 1933 and of record in the office of the Recorder of Deeds at Georgetown in Deed Book 293, Page 420, and to which additional references are made in Deed Book 462, Page 518; Deed Book 1548, Page 69; and Deed Book 1631, Page 64.

Section 2. The Department of Administrative Services is hereby authorized and directed to execute and deliver to Mr. and Mrs. Alfred Chavez a good and sufficient deed transferring and conveying the said real property.

Approved June 30, 1993.

CHAPTER 60
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 72

AN ACT TO AMEND TITLE 23 OF THE DELAWARE CODE RELATING TO NAVIGATION AND WATERS.

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 §2201, Chapter 22, Title 23 of the Delaware Code by redesignating subsections (a) through (e) thereof as subsections (b) through (f), respectively, and by adding a new subsection (a) to read as follows:

"(a) 'Department' means the Department of Natural Resources and Environmental Control."

Section 2. Amend §2202, Chapter 22, Title 23 of the Delaware Code by adding the notation "(a)" at the beginning of the existing text thereof and by adding a new subsection (b) to §2202 to read as follows:

"(b) A violation of subsection (a) of this section shall be an offense punishable by a fine of no more than \$25 for each violation. The failure to provide a flotation device for more than one child in the same recreational boat at the same time, as required by this section, shall be treated as separate offenses."

Section 3. Amend §2203, Chapter 22, Title 23 of the Delaware Code by deleting §2203 in its entirety.

Section 4. Amend Chapter 22, Title 23 of the Delaware Code by adding thereto a new subchapter, designated as Subchapter III, which new subchapter shall read as follows:

"SUBCHAPTER III. BOATING SAFETY EDUCATION.

§2221. Boating Safety Education.

(a) From and after January 1, 1994, except as provided in §2222 of this subchapter, a person born on or after January 1, 1978 may not operate on the waters of this State a vessel required to be registered in this State or any other state, or documented by the United States Coast Guard, without first successfully completing a course of instruction prescribed by the Department and obtaining from the Department a Certificate of Boating Safety Education.

(b) Any Certificate of Boating Safety issued by any state, and approved by The National Association of State Boating Law Administrators, shall be deemed to be sufficient compliance with the requirements of this section.

(c) A person who is subject to the provisions of subsection (a) of this section shall:

(1) maintain in his or her possession, at all times while operating a vessel or recreational boat on the waters of this State, the Certificate of Boating Safety Education issued by the Department; and

(2) upon demand of any enforcement agent of the Division of Fish and Wildlife of the Department or any other law enforcement officer, show the Certificate of Boating Safety Education issued by the Department to such agent or officer.

§2222. Exemptions.

The following persons shall be exempted from the requirements of this section:

(1) any person who holds a valid Coast Guard captain's license; or

(2) any person who holds a valid Delaware River and Bay Pilot's License, or its equivalent from another jurisdiction.

§2223. Powers and duties of the Department.

(a) The Department shall coordinate and provide a statewide course of instruction in boating safety education for certification, and insure that courses are available at regular intervals within each county;

(b) Any course of instruction in boating safety education offered by the Department is not required to consist of more than six (6) classes, nor to exceed a cumulative total of twelve (12) hours.

(c) Tests may be administered verbally when appropriate.

(d) The Department shall replace, free or at cost, a lost or destroyed boating safety certification originally issued by the Department.

§2224. Certificate validity.

Once issued, the Certification of Boating Safety Education shall be valid for the lifetime of the person to whom it was issued and may not be revoked by the Department or a Court of Law.

§2225. Penalties: Jurisdiction

Except as otherwise provided in this chapter, a violation of this subchapter shall be an offense punishable by a fine of not less than \$25 nor more than \$500, or up to 10 days in jail for each such violation. Original jurisdiction for unclassified misdemeanors under this subchapter shall be in the Justice of the Peace Courts.

Approved June 30, 1993.

CHAPTER 61

FORMERLY

SENATE BILL NO. 146

AN ACT TO AMEND CHAPTER 1, TITLE 8 OF THE DELAWARE CODE, RELATING TO THE GENERAL CORPORATION LAW.

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

Section 1. Amend § 102(b)(7), Chapter 1, Title 8, Delaware Code, by deleting the last sentence of such subsection and inserting in lieu thereof the following: "All references in this paragraph to a director shall also be deemed to refer (x) to a member of the governing body of a corporation which is not authorized to issue capital stock, and (y) to such other person or persons, if any, who, pursuant to a provision of the certificate of incorporation in accordance with subsection (a) of § 141 of this title, exercise or perform any of the powers or duties otherwise conferred or imposed upon the board of directors by this title."

Section 2. Amend § 104, Chapter 1, Title 8, Delaware Code, by adding the numbers "263-264," following the numbers "251-258," and before the number "303" in said section.

Section 3. Amend § 170(a), Chapter 1, Title 8, Delaware Code, by adding a new sentence at the end of said subsection as follows: "Nothing in this subsection shall invalidate or otherwise affect a note, debenture or other obligation of the corporation paid by it as a dividend on shares of its stock, or any payment made thereon, if at the time such note, debenture or obligation was delivered by the corporation, the corporation had either surplus or net profits as provided in clauses (1) or (2) of this subsection from which the dividend could lawfully have been paid."

Section 4. Amend § 252(a), Chapter 1, Title 8, Delaware Code, by deleting the last sentence of said subsection and inserting in lieu thereof the following: "In addition, any 1 or more corporations existing under the laws of this State may merge or consolidate with 1 or more corporations organized under the laws of any jurisdiction other than 1 of the United States if the laws under which the other corporation or corporations are organized permit a corporation of such jurisdiction to merge or consolidate with a corporation of another jurisdiction."

Section 5. Amend § 252(c)(1), Chapter 1, Title 8, Delaware Code, by adding the words "or jurisdiction" after the word "state" and before the words "of incorporation" in said subsection.

Section 6. Amend § 252(d), Chapter 1, Title 8, Delaware Code, by adding the words "or jurisdiction" after the words "or any state" and before the words "other than this State" in the first clause of the first sentence of said subsection.

Section 7. Amend § 253(a), Chapter 1, Title 8, Delaware Code, by adding the words "or jurisdiction" after the words "or any state" and before the words "other than this State" in the last sentence of said subsection.

Section 8. Amend § 253(e), Chapter 1, Title 8, Delaware Code, by deleting the words "and provided further that the surviving or resulting corporation shall be a corporation of this State" in said subsection, and by deleting the ";" following the words "another jurisdiction" in said subsection and inserting a "." in lieu thereof.

Section 9. Amend § 254(a), Chapter 1, Title 8, Delaware Code, by deleting the word "or" between the words "corporation" and "partnership" in the first sentence of said subsection, inserting a "," in lieu thereof and inserting the words "or limited liability company" after the word "partnership" at the end of the first sentence of said subsection.

Section 10. Amend § 262(b), Chapter 1, Title 8, Delaware Code, by deleting the word "or" between the number "258" and the number "263" in the first sentence of said subsection, inserting in lieu thereof a ",", and by adding the

phrase "or 264" after the number "263" and before the words "of this title" in said sentence and by deleting the word "and" between the number "258" and the number "263" in paragraph (2) of said subsection, inserting in lieu thereof a ", and by adding the phrase "and 264" after the number "263" and before the words "of this title" in said paragraph.

Section 11. Amend Chapter 1, Title 8, Delaware Code, by adding thereto a new § 264 as follows:

"§ 264. Merger or consolidation of domestic corporation and limited liability company.

(a) Any 1 or more corporations of this State may merge or consolidate with 1 or more limited liability companies, of this State or of any other state or states of the United States, or of the District of Columbia, unless the laws of such other state or states or the District of Columbia forbid such merger or consolidation. Such corporation or corporations and such 1 or more limited liability companies may merge with or into a corporation, which may be any 1 of such corporations, or they may merge with or into a limited liability company, which may be any 1 of such limited liability companies, or they may consolidate into a new corporation or limited liability company formed by the consolidation, which shall be a corporation or limited liability company of this State or any other state of the United States, or the District of Columbia, which permits such merger or consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) Each such corporation and limited liability company shall enter into a written agreement of merger or consolidation. The agreement shall state: (1) the terms and conditions of the merger or consolidation; (2) the mode

of carrying the same into effect; (3) the manner of converting the shares of stock of each such corporation and the limited liability company interests of each such limited liability company into shares, limited liability company interests or other securities of the entity surviving or resulting from such merger or consolidation, and if any shares of any such corporation or any limited liability company interests of any such limited liability company are not to be converted solely into shares, limited liability company interests or other securities of the entity surviving or resulting from such merger or consolidation, the cash, property, rights or securities of any other corporation or entity which the holders of such shares or limited liability company interests are to receive in exchange for, or upon conversion of such shares or limited liability company 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, limited liability company interests or other securities of the entity surviving or resulting from such merger or consolidation; and (4) such other details or provisions as are deemed desirable, including, without limiting the generality of the foregoing, a provision for the payment of cash in lieu of the issuance of fractional shares or interests of the surviving or resulting corporation or limited liability company. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation.

(c) The agreement required by subsection (b) shall be

adopted, approved, certified, executed and acknowledged by each of the corporations in the same manner as is provided in § 251 of this title and, in the case of the limited liability companies, in accordance with their limited liability company agreements and in accordance with the laws of the state under which they are formed, as the case may be. The agreement shall be filed and recorded and shall become effective for all purposes of the laws of this State when and as provided in § 251 of this title with respect to the merger or consolidation of corporations of this State. In lieu of filing and recording the agreement of merger or consolidation, the surviving or resulting corporation or limited liability company may file a certificate of merger or consolidation, executed in accordance with § 103

of this title, if the surviving or resulting entity is a corporation, or by an authorized person, if the surviving or resulting entity is a limited liability company, which states: (1) the name and state of domicile of each of the constituent entities; (2) that an agreement of merger or consolidation has been approved, adopted, certified, executed and acknowledged by each of the constituent entities in accordance with this subsection; (3) the name of the surviving or resulting corporation or limited liability company; (4) in the case of a merger in which a corporation is the surviving entity, such amendments or changes in the certificate of incorporation of the surviving corporation as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the certificate of incorporation of the surviving corporation shall be its certificate of incorporation; (5) in the case of a consolidation in which a corporation is the resulting entity, that the certificate of incorporation of the resulting corporation shall be as is set forth in an attachment to the certificate; (6) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving corporation or limited liability company and the address thereof; (7) that a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting entity, on request and without cost, to any stockholder of any constituent corporation or any member of any constituent limited liability company; and (8) the agreement, if any, required by subsection (d) of this section.

(d) If the entity surviving or resulting from the merger or consolidation is to be governed by the laws of the District of Columbia or any state other than this State, it shall agree that it may be served with process in this State in any proceeding for enforcement of any obligation of any constituent corporation or limited liability company of this State, as well as for enforcement of any obligation of the surviving or resulting corporation or limited liability company arising from the merger or consolidation, including any suit or other proceeding to enforce the right of any stockholders as determined in appraisal proceedings pursuant to the provisions of § 262 of this title, and shall irrevocably appoint the Secretary of State as its agent to accept service of process in any such suit or other proceedings and shall specify the address to which a copy of such process shall be mailed by the Secretary of State. In the event of such service upon the Secretary of State in accordance with this subsection, the Secretary of State shall forthwith notify such surviving or resulting corporation or limited liability company thereof by letter, certified mail, return receipt requested, directed to such surviving or resulting corporation or limited liability company at its address so specified, unless such surviving or resulting corporation or limited liability company shall have designated in writing to the Secretary of State a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection and to pay the Secretary of State the sum of \$50 for the use of the State, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and the defendant, the title, docket number and nature of the proceeding in which process has been served upon him, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour service was made. The Secretary of State shall not be required to retain such information longer than five years from his receipt of the service of process.

(e) Sections 251(d), 251(e), 251(f), 259 through 261 and 328 of this title shall, insofar as they are applicable, apply to mergers or consolidations between corporations and limited liability companies.

Section 12. This Bill shall become effective on July 1, 1993.

Approved July 1, 1993.

CHAPTER 62

FORMERLY

HOUSE BILL NO. 263
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 15, TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION.

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

Section 1. Amend §1502(a), Title 7 of the Delaware Code by striking the words "and member of the Commission on Interstate Cooperation of the State ex officio," and by striking the phrase "or said office as Commissioner on Interstate Cooperation."

Approved June 30, 1993.

CHAPTER 63

FORMERLY

HOUSE BILL NO. 49
AS AMENDED BY HOUSE AMENDMENT NO. 2 AND SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 98, TITLE 10 OF THE DELAWARE CODE RELATING TO INCREASING VARIOUS JUSTICE OF THE PEACE COURT COSTS.

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

Section 1. Amend §9801, Title 10, Delaware Code by striking the existing paragraph (2) in its entirety and substituting in lieu thereof a new paragraph (2) as follows:

"(2) For processing all traffic and criminal cases.

- a. For issuing, processing and filing a warrant or summons.....\$24.50
- b. For processing a voluntary assessment agreement.... 11.00
- c. For conducting a trial or accepting a plea of guilty (including a Robinson plea) or nolo contendere..... 5.50
- d. For preparation of commitment and detention forms; each form.....2.00
- e. For preparation of bail, judgment and appeal bonds; each bond.....2.00
- f. For preparing certified transcript of the record.....7.00
- g. For issuance of a capias.....15.00
- h. Capias returned by constable.....25.00"

Section 2. Amend §9801, Title 10 of the Delaware Code by adding a new sentence thereto to read as follows: "The fees set forth in this section shall control to the extent they conflict with any other provision of the Delaware Code."

Approved July 1, 1993.

CHAPTER 64

FORMERLY

HOUSE BILL NO. 300

June 22, 1993

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1994; 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, 1994, 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 last day of June, 1994, 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

Year ending June 30, 1994

(01-00-00) LEGISLATIVE

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(01-01-01) General Assembly - House				
2				Personnel Costs				2,597.5
3			21.0	Travel				
4				Mileage - Legislators				50.0
5				Other - Travel				32.2
6				Contractual Services				275.0
7				Supplies and Materials				35.0
8				Capital Outlay				40.0
9				Expenses - House Members				257.0
10				House Committee Expenses				35.0
11			21.0	TOTAL -- General Assembly - House				3,321.7
12								
13				(01-02-01) General Assembly - Senate				
14			13.0	Personnel Costs				1,613.2
15				Travel				
16				Mileage - Legislative				38.5
17				Other - Travel				35.0
18				Contractual Services				155.0
19				Supplies and Materials				28.0
20				Capital Outlay				40.0
21				Advertising - Senate Substance Abuse Committee				50.0
22				Expenses - Senate Members				154.1
23				Senate Committee Expenses				60.0
24			13.0	TOTAL -- General Assembly - Senate				2,173.8
25								
26				(01-05-01) Commission on Interstate Cooperation				
27				Travel				18.0
28				Legislative Travel				75.0
29				Contractual Services				30.0
30				Contractual Services - Appalachian Compact				58.3
31				Supplies and Materials				0.5
32				Council of State Governments				54.3
33				Delaware River Basin Commission				285.8
34				National Conference of State Legislatures				63.2
35				TOTAL -- Commission on Interstate Cooperation				585.1

Year ending June 30, 1994

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2				(01-08-00) Legislative Council				
3				(01-08-01) Division of Research				
4				Personnel Costs				584.0
5			15.0	Travel				9.6
6				Contractual Services				61.7
7				Supplies and Materials				34.8
8				Capital Outlay				26.0
9				Sunset Committee Expenses				37.9
10				Printing -- Laws and Journals				8.5
11				TOTAL -- Division of Research				762.5
12			15.0					
13				(01-08-02) Office of the Controller General				
14				Personnel Costs				715.2
15			13.0	Travel				13.0
16				Contractual Services				122.3
17				Supplies and Materials				24.5
18				Capital Outlay				2.0
19				Family Law Commission Expenses				4.7
20				Contingency -- JFC/CIP				9.5
21				Contingency -- Internship				10.0
22				Contingency -- Legislative Council				20.0
23				Contingency -- N.C.S.L.				25.0
24				TOTAL -- Office of the Controller General				946.2
25			13.0					
26				(01-08-03) Code Revisors				
27				Travel				0.5
28				Contractual Services				165.8
29				Supplies and Materials				1.0
30				TOTAL -- Code Revisors				167.3
31								
32				(01-08-06) Commission on Uniform State Laws				
33				Travel				8.5
34				Contractual Services				8.3
35				Supplies and Materials				0.1
36				TOTAL -- Commission on Uniform State Laws				16.9
37								
38								
39			28.0	TOTAL -- Legislative Council				1,892.9
40								
41								
42			62.0	TOTAL -- LEGISLATIVE				7,973.5

Year ending June 30, 1994

(02-00-00) JUDICIAL

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(02-01-00) Supreme Court						
		22.0				1,463.2
					8.0	11.9
					28.0	84.4
					4.5	36.0
					4.5	1.0
		22.0			45.0	1,596.5
TOTAL -- Supreme Court						
		22.0	45.0	1,596.5		
(-10) Supreme Court						
		22.0	45.0	1,596.5		
TOTAL -- Internal Program Unit						
(02-02-00) Court of Chancery						
		24.0				1,516.6
						6.9
						55.9
						22.7
						2.5
		24.0				1,604.6
TOTAL -- Court of Chancery						
		24.0		1,604.6		
(-10) Case Processing				1,604.6		
		24.0		1,604.6		
TOTAL -- Internal Program Unit						
(02-03-00) Superior Court						
8.0		245.0				9,307.1
						32.8
						507.9
						73.9
						37.0
8.0		245.0				9,958.7
TOTAL -- Superior Court						
		157.0		7,375.9		
		65.0		1,919.0		
		11.0		318.5		
		12.0		345.3		
8.0		245.0		9,958.7		
TOTAL -- Internal Program Units						
(02-06-00) Court of Common Pleas						
		71.0				2,788.7
						2.8
						101.9
						45.6
		71.0				2,939.0
TOTAL -- Court of Common Pleas						
		71.0		2,939.0		
(-10) Court Operations				2,939.0		
		71.0		2,939.0		
TOTAL -- Internal Program Unit						

Year ending June 30, 1994

Personnel		
NSF	ASF	OF

2.0	62.0	233.0
2.0	62.0	233.0

(02-08-00) Family Court

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment

TOTAL -- Family Court

2.0	62.0	233.0
2.0	62.0	233.0

(-10) Court Activities

TOTAL -- Internal Program Unit

\$ Program		\$ Line Item	
ASF	OF	ASF	OF

1,765.8	8,839.9
13.0	20.4
129.9	461.7
58.8	99.0
42.3	
2,009.8	9,421.0

2,009.8	9,421.0
2,009.8	9,421.0

(02-13-00) Justices of the Peace Courts

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Victims' Notification
Capital/Equipment
Debt Service

TOTAL -- Justices of the Peace Courts

		214.0
		14.0
		214.0

(-10) Case Processing

(-20) Support Service Unit

TOTAL -- Internal Program Units

	7,162.5
	92.3
	542.4
	71.1
	93.4
	120.0
	12.5
	157.9
	8,252.1

	7,755.8
	496.3
	8,252.1

(02-17-00) Administrative Office of the Courts -- Court Services

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Retired Judges
Continuing Judicial Education
Debt Service

TOTAL -- Administrative Office of the Courts -- Court Services

2.0		33.0
2.0		17.0
2.0		11.5
2.0		4.5
2.0		33.0

(-01) Office of the Director

(-04) Judicial Information Center

(-05) Law Libraries

TOTAL -- Internal Program Units

	1,494.9
	7.8
	2,973.8
	1.5
	262.7
	15.9
	6.0
	37.3
	15.1
	4,815.0

	3,260.8
	1,153.5
	400.7
	4,815.0

Year ending June 30, 1994

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(02-18-00) Administrative Office of the Courts - Non-Judicial Services						
	8.0	13.5			303.9	476.0
					19.3	20.6
					55.2	49.4
					2.6	
					7.7	10.9
					3.2	1.6
					1,700.8	8.0
	8.0	13.5	TOTAL -- Administrative Office of the Courts - Non-Judicial Services		2,092.7	566.5
		6.5				277.8
	8.0			2,092.7		
		6.0			237.0	
		1.0			51.7	
	8.0	13.5	TOTAL -- Internal Program Units		2,092.7	566.5
12.0	70.0	855.5	TOTAL -- JUDICIAL		4,147.5	39,153.4

Year ending June 30, 1994

(10--00--00) EXECUTIVE

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44
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46
47
48
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50
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57

Personnel		
NSF	ASF	GF
	1.0	22.0
	1.0	22.0

(10--01--01) Office of the Governor
Personnel Costs
Travel
Contractual Services
Supplies and Materials
Woodburn Expenses
Contingency--Other Expenses
TOTAL -- Office of the Governor

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		41.9	1,156.2
		74.4	17.6
			176.6
			21.7
			40.0
			8.7
		116.3	1,420.8

3.0	15.0	180.6
3.0	15.0	180.6

(10--02--00) Office of the Budget
Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Data Processing -- Development Projects
Budget Automation -- Operations
Contingency:
Budget Commission
One--Time Appropriations
Prior Years' Obligations
Self Insurance
Legal Fees
Selective Market
Fleet Operations
Energy
Personnel Costs
Personnel Costs -- Pensions
Personnel Costs -- Overtime -- DSCYF
Family Services Cabinet Council Foundation Match
Hedging
Appropriated Special Funds
Debt Service
TOTAL -- Office of the Budget

603.8	8,593.8
23.4	44.0
2,245.1	6,026.7
	284.7
70.5	271.5
27.5	14.9
	2,000.0
	50.0
	100.0
	24,897.6
	300.0
	2,109.8
	300.0
	115.4
	75.0
	250.0
	1,038.0
700.0	773.0
	266.4
	50.0
	200.0
20,000.0	
	898.7
23,670.3	48,679.5

3.0	7.0	24.0
3.0	4.5	65.0
	8.0	10.1
	7.0	
	52.0	
	11.0	
	7.0	
3.0	15.0	180.6

(-01) Office of the Budget Administration
(-04) Contingency & One--Time Items
(-06) Budget Commission
(-07) Delaware Higher Education Commission
(-09) Office of Information Systems Production
(-11) Office of Information Systems
Northern Data Center
(-12) Office of Information Systems
Telecommunications Management
(-13) Office of Information Systems
Development
(-14) Office of Information Systems
Planning & Data Administration
(-15) Office of Information Systems
Administration
TOTAL -- Internal Program Units

993.2	4,346.7
20,700.0	30,395.2
	100.0
100.0	1,740.3
569.5	5,267.0
974.1	1,236.1
176.0	665.5
87.5	3,225.4
	680.0
70.0	1,023.3
23,670.3	48,679.5

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
		11.0
		11.0
		8.0
		8.0
	4.0	28.0
	4.0	28.0

(10-03-00) Delaware Development Office
(10-03-01) Office of the Director

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Debt Service
TOTAL -- Office of the Director

(10-03-02) Delaware Tourism Office

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Junior Miss
Mother of the Year
Young Mother of the Year
TOTAL -- Delaware Tourism Office

(10-03-03) Delaware Economic Development Authority

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
General Obligation Bonds
International Trade
Blue Collar
Small Business Development Center
Other Items
Debt Service
TOTAL -- Delaware Economic Development Authority

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			549.8
			6.7
			25.0
			26.8
			4.2
			2.0
			130.6
			745.1
			286.8
			24.1
			413.3
			11.2
			0.5
			0.8
			0.8
			737.5
		150.2	1,330.9
		20.0	33.9
		610.7	558.5
		1.5	
		10.0	25.0
		10.0	
		200.0	373.4
			55.0
		850.0	
			150.0
			55.0
			2,002.3
		1,852.4	4,584.0

Year ending June 30, 1994

Personnel		
NSF	ASF	GF

4.5	55.5	
4.5	55.5	

(10-03-04) State Housing Authority

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Holly Square
Huling Cove
Huling Cove Annex
Housing Development Fund
Public Housing
Home Improvement Insurance
Debt Service

TOTAL --- State Housing Authority

4.5	59.5	47.0
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TOTAL -- Delaware Development Office

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

2,017.6	
24.2	
699.3	
21.0	
81.0	
175.9	
85.0	
120.0	
218.0	
31,117.0	
661.7	
1,145.0	
	436.6
36,365.7	436.6

38,218.1	6,503.2
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(10-04-00) Office of State Personnel

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Generic Aides/Handicapped Employees
Travel Commission
Ethics Commission
Employee Recognition
Blue Collar
Workers' Compensation
Health Insurance--Retirees in Closed State
Police Plan
Pensions -- Paraplegic Veterans
Data Processing
Debt Service

TOTAL --- Office of State Personnel

69.1	26.3
	20.0
3.0	
72.1	46.3

2,396.4	1,184.1
37.8	12.7
7,564.3	559.5
44.5	51.7
30.0	
	240.1
	2.0
	20.0
	7.1
135.0	
12,376.6	
	1,930.8
	15.6
300.0	
	211.0
22,884.6	4,234.6

17.1	43.3
2.0	3.0
3.0	
50.0	
72.1	46.3

(-02) Operations
(-04) Staff Development and Training
(-05) Insurance Coverage Office
(-06) Pensions
TOTAL --- Internal Program Units

676.4	1,519.6
225.9	239.6
12,376.6	529.0
9,605.7	1,946.4
22,884.6	4,234.6

Year ending June 30, 1994

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(10-05-00) Delaware Health Care Commission			
		3.0				161.3
						4.0
						160.0
						5.0
						13.0
						2,013.4
						400.0
						230.1
		3.0				2,986.8
			TOTAL -- Delaware Health Care Commission			
		3.0		2,986.8		
		3.0		2,986.8		
			TOTAL -- Internal Program Unit			
			(10-07-00) Criminal Justice			
			(10-07-01) Criminal Justice Council			
8.0		11.5				502.9
						4.2
						34.5
						3.8
						2.1
						9.5
				50.0		75.0
8.0		11.5		50.0		632.0
			TOTAL -- Criminal Justice Council			
			(10-07-02) Delaware Justice Information System			
		6.0				300.6
						3.5
						488.9
						5.5
		6.0				798.5
			TOTAL -- Delaware Justice Information System			
			(10-07-03) Statistical Analysis Center			
3.0		4.5				173.8
						3.9
						11.6
						4.4
3.0		4.5				193.7
			TOTAL -- Statistical Analysis Center			
11.0		22.0		50.0		1,624.2
			TOTAL -- Criminal Justice			
18.5	147.6	320.9		84,939.3		65,449.1
			TOTAL -- EXECUTIVE			

Year ending June 30, 1994

(12-00-00) OTHER ELECTIVE OFFICES

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
(12-01-01) Lieutenant Governor								
Personnel Costs			5.0					229.0
Travel								5.5
Contractual Services								13.3
Supplies and Materials								1.4
Expenses - Lieutenant Governor								7.7
TOTAL -- Lieutenant Governor			5.0					256.9
(12-02-01) Auditor of Accounts								
Personnel Costs		16.0	35.0				582.0	1,529.3
Travel							3.6	4.2
Contractual Services							339.4	171.7
Supplies and Materials							20.7	12.6
Capital Outlay							20.8	
TOTAL -- Auditor of Accounts		16.0	35.0				966.5	1,717.8
(12-03-00) Insurance Commissioner								
(12-03-01) Regulatory Activities								
Personnel Costs			16.0					677.6
Travel								3.7
Contractual Services							29.5	133.1
Supplies and Materials								2.4
Malpractice Review								5.4
Revenue Refund							0.5	
TOTAL -- Regulatory Activities			16.0				30.0	822.2
(12-03-02) Bureau of Examination, Rehabilitation and Guaranty								
Personnel Costs		29.0					1,361.0	
Travel							60.0	
Contractual Services							516.3	
Supplies and Materials							26.2	
Capital Outlay							80.0	
Contract Examiners - Old							500.0	
Contract Examiners - New							6,000.0	
Insurance Pool							40.0	
TOTAL -- Bureau of Examination, Rehabilitation and Guaranty		29.0					8,583.5	
(12-03-03) Delaware Insurance Authority								
Contractual							9,125.0	
TOTAL -- Delaware Insurance Authority							9,125.0	
TOTAL -- Insurance Commissioner		29.0	16.0				17,738.5	822.2

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
1.0	7.0	17.0
1.0	7.0	17.0

(12-05-00) State Treasurer

(12-05-01) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay
Banking Services
Data Processing
Blood Bank Membership Dues
Flexible Benefits Administration
TOTAL -- Administration

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		289.0	684.1
		12.0	2.7
		32.0	81.4
		7.6	8.0
		14.0	
		975.0	
		62.0	
			80.0
			60.0
		1,391.6	916.2

(12-05-03) Debt Management

Expense of Issuing Bonds
Debt Service - Regular
Debt Service - Old
Debt Service - Local Schools
Debt Service - Farmers Bank Preferred Stock
Debt Service - Solid Waste Authority
Debt Service - Refunding
Financial Advisor
TOTAL -- Debt Management

178.4	231.9
	1,321.6
	32.7
	4,101.5
	1,071.0
	277.0
	2,162.8
	70.0
178.4	9,268.5

1.0	7.0	17.0
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TOTAL -- State Treasurer

1,570.0	10,184.7
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1.0	52.0	73.0
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TOTAL -- OTHER ELECTIVE OFFICES

20,275.0	12,981.6
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Year ending June 30, 1994

(15-00-00) LEGAL

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	OF	ASF	GF
(15-01-01) Office of Attorney General								
Personnel Costs	17.5	24.1	187.9					7,918.9
Travel								12.2
Contractual Services							75.0	878.3
Supplies and Materials								52.3
Capital Outlay								34.5
Extradition								55.0
Medicaid Fraud Program							30.0	
Securities Administration							293.5	
AG Opinion Fund							15.0	
Child Support							600.1	
Consumer Protection							200.0	
TOTAL -- Office of Attorney General	17.5	24.1	187.9				1,213.6	8,951.2
(15-02-01) Public Defender								
Personnel Costs	6.0		92.0					3,849.9
Travel								1.9
Contractual Services								446.8
Energy								3.3
Supplies and Materials								32.6
Capital Outlay								3.8
TOTAL -- Public Defender	6.0		92.0					4,338.3
(15-03-01) Board of Parole								
Personnel Costs			7.0					271.0
Travel								6.2
Contractual Services								15.5
Supplies and Materials								2.7
TOTAL -- Board of Parole			7.0					295.4
TOTAL -- LEGAL	23.5	24.1	286.9				1,213.6	13,584.9

Year ending June 30, 1994

(20-00-00) DEPARTMENT OF STATE

	Personnel		
	NSF	ASP	GP
3			
4			
5			
6		2.0	14.0
7			
8			
9			
10			
11			
12			
13			
14			
15		2.0	14.0

(20-01-00) Office of the Secretary
Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Revenue Refund
Road Works
Debt Service
TOTAL -- Office of the Secretary

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		58.0	547.7
			18.1
		182.0	123.4
			9.7
		29.7	33.7
		102.0	
		20.0	
		30.0	
			164.9
		421.7	897.5

17		2.0	4.0
18			
19			2.0
20			8.0
21		2.0	14.0

(-01) Administration
 (-02) Delaware Commission on
 Veterans Affairs
 (-03) Delaware Veterans Memorial Cemetery
 TOTAL -- Internal Program Units

319.7	447.8
	141.5
102.0	308.2
421.7	897.5

25			7.0
26			
27			
28			
29			7.0

(20-02-00) Office of Human Relations
 Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
TOTAL -- Office of Human Relations

31.7	245.6
5.0	5.0
9.6	21.2
1.2	3.7
47.5	275.5

31		7.0
32		7.0

(-01) Office of Human Relations
TOTAL. -- Internal Program Unit

47.5	275.5
47.5	275.5

36	54.5	27.5
37		
38		
39		
40		
41		
42		
43		
44	54.5	27.5

(20-05-00) Corporations
Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Computer Time Costs
Technology Infrastructure Fund
Debt Service
TOTAL -- Corporations

1,545.5	929.7
29.8	
500.3	
40.7	
515.2	
270.0	
300.0	602.7
3,201.5	1,532.4

16	54.5	27.5
47	54.5	27.5

(-01) Corporations
TOTAL -- Internal Program Unit

3,201.5	1,532.4
3,201.5	1,532.4

Year ending June 30, 1994

Personnel		
NSP	ASP	GF

7.5	6.0	66.0
7.5	6.0	66.0

(20-06-00) Historical and Cultural Affairs

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Delaware Heritage Commission
Archival Grants
Conference Centers
Coastal Heritage Project
Debt Service

TOTAL -- Historical and Cultural Affairs

3.5	5.0	27.0
4.0	0.5	3.5
7.5	6.0	66.0

(-01) Office of Administration
(-02) Delaware State Archives
(-03) Delaware State Historic Preservation
Office
(-04) Delaware State Museums
TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASP	GF	ASP	GF

186.8	2,022.4
5.6	1.8
45.4	176.3
	159.3
49.4	103.7
12.5	3.0
	85.0
25.0	
69.0	
10.0	
	1,172.2
403.7	3,723.7

10.0	585.5
243.0	903.1
20.2	136.2
130.5	2,098.9
403.7	3,723.7

(20-07-00) Arts

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Delaware Art
Other Items

TOTAL -- Arts

3.0		5.8
3.0		5.8

	200.1
	2.5
	70.8
	2.5
	1,000.0
	10.0
	1,285.9

3.0		5.8
3.0		5.8

(-01) Office of the Director
TOTAL -- Internal Program Unit

	1,285.9
	1,285.9

(20-08-00) Libraries

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Library Standards
Debt Service

TOTAL -- Libraries

9.0		9.0
9.0		9.0

	309.2
	1.0
	100.3
	14.0
	39.3
	851.6
	198.5
	1,513.9

9.0		9.0
9.0		9.0

(-01) Libraries
TOTAL -- Internal Program Unit

	1,513.9
	1,513.9

Year ending June 30, 1994

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2				(20-15-00) State Banking Commission				
3				Personnel Costs			1,531.3	
4		43.0		Travel			44.1	
5				Contractual Services			268.8	
6				Supplies and Materials			26.6	
7				Capital/Equipment			54.6	
8				Revenue Refund			2.0	
9				TOTAL -- State Banking Commission			1,927.4	*
10		43.0						
11				(-01) State Banking Commission	1,927.4			
12		43.0		TOTAL -- Internal Program Unit	1,927.4			
13		43.0						
14								
15				* Special Funds total budget appropriated per				
16				Chapter 1, Title 5, Delaware Code.				
17								
18	19.5	105.5	129.3	TOTAL -- DEPARTMENT OF STATE			6,001.8	9,228.9

Year ending June 30, 1994

(25-00-00) DEPARTMENT OF FINANCE

Personnel

NSF	ASF	GF
		16.0
		16.0

(25-01-00) Office of the Secretary
 Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital/Equipment
 Fiscal Notebook
 Technology Improvement Fund
TOTAL -- Office of the Secretary

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			856.2
			7.7
			148.7
			9.6
			2.7
			2.0
		1,560.0	
		1,560.0	1,026.9

		16.0
		16.0

(-01) Office of the Secretary
TOTAL -- Internal Program Unit

1,560.0	1,026.9
1,560.0	1,026.9

(25-05-00) Accounting

		39.0
		39.0

Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital/Equipment
 State Accounting Course
TOTAL -- Accounting

	1,563.2
	5.0
	345.6
	59.5
	10.0
	33.0
	2,016.3

		39.0
		39.0

(-01) Accounting
TOTAL -- Internal Program Unit

	2,016.3
	2,016.3

(25-06-00) Revenue

	12.0	198.0
	12.0	198.0

Personnel Costs
 Travel
 Contractual Services
 Energy
 Supplies and Materials
 Capital/Equipment
 Credit Card Processing
 FCA Contracts
 Escheat
 Debt Service
TOTAL -- Revenue

404.9	6,943.3
3.0	42.8
115.0	955.0
	1.6
5.6	90.8
10.0	40.5
40.5	
200.0	
195.0	
	223.5
974.0	8,297.5

	12.0	198.0
	12.0	198.0

(-01) Revenue
TOTAL -- Internal Program Unit

974.0	8,297.5
974.0	8,297.5

Year ending June 30, 1994

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(25-07-00) State Lottery Office						
Personnel Costs					870.3	
Travel					20.0	
Contractual Services					5,676.0	
Supplies and Materials					48.7	
Capital/Equipment					64.4	
TOTAL --- State Lottery Office					6,679.4	*
(-01) State Lottery Office						
			6,679.4			
TOTAL -- Internal Program Unit			6,679.4			
* Special Funds appropriated under Chapter 48, Title 29, Delaware Code						
TOTAL -- DEPARTMENT OF FINANCE					9,213.4	11,340.7

Year ending June 30, 1994

(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

Personnel			\$ Program		\$ Line Item	
NSF	ASF	OF	ASF	GF	ASF	GF
4.5		17.5				745.3
					1.0	0.9
					2.0	128.5
					2.0	14.7
					5.0	175.7
						28.0
4.5		17.5			10.0	1,093.1
4.5		14.0	10.0	893.1		
		1.5				
		2.0				
4.5		17.5	10.0	1,093.1		
	4.0	29.0			114.6	881.0
						0.1
					0.6	254.4
						20.4
	4.0	29.0			115.2	1,155.9
	4.0	29.0	115.2	1,155.9		
	4.0	29.0	115.2	1,155.9		
	50.0	32.0			2,063.4	1,176.9
					86.9	8.6
					1,518.6	70.8
					28.7	14.8
					30.0	3.0
					15.0	
					80.0	
					395.0	
	50.0	32.0			4,217.6	1,274.1
	2.0	20.0	63.0	734.9		
	22.0		1,349.5			
	24.0		2,602.0			
		11.0	1.5	464.2		
	2.0	1.0	201.6	75.0		
	50.0	32.0	4,217.6	1,274.1		

Year ending June 30, 1994

Personnel		
NSF	ASF	GF

	21.0	18.0
	21.0	18.0

(30-04-00) Support Operations

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Gas Card Expense

TOTAL -- Support Operations

		10.0
		8.0
	17.0	
	4.0	
	21.0	18.0

(-10) Mail/Courier Services
(-20) Telephone Services
(-30) Graphics and Printing
(-40) Fleet Management

TOTAL -- Internal Program Units

5.0	5.0	70.0
5.0	5.0	70.0

(30-05-00) Facilities Management

Personnel Costs
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Real Estate Acquisition Program (REAP)
Other
Debt Service

TOTAL -- Facilities Management

5.0	4.0	16.0
	1.0	54.0
5.0	5.0	70.0

(-10) Property Management
(-20) Building Operations/Maintenance

TOTAL -- Internal Program Units

2.0	10.0	18.0
2.0	10.0	18.0

(30-06-00) Purchasing

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Food Processing

TOTAL -- Purchasing

	4.0	14.0
2.0	6.0	4.0
2.0	10.0	18.0

(-10) Purchasing
(-20) Surplus Property
(-30) Food Distribution

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

776.4	435.7
5.2	
6,266.1	49.7
12.9	3.1
225.2	7.4
256.7	
1,000.0	
8,542.5	495.9

701.0	274.6
5,419.2	221.3
1,073.7	
1,348.6	
8,542.5	495.9

64.5	2,208.8
226.8	1,951.5
	1,628.1
13.8	185.3
250.0	
454.9	2,091.8
	117.0
	11,398.2
1,010.0	19,580.7

488.4	14,280.5
521.6	5,300.2
1,010.0	19,580.7

278.1	661.8
10.1	1.8
89.6	60.3
6.7	12.1
87.2	27.8
146.8	
112.0	
730.5	763.8

55.0	594.4
305.8	
369.7	169.4
730.5	763.8

TOTAL -- DEPARTMENT OF
ADMINISTRATIVE SERVICES

11.5	90.0	184.5
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14,625.8	24,363.5
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Year ending June 30, 1994

(35-00-00) DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Personnel		
NSF	ASF	GF

50.4	20.7	135.1
50.4	20.7	135.1

(35-01-00) Administration

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Other Items:
Revenue Management
Health Statistics
Debt Service

TOTAL -- Administration

50.4	20.7	129.1
50.4	20.7	135.1

(-10) Office of the Secretary

(-20) Management Services

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

		503.3	5,428.9
		16.9	11.8
		415.0	345.9
			37.6
		43.4	30.2
		76.5	16.0
		240.0	
		153.8	
			3,037.1
		1,448.9	8,907.5

33.8	347.5
1,415.1	8,560.0
1,448.9	8,907.5

(35-04-00) Medical Examiner

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Debt Service

TOTAL -- Medical Examiner

		32.0
		32.0

	1,516.5
	6.5
	138.5
	67.4
	127.8
	38.6
	468.6
	2,363.9

		32.0
		32.0

(-01) Medical Examiner

TOTAL -- Internal Program Unit

	2,363.9
	2,363.9

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
185.0	26.5	1,353.8
185.0	26.5	1,353.8

(35-05-00) Public Health

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Other Items:
School Based Health Centers
Treatment of Handicapped
AIDS
Animal Bite Control
Office of Narcotics & Dangerous Drugs
Child Health
Vanity Birth Certificate
Public Water
Medicaid Enhancements
Infant Mortality
Medicaid AIDS Waiver
Children with Special Needs
Family Planning
Indirect Costs
Vaccines
Food Inspection
Debt Service

TOTAL -- Public Health

3.5	5.5	38.0
179.5	21.0	317.5
		6.0
		640.7
2.0		204.6
		147.0
185.0	26.5	1,353.8

(-10) Director's Office/Support Services
(-20) Community Health
(-30) Office of Paramedic Administration
(-40) Delaware Hospital for the
Chronically Ill
(-50) Emily Bissell
(-60) Governor Bacon

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			39,202.8
			29.7
		201.8	4,444.2
			1,322.3
		23.3	2,695.9
			139.5
			722.0
			98.0
			158.2
			39.6
			30.0
		671.3	
		15.0	
		50.0	
		800.0	
		600.0	
		70.0	
		10.0	
		350.0	
		60.0	
		5.0	
		12.0	
			1,333.1
		2,868.4	50,215.3

305.9	1,685.5
2,562.5	15,011.1
	1,070.7
	20,704.3
	6,764.2
	4,979.5
2,868.4	50,215.3

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
31.7	2.7	23.6
31.7	2.7	23.6

(35-08-00) Visually Impaired

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Business Enterprise Program

TOTAL -- Visually Impaired

31.7	2.7	23.6
31.7	2.7	23.6

(-01) Visually Impaired Services

TOTAL -- Internal Program Unit

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		81.9	919.1
			2.3
		0.5	187.1
			35.3
			38.6
		4.0	21.1
		610.0	
		696.4	1,203.5

696.4	1,203.5
696.4	1,203.5

(35-10-00) Child Support Enforcement

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment

TOTAL -- Child Support Enforcement

90.4	9.2	37.4
90.4	9.2	37.4

(-01) Child Support Enforcement

TOTAL -- Internal Program Unit

221.0	1,081.2
1.3	2.7
159.4	226.0
	11.0
20.5	12.5
	2.1
402.2	1,335.5

402.2	1,335.5
402.2	1,335.5

(35-11-00) Mental Retardation

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Other Items:
Music Stipends
Purchase of Care
Purchase of Community Services
Deli Service

TOTAL -- Mental Retardation

3.0		830.8
3.0		830.8

(-10) Administration - Mental Retardation

(-20) Institutional Services

(-30) Community Services

TOTAL -- Internal Program Units

23,464.0
9.6
1,000.0
2,189.2
566.2
1,030.5
197.1
9.6
8,180.2
2,679.0
69.9
1,000.0
38,395.3

1,057.7
21,146.6
1,000.0
16,123.0
1,000.0
38,395.3

Year ending June 30, 1994

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2								
3				(35-12-00) State Service Centers				
4	39.4	0.5	63.1	Personnel Costs			16.1	2,252.8
5				Travel				7.9
6				Contractual Services			991.5	1,402.1
7				Energy			84.2	378.8
8				Supplies and Materials			76.5	59.4
9				Capital/Equipment				6.0
10				Kent County RSVP				29.4
11				Community Food Program				85.5
12				Emergency Assistance				497.0
13				Debt Service				104.5
14	39.4	0.5	63.1	TOTAL -- State Service Centers			1,168.3	4,823.4
15								
16	26.8		28.2	(-10) Family Support Services		1,007.7		
17			17.5	(-20) Service Center Management	1,152.0	1,903.2		
18	9.0		2.0	(-30) Community Services		723.6		
19	3.6	0.5	15.4	(-40) Volunteer Services	16.3	1,188.9		
20	39.4	0.5	63.1	TOTAL -- Internal Program Units	1,168.3	4,823.4		
21								
22								
23				(35-14-00) Aging				
24	27.8		26.3	Personnel Costs				963.8
25				Travel				2.2
26				Contractual Services			5.9	1,586.8
27				Energy				6.6
28				Supplies and Materials				5.7
29				Nutrition Program				382.2
30				Debt Service				2.7
31	27.8		26.3	TOTAL -- Aging			5.9	2,950.0
32								
33	27.8		26.3	(-01) Aging Services	5.9	2,950.0		
34	27.8		26.3	TOTAL -- Internal Program Unit	5.9	2,950.0		
35								
36								
37				TOTAL -- DEPARTMENT OF HEALTH				
38	742.1	78.6	3,584.4	AND SOCIAL SERVICES			11,678.6	338,817.6

Year ending June 30, 1994

(37-00-00) DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

Personnel			\$ Program		\$ Line Item	
NSF	ASIF	GF	ASIF	GF	ASIF	GF
6.3		43.2				
6.3		43.2				
0.5		6.0				
5.8		7.0				
		16.2				
		11.0				
		3.0				
6.3		43.2				
29.5		257.0				
29.5		257.0				
1.0		19.0				
1.0		51.0				
1.0		85.0				
6.5		58.0				
		15.0				
4.5		9.5				
6.0		9.0				
9.5		10.5				
29.5		257.0				

(37-01-00) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Debt Service

TOTAL -- Administration

(-10) Office of the Secretary
(-15) Office of the Director
(-20) Fiscal Operations and Management
(-30) Personnel Services
(-35) Center for Professional Development

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASIF	GF	ASIF	GF
		54.4	1,849.3
			5.5
		90.0	347.4
		7.0	26.7
		27.0	6.6
			1,661.4
		178.4	3,896.9

44.4	631.1
18.0	1,854.3
60.0	717.2
46.0	450.1
10.0	244.2
178.4	3,896.9

(37-02-00) Family Services

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Emergency Material Assistance

TOTAL -- Family Services

(-10) Office of the Director
(-20) Report and Initial Assessment
(-30) Protective Treatment
(-40) Intensive Protective Services
(-50) Adoption Services
(-60) Office of Case Management
(-70) Office of Prevention
(-80) Office of Child Care Licensing

TOTAL -- Internal Program Units

712.2	8,602.4
6.5	8.0
53.0	5,399.3
	24.8
7.8	191.3
45.5	15.3
	30.0
825.0	14,271.1

825.0	1,006.1
	1,749.6
	3,220.8
	5,714.6
	1,083.2
	393.8
	590.2
	512.8
825.0	14,271.1

Year ending June 30, 1994

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(37-03-00) Child Mental Health Services				
2				Personnel Costs				7,039.2
3				Travel				14.4
4			169.5	Contractual Services			15.0	10,676.3
5				Energy				179.5
6				Supplies and Materials			30.0	181.5
7				Capital/Equipment			62.3	38.5
8				MIS Maintenance			31.0	
9				MIS Hardware			68.9	
10			169.5	TOTAL -- Child Mental Health Services			207.2	18,129.4
11								
12				(-10) Clinical/Administrative Office	99.9	1,026.0		
13			22.0	(-15) Consultation & Assessment Services		941.8		
14			19.0	(-20) Terry Outpatient Treatment		838.0		
15			16.5	(-30) Terry Day Hospital Treatment		1,073.9		
16			22.5	(-40) Terry Inpatient Treatment	30.0	2,248.6		
17			47.0	(-50) Outpatient Treatment		1,861.4		
18			1.0	(-60) Residential Treatment	77.3	5,128.7		
19			37.5	(-70) Adolescent Hospital Treatment		4,182.2		
20			2.0	(-80) Alcohol and Drug Treatment Services		828.8		
21			2.0	TOTAL -- Internal Program Units	207.2	18,129.4		
22			169.5					
23				(37-05-00) Youth Rehabilitation Services				
24				Personnel Costs				8,783.6
25				Travel				20.6
26				Contractual Services				8,229.8
27			242.5	Energy				304.4
28				Supplies and Materials			120.0	435.0
29				Capital/Equipment			129.8	23.9
30				Debt Service				60.0
31			242.5	TOTAL -- Youth Rehabilitation Services			249.8	17,857.3
32								
33				(-10) Office of the Director	129.8	573.2		
34			13.0	(-30) Community Based Services		1,461.9		
35			39.0	(-40) Alternatives to Incarceration		7,742.7		
36			13.5	(-50) Secure Care	120.0	8,079.5		
37			177.0	TOTAL -- Internal Program Units	249.8	17,857.3		
38			242.5					
39								
40								

Year ending June 30, 1994

Personnel		
NSP	ASF	GF

6.6		55.4
6.6		55.4

(37-08-00) Planning and Evaluation

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
MIS Maintenance
MIS Hardware

TOTAL -- Planning and Evaluation

(-20) Office of Planning, Monitoring and
Information Systems

(-25) Education

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

26.6	2,706.6
63.0	117.2
107.2	50.6
579.8	30.5
776.6	2,909.4

750.0	297.1
26.6	2,612.3
776.6	2,909.4

TOTAL -- DEPARTMENT OF
SERVICES FOR CHILDREN,
YOUTH AND THEIR FAMILIES

42.4	767.6
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2,237.0	57,064.1
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Year ending June 30, 1994

(38-00-00) DEPARTMENT OF CORRECTION

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(38-01-00) Administration			
	9.0	254.0			289.4	10,184.3
					3.7	12.4
					454.9	1,057.3
					5.0	52.7
					614.0	5,347.8
					93.3	32.4
						8,048.3
						80.0
						15.4
						580.0
						346.2
						605.7
	9.0	254.0	TOTAL -- Administration		1,460.3	26,362.5
			(38-04-00) Prisons			
		33.0		2,127.1		
		37.0		1,529.0		
		27.0		988.8		
		41.0		5,881.2		
				8,128.3		
		38.0		3,449.3		
		33.0		1,764.3		
	8.0	12.0		537.1		
	1.0	6.0	672.0	787.3		
		17.0	1.0	982.9		
		10.0		749.5		
	9.0	254.0	TOTAL -- Internal Program Units		1,460.3	26,362.5
			(38-04-00) Prisons			
		982.0				33,980.2
					4.0	2.0
						1,738.0
						1,778.3
						1,380.4
						4.0
						9,320.4
		982.0	TOTAL -- Prisons		4.0	48,203.3
			(38-04-00) Prisons			
		6.0		661.1		
		25.0	1.0	1,025.8		
		410.0	1.0	17,008.9		
		165.0		6,832.3		
		64.0	1.0	5,024.6		
		286.0	1.0	16,548.7		
		26.0		1,101.9		
		982.0	TOTAL -- Internal Program Units		4.0	48,203.3

Year ending June 30, 1994

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(38-06-00) Community Custody and Supervision			
		269.0				8,909.3
						10.3
					26.0	1,690.7
						79.4
					25.0	115.6
						0.3
						71.0
						62.1
		269.0			51.0	10,938.7
			TOTAL -- Community Custody and Supervision			
		61.0		2,908.6		
		71.0		3,084.1		
		65.0		2,127.6		
		9.0		386.3		
		6.0		167.0		
		30.0	1.0	1,285.4		
		27.0	50.0	979.7		
		269.0	51.0	10,938.7		
			TOTAL -- Internal Program Units			
			TOTAL -- DEPARTMENT OF CORRECTION			
0.0	9.0	1,505.0			1,515.3	85,504.5

Year ending June 30, 1994

(40-00-00) DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Personnel		
NSP	ASF	GF

2.0	18.0	25.0
2.0	18.0	25.0

(40-01-00) Department Management

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Non-Game Habitat
Coastal Zone Management
Community Projects
Outdoor Delaware
Debt Service

TOTAL -- Department Management

2.0	18.0	25.0
2.0	18.0	25.0

(-01) Department Management

TOTAL -- Internal Program Unit

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

664.3	1,122.5
6.4	4.9
103.5	106.6
	183.9
68.8	11.1
25.3	3.0
20.0	
150.0	
100.0	
65.0	70.0
	1,722.0
1,203.3	3,224.0

1,203.3	3,224.0
1,203.3	3,224.0

3.0	53.0	63.5
3.0	53.0	63.5

(40-05-00) Fish and Wildlife

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Spraying and Insecticides
Non-Game Habitat
Duck Stamp
Trout Stamp
Finfish Development
Fisheries Restoration
Other Items
Debt Service

TOTAL -- Fish and Wildlife

1,805.3	2,382.5
41.7	11.8
1,157.1	785.9
20.8	40.3
442.1	269.2
940.6	15.9
	342.1
15.0	25.0
180.0	
30.0	
130.0	
310.0	
4.1	
	251.6
5,076.7	4,124.3

2.5	2.0
48.5	16.5
18.0	
3.0	27.0
3.0	63.5

(-01) Management and Support -

Fish & Wildlife
(-02) Wildlife/Fisheries
(-04) Mosquito Control
(-05) Dog Control
(-06) Fish & Wildlife Enforcement

TOTAL -- Internal Program Units

199.9	252.1
4,605.7	1,011.2
13.9	1,195.9
105.0	504.5
152.2	1,160.6
5,076.7	4,124.3

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
2.0	54.5	71.5

(40-06-00) Parks and Recreation

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Non-Game Habitat
Other Items
Debt Service

TOTAL -- Parks and Recreation

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		3,333.8	2,429.8
		16.1	1.0
		757.3	28.0
		20.9	203.8
		1,067.4	28.0
		734.0	
		50.0	
		16.5	
			2,466.9
5,996.0			5,157.5

	4.0	6.0
	37.5	45.5
2.0	7.0	6.0
	6.0	14.0
2.0	54.5	71.5

(-01) Management & Support -
Parks and Recreation

(-02) Operations & Maintenance

(-03) Special Programs

(-04) Parks Technical Services

TOTAL -- Internal Program Units

163.6	243.1
4,406.2	1,945.7
640.6	213.8
785.6	2,754.9
5,996.0	5,157.5

(40-07-00) Soil and Water Conservation

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
New Castle County Dredge
Beach Erosion Control Program
Sand Bypass System
Tax Ditches*
Debt Service

TOTAL -- Soil and Water Conservation

7.1	1,829.9
3.6	5.8
1,630.8	599.0
	3.7
22.0	202.4
19.0	
	225.0
850.0	
150.0	
	225.0
	1,409.8
2,682.5	4,500.6

8.5	4.5
	8.0
	27.0
4.0	6.0
12.5	45.5

(-01) Management & Support -
Soil & Water

(-02) Drainage

(-03) Shoreline and Waterway
Management

(-04) District Operations

TOTAL -- Internal Program Units

80.0	427.6
	1,428.8
2,577.5	1,889.8
25.0	754.4
2,682.5	4,500.6

*Pursuant to Section 3921, Title 7, Delaware Code

Year ending June 30, 1994

Personnel			
NSF	ASF	GF	
34.0	77.0	56.0	
34.0	77.0	56.0	

(40-08-00) Water Resources

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Water Resources Agency
Debt Service

TOTAL -- Water Resources

1.0	4.0	5.0
	34.0	17.0
28.0	20.0	14.0
5.0	19.0	20.0
34.0	77.0	56.0

(-01) Management & Support -
Water Resources

(-02) Water Resources Technical
Services

(-04) Surface Water Management

(-05) Ground Water Management

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		2,556.9	2,443.0
		23.1	12.8
		634.2	794.4
			17.7
		223.7	86.7
		306.8	3.0
			80.0
			3,245.3
		3,744.7	6,682.9

289.1	1,512.0
1,810.3	999.6
1,031.8	3,296.9
613.5	874.4
3,744.7	6,682.9

(40-09-00) Air and Waste Management

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Local Emergency Planning Committees
HSCA - Administration
HSCA - Clean-up
Cost Recovery
UST Administration
UST Amnesty
Right-to-Know
Debt Service

TOTAL -- Air and Waste Management

75.0	81.0	36.0
75.0	81.0	36.0

2,317.7	1,883.5
21.5	7.8
266.3	146.8
	34.6
59.2	54.5
67.2	68.2
150.0	
599.2	
3,615.0	
300.0	
413.2	
2,000.0	
	14.4
	186.6
9,809.3	2,396.4

4.0	13.0	8.0
17.0	43.0	10.0
54.0	25.0	18.0
75.0	81.0	36.0

(-01) Management & Support -
Air & Waste

(-02) Air Quality Management

(-03) Waste Management

TOTAL -- Internal Program Units

670.2	443.8
1,835.4	709.5
7,303.7	1,243.1
9,809.3	2,396.4

TOTAL -- DEPARTMENT OF
NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL

128.5	283.5	297.3
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28,512.5	26,085.7
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Year ending June 30, 1994

(45-00-00) DEPARTMENT OF PUBLIC SAFETY

Personnel

NSF	ASF	GF
22.5		40.5
22.5		40.5

(45-01-00) Office of the Secretary

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Police Training Council
Other Items
Debt Service

TOTAL -- Office of the Secretary

\$ Program

ASF	GF
100.0	846.8
60.7	578.9
160.7	1,898.5

\$ Line Item

ASF	GF
	1,460.2
100.0	11.7
	58.7
60.0	11.3
	21.9
0.7	15.0
	319.7
160.7	1,898.5

		12.0
		5.0
		16.0
22.5		7.5
22.5		40.5

(-01) Administration
(-10) Boiler Safety
(-20) Communication
(-30) EPO

TOTAL -- Internal Program Units

(45-06-00) State Police

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Pension -- 20 Year Retirees
Crime Reduction Fund
Career Development
Contingency -- Child Care Provider Checks
Debt Service

TOTAL -- State Police

11.7	2.0	678.8
11.7	2.0	678.8

199.3	30,776.8
15.0	33.3
77.8	1,955.6
	212.0
187.9	1,328.4
41.0	698.9
	12,725.0
	75.0
	35.0
	100.0
	315.9
521.0	48,255.9

		52.0
		6.0
		290.0
		95.0
		34.0
		18.0
4.2	1.0	17.8
		33.0
		9.0
	1.0	84.0
		15.0
3.0		21.0
4.5		4.0
11.7	2.0	678.8

(-01) Executive
(-02) Building Maintenance & Construction
(-03) Patrol
(-04) Criminal Investigation
(-05) Special Investigation
(-06) Aviation
(-07) Traffic
(-08) State Bureau of Identification
(-09) Training
(-10) Communications
(-11) Transportation
(-12) Community Relations
(-13) Highway Safety

TOTAL -- Internal Program Units

	15,722.0
	322.7
	15,333.7
	4,817.5
	1,752.4
	1,710.6
401.9	785.1
90.0	1,318.2
	458.8
29.1	3,203.5
	1,704.3
	940.0
	187.1
521.0	48,255.9

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
		200.0
		200.0

(45-07-00) Licenses, Taxes & Registrations

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
CDL Fees
Debt Service

TOTAL -- Licenses, Taxes & Registrations

		26.0
		68.0
		106.0
		200.0

(-01) Administration - Licenses,
Taxes & Registrations

(-10) Driver Services
(-20) Vehicle Services

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		28.0	5,622.7
		7.0	
		80.0	518.9
		2.5	393.7
			0.1
		177.0	
			14.0
		294.5	6,549.4

89.5	1,126.3
205.0	2,163.7
	3,259.4
294.5	6,549.4

TOTAL -- DEPARTMENT OF
PUBLIC SAFETY

34.2	2.0	919.3
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976.2	56,703.8
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Year ending June 30, 1994

(55-00-00) DEPARTMENT OF TRANSPORTATION

Personnel			
NSF	TFO	TFC	GF

\$ Line Item	
TTF	GF

(55-01-01) Office of the Secretary

(55-01-01) Office of the Secretary

Personnel Costs

Operations/Capital

TOTAL -- Office of the Secretary

429.0	
19.8	
448.8	

(55-01-02) Office of Financial Management and Budget

Personnel Costs

Operations/Capital

TOTAL -- Office of Financial Management and Budget

1,157.4	
1,013.1	
2,170.5	

(55-01-03) Office of External Affairs

Personnel Costs

Operations/Capital

TOTAL -- Office of External Affairs

200.7	
55.7	
256.4	

TOTAL -- Office of the Secretary

2,875.7	
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(55-02-01) Office of Administration

Personnel Costs

Travel

Contractual/Supplies

Capital Outlay

TOTAL -- Office of Administration

1,940.1	
8.3	
866.9	
12.0	
2,827.3	

(55-03-01) Office of Planning

Personnel Costs

Operations/Capital

TOTAL -- Office of Planning

1,913.9	
499.5	
2,413.4	

(55-04-00) Division of Highway Operations

(55-04-01) Office of the Director

Personnel Costs

Operations/Capital

TOTAL -- Office of the Director

489.6	
87.2	
576.8	

(55-04-40) Bureau of Construction

Personnel Costs

Operations/Capital

TOTAL -- Bureau of Construction

2,774.2	
15.6	
2,789.8	

Year ending June 30, 1994

	Personnel					\$ Line Item	
	NSF	TPO	TFC	OF		TTF	OF
1							
2							
3							
4		103.0	6.0		(55-04-50) Bureau of Traffic		
5					Personnel Costs	3,581.0	
6					Travel	2.7	
7					Energy	521.6	
8					Capital Outlay	27.0	
9					Contractual/Supplies	2,368.5	
10		103.0	6.0		TOTAL -- Bureau of Traffic	6,500.8	
11							
12		34.0	54.0		(55-04-60) Field Services		
13					Personnel Costs	1,322.7	
14					Operations/Capital	103.2	
15		34.0	54.0		TOTAL -- Field Services	1,425.9	
16							
17		527.0			(55-04-70) Bureau of Maintenance		
18					Personnel Costs	15,308.2	
19					Travel	7.6	
20					Energy	748.8	
21					Capital Outlay	2,487.2	
22					Contractual/Supplies	6,822.8	
23		527.0			TOTAL -- Bureau of Maintenance	25,374.6	
24							
25		1.0	8.0		(55-04-80) Bureau of Freeways Construction		
26					Personnel Costs	110.8	
27					Operations/Capital	9.8	
28		1.0	8.0		TOTAL -- Bureau of Freeways Construction	120.6	
29							
30		177.0			(55-04-90) Turnpike Administration		
31					Turnpike Operations	5,006.5	
32					Turnpike Operating Reserve *		
33					Turnpike Improvements	600.0	
34					Interstate Operations	4,506.8	
35					Interstate Improvements	1,240.0	
36		177.0			TOTAL -- Division of Turnpike Administration	11,353.3	
37							
38					* The Cumulative Turnpike Operating Reserve Fund		
39					is established at \$ 837.8		
40							
41		925.0	145.0		TOTAL -- Division of Highway Operations	48,141.8	

1	Personnel			
2	NSF	TFO	TFC	GF

5		16.0	
6			
7			
8			
9			
10			
11			
12			
13	1.0	14.0	
14			
15			
16			
17			
18			
19			
20			
21			
22			
23	1.0	30.0	

S Line Item	
TIF	GF

Delaware Transportation Authority Operations	2,384.4
Commnuer Services	980.2
DART Operations "Public"	8,388.5
DAST Operations "E & H"	3,339.0
Rail Operations	2,668.6
Aviation	135.0
Contingencies	15.0
Motor Fuel Tax	
Personnel Costs	519.1
Operations/Capital	309.7
Taxi Services Support "E & H"	182.2
Newark Transportation	73.6
Kent and Sussex Transportation "E & H"	750.0
Dover Transportation "E & H"	110.0
Debt Service	
Motor Fuel Tax Bonds	2,441.0
General Obligations	12,155.2
Transportation Trust Fund	59,994.3
TOTAL -- Delaware Transportation Authority	94,445.8

4.0	64.0	79.0
4.0	64.0	79.0

3,244.7	
291.5	
3,536.2	

7.0	1,151.0	230.0	
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154,240.2	
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Final Ending June 30, 1994

(60-00-00) DEPARTMENT OF LABOR

NSF	ASF	GF
17.0	44.6	5.4
17.0	44.6	5.4

(60-01-00) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment

TOTAL -- Administration

	12.6	1.4
17.0		1.0 3.0
	32.0	
17.0	44.6	5.4

(-10) Office of the Secretary

(-20) Office of Occupational and

and Labor Market Info

(-30) Commission for Women

(-40) Administrative Support

(60-06-00) Unemployment Insurance

114.0	5.0	
114.0	5.0	

TOTAL -- Unemployment Insurance

(-01) Unemployment Insurance
AL -- Internal Program Unit

(60-07-00) Industrial Affairs

10.5		42.5
10.5		42.5

TOTAL -- Industrial Affairs

5.5	28.5
5.0	14.0
10.5	42.5

(-01) Workers Compensation, Safety

and Health

(-02) Enforcement

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		1,743.7	226.6
		21.8	6.7
		534.7	19.3
		101.4	5.6
		29.3	
		2,430.9	258.2

762.0	80.3
	48.5
	129.4
1,668.9	
2,430.9	258.2

103.8
0.2
131.7
0.4
4.0
0.9
4.7
245.7

245.7	
245.7	

	1,377.9
	20.6
	128.8
	34.9
	2.0
7,441.8	
7,441.8	1,564.2

7,441.8	1,061.7 502.5
7,441.8	1,564.2

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
110.9	3.0	
110.9	3.0	

(60-08-00) Vocational Rehabilitation
 Personnel Costs
 Contractual Services
 Supplies and Materials
 Capital/Equipment
 Sheltered Workshop
 Governor's Committee
TOTAL -- Vocational Rehabilitation

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		181.0	
		376.7	1,282.7
			34.9
		90.0	
			310.4
			8.0
		647.7	1,636.0

81.4	3.0	
29.5		
110.9	3.0	

(-10) Vocational Rehabilitation Services
 (-20) Disability Determination Services
TOTAL -- Internal Program Units

647.7	1,636.0
647.7	1,636.0

86.9	3.0	14.1
86.9	3.0	14.1

(60-09-00) Employment and Training
 Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital/Equipment
 Women's Vocational Services
 Dislocated Workers' Program
 Summer Youth Program
 Blue Collar Projects
TOTAL -- Employment and Training

135.1	456.8
0.9	3.7
42.3	106.8
2.0	3.8
	3.0
	40.0
	16.6
	135.2
894.0	
1,074.3	765.9

57.9		4.0
29.0	3.0	10.1
86.9	3.0	14.1

(-10) Placement Services
 (-20) Training Services
TOTAL -- Internal Program Units

	161.8
1,074.3	604.1
1,074.3	765.9

339.3 55.6 62.0 TOTAL -- DEPARTMENT OF LABOR

11,840.4 4,224.3

Year ending June 30, 1994

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	1.0	13.0
		3.0
6.3	1.0	15.5
6.3	2.0	31.5

11.5	0.5	21.0
11.5	0.5	21.0

		5.0
		7.0
7.5		4.5
4.0	0.5	4.5
11.5	0.5	21.0

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
International Trade
International Trade Travel
Capital/Equipment
Debt Service
TOTAL -- Resource Management

(-01) Administration
(-02) Agricultural Lands Preservation
(-03) Forestry
TOTAL -- Internal Program Units

132.4	648.7
	143.3
77.5	500.5
209.9	1,292.5

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
TOTAL -- Consumer Protection

(-02) Agriculture Compliance Lab
(-03) Weights & Measures
(-05) Meat Inspection
(-07) Pesticides Compliance
TOTAL -- Internal Program Units

18.0	747.5
2.7	4.5
2.5	27.7
	10.7
1.3	21.0
24.5	811.4

10.9	212.0
	219.7
	207.6
13.6	172.1
24.5	811.4

Year ending June 30, 1994

1	Personnel		
2	NSF	ASF	GF

(65-04-00) Promotion and Production Support

	15.0	23.0
	15.0	23.0

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
First State Trotting & Pacing Series
Agriculture Development Program
Laurel Audlon
Alternative Agriculture Projects
Agriculture Advertising
Cooperative Advertising

TOTAL -- Promotion and Production Support

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

651.3	825.2
6.0	19.7
8.7	263.1
	29.1
13.6	44.5
3.2	
	150.0
	23.0
	9.5
	15.0
	39.0
	15.0
682.8	1,433.1

		1.0
	11.0	2.0
		4.0
		7.0
		6.0
	4.0	3.0
	15.0	23.0

- (-02) Thoroughbred Racing Commission
- (-03) Harness Racing Commission
- (-04) Agriculture Products Grading
- (-05) Agricultural Marketing & Development
- (-06) Plant Industry
- (-07) Poultry & Animal Health
- (-08) Seed Lab

TOTAL -- Internal Program Units

	24.0
	193.1
463.9	75.4
6.0	351.8
	380.5
	287.0
212.9	121.3
682.8	1,433.1

TOTAL -- DEPARTMENT OF AGRICULTURE

17.8	17.5	75.5
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917.2	3,537.0
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Year ending June 30, 1994

(70-00-00) DEPARTMENT OF ELECTIONS

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
(70-01-01) Commissioner of Elections								
Personnel Costs			8.0					240.8
Travel								1.4
Contractual Services								64.2
Supplies and Materials								19.0
Capital Outlay								0.5
TOTAL -- Commissioner of Elections			8.0					325.9
(70-02-01) New Castle County Department of Elections								
Personnel Costs			12.0					433.2
Travel								12.0
Contractual Services								157.2
Energy								8.4
Supplies and Materials								7.7
Mobile Registration								5.0
TOTAL -- New Castle County Department of Elections			12.0					623.5
(70-03-01) Kent County Department of Elections								
Personnel Costs			5.0					216.8
Travel								0.5
Contractual Services								55.1
Energy								6.7
Supplies and Materials								3.5
Mobile Registration								3.0
TOTAL -- Kent County Department of Elections			5.0					285.6
(70-04-01) Sussex County Department of Elections								
Personnel Costs			4.0					189.9
Travel								0.7
Contractual Services								32.9
Supplies and Materials								6.3
Mobile Registration								5.3
TOTAL -- Sussex County Department of Elections			4.0					235.1
TOTAL -- DEPARTMENT OF ELECTIONS			29.0					1,470.1

Year ending June 30, 1994

(75-00-00) FIRE PREVENTION COMMISSION

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(75-01-01) Office of the State Fire Marshal				
2				Personnel Costs			681.9	754.6
3				Travel			24.0	
4				Contractual Services			95.0	55.7
5				Energy				23.8
6		20.3	18.7	Supplies and Materials			48.5	27.5
7				Capital Outlay			57.5	0.8
8				Revenue Refund			1.5	
9				Juvenile Firesetter Intervention Program				2.0
10				Debt Service				1.2
11				TOTAL -- Office of the State Fire Marshal			908.4	865.6
12		20.3	18.7					
13				(75-02-01) State Fire School				
14				Personnel Costs				514.2
15	4.3		12.7	Contractual Services			20.0	70.0
16				Energy				94.0
17				Capital Outlay			10.0	
18				Stress Management				5.0
19				Debt Service				177.2
20				TOTAL -- State Fire School			30.0	860.4
21	4.3		12.7					
22				(75-03-01) State Fire Prevention Commission				
23				Personnel Costs				32.1
24				Travel				17.1
25				Contractual Services				21.1
26				Supplies and Materials				1.2
27				Statewide Fire Safety Education				75.0
28				Contingency - Extraordinary Expenses				20.0
29				Debt Service				130.0
30				TOTAL -- State Fire Prevention Commission				296.5
31								
32								
33								
34								
35								
36								
37								
38				TOTAL -- FIRE PREVENTION COMMISSION			938.4	2,022.5
39	4.3	20.3	32.4					

Year ending June 30, 1994

(76-00-00) DELAWARE NATIONAL GUARD

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(76-01-01) Delaware National Guard				
	70.6		29.7	Personnel Costs				1,087.9
				Travel				0.7
				Contractual Services				263.1
				Energy				332.5
				Supplies and Materials				58.7
				Educational Assistance				37.8
				Sick-Leave Entitlements				7.0
				Unit Fund Allowance				5.2
				Widows Compensation Fund				7.9
				Debt Service				331.1
				TOTAL -- DELAWARE NATIONAL				
	70.6		29.7	GUARD				2,131.9

Year ending June 30, 1994

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2
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12

		2.0
		2.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials

ASF	GF
-----	----

	59.1
	2.7
	4.7
	0.8
	67.3

**TOTAL -- ADVISORY COUNCIL FOR
EXCEPTIONAL CITIZENS**

Year ending June 30, 1994

(90-00-00) HIGHER EDUCATION

	Personnel			\$ Program		\$ Line Item	
	NSF	ASF	GF	ASF	GF	ASF	GF
(90-01-00) University of Delaware							
(90-01-01) University of Delaware							
Operations							63,619.4
Scholarships							4,043.8
Agricultural Programs							924.9
Other Programs							2,176.1
The College School							65.2
Medical Technology							30.0
Debt Service							6,225.2
TOTAL -- University of Delaware							77,084.6
(90-01-02) Delaware Geological Survey							
Operations							895.6
River Master Program							73.0
TOTAL -- Delaware Geological Survey							968.6
TOTAL -- University of Delaware							78,053.2
(90-02-01) Delaware Institute of Medical Education and Research							
Operations							1,533.6
TOTAL -- Delaware Institute of Medical Education and Research							1,533.6
(90-03-00) Delaware State College							
(90-03-01) Operations							
Operations							16,910.2
Administrative Computing							125.0
Work Study							169.5
Summer School for Teachers							36.0
Faculty Development							100.0
Miahoe 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							935.3
Debt Service							3,198.6
TOTAL -- Operations							22,155.4
(90-03-05) Sponsored Programs and Research							
Personnel Costs							
TOTAL -- Sponsored Programs and Research							
TOTAL -- Delaware State College							22,155.4

Year ending June 30, 1994

Personnel		
NSF	ASF	GF

(90-04-00) Delaware Technical and Community College

(90-04-01) Office of the President

10.0		34.0
10.0		34.0

Personnel Costs

Travel

Contractual Services

Capital Outlay

Energy

Supplies and Materials

Occupational Teacher Program

Academic Incentive

Dental Program

Day Care Training

Salary Plan A & D

Parallel Program -- Operations

Parallel Program -- Academic

Debt Service

TOTAL -- Office of the President

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

	1,618.0
	6.5
	152.2
	2.0
	15.0
	29.7
	36.8
	50.0
	78.8
	40.0
	421.0
	391.4
	900.6
	86.2
	3,828.2

40.7		153.0
40.7		153.0

(90-04-02) Southern Campus

Personnel Costs

Contractual Services

Energy

Supplies and Materials

NDSL Match

Aid--to--Needy Students

Work Study

Debt Service

Capital/Books

TOTAL -- Southern Campus

	7,831.4
	39.8
	346.6
	4.0
	6.6
	72.8
	16.5
	2,123.5
	42.4
	10,483.6

25.0		114.0
25.0		114.0

(90-04-04) Wilmington Campus

Personnel Costs

Contractual Services

Energy

Capital Outlay

Aid--to--Needy Students

Work Study

Debt Service

TOTAL -- Wilmington Campus

	5,794.5
	81.1
	290.2
	76.1
	89.8
	20.0
	1,338.9
	7,690.6

38.0		152.0
38.0		152.0

(90-04-05) Stanton Campus

Personnel Costs

Contractual Services

Energy

Capital Outlay

Aid--to--Needy Students

Work Study

Debt Service

TOTAL -- Stanton Campus

	7,890.2
	113.2
	155.2
	9.0
	74.8
	21.0
	1,203.1
	9,466.5

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
45.5		97.0
45.5		97.0

(90-04-06) Terry Campus

Personnel Costs
Contractual Services
Energy
Supplies and Materials
Capital Outlay and Books
NDSL Match
Aid-to-Needy Students
Work Study
Debt Service
Instructional Computers
TOTAL -- Terry Campus

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			4,657.9
			36.9
			135.8
			20.8
			55.0
			1.0
			84.0
			8.0
			1,064.8
			51.8
			6,116.0

TOTAL -- Delaware Technical and
Community College

159.2 550.0

37,584.9

(90-07-01) Delaware Institute of
Veterinary Medical Education

Subvention
TOTAL -- Delaware Institute of Veterinary
Medical Education

45.0
45.0

(90-08-01) Delaware Institute of Dental
Education and Research

Subvention
TOTAL -- Delaware Institute of Dental
Education and Research

96.7
96.7

159.2 550.0 TOTAL -- HIGHER EDUCATION

139,468.8

Year ending June 30, 1994

(95-00-00) PUBLIC EDUCATION

Personnel			\$ Program		\$ Line Item	
NSP	ASF	GF	ASF	GF	ASF	GF
(95-01-00) State Board of Education and State Board for Vocational Education and Department of Public Instruction						
55.3	3.9	79.0				5,223.1
						23.4
						151.7
						32.6
						37.6
						64.2
						33.8
						2.0
						1.0
						46.5
						15.0
						100.0
					183.4	372.8
					3.8	
					2.5	
					35.0	
	1.0				62.4	
					34.0	
					27.5	
					15.0	
	1.0				88.3	
					40.0	
55.3	5.9	79.0			491.9	6,103.7
55.3	5.9	79.0				
55.3	5.9	79.0				

TOTAL -- State Board of Education and
State Board for Vocational Education
and Department of Public Instruction

(-01) State Board and DPI
TOTAL -- Internal Program Units

Year ending June 30, 1994

Personnel		
NSF	ASF	GF
		9,530.0
		9,530.0
		9,530.0
		9,530.0

(95-02-00) School District Operations

Division I Units (6,183)
 Formula Salaries
 Cafeteria Funds
 Other Employment Costs
 Division II Units (7,068)
 All Other Costs
 Energy
 Division III
 Equalization
 Other Items
 General Contingency
 Other Items
 Delmar Tuition
 Debt Service
 State Board
 School Districts

TOTAL -- School District Operations

(-01) Division Funding
 (-02) Other Items
 (-03) Debt Service
 TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			212,649.5
			2,552.3
			80,061.1
			18,171.8
			9,082.3
			40,450.1
			6,028.4
			334.9
			550.0
			3,306.8
			10,538.5
			383,745.7
	362,978.8		
	6,901.6		
	13,865.3		
	383,745.7		

Year ending June 30, 1994

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(95-03-00) Block Grants and Pass Through Programs				
2				Education Block Grants				
3				Adult Education and Work Force Training				
4				Grant				3,393.7
5				Professional Accountability and Instructional				
6		3.0	3.0	Advancement Fund			500.0	2,461.3
7				Academic Excellence Block Grant				16,314.3
8				K-12 Pass Throughs				
9				Delaware Nature Society				9.9
10				Beach House				64.9
11				Read Aloud				101.9
12				Strive				70.0
13				Summer School - Gifted & Talented				116.2
14				Center for Economic Education				131.2
15				Educational Resources				165.0
16				DE Institute for Arts in Education				90.0
17				Advanced Studies				97.2
18				Youth Organizations				98.2
19				Parent Early Education Center				476.0
20				Pregnant Students				212.7
21				Delaware Teacher Center				261.3
22				Project Assist				7.8
23				Delaware Principals Academy				100.0
24				Special Needs Programs				
25			1.0	Program for Children with Disabilities				1,613.4
26				Unique Alternatives				1,279.6
27				Exceptional Student Unit - Vocational				699.1
28				Related Services for the Handicapped				1,439.5
29				Adolescent Day Program				36.0
30			1.0	Children Services Cost Recovery Project				515.9
31				Sterck Summer Program				40.0
32				Tech-Prep 2 + 2				161.2
33				Student Discipline Program				400.0
34				Driver Training				
35				Driver's Education				789.8
36		3.0	5.0	TOTAL -- Block Grants and Pass Through Programs			500.0	31,146.1
37								
38								
39		3.0	3.0	(-10) Education Block Grants	500.0	22,169.3		
40				(-15) K-12 Pass Throughs		2,002.3		
41			2.0	(-20) Special Needs Programs		6,184.7		
42				(-30) Driver Training		789.8		
43		3.0	5.0	TOTAL -- Internal Program Units	500.0	31,146.1		

Year ending June 30, 1994

	Personnel				\$ Program		\$ Loc Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(95-04-00) Pupil Transportation				
2				Public School Transportation				37,044.5
3				Non-Public School Transportation				2,900.0
4				Reimbursement				39,944.5
5				TOTAL -- Pupil Transportation				
6								
7				(-01) Transportation		39,944.5		
8				TOTAL -- Internal Program Unit		39,944.5		
9								
10								
11				(95-06-00) Delaware Advisory Council on				
12				Career and Vocational Education				
13				Personnel Costs				111.9
14	1.5		3.5	Contractual Services				6.8
15				Travel				1.0
16				Supplies and Materials				2.0
17				TOTAL -- Delaware Advisory Council on Career				
18				and Vocational Education				121.7
19	1.5		3.5					
20								
21	1.5		3.5	(-01) Advisory Council		121.7		
22	1.5		3.5	TOTAL -- Internal Program Unit		121.7		
23								
24								
25	56.8	8.9	9,617.5	TOTAL -- PUBLIC EDUCATION			991.9	461,061.7

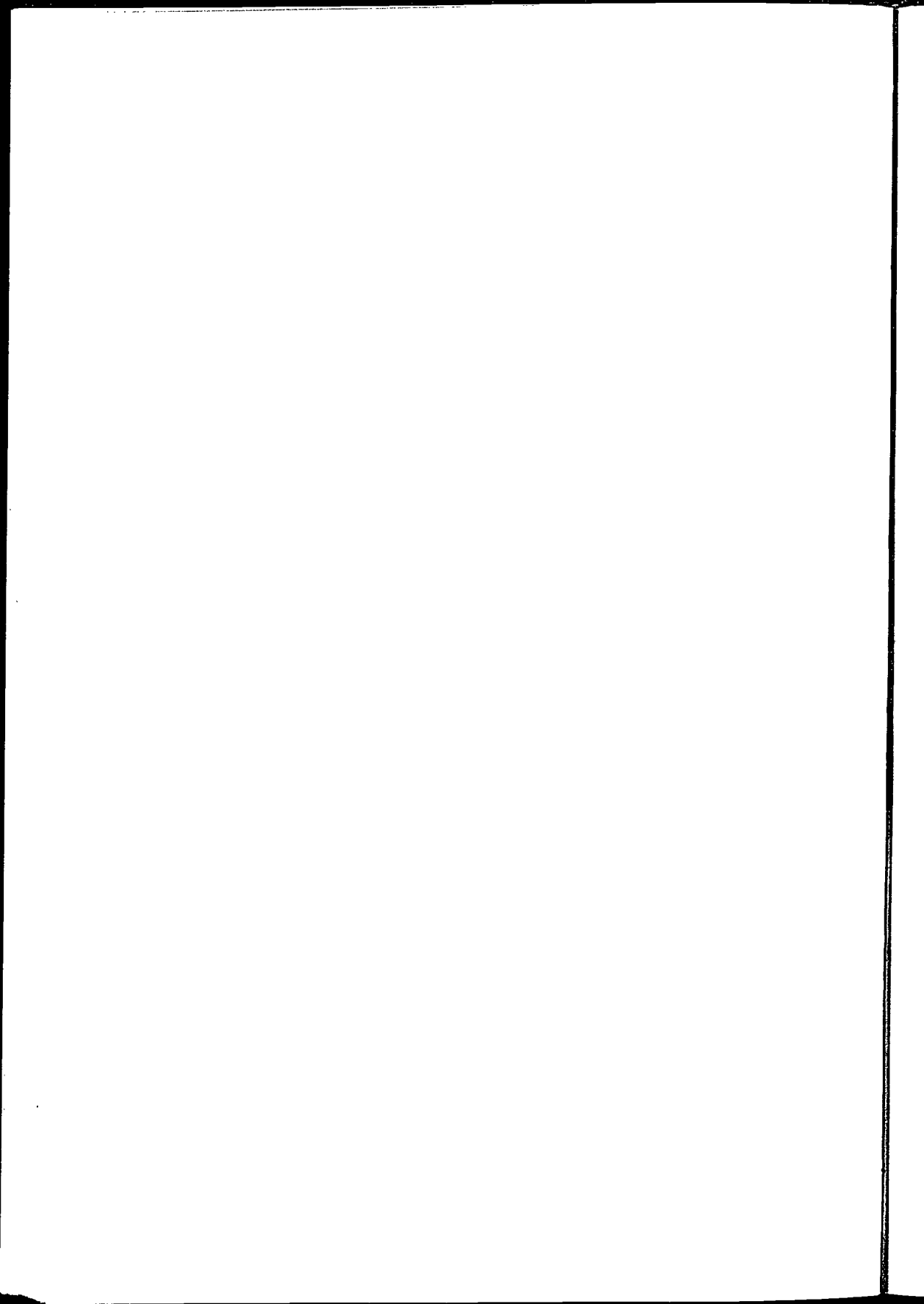
Year ending June 30, 1994

Personnel				
TFO	TFC	NSF	ASF	GF

\$		
TTF	ASF	GF

TOTALS

1,151.0	230.0	1,472.2	992.7	9,469.5	TOTAL - DEPARTMENTS	154,240.2	199,032.0	761,704.4
		159.2		550.0	TOTAL - HIGHER EDUCATION			139,468.8
		56.8	8.9	9,617.5	TOTAL - PUBLIC EDUCATION		991.9	461,061.7
1,151.0	230.0	1,688.2	1,001.6	19,637.0	GRAND TOTAL	154,240.2	200,023.9	1,362,234.9



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 ending June 30, 1994.

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 1994, except as otherwise specified in this Act.

Section 7. 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

TFO - Trust Fund Operations

TFC - Trust Fund Capital

Section 8. (a) The General Assembly of the State of Delaware supports the statewide 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, 1994, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1993, 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	***	14,524	18,155
2	***	15,540	19,425
3	***	16,629	20,786
4	13,343	17,790	22,238
5	14,279	19,038	23,798
6	15,278	20,371	25,464
7	16,346	21,794	27,243
8	17,490	23,320	29,150
9	18,716	24,954	31,193
10	20,027	26,702	33,378
11	21,426	28,568	35,710
12	22,927	30,569	38,211
13	24,532	32,709	40,886
14	26,248	34,997	43,746
15	28,086	37,448	46,810
16	30,053	40,070	50,088
17	32,156	42,875	53,594
18	34,405	45,873	57,341
19	36,815	49,086	61,358
20	39,394	52,525	65,656
21	42,150	56,200	70,250
22	45,101	60,134	75,168
23	48,258	64,344	80,430
24	51,638	68,850	86,063
25	55,251	73,668	92,085
26	59,119	78,825	98,531

* Annual Salary in \$

** Minimum Salary shall be \$13,000

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	***	15,491	19,364
2	***	16,575	20,719
3	13,302	17,736	22,170
4	14,233	18,977	23,721
5	15,230	20,307	25,384
6	16,295	21,727	27,159
7	17,436	23,248	29,060
8	18,657	24,876	31,095
9	19,962	26,616	33,270
10	21,360	28,480	35,600
11	22,853	30,471	38,089
12	24,455	32,606	40,758
13	26,167	34,889	43,611
14	27,999	37,332	46,665
15	29,958	39,944	49,930
16	32,057	42,743	53,429
17	34,300	45,733	57,166
18	36,699	48,932	61,165
19	39,270	52,360	65,450
20	42,020	56,026	70,033
21	44,961	59,948	74,935
22	48,109	64,145	80,181
23	51,475	68,633	85,791
24	55,080	73,440	91,800
25	58,935	78,580	98,225
26	63,059	84,079	105,099

* Annual Salary in \$

** Minimum Salary shall be \$13,000

- (1) Merit Rule 5.0200 notwithstanding, the standard work week for employees in positions within the Correctional Officer class series, Correctional Security Superintendent class and Warden class series assigned to the Department of Correction, Meat Inspectors and Meat and Poultry Inspection Coordinators in the Department of Agriculture and Emergency Services Training Administrator class assigned to the State Fire School shall be 40 hours.
- (11) During the fiscal year ending June 30, 1994, the State Personnel Director may designate, with the concurrence of the 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 1994 shall be limited to those governments and institutions of higher education 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
 Salem County, New Jersey

Other States

Maryland
 Pennsylvania
 New Jersey
 North Carolina
 Massachusetts
 New York
 Virginia

- (11) The findings of the survey in Section 8(a) for Fiscal Year 1995 shall be calculated in the same manner as Fiscal Year 1994, using the same weighting formula and other components.

(c) Recognizing the need for flexibility to respond to critical external market pressures, selective market variations are permitted to the uniform pay plan structure for job classes that are key to the performance of state functions.

- (1) The appointing authority shall identify job classes or job families to be considered for selective market variations according to turnover rates, recruitment problems, vacancy rates, feasibility for the work to be performed on a contractual basis and other criteria established by the State Personnel Director.
- (2) Upon receipt of the identified classes, the State Personnel Director shall survey the appropriate labor market to determine the state's position in this labor market.
- (3) The Budget Director, the State Personnel Director and the Controller General shall review the information provided in Sections 8(c)(1) and (2) and 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 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, 1993, 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) Employees assigned to job classifications approved under the selective market variation program shall have their salaries adjusted in accordance with the following:
 - (1) The salary of employees in positions added to the selective market variation program on or after July 1, 1993, prior to application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1993 is below the adjusted minimum salary for the assigned job classification shall be increased to the adjusted minimum salary and the salary of employees whose current salary falls within the adjusted salary range shall not be increased.
 - (11) The salary of employees in positions added to the selective market variation program before June 30, 1993, after the application of the general increase outlined in Section

8(d)(1), whose salary in effect as of June 30, 1993 is below the adjusted minimum salary for the assigned job classification shall be increased to the adjusted minimum salary and the salary of employees whose current salary falls 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, 1993, the salary of each employee shall be increased by 2.0 percent or \$600, or to \$13,000, whichever is greater, unless otherwise noted in this Section.
- (ii) The salary of employees whose salary in effect as of June 30, 1993, is above the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1993, shall be increased by 1.0 percent or \$600 whichever is greater.
- (iii) The salary of employees whose salary in effect as of June 30, 1993, is near the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1993, and where the general increase of 2.0 percent or \$600, whichever is greater, would place that salary above the maximum salary, shall be increased by a percentage amount which would place the salary at the maximum or 1.0 percent or \$600, 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, 1994, 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, 1994, or July 1, 1994, if the requested change is certified critical by the appointing authority; and approved by the State Personnel Director, Budget Director and Controller General prior to the effective date.

(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, 1994.

(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 index value specified in the appropriate training and experience cell multiplied by the base salary amount of \$16,332.00 and divided by .7 for ten months employment. If employed on an 11 or 12 month basis, the ten month amount shall be multiplied by 1.1 or 1.2, respectively.

(i) During the fiscal year ending June 30, 1994, paragraph 5.1100 of the Merit Rules for a Merit System of Personnel Administration shall be null and void.

(j) The review date for employees of the classified service shall be December 31 of each fiscal year.

(k) The administrative regulation and procedures necessary to implement this Section shall be promulgated by the State Personnel Director, Budget Director and Controller General.

(l) (i) 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.

(ii) The provisions of Subsection (d) of this Section shall not apply to the Governor, members of the General Assembly, 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.

(iii) 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.

(m) 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, "\$16,012.00," as it appears therein and by substituting in lieu thereof the value, "\$16,332.00."

(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	\$ 8,773	\$ 9,973	\$10,671	\$11,078	\$11,753
1	9,212	10,429	11,129	11,538	12,220
2	9,650	10,885	11,587	11,999	12,687
3	10,089	11,342	12,045	12,459	13,154
4	10,527	11,798	12,503	12,920	13,620
5	10,966	12,254	12,962	13,380	14,087
6	11,404	12,710	13,420	13,841	14,554
7	11,843	13,166	13,878	14,302	15,020
8	12,282	13,623	14,336	14,762	15,487
9	12,721	14,079	14,795	15,223	15,954
10	13,159	14,535	15,253	15,683	16,421
11	13,598	14,991	15,711	16,144	16,887
12	14,036	15,447	16,169	16,605	17,355
13	14,475	15,904	16,627	17,065	17,821
14	14,913	16,360	17,085	17,526	18,288
15	15,352	16,816	17,544	17,986	18,755
16	15,791	17,272	18,002	18,446	19,222
17	16,230	17,728	18,460	18,908	19,688
18	16,668	18,185	18,918	19,368	20,155
19	17,107	18,641	19,376	19,829	20,622
20	17,545	19,097	19,834	20,289	21,089"

(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	\$11,223	\$11,683	\$11,916	\$12,837	\$13,264	\$13,641
1	11,569	12,029	12,262	13,184	13,665	14,105
2	11,916	12,374	12,608	13,529	14,068	14,566
3	12,261	12,721	12,953	13,874	14,470	15,027
4	12,608	13,066	13,301	14,221	14,820	15,488
5	12,953	13,411	13,643	14,568	15,273	15,950
6	13,301	13,760	13,990	14,912	15,675	16,411
7	13,643	14,107	14,336	15,258	16,077	16,873
8	13,990	14,450	14,681	15,604	16,479	17,332
9	14,336	14,797	15,027	15,950	16,880	17,796
10	14,681	15,144	15,374	16,296	17,283	18,256
11	15,027	15,490	15,720	16,641	17,685	18,718 "

(4) Amend Title 14, Subsection 1322(a), Delaware Code, by striking the salary schedule contained in 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	\$10,117	\$10,864	\$11,611	\$12,356	\$13,106	\$13,850	\$14,599
1	10,491	11,236	11,985	12,732	13,477	14,225	14,972
2	10,864	11,611	12,356	13,106	13,850	14,599	15,346
3	11,236	11,985	12,732	13,477	14,225	14,972	15,719
4	11,611	12,356	13,106	13,850	14,599	15,346	16,095
5	11,985	12,732	13,477	14,225	14,972	15,719	16,469
6	12,356	13,106	13,850	14,599	15,346	16,095	16,841
7	12,732	13,477	14,225	14,972	15,719	16,469	17,215
8	13,106	13,850	14,599	15,346	16,095	16,841	17,589
9	13,477	14,225	14,972	15,719	16,469	17,215	17,963
10	13,850	14,599	15,346	16,095	16,841	17,589	18,335
11	14,225	14,972	15,719	16,469	17,215	17,963	18,709
12	14,599	15,346	16,095	16,841	17,589	18,335	19,083
13	14,972	15,719	16,469	17,215	17,963	18,709	19,458
14	15,346	16,095	16,841	17,589	18,335	19,083	19,833
15	15,719	16,469	17,215	17,963	18,709	19,458	20,208 "

(5) 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	\$5.83	\$6.47
1	5.93	6.56
2	6.04	6.66
3	6.12	6.75
4	6.22	6.85
5	6.35	6.99
6	6.46	7.08
7	6.53	7.15
8	6.60	7.22
9	6.68	7.31
10	6.78	7.43
11	6.91	7.54
12	7.02	7.64
13	7.12	7.74
14	7.21	7.83
15	7.31	7.94
16	7.44	8.07
17	7.55	8.16 "

(6) Amend Title 14, Subsection 1324(b), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"(b) Aides actually working and paid ten months per year shall receive annual salaries in accordance with the following schedule:

Years of Experience	Service Aides	Instructional Aides
0	\$ 8,144	\$ 9,958
1	8,414	10,291
2	8,686	10,622
3	8,958	10,955
4	9,230	11,286
5	9,500	11,619
6	9,772	11,950
7	10,044	12,283
8	10,315	12,614
9	10,587	12,947
10	10,058	13,278
11	11,129	13,611
12	11,402	13,942
13	11,672	14,275
14	11,944	14,606
15	12,216	14,939
16	12,487	15,270
17	12,758	15,603
18	13,029	15,934
19	13,302	16,266
20	13,573	16,598

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 schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

Class A - \$58.61 per day
 Class B - \$47.34 per day
 Class C - \$36.05 per day

(n) 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.

(o) Effective July 1, 1990, the state shall pay 38 percent 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 percent 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.

(p) 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.

(q) 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 Block Grants and 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.

(r) Amend Title 14, Section 9219(c), Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(c) The actual Fiscal Year 1994 salary paid to any Salary Plan A employee shall be determined as follows:

(1) Placement on the index for Fiscal Year 1994 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, 1993. Advancement in any of these areas after that date will become effective for salary purposes on July 1, 1994.

(2) For Fiscal Year 1994, the minimum increase for a Plan A employee shall be 1.0 percent of the employee's Fiscal Year 1993 salary."

(s) During Fiscal Year 1994, 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 1994, and salary adjustments shall be granted under the same conditions as listed in Section 8(d)(1), (1), (11), (111) of this Act.

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. The College is authorized to hire at up to 80 percent of the midpoint of an assigned paygrade upon the signature of the appropriate Vice President and Campus Director; hiring beyond 80 percent of midpoint up to 100 percent of midpoint shall require the signature of the College President; hiring beyond the 100 percent of midpoint shall require the signatures of the Budget Director and Controller General.

4. 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.

5. Vacation and sick leave policies shall remain at the discretion of the College.

6. Part-time employees' salaries shall not exceed the hourly rate of the grade assigned to comparable full-time employees.

7. The 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.

8. The 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.

9. The College's flexible benefits plan shall remain at the discretion of the College.

(t)(1) The salary plan for administration 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 (Plan D) 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, Delaware Code;

(b) In addition to the salary received under Title 14, Section 9219, an employee will receive an annual amount for administrative responsibility. That amount will be computed by multiplying the amount provided under Title 14, Section 9219, Delaware Code, by the index volume specified in the schedule below that corresponds with the appropriate classification level and experience level.

ADMINISTRATIVE RESPONSIBILITY INDEX SCHEDULE

	Years in Level	Index
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%

(c) For Fiscal Year 1994, the minimum increase for a Plan D employee shall be 1.0 percent of the employee's Fiscal Year 1993 salary.

(2) The following provisions shall apply during Fiscal Year 1994:

(a) Placement on the Plan A index for the Fiscal Year 1994 shall be based on actual degrees, additional credits and relevant work experience.

(b) Placement on the Administrative Responsibility Index Schedule shall be determined by the employees actual years of experience in the assigned level while in the Administrative Pay Plan at Delaware Technical and Community College.

(c) 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.

(d) 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.

(e) 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 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; except as provided in Title 29, Chapter 51, Section 5112 (b)(3), Delaware Code; or 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 employing agency, with the consent of his/her principal employing agency, and may be paid additional compensation therefore, provided such additional duties are not a part of his/her regular duties for the principal employing agency and not rendered during time paid for by the principal employing agency. All wage payments resulting from the performance of such additional duties, including FLSA overtime, shall be the responsibility of the secondary employing agency unless otherwise authorized by the Budget Director and the State Personnel Director.

Section 10. (a) For the fiscal year ending June 30, 1994, the salaries displayed below represent the salary effective on July 1, 1993.

Budget Unit	Line Item	July 1, 1993	
		General Funds	All Other Funds
(01-01-01)	Representative	\$ 25.4	\$
(01-02-01)	Senator	25.4	
(02-01-00)	Chief Justice - Supreme Court	108.8	
(02-01-00)	Justice - Supreme Court	105.1	
(02-02-00)	Chancellor - Court of Chancery	103.7	
(02-02-00)	Vice Chancellor - Court of Chancery	99.9	
(02-03-00)	President Judge - Superior Court	103.7	
(02-03-00)	Associate Judge - Superior Court	99.9	
(02-03-00)	New Castle County Prothonotary	43.9	
(02-03-00)	Kent County Prothonotary	24.4	
(02-03-00)	Sussex County Prothonotary	24.4	
(02-06-00)	Chief Judge - Court of Common Pleas	102.5	
(02-06-00)	Judge - Court of Common Pleas	97.3	
(02-08-00)	Chief Judge - Family Court	102.5	
(02-08-00)	Associate Judge - Family Court	97.3	
(02-13-00)	Chief Magistrate - Justice of the Peace Courts	71.6	
(02-13-00)	Magistrate - Justice of the Peace Courts	40.6	
(02-17-00)	Director - Administrative Office of the Courts	70.9	
(02-18-00)	Public Guardian	42.1	

(02-18-00)	Executive Secretary - Violent Crimes Compensation Board		41.0
(02-18-00)	Executive Director - Foster Care Review Board	38.7	
(10-01-01)	Governor	95.0	
(10-02-00)	Budget Director	86.4	
(10-02-00)	Executive Director - Higher Education Commission	54.6	
(10-02-00)	Executive Director - Information Systems	81.7	
(10-03-01)	Director - Delaware Development Office	80.7	
(10-03-04)	Director - State Housing Authority		67.9
(10-04-00)	Personnel Director	80.7	
(10-07-01)	Executive Director - CJC	59.7	
(10-07-02)	Executive Director - DELJIS	52.6	
(10-07-03)	Executive Director - SAC	61.6	
(12-01-01)	Lieutenant Governor	38.4	
(12-02-01)	Auditor	66.0	
(12-03-01)	Insurance Commissioner	66.0	
(12-05-01)	State Treasurer	71.6	
(15-01-01)	Attorney General	88.9	
(15-02-01)	Public Defender	71.6	
(15-03-01)	Parole Board Chairman	55.1	
(20-01-00)	Secretary - State	80.7	
(20-02-00)	Director - Human Relations	46.7	
(20-05-00)	Director - Corporations	31.1	31.1
(20-06-00)	Director - Historical and Cultural Affairs	58.8	
(20-07-00)	Director - Arts	44.0	
(20-08-00)	State Librarian	47.3	
(20-15-00)	State Banking Commissioner		74.6
(25-01-00)	Secretary - Finance	86.4	
(25-05-00)	Director - Accounting	66.8	
(25-06-00)	Director - Revenue	77.0	
(25-07-00)	Director - State Lottery		63.6
(30-01-00)	Secretary - Administrative Services	75.2	

(30-01-00)	Executive Director - Public Employment Relations Board	47.8	
(30-03-00)	Executive Secretary - Alcoholic Beverage Control Commission	51.9	
(30-03-00)	Director - Professional Regulation		52.3
(30-03-00)	Director - Public Service Commission		50.6
(30-03-00)	Director - Consumer Affairs	48.1	
(30-03-00)	Public Advocate	50.5	
(30-04-00)	Director - Support Operations		50.7
(30-05-00)	Director - Facilities Management	59.8	
(30-05-00)	Executive Secretary - Architectural Accessibility Board	27.7	
(30-06-00)	Director - Purchasing	53.0	
(35-01-00)	Secretary - Health and Social Services	86.4	
(35-01-00)	Director - Management Services	57.3	6.2
(35-04-00)	Chief Medical Examiner	107.9	
(35-05-00)	Director - Public Health	106.5	
(35-06-00)	Director - Alcoholism, Drug Abuse and Mental Health	91.3	
(35-07-00)	Director - Social Services	37.8	35.0
(35-10-00)	Director - Child Support Enforcement	19.7	35.9
(35-11-00)	Director - Mental Retardation	72.8	
(35-12-00)	Director - State Service Centers	53.8	
(35-12-00)	Director - Community Services	47.1	
(35-14-00)	Director - Aging	53.0	
(37-01-00)	Secretary - Services for Children, Youth, and Their Families	86.4	
(37-01-00)	Director - Administration	61.4	
(37-02-00)	Director - Family Services	68.7	
(37-03-00)	Director - Child Mental Health Services	84.4	
(37-05-00)	Director - Youth Rehabilitation Services	68.7	
(37-08-00)	Director - Planning and Evaluation	60.2	
(38-01-00)	Commissioner - Correction	80.7	
(38-04-00)	Bureau Chief - Prisons	72.8	
(38-06-00)	Bureau Chief - Community Custody and Supervision	58.4	

(40-01-00)	Secretary - Natural Resources and Environmental Control	80.7	
(40-05-00)	Director - Fish and Wildlife	29.9	29.9
(40-06-00)	Director - Parks and Recreation	63.4	
(40-07-00)	Director - Soil and Water Conservation	56.1	
(40-08-00)	Director - Water Resources	67.6	
(40-09-00)	Director - Air and Waste Management	73.1	
(45-01-00)	Secretary - Public Safety	75.2	
(45-01-00)	Director - Emergency Planning and Operations	24.3	24.4
(45-01-00)	Director - Boiler Safety	40.1	
(45-06-00)	Superintendent - State Police	74.2	
(45-06-00)	Assistant Superintendent - State Police	61.4	
(45-07-00)	Director - Motor Vehicles	62.3	
(55-01-01)	Secretary - Transportation		80.7
(55-02-01)	Director - Administration		58.0
(55-03-01)	Director - Transportation Planning		66.2
(55-04-01)	Director - Highway Operations		73.6
(55-06-01)	Director - Delaware Transportation Authority		71.4
(55-07-10)	Director - Pre-construction		73.6
(60-01-00)	Secretary - Labor	7.5	67.7
(60-06-00)	Director - Unemployment Insurance		60.3
(60-07-00)	Director - Industrial Affairs	50.6	
(60-08-00)	Director - Vocational Rehabilitation		60.3
(60-09-00)	Director - Employment and Training	3.9	56.4
(65-01-00)	Secretary - Agriculture	69.3	
(65-01-00)	Deputy Secretary - Agriculture	53.9	
(70-01-01)	Commissioner - Elections	43.2	
(70-02-01)	Administrative Director - New Castle County Elections	42.1	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	41.6	
(70-03-01)	Administrative Director - Kent County Elections	42.1	
(70-03-01)	Deputy Administrative Director - Kent County Elections	41.6	

(70-04-01)	Administrative Director - Sussex County Elections	42.1	
(70-04-01)	Deputy Administrative Director - Sussex County Elections	41.6	
(75-01-01)	State Fire Marshal	\$ 34.3	17.1
(75-02-01)	Director - State Fire School	34.3	17.1
(76-01-01)	Adjutant General	66.3	
(95-01-00)	Superintendent - State Board of Education	101.9	
(95-06-00)	Executive Secretary - Advisory Council on Career and Vocational Education	31.0	31.1

(b)(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(b)(ii) and Section 10(b)(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 State 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 State 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 State 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.

(c) Effective May 1, 1994, 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 1994 and the number of points of any recommended changes for any position for Fiscal Year 1995.

(d) For the fiscal year ending June 30, 1994, the following represent the maximum salaries appropriated within Section 1 of this Act. These maximum salaries may be increased upon approval of the Budget Director and the Controller General to accommodate changes in statutory requirements.

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(10-02-00)	Higher Education Commissioners	\$ 2.4	\$
(10-04-00)	Personnel Commissioners	7.5	

(10-04-00)	Board Members - Pensions	9.6
(15-03-01)	Board Members - Parole	15.0
(20-02-00)	Board Members - Human Relations	2.5
(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	71.2
(30-03-00)	Board Members - Public Service Commission	80.0
(30-03-00)	Board Members - Consumer Affairs	3.5
(30-05-00)	Board Members - Architectural Accessibility Board	2.3
(38-04-00)	Board Members - Institutional Classification	12.0
(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

(e) Amend Title 29, Section 710, Delaware Code by deleting subsection (c) in its entirety and substituting in lieu thereof the following:

"(c) Any member of the Senate or the House of Representatives who is elected or appointed to any of the following positions shall, while serving in such position, receive additional yearly compensation as follows:

(1) President Pro Tempore of the Senate	\$10.4
(2) Speaker of the House of Representatives	10.4
(3) Majority and Minority Leader of the Senate	8.1
(4) Majority and Minority Leader of the House	8.1
(5) Chairperson and Vice Chairperson of the Joint Finance Committee	7.5
(6) Majority and Minority Whip of the Senate	5.1
(7) Majority and Minority Whip of the House	5.1
(8) Members of the Joint Finance Committee	6.3

If a member serving in any of the leadership positions, described in paragraphs (1), (2), (3), (4), (6) and (7) of this subsection, shall be elected or appointed to the position of Chairperson or Vice Chairperson or member of the Joint Finance Committee, such member shall be entitled to either the additional compensation provided in paragraphs (1), (2), (3), (4), (6) and (7) of this subsection or the additional compensation provided for in paragraphs (5) or (8) of this subsection, but not both. Payments shall commence immediately when such member is elected or appointed to such position."

Section 11. Salaries and wage rates for State employees who are not covered by the provisions of Title 14, Chapter 13, Delaware Code, or by the Merit System, excluding employees of the General Assembly - House or the General Assembly - Senate, Uniformed State Police, employees of the University of Delaware, employees of Delaware State College, employees of Delaware Technical and Community College who are paid on the Administrative Salary Plan or Salary Plan A, members and employees of the Delaware National Guard and

employees whose salaries are governed by Section 10 of this Act, shall have the following:

(a)(1) 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, 1993, 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 Sections 8(c) and (d) of this Act and Merit System Rules 13.0110 and 5.0900 through 5.0931; no other salary increases shall be given to such employees unless specifically authorized in this Act.

(11) Positions authorized by this Act in accordance with Title 29, Section 5903(5) shall retain the paygrade comparability authorized by Volume 68, Chapter 290, Laws of Delaware, formerly Senate Bill No. 444, Section 11. Any changes in paygrade comparability must be approved by the Personnel Director, Budget Director and Controller General.

(b) The salary of employees whose salary in effect as of June 30, 1993, 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 increase contained 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.

(d) Merit rules 5.0900 through 5.0931 and the applicable appeal rights provided in Title 29, Section 5915, Delaware Code, shall apply retroactively to any employee who was an incumbent in a merit comparable position that was reviewed for class/paygrade comparability with an effective date of July 1, 1990, or July 1, 1991.

Section 12. The payment of hazardous duty pay to selected casual/seasonal employees by the Department of Correction and the Department of Services for Children, Youth and Their Families has been provided in accordance with all applicable statutes.

Section 13. 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 funds and special funds, termination pay shall be on a pro rata basis. The intent of this Section is that if any school district charges their local share to Division III - Equalization Funds, that for termination pay purposes only, these funds are considered special funds. Exceptions to this method of payment must have the approval of the Budget Director and the Controller General. All agencies shall absorb termination pay within the appropriations set forth in Section 1 of this Act.

Section 14. 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 15. 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 the Controller General. Copies of these transfers shall be sent to the Controller General after entry into the State's accounting system.

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. Those agencies which receive energy funding in Section 1 of this Act or are housed in State owned or rented facilities must comply with the following heating and air conditioning guidelines during Fiscal Year 1994.

(1) Operate heating systems with temperatures not to exceed 67 degrees during normal working hours. Temperatures shall also not exceed 55 degrees in those facilities during unoccupied times including the non-business hours of 5:00 p.m. to 7:30 a.m. workdays, weekends and holidays. Whenever possible, doors to unused rooms should be closed and heat controls for those areas set to the minimum temperature of 55 degrees.

(2) Operate air conditioning no more than is necessary to maintain a temperature of 78 degrees between the hours of 8 a.m. and 5 p.m. during normal working days. During non-working hours, weekends and holidays the air conditioning temperature should be no less than is required to maintain the integrity and operation of the system.

(3) Schools, health care and correctional facilities are exempt from these restrictions if such temperatures threaten life, health or safety; however, some adjustment toward these settings should be applied. Further, when heating and cooling systems permit, administrative areas of such facilities should be operated at the temperatures stated in this section. Additionally, any room or area that houses computer mainframe equipment or other equipment that requires precise climate controlled conditions in order to operate efficiently shall also be exempt.

These actions are necessary in order to allow the State to reduce its annual energy consumption and to ensure that each agency can cover its energy needs within the appropriation contained in Section 1 of this Act.

Section 18. Section 1 of this Act provides funding for a State employee pension rate of 10.58 percent. The components of the rate are approximately 6.08 percent for the pension liability, 3.80 percent for the retiree health insurance liability and .70 percent for the Post-retirement Benefit Fund. The 1991 Early Retirement Option (ERO) accounts for approximately .81 percent of the pension liability and .76 percent of the retiree health insurance liability.

Section 19. 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, the Budget Director and the concurrence of the Controller General.

Section 20. 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. Those agencies which are budgeted energy as a result of occupying a portion of a host facilities property, and do not directly pay energy bills, may not transfer energy funds other than to the host agency.

Section 21. All State agencies are directed to remit payment for services rendered by the Division of Support Operations (Mail/Courier Services, Telephone Services, Graphics and Printing and Fleet Management) within 30 days after receipt of invoice. Services may include postal metering, paper supplies, facsimile, printing, telephone, photocopiers, printing and vehicle rental, Carvel Building Parking, vehicle fuels, etc.

Section 22. All outside 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 Title 29, Chapter 69, Delaware Code.

Section 23. 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 24. 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 25. It is hereby directed that the Indirect Cost Recovery Program, Office of the Budget, may recover indirect costs from non-federal special funded regulatory and service agencies. Costs that are allocated to a State agency under this authority shall be billed to the State agency, and the cost is payable to the general fund of the State. The source of payment for the billed indirect cost shall be any revenue source except the general fund. If the billed agency is authorized to bill and recover direct expenses, the agency shall recover indirect costs in the same manner. The effort initiated in Fiscal Year 1993 covering State Banking Commission, Professional Regulation, Public Service Commission and Emergency Planning and Operations shall continue in Fiscal Year 1994.

Section 26. Notwithstanding the provisions of Title 29, Section 6340(a), Delaware Code, Section 1 of this Act summarizes salary and wage and other employment costs related to those salaries and wages for agencies which remain part of the Zero Based Budget process into a single line entitled "Personnel Costs."

Section 27. Amend Section 5201(a), Title 29, Delaware Code by deleting the last sentence and substituting in lieu thereof the following "An employee appointed to temporary, seasonal or limited-term positions and members of boards and commissions who were not receiving coverage under the State group health insurance contract on January 1, 1993, shall not be considered a "regular officer or employee" for the purposes of this chapter."

Section 28. Amend Title 29, Chapter 69, Subsection 6912(a) of the Delaware Code by deleting in the first sentence the amount of "\$5,000" and inserting in its place the amount of "\$10,000".

Section 29. The Flexible Benefit Plan Study Commission as originally created by Senate Concurrent Resolution No. 89 of the 135th General Assembly and continued under House Concurrent Resolution No. 20 of the 137th General Assembly shall be expanded to include the Budget Director and the Controller General. The State Personnel Director shall also be appointed co-chair of the commission.

Section 30. For the fiscal year ending June 30, 1993, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1994.

Fiscal Year Appropriation	Account Codes	Remarks
1993	(01-05-01-01-40)	Travel
1993	(01-08-02-01-50)	Contractual Services
1991	(01-08-02-01-80)	Taskforce on Juvenile Detention
1993	(01-08-02-01-84)	Contingency - NCSL
1991	(02-02-10-01-98)	Historical Records Reproduction - Kent County
1992	(02-08-10-01-80)	Civil Case Management
1992/93	(10-02-01-01-82)	Computer One-times
1992/93	(10-02-01-01-85)	Development Fund
1992/93	(10-02-01-01-91)	Budget Automation
1992/93	(10-02-13-01-99)	Special Projects
1993	(10-02-04-01-83)	Self Insurance
1993	(10-02-04-01-85)	Legal Obligations
1990	(10-02-09-01-98)	Equipage-Expansion of Facilities
1991/92/93	(10-02-15-01-99)	Development Special Projects
1993	(10-05-01-01-82)	Program Evaluation
1993	(10-05-01-01-80)	Pilot Projects
1993	(25-01-01-01-85)	Systems Development
1990	(30-05-10-01-81)	Real Estate

1993	(35-01-20-01-85)	Systems Development Funds for Access to Children Program
1993	(35-07-01-01-98)	Development Funds for Access to Children
1992	(37-01-10-01-85)	Legal
1992/93	(37-08-20-01-85)	Information Systems
1993	(40-06-03-01-98)	Port Penn
1992	(40-09-02-01-80)	SARA III
1993	(40-09-02-01-80)	Right-to-Know
1986	(45-01-01-03-81)	Hazardous Waste Revolving Fund
1993	(95-03-10-01-82)	New Directions
1993	(95-03-10-01-83)	Professional Acc. & Inst. Adv. Fund
1993	(95-03-10-01-91)	Professional Development
1993	(95-03-20-01-53)	Preschool Handicapped Program
1993	(95-04-01-01-90)	Pupil Transportation - Video Camera
1992	(95-32-00-01-88)	Principal of the Year
1990	(95-34-00-01-88)	Principal of the Year

LEGISLATIVE

Section 31. Of the total positions authorized in Section 1 of this Act for the Division of Research (01-08-01), the position of Research Assistant to the House and Senate Sunset Standing Committees shall be an exempt position and shall report to the Director.

Section 32. Section 1 of this Act provides an appropriation to the Office of the Controller General (01-08-02) for Personnel Costs. Requests from Chairmen of Standing Legislative Committees for professional staff assistance shall be submitted to the Legislative Council for approval or disapproval. Approvals for professional staff assistance shall be allowed within the limits of the appropriation and as provided by guidelines established by the Legislative Council.

Section 33. Section 1 of this Act provides an appropriation to the Office of the Controller General (01-08-02) for Contingency - Legislative Council. Requests from various task forces and committees of either the House of Representatives or the Senate for travel expenses, meeting expenses, contractual services and any other expenses shall be submitted to the Legislative Council for consideration.

Section 34. The Hay points and the salary schedule for the Controller General shall be calculated in a manner comparable to division directors.

JUDICIAL

Section 35. Section 1 of this Act includes appropriations of: \$510.0 and 10.0 FTEs to the Superior Court (02-03-10), \$40.3 and 2.0 FTEs to the New Castle County Prothonotary (02-03-50), and \$28.8 to the Office of the Budget, Contingency and One-Time Items (10-02-04), all to provide 10-month funding for two Superior Court Judgeships. Additionally, \$23.1 and 1.0 FTE are appropriated to the Family Court (02-08-10) to begin a Domestic Violence Intervention Program in the City of Wilmington and \$152.4 and 3.0 FTEs are appropriated for chief security officers and contract security in the Justice of the Peace Courts (02-13-10). Section 1 of this Act also appropriates 1.0 FTE, a Presentence Officer position in Superior Court (02-03-10), which is currently being supported with a federal grant that will expire on June 30, 1993. These appropriations are contingent upon passage of legislation that would increase general fund revenue from Justice of the Peace Court criminal court costs by an estimated \$1,863.0 annually, beginning in Fiscal Year 1994. Therefore, should such legislation not be enacted, the above appropriations are deauthorized.

In addition, the two Superior Court Judges are subject to enactment of legislation. Should the increases in fees be enacted but authorization for the Judges and/or Court Commissioners not be enacted, the corresponding appropriations will be transferred to the Budget Office Contingency.

Section 36. Section 1 of this Act authorizes five (5.0) new positions with associated appropriations to the Court of Common Pleas (02-06-10). These positions are to be Clerks and assigned as follows:

(2.0) Clerks to New Castle County

- (1.0) Clerk to Kent County
- (2.0) Clerks to Sussex County

Section 37. 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 38. Section 1 of this Act authorizes two (2) new general fund positions and appropriates \$100.0 for the Family Court (02-08-10). Said positions shall be Court Commissioners, and their authorization is contingent upon the enactment of House Bill No. 49. Should said legislation not be enacted during the 137th General Assembly, said positions shall be deauthorized.

Section 39. Section 1 of this Act contains position authorizations and associated appropriations to the Justices of the Peace Courts (02-13-10) included exclusively for the purpose of maintaining business hours in the following courts as specified:

J.P. Court #2 (Lewes)	10 eight-hour shifts per week
J.P. Court #4 (Seaford)	10 eight-hour shifts per week
J.P. Court #10 (Prices Corner)	12 eight-hour shifts per week
J.P. Court #15 (Penny Hill)	10 eight-hour shifts per week

Section 40. Section 1 of this Act authorizes one (1.0) new general fund position and appropriates \$21.0 for the Justice of the Peace Courts (02-13-10). Said position shall be a Clerk for Sussex County.

Section 41. Section 1 of this Act contains a one-time appropriation for the Administrative Office of the Courts - Office of the Director (02-17-01) within the Office of the Budget - Contingency and One-Time Items (10-02-04) labeled "Senate Joint Resolution No. 14". This appropriation is contingent upon the enactment of Senate Joint Resolution No. 14 and should Senate Joint Resolution No. 14 not be enacted during the 137th General Assembly, the appropriation shall revert to the general fund.

Section 42. Section 1 of this Act authorizes one-half (.5) new position with an associated appropriation of \$16.7 to the Office of the Public Guardian (02-18-01). This partial position is intended to convert a part-time position to a full-time position.

EXECUTIVE

Section 43. (a) The appropriation in Section 1 of this Act to the Office of the Budget (10-02-01) for Data Processing - Development Projects contemplates information technology planning, development and procurement services for the following State department/agencies development projects and feasibility studies:

<u>DEPARTMENT/AGENCY</u>	<u>SERVICE NEED</u>
Executive	
Office of the Budget	State-wide Maintenance/Enhancements
Office of State Personnel	State-wide Human Resource Management System
Finance	Information System Enhancements
Public Safety	Information Systems - Clean Air Act
Services for Children, Youth and Their Families	CYCIS System Enhancements

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 1994 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.

Section 44. The amount appropriated to the Office of the Budget, Contingency and One-Time Items, Prior Years' Obligations, shall be used to pay Personnel 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 by any agency receiving funds in Section 1 of this Act, in excess of the amount reverted from the applicable line code on June 30 of the fiscal year in which the expense was incurred, 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 B111, Delaware Code.

Section 45. During Fiscal Year 1994, Title 29, subsection 6903(d) is waived for the purpose of contracting for heating oil and gasoline price caps only. The Division of Purchasing will be required to advertise for companies interested in bidding on the capping of heating oil and/or gasoline prior to the bidding periods. After the interested companies have become qualified and registered, the Office of the Budget may initiate or stop daily bid requests with a notice of at least twenty four (24) hours. Hedging may take place at any time during the fiscal year coinciding with favorable market conditions. Nothing in this Section waives other requirements under Title 29, Chapter 69 of the Delaware Code.

Section 46. (a) The sum of \$200.0 has been withdrawn from the various heating oil using agencies, excluding the University of Delaware, in Section 1 of this Act for the purpose of entering into a contract or contracts to cap the price which the State will have to pay for numbers 2, 4, and 6 heating oils during the heating season of 1993/1994. The Office of the Budget will be responsible for negotiating the contract/s necessary to cap the State's heating oil prices at the most favorable advantage possible within the budgeted

sum appropriated for this purpose. In the event the Energy Contingency and the hedging contract receipt funds are of a sufficient amount after meeting the agencies and the School Districts needs per the epilogue of this legislation, the Budget Office (10-02-01) may enter into Fiscal Year 1995 heating oil hedging contract/s.

(b) The Office of the Budget will be responsible for the collection of any funds that are due the State via the capping contract/s. The funds generated by the capping contract/s will be administered from a fund established in the Office of the Budget, to contract covered agencies which use heating oils and have a demonstrated need for additional energy funds during Fiscal Year 1994. Any funds remaining at the end of the fiscal year will revert to the general fund with the exception of contract or received funds for the portion of the contract related to the Department of Transportation. Any surplus contract funds or funds received for the Department of Transportation portion of the contract shall be returned to the Department of Transportation in a timely manner.

(c) In the event that funds are collected by the State from the heating oil hedging contract/s, the portion due the Public School Districts shall be distributed using the State Board approved Division II unit count for each district. The distributed amount shall be in addition to the energy appropriations for each district authorized in Section 1 of this Act.

(d) During Fiscal Year 1994, the Office of the Budget may hedge diesel and/or gasoline related to public education transportation costs. Hedging will not affect the gasoline formula paid to school bus contractors.

Section 47. (a) The continuing analysis of the State-wide energy data has led to adjustments to all heating oil prices and almost all gas and electricity prices. The adjustments have been developed by agencies, the University of Delaware and the school districts. The Office of the Budget shall make, at the discretion of the Budget Director, the necessary adjustment to accommodate the new energy values while loading the Fiscal Year 1994 Budget into the State accounting system.

(b) In the event that adjustments for new energy values are made, the energy lines of the Department of Transportation TTF will be adjusted and equivalent offsetting adjustments will be made to the contractual/supplies lines.

Section 48. Section 1 of this Act contains \$250.0 in a line titled Contingency: Energy. This funding shall be used, as needed, for those agencies that are Dover Electric customers, and which are budgeted energy based on consumption units, KWH in this case. Further, no agency may receive funds from this contingency before May of Fiscal Year 1994. Eligibility to receive funding shall be based on the average cost per KWH experienced through and including the February 1994 billings versus the budgeted KWH price. The averages will be maintained using the same facility groupings used to develop the appropriations in Section 1 of this act, as listed on the Fiscal Year 1994 BUD 50 forms. Once the available funds are disbursed, no additional funding will be available for this purpose during Fiscal Year 1994.

Section 49. For Fiscal Year 1994, Title 29, Chapter 65, Section 6529, Delaware Code is interpreted to include the ability to implement a hiring review process. All State agencies with the exception of Legislative, Judicial, Higher Education and School Districts shall be subject to the provisions of Section 6529 as interpreted by this section. Implementation of a hiring review process shall require all positions to be reviewed and approved by the Budget Director and the State Personnel Director prior to filling. All non-cabinet agency hiring requests shall also require the review and approval of the Controller General prior to filling.

Section 50. Amend Title 29, Chapter 64, Subsection 6410(b) of the Delaware Code by inserting in the first sentence between the words "classified" and "positions" the words "full time equivalent" and by deleting from the same sentence the words "and temporary and/or casual and seasonal personnel."

Section 51. The appropriation in Section 1 of this Act to the Office of the Budget - Contingency and One-Time Items (10-02-04) for Contingency - Appropriated 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 52. (a) 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, 1994. It is the intent that the appropriation for One-Time Appropriations in the amount of \$24,897.6 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 43 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 1995 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:

<u>DDS</u>	<u>Amount</u>	<u>Purpose</u>
01-08-02	5.2	Senior Center Formula Update
01-08-02	59.0	Computer Related Equipment
01-08-02	10.0	Eastern States Legislative Fiscal Officers Conference - Delaware
02-03-10	28.8	Furniture and Computer Equipment
02-03-10	32.8	Furnishings - Sussex County Courthouse
02-06-10	18.9	Furnishings - Sussex County Courthouse
02-13-10	33.0	Physical Security Measures
02-17-01	400.0	Civil Case Management
02-17-01	100.0	Senate Joint Resolution No. 14
02-18-03	19.0	Ivy Davis Scholarship
10-02-15	300.0	Inter-network Electronic Highway
10-03-02	45.0	Flags and Pins
10-03-02	50.0	Main Street Revitalization Program
10-03-04	2,000.0	Housing Development Fund
10-07-02	60.0	Data Base Verification
10-07-02	741.8	Integrated Case Management
12-05-01	10.0	Computer Equipment
12-05-01	40.0	Flexible Benefits Study
15-01-01	65.0	Computer Equipment
15-01-01	10.8	Applications Development
15-01-01	15.0	Printers
15-01-01	18.0	Envelope/Letter Machine
15-02-01	50.0	Computer Equipment
15-02-01	2.9	Polygraph Training
15-03-01	2.0	Computer Equipment
20-01-02	1.0	Computer Equipment & Software
20-01-03	10.0	Air Compressor & Jackhammer
20-01-03	19.5	Dump Truck
20-05-01	400.0	Delaware Corporations Information System
20-05-01	750.0	Computer Imaging System
20-06-02	20.0	Legislative Tape Preservation
20-06-03	7.9	Vehicle
20-06-04	12.0	Historical Markers
20-06-04	24.0	Maintenance Truck
20-06-04	25.0	Sewell Biggs
20-08-02	172.0	DELNET
20-08-02	7.0	SARA Title 3 Library Computer Initiative
30-05-10	6,820.4	Minor Capital Improvements
30-05-20	7.0	Security Access System
35-01-20	2,010.0	Minor Capital Improvements/Equipment
35-04-01	180.0	DNA Testing Equipment
35-07-01	300.0	Drug Utilization Review and Clinical Laboratory Improvement Amendment
35-07-01	300.0	Medicaid Hospital Reimbursement Methodology
35-08-01	22.0	Adaptive Equipment for School Children

35-08-01	15.0	Cargo Van
35-11-30	50.0	POST 21 Program
38-04-07	2.0	Tools
38-04-07	19.5	Dump Truck
40-05-04	32.0	Two Vehicles
40-05-04	2.5	Computer
40-08-05	17.9	Computer Network - Georgetown Office
45-01-10	3.6	Computer
45-01-20	9.0	Tower Light
45-01-20	6.5	Testing Equipment
45-01-20	4.5	Computer
45-06-01	5.0	Electronic ID Camera - Supplies
45-06-11	159.2	Ten Patrol Vehicles
45-07-01	16.6	Computer/Furniture
45-07-10	36.0	Computer/Printer/Forms Change
60-07-01	16.3	Furniture & Equipment - Downstate Office
60-07-01	1.1	Automobile - Downstate Office
60-07-02	5.7	Furniture & Equipment - Downstate Office
60-07-02	9.9	Automobile - Downstate Office
65-01-03	30.0	Dump Truck
65-03-03	14.0	Vehicle
65-03-03	39.0	Mobile Trailer Mounted Prover Systems
65-04-08	2.2	Digital Scales
70-01-01	1.0	Office Furniture & Equipment
70-01-01	12.0	Vehicle
70-01-01	3.0	Computer Equipment & Software
70-02-01	18.8	25 Locked Binders
70-02-01	4.6	Filing Cabinets
70-02-01	.9	Office Furniture & Equipment
70-02-01	.5	Computer Terminals
70-02-01	18.5	25 Voting Machines
70-03-01	3.8	5 Locked Binders
70-03-01	.2	Filing Cabinets
70-03-01	.2	Office Furniture & Equipment
70-03-01	.5	Computer Terminals
70-03-01	3.7	5 Voting Machines
70-04-01	5.2	7 Locked Binders
70-04-01	.2	Filing Cabinets
70-04-01	.2	Office Furniture & Equipment
70-04-01	.5	Computer Terminals
70-04-01	5.2	7 Voting Machines
75-01-01	6.0	3 VCR Camcorders
77-01-01	2.0	Computer Equipment
90-01-01	100.0	Library Materials/Building Modifications
90-01-02	5.0	Well Grouting Equipment
90-01-02	17.0	Vehicle
90-01-02	40.0	Chiller
90-03-01	100.0	Minor Capital Improvements/Equipment
90-03-01	900.3	Minor Capital Improvements
90-04-02	50.0	Capital/Library Materials/Minor Capital Improvements
90-04-02	500.0	Minor Capital Improvements
90-04-04	50.0	Building Modifications/Equipment
90-04-04	482.0	Minor Capital Improvements
90-04-05	50.0	Building Modifications/Equipment
90-04-06	50.0	Capital/Library Materials/Minor Capital Improvements
90-04-06	289.2	Minor Capital Improvements
95-01-02	4,750.0	Minor Capital Improvements/Equipment
95-01-02	1,073.8	Annual Maintenance
95-03-15	30.0	Tech - Prep 2 + 2
95-03-15	43.3	Sterck School Computer Plan
95-03-15	25.0	Estuary Model - Christina
95-04-01	552.5	School Buses

(b) Subsection (a) of this Section allocates \$6,820.4 to the Department of Administrative Services (30-00-00). These funds shall be expended for minor capital improvements and equipment on behalf of the following State agencies:

Department of State	\$ 232,900
Department of Administrative Services	3,804,000
Department of Services for Children, Youth and Their Families	122,500
Department of Correction	1,970,000
Department of Natural Resources and Environmental Control	307,900
Department of Public Safety	139,800
Delaware National Guard	243,300

(c) A portion of the funds allocated to the Department of Administrative Services in Subsection (b) of this Section shall be used to install a rear exit, sprinkler system and any other critical renovation to the current State Records Center deemed necessary to ensure the safety of the Center employees, visitors and records.

(d) A portion of the funds allocated to the Department of Administrative Services in Subsection (b) of this Section shall be used for renovations to the Department of State, Division of Corporations Townsend Data Center.

(e) It is the intent of the General Assembly that the sum of \$4,750,000 allocated in Subsection (a) of this Section to the State Board of Education (95-01-02) 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:

<u>School District</u>	<u>Maximum State Share</u>	<u>Maximum Local Share</u>	<u>Total Cost</u>
Appoquinimink	\$ 119,176	\$ 79,451	\$ 198,627
Brandywine Special	467,275 19,974	311,517 -0-	778,792 19,974
Christina Special	756,749 45,327	504,499 -0-	1,261,248 45,327
Colonial Special	419,798 15,086	279,865 -0-	699,663 15,086
New Castle Vo-Tech	226,563	-0-	226,563
Red Clay Special	586,744 30,730	391,163 -0-	977,907 30,730
Caesar Rodney Special	213,377 9,219	142,251 -0-	355,628 9,219
Capital	266,344	177,563	443,907
Kent Vo-Tech	62,088	-0-	62,088
Lake Forest	143,690	95,793	239,483
Milford	156,303	104,202	260,505
Smyrna	131,077	87,385	218,462
Cape Henlopen Special	161,960 8,870	107,973 -0-	269,933 8,870
Delmar	26,609	17,739	44,348
Indian River Special	279,083 10,616	186,055 -0-	465,138 10,616
Laurel	90,807	60,538	151,345

Seaford	145,659	97,106	242,765
Special	3,073	-0-	3,073
Sussex Vo-Tech	80,806	-0-	80,806
Woodbridge	<u>72,997</u>	<u>48,665</u>	<u>121,662</u>
MINOR CAPITAL IMPROVEMENTS	\$4,550,000	\$2,691,765	\$7,241,765
STATE BOARD OF EDUCATION	\$ 115,000	76,667	191,667
VOCATIONAL EQUIPMENT	<u>\$ 85,000</u>	<u>56,667</u>	<u>141,667</u>
TOTAL	<u>\$4,750,000</u>	<u>\$2,825,099</u>	<u>\$7,575,099</u>

(f) Funds allocated in Subsection (a) of this Section to (90-04-04) in the amount of \$482.0 shall be used for minor capital improvements and equipment for the Wilmington and Stanton Campuses.

(g) Subsection (a) of this Section allocates \$2,010.0 to the Department of Health & Social Services, Division of Management Services (35-01-20). Of that amount, the Department of Health & Social Services shall replace the following roofs:

Lower Kensington Building at Governor Bacon
Detox Building at Kirkwood Highway

Section 53. Amend Title 29, Chapter 63, Subsection 6312(a) of the Delaware Code by deleting the second sentence in its entirety and replacing it with, "The Budget Commission shall meet upon the call of the chairman to review for approval agency requests presented to the Commission as prescribed by the laws of this State."

Section 54. Section 1 of this Act makes an appropriation to the Delaware Higher 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; \$170.0 shall be used for scholarship/loans for the Christa McAuliffe 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; and \$45.0 shall be used for the B. Bradford Barnes Scholarship Program.

Section 55. Listed below are the allocations of Office of Information Systems services for Fiscal Year 1994.

Agency	Fiscal Year 1994 Projections	
	General Funds	Other Funds
Legislative	\$ 52.0	\$
Judicial	378.0	
Executive	1,500.0	164.9
Other Elective Offices	347.0	
Legal	160.0	
State	1,010.0	150.0
Finance	5,500.0	
Administrative Services	100.0	50.0
Health and Social Services (Dover)	25.0	12.0
Health and Social Services (Biggs)	1,127.1	974.1
Children, Youth and Their Families (Biggs)	109.0	
Correction	170.0	176.0
Natural Resources and Environmental Control	40.0	
Public Safety	690.0	
Transportation		350.8
Labor	70.0	
Agriculture	7.0	
Elections	500.0	
Fire Prevention Commission	4.5	
National Guard	.7	
Higher Education	62.0	
Public Education	<u>245.0</u>	
Total	\$ 12,097.3	\$ 1,877.8
GRAND TOTAL	<u>\$ 13,975.1</u>	

Section 56. Section 1 of this Act appropriates \$55.0 for Other Items to Delaware Economic Development Authority (10-03-03). Of this amount, \$15.0 shall be allocated for the Delmarva Advisory Council.

Section 57. (a) Section 1 of this Act appropriates to the State Housing Authority (the "Authority") \$5,248.7 for its Fiscal Year 1994 Discretionary Operating Expenses. Discretionary Operating Expenses include Personnel 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.

(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.

Section 58. Section 1 of this Act appropriates \$699.3 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 59. Section 1 of this Act appropriates \$699.3 to the State Housing Authority (10-03-04) for Contractual Services. Of this amount, \$15.0 shall be used for awards for the Affordable Housing Design Competition conducted in partnership with the Delaware Society of Architects.

Section 60. Section 1 of this Act appropriates \$240.1 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 61. Section 1 of this Act provides 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). The position will support Statewide training programs for State managers, supervisors and employees. It is the intent of this Act to support these Statewide training programs, in part, with funds generated from the assessment of charges for courses on agencies participating in certain classes held by the Office of State Personnel. The Office of State Personnel may set charges for courses to sustain or create training programs with the funds placed in an Appropriated Special Fund account established by the Budget Director.

Section 62. 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, 1994, to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, its findings and recommendations.

Section 63. 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 percent, the Board of Pension Trustees, in its sole discretion, may transfer the excess over 20 percent or any part of it to the State Employees Pension Fund for the benefit of that Fund.

Section 64. The Board of Pension Trustees may allocate the pension/health insurance monies received from the State during any month to ensure that funds are available to pay health insurance premiums for retirees in each month.

Section 65. Amend Title 29, Section 5201, Delaware Code by adding thereto a new subsection to read as follows:

"(d) The Group Health Insurance Committee shall be comprised of the Insurance Commissioner, the State Treasurer, the Budget Director, the Controller General and the State Personnel Director. The State Personnel Director shall be the agent of the State to enter into a contract with the carrier or carriers for group insurance for State employees and pensioners."

Section 66. Amend Title 29, Section 5203, Delaware Code by deleting subsection (c) and inserting in lieu thereof the following:

"(c) In accordance with the guidelines set forth in subsections (a) and (b) of this section, the Group Health Insurance Committee shall review group insurance proposals of prospective carriers."

Section 67. Amend Title 29, Section 5204, Delaware Code by deleting subsection (c) and inserting in lieu thereof the following:

"(c) The Group Health Insurance Committee, after reviewing competitive group plans, shall select the carrier or carriers deemed to offer the best plan or plans to satisfy the interest of the State, its employees and pensioners in carrying out the intent of this chapter."

Section 68. Amend Title 29, Section 5205, Delaware Code by deleting the section in its entirety.

Section 69. Section 1 of this Act authorizes a continuing appropriation for the Delaware Health Care Commission for Program Evaluation (10-05-01-01-82). A portion of these funds shall be used to undertake an independent study to catalog and analyze current State spending on programs and services for children for the purpose of identifying duplication of efforts and gaps in service. The Commission shall report by June 1, 1994, to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, its findings and recommendations.

Section 70. Section 1 of this Act appropriates \$50.0 to the Office of the Budget Contingency and One-Time Items (10-02-04) for the Family Services Cabinet Council. These funds may be used by the Cabinet Council to develop the following policy initiatives:

1. Determine how to measure and report on the status of children and families to assist, evaluate and track State and County-wide services related to child and family well-being;
2. Determine how to use collected tracking information to inform decision-makers concerning policies affecting children and families in Delaware and to strengthen public action on behalf of children and families with the State;
3. Identify additional funds from Federal and private sources to maximize the resources of the State to enhance the well-being of children and families;
4. Create an on-going forum and process to facilitate integrative, collaborative planning of programs and services for children and families within Delaware.
5. The Family Services Cabinet Council is authorized to receive and spend non-State and non-Federal money for the purposes listed above. Any such funds received shall be set-up in an account to be administered by the Office of the Budget.

The Cabinet Council is encouraged to explore with University of Delaware and Delaware State College to determine how these institutions can participate consistent with their land-grant mission.

The goal of this continuing effort, and the area in which its ultimate value will be realized, will be in the forging of a sustained, collaborative research-extension-public policy linkage that will improve public accountability for children and families in Delaware.

Section 71. The Fiscal Year 1993 Budget Act authorized 2.0 general fund positions to the Criminal Justice Council (10-07-01) to implement a pilot Treatment Alternatives to Street Crime program contingent upon receipt of grant funding. Adjustments in the Fiscal Year 1994 Budget Act reflect 1.5 general fund positions associated with this program. The positions shall be deauthorized and associated general funds transferred to the Budget Office, Contingency and One-Time Items, Legal Fees (10-02-04) if grant support expires.

Section 72. Section 1 of this Act makes an appropriation to the Office of the Budget, Contingency and One-Time Items (10-02-04) for DELJIS (10-07-02), for database verification and integrated case management. Of the \$741.8 for integrated case management, \$303.2 shall be allocated to the Court of Common Pleas, \$255.4 shall be allocated to Superior Court and \$183.2 shall be allocated to Municipal Court. At the request of the agency, these amounts may be reallocated among the projects listed with the approval of the Budget Director and the Controller General.

Section 73. Section 1 of this Act authorizes one (1.0) NSF position number 62851 for the Statistical Analysis Center (10-07-03) to be funded by a grant from the National Institute of Justice. Should federal funding expire during Fiscal Year 1994, this position shall be deauthorized.

Section 74. Position Number 2092 within the Statistical Analysis Center (10-07-03) will remain vacant during Fiscal Year 1994 unless hiring approval is granted by the Budget Director and Controller General.

Section 75. The duties of the State Personnel Director shall include the administration and management of a State-wide human resource information system and upon implementation, serve as the administrator of all data and processes supported by the system throughout the State, including all government agencies, school districts, Delaware State College and Delaware Technical and Community College.

Section 76. Amend Title 29, Chapter 69, Section 6903(k), Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"(k) Every State department and agency within the Executive Branch and Judicial Branch of the State government shall procure all material, equipment and nonprofessional services through the Statewide contracts administered by the Division of Purchasing, Department of Administrative Services. The operations and programs funded in whole or in part by the Delaware Transportation Authority, the Transportation Trust Fund or the operations funded by Public School Districts, the Legislative Branch or the Board of Pension Trustees and their consultants, are specifically excepted from the requirements of this subsection."

OTHER ELECTIVE OFFICES

Section 77. Of the total positions authorized in Section 1 of this Act for the Auditor of Accounts (12-02-01), the position of Community Relations Officer shall be exempt from classified service.

Section 78. 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 1994, 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 79. Amend Title 29, Chapter 29, Subsection 2906(d) of the Delaware Code by inserting in the first sentence a colon ":" immediately following the word "charged" and delete the balance of the subsection appearing after the newly placed colon and insert new subsections:

- "(1) to general fund appropriations of the General Assembly to the Office of Auditor of Accounts for Audits of general fund activity;
- (2) to capital appropriations of the General Assembly to the several agencies for audits of capital fund activity; and
- (3) to general fund appropriations and/or special fund accounts for audits of special fund activity. If there is any question as to the proper accounts to be charged, the question shall be resolved by agreement between the Auditor of Accounts and the Budget Director."

Section 80. Amend Title 18, Section 3207, Delaware Code by deleting the phrase "State Insurance Commissioner" and substituting in lieu thereof the phrase "State Personnel Director".

Section 81. Section 1 of this Act contains a new Appropriated Special Fund position authorization for the Bureau of Examination, Rehabilitation and Guaranty (12-03-02). Said position authorization shall be for one (1) new Executive Assistant position which shall be exempt.

Section 82. Section 1 of this Act contains appropriated Special Fund position authorizations and associated appropriations for the Bureau of Examination, Rehabilitation and Guaranty within the Insurance Commissioner's Office. Said authorizations and appropriations do not include an authorization and appropriation for an Insurance Economic Development Officer, but do include an authorization for one (1.0) new Director of Administration with an associated appropriation of \$64.0.

Section 83. Section 1 of this Act provides a special fund appropriation of \$1,391.6 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 \$1,391.6 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 84. Amend Title 29, Section 6053 (f) in its entirety and substitute in lieu thereof the following:

"(f) The Council shall hold regular meetings at least twice each year, which meetings shall be open to the public in accordance with Section 10004 of this title."

Section 85. Section 1 of this Act authorizes \$231.9 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 86. Section 1 of this Act authorizes an appropriation for Contractual Services for the Office of Attorney General (15-01-01). Of this amount, \$347.7 shall be used for the purpose of providing services covering family violence in New Castle County, and \$178.0 shall be used for the purpose of providing services covering family violence in Kent County and Sussex County.

Section 87. 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 88. Section 1 of this Act authorizes four (4.0) new general fund positions and associated appropriations for the Office of the Attorney General (15-01-01). These positions shall be Deputy Attorneys General exclusively dedicated to the function of the Industrial Accident Board in the Department of Labor, Division of Industrial Affairs (60-07-01). The cost of these employees and all expenses associated with their employment shall be included in the annual tally as per Title 19 §2392(c)(1) of the Delaware Code and the annual administrative assessment as per §2392(d) of the same Title.

Section 89. 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 90. During Fiscal Year 1994, the Attorney General shall provide legal assistance/representation as needed for the implementation of House Bill No. 561 - 136th General Assembly (Delaware Fair Housing Act) until funds in the "Special Administration Fund" are sufficiently available.

Section 91. Section 1 of this Act provides an appropriation in Appropriated Special Funds to the Office of the Attorney General (15-01-01). Of this appropriation, \$293.5 and 5.0 positions shall be used to support the Securities Division. To support the enhanced enforcement powers program, and the registration unit of the Securities Division, the Attorney General is authorized to collect and use revenues from the increased fees realized by House Bill No. 444 of the 135th General Assembly, and House Bill No. 361 of the 136th General Assembly. The balance at the end of any fiscal year in excess of \$100.0 collected from the fees and charges as outlined in the aforementioned House Bills, shall be deposited to the general fund of the State of Delaware.

Section 92. Section 1 of this Act makes an appropriation to the Office of the Attorney General (15-01-01) in Appropriated Special Funds to establish an Attorney General Opinion Fund. In order to carry out the mandate of Title 29, Chapter 25, Section 2504(2), Delaware Code, the Office of the Attorney General is authorized to publish and sell the opinions of the Attorney General and to deposit the proceeds of any sales in a special fund to be designated "Attorney General Opinion Fund." The Office of the Attorney General is hereby authorized to expend all monies deposited in such fund for any expense connected with the publishing or sale of opinions of the Attorney General. Copies of the published opinions will be distributed at no cost to the General Assembly, the Governor and State agencies. If at the end of the fiscal year, the amount deposited in this fund exceeds \$15.0, the amount exceeding \$15.0 shall be deposited into the general fund.

Section 93. Section 1 of this Act makes an appropriation of \$600.1 Appropriated Special Funds, \$288.6 general funds and 23.0 positions, split-funded 66 percent Appropriated Special Funds and 34 percent general funds to the Office of the Attorney General to support the Child Support Enforcement function. The Child Support Enforcement function in the Attorney General's Office will operate on a reimbursement basis, wherein the State makes the initial expenditures and is reimbursed from federal funds controlled by the Department of Health and Social Services. The reimbursement rate for operations will be 66 percent of total direct costs; the reimbursement rate for indirect costs will be 40 percent of federal dollars spent on direct salary costs.

Notwithstanding the provisions of Title 29, Chapter 64, Subsection 6404 (h)(1)(2)(3), of the Delaware Code, which requires receipts of such federal reimbursements to be deposited into a Special Fund account in the Office of the Treasurer, the Attorney General's Office shall be allowed to retain the federal reimbursement of direct costs in an Appropriated Special Funds account to pay the Appropriated Special Funds share of operating expenses associated with the Child Support function.

The Attorney General's Office shall also be allowed to retain up to a maximum of \$30.0 of the departmental portion of indirect cost recoveries for this function to support the agency's overhead and \$16.3 to be applied to the State's share for four new clerical positions. The State-wide portion of indirect cost recoveries will be deposited to the indirect cost account in the Budget Office. The remainder of the indirect cost recoveries and any unused portion of indirect cost funds in the Attorney General's Office will be deposited into a separate account in the Office of the Treasurer, to be established by the Budget Office, and retained to be used to support the general fund portion of the budget for this function in subsequent years.

Section 94. Section 1 of this Act includes appropriations of: \$323.4 and 7.0 FTEs to the Office of the Attorney General (15-01-01) to continue the drug unit and a social service worker for victims of child abuse, both currently supported with federal grants that are due to expire in Fiscal Year 1994; and \$145.9 and 6.0 FTEs to the Public Defender's Office (15-02-01) to provide seven months funding to continue its drug unit, also currently supported with a federal grant that is due to expire in Fiscal Year 1994. These appropriations are contingent upon enactment of legislation that would increase general fund revenue from Justice of the Peace Court criminal court costs by an estimated \$1,863.0 annually, beginning in Fiscal Year 1994. Should such legislation not be enacted, the above appropriations are deauthorized.

Section 95. Section 1 of this Act includes an appropriation of \$19.9 and 1.0 FTE to the Office of Attorney General (15-01-01) for the federally funded Weed and Seed position for six months, should the federal grant not be renewed. If this grant is renewed, the \$19.9 shall be transferred to the Office of the Budget Contingency and One-Time Items (10-02-04) and the Weed and Seed position be retained as an NSF position.

Section 96. Section 1 of this Act transfers two (2.0) general fund positions from the Department of Correction (38-01-01) to the Attorney General (15-01-01). These positions include 2.0 Deputy Attorneys General. The Office of Attorney General shall henceforth provide legal representation as required to the Department of Correction.

Section 97. Section 1 of this Act provides an appropriation for Personnel Costs to the Department of Justice - Office of the Attorney General (15-01-01). Included in this appropriation is funding for 2.0 Deputy Attorneys General and 2.0 Administrative Assistants for Domestic Violence Units in Kent and Sussex Counties.

Section 98. Section 1 of this Act provides general fund appropriations of \$88.2 for Personnel Costs, \$6.0 for Supplies and Materials, \$12.0 for Contractual Services, \$10.8 for One-Time - Computer Application Development, \$15.0 for One-Time - Printers, \$18.0 for One-Time - Envelope/Letter Machines, \$75.0 in Appropriated Special Funds for Contractual Services, and four (4.0) general fund positions for the purpose of funding a Victim Notification Program in the Office of the Attorney General (15-01-01). All of these

appropriations are contingent upon passage of Senate Bill No. 176 of the 137th General Assembly. Should such legislation not be enacted, all the funding referenced in this section shall revert to the general fund.

Section 99. Amend Title 6, Section 7329, Delaware Code by deleting Subsection (e) in its entirety and substituting in lieu thereof the following new Subsection:

"(e) The Attorney General and the Securities Commissioner shall provide such reports as to the expenditure of money from the Investor Protection Fund to the Budget Director and the Controller General, and in such detail as required."

STATE

Section 100. 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, \$40.5 shall be used to provide mental health services for veterans in Kent and Sussex Counties.

Section 101. Section 1 of this Act provides an appropriation to the Department of State, Office of Human Relations (20-02-00) for Personnel Costs. Of that amount, \$30.0 represents the salary and other employment costs for an additional Investigator position.

Section 102. Section 1 of this Act provides an appropriation to the Department of State, Division of Historical and Cultural Affairs, Office of Administration (20-06-01) for "Delaware Heritage Commission". Of that amount, an additional \$10.0 shall be used at the discretion of the Delaware Heritage Commission for scholar awards, challenge grants and publications.

Section 103. Notwithstanding any other provision of law to the contrary, The Department of State is authorized to enter into a written agreement with private contractor/s for the purpose of collecting Franchise Taxes that are six or more months past due. The Secretary of State is empowered to establish the terms of any such contract, including the method of payment, entered into by the Department. Funds, net of collection expenses, shall be deposited into the general fund.

Section 104. Section 1 of this Act establishes a Special Fund Appropriation entitled "Technology Infrastructure Fund," in the Division of Corporations IPU (20-05-01). All revenues derived as a result of passage of Senate Bill No. 165 of the 137th General Assembly will be deposited into this fund to be used for technological and infrastructure enhancements for the Division of Corporations. Quarterly reports regarding the status of this fund shall be made by the Department of State to the Budget Director and the Controller General.

Section 105. 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 and Cultural Affairs, Delaware State Museums (20-06-04).

Section 106. Section 1 of this Act provides an appropriation to Executive, Office of the Budget, "Contingency & One-Time Items" (10-02-04). Of that amount, \$12.0 shall be used for the following historical markers:

University of Delaware Old College
The First School Building in Georgetown
St. Paul Episcopal Church in Georgetown
Town of Arden
Felix Darley House
Bethel Church

Funds remaining after the placement of the above historical markers will be utilized for the maintenance of other existing historical markers Statewide. Funds that remain after the maintenance of existing historical markers shall revert to the general fund on June 30, 1994.

Section 107. The allocation of Fiscal Year 1994 microfilm services is based on approved agency service requests. These allocations are subject to change by the Delaware State Archives in the event of agency defaults in records preparation or other related developments during Fiscal Year 1994. Agencies may be added or deleted from the service authorization list based on the terms of their formal agreement with the B/ARM and subject to the Bureau's standard operating procedures.

Agency	Fiscal Year 1994 Projections	
	GF	ASF
Judicial	\$ 92.8	\$
Executive	6.1	30.1
Other Elective Offices	1.8	
Legal	3.6	
State	19.7	8.4
Administrative Services	4.3	12.2
Health and Social Services	31.9	
Services for Children Youth & Their Families	8.8	
Correction	15.4	
Natural Resources and Environmental Control	13.0	
Public Safety	76.1	
Transportation		61.8
Labor	4.8	
Agriculture	1.5	
Fire Prevention Commission	7.3	
Delaware National Guard	8.0	
Higher Education - Del. Tech.	33.6	
Public Education - School Districts	40.4	
<u>Grand Total</u>	<u>\$ 369.1</u>	<u>\$ 112.5</u>

Section 108. Section 1 of this Act provides an appropriation to the Department of State, Arts (20-07-00) for "Other Items". Ten thousand dollars (\$10.0) shall be used to provide grants to economically disadvantaged and rural communities for art-related projects.

Section 109. Section 1 of this Act provides an appropriation to the Department of State, Libraries (20-08-00) for Library Standards. Funds shall be paid to libraries in installments equal to 25 percent of the total amount allocated to that library, one installment each quarter of the fiscal year. In the event the library is entitled to \$6.0 or less, the amount shall be paid on an annual basis. Funds granted to any library under the provisions of Title 29, Chapter 66, Delaware Code, 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, Delaware Code. The use of such carryover funds shall not be used as part of any subsequent years' formula payment.

Section 110. Section 1 of this Act provides an appropriation to Executive, Office of the Budget, "Contingency & One-Time Items" (10-04-02). Of that amount, \$172.0 shall be used for the DELNET Project. This appropriation shall not revert until June 30, 1996. The Fiscal Year 1993 "DELNET" Project appropriation of \$53.0 shall be continued and not revert until June 30, 1996.

First, public library automation projects will be funded up to 47% of hardware and software costs through the Federal Library Services and Construction Act (LSCA) which allows the funding of only the hardware and software of technology projects. The 47% of hardware and software cost from LSCA Title II represents approximately 40% of the total project cost excluding retrospective conversion and barcoding. Delaware currently has \$1.2 million in Federal LSCA Title II funds available for public library technology enhancement and construction projects.

Second, the State of Delaware will fund up to 60% of the remaining project costs (non-federal share). The funding of 60% of remaining project cost from the State represents approximately 35% of total project cost excluding retrospective conversion and barcoding. The State funds may be claimed as part of the non-federal share required for Federal LSCA Title II funds.

Third, local funds, including county and private funds, will fund up to 40% of the remaining project cost (non-federal share). The remaining project from local funds represents approximately 25% of total project cost excluding retrospective conversion and barcoding.

It should be noted that outside of the proposed funding as described above, local funds will cover annual operating costs which are estimated at a yearly expense of 15% - 20% of the total project, and local funds will cover retrospective conversion and barcoding cost which may represent up to 25% of the total project costs.

Delaware public library automation includes, but is not limited to, technologies that support the storage, retrieval, processing, and dissemination of information necessary for

the efficient and effective operation of libraries in meeting the information needs of their users. The following items and services are considered to be included within the definition of "library automation": hardware, software, training, installation, networking, information resources, telecommunication, database migration and consultant costs.

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, public library systems and county library agencies established pursuant to Chapter 8 of Title 9, and the Delaware Division of Libraries may be eligible for State assistance in library automation costs.

The Division of Libraries, with the approval of the Delaware Council on Libraries, shall establish and publish automation standards under which libraries may be eligible to receive State funds for library automation projects. Recognizing the various levels of development of public library databases, and to ensure equity in the receipt of State funds, all applicants must locally fund retrospective conversion and barcoding activities prior to receiving State funds. The Division of Libraries may require reports on the operations of library automation projects which were purchased with State funds.

The Division of Libraries, upon receipt of a request for State assistance under this program, shall refer each proposal, determined by the Division of Libraries to be eligible, to the Office of Information Systems and the Delaware Council on Libraries for their comments. The Office of Information Systems and the Delaware Council on Libraries shall provide the Division of Libraries their comments on each such proposal within 45 days of receipt of the proposal. The Division of Libraries shall forward all eligible proposals and comments to the Department of State. The State Librarian, with the written approval of the Secretary of State, shall award funds to projects.

Section 111. Section 1 of this Act provides an appropriation to Executive, Office of the Budget, "Contingency & One-Time Items" (10-04-02). Of that amount, \$7.0 shall be used for the SARA Title 3 requirements relating to county library computer systems. The Fiscal Year 1993 appropriation of \$9.0 for "County Computer Systems - SARA Program" shall be continued and not revert until June 30, 1994.

FINANCE

Section 112. Credit cards authorized by the Secretary of Finance and distributed by the Division of Purchasing to State employees may be used for the procurement of small purchases made by State agencies for the fiscal year ending June 30, 1994, pursuant to policy and procedures as established by the Secretary of Finance.

Section 113. The Department of Finance, Office of the Secretary, is authorized to establish and maintain a special fund with the State Treasurer for the purposes of acquiring/maintaining technology and payment of other costs incident to the implementation of computer systems at the Department of Finance. Deposits to the special fund shall be from the receipts escheated to the State. Deposits to the special fund shall not exceed \$1,560.0.

Section 114. Amend Title 29, Chapter 51, Section 5106, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"5106. Salary deduction for employee benefits.

(a) The Secretary of Finance shall, upon written directions received from any State employee, deduct from such employee's salary such sum as the employee shall direct for employee benefits, for membership fees in a school employees' organization and for credit unions managed for State employees and pay such deducted sum as directed and the Budget Director shall give approval thereto. Deductions must be in equal monthly amounts in excess of \$1, and the Secretary of Finance shall make such rules and regulations as may deem necessary concerning the number of billings per month, preparation of billing lists and the number of deductions per month for insurance purposes.

(b) If a regular officer or employee is required to pay any portion of the cost of benefits included in a flexible benefits plan authorized by the State and permitted under Federal Internal Revenue regulations, the regular officer or employee may enter into a written agreement with the State whereby agreement to reduce salary in an amount equal to the portion of the eligible benefit that the regular office or employee is required to pay.

(c) Subsection (b) of this section shall not be effective until implementation has been approved by the State Treasurer, Secretary of Finance, Budget Director, State Personnel Director and Controller General.

(d) Salary reductions voluntarily taken pursuant to subsection (b) of this section shall not affect the compensation used in the calculation of pension benefits under any State pension plan."

Section 115. Amend Section 326 and Section 327, Title 30, Delaware Code, by deleting "State Tax Commissioner" and replacing it with "Secretary of Finance" and by deleting "State Tax Department" and replacing it with "Department of Finance."

Section 116. 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 117. The Director of the Division of Revenue shall have the authority to accept, on whatever terms and conditions he/she may establish by regulation, payment of 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 contracts. 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, in excess of \$5.0, shall revert to the general fund. Any transfer into this account shall be reversed prior to June 30. 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 prior to January 1 of the next fiscal year.

Section 118. 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 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. Section 1 of this Act establishes an Appropriated Special Fund account "Escheat" from which charges relating to receiving and processing remittances and reports by holders, and claims by owners of abandoned property, as well as advertising and travel fees and associated costs may be paid and into which abandoned property remittances may, at the discretion of the Director, be deposited. Unencumbered balances on June 30, in excess of \$30.0, shall revert to the general fund. A semi-annual report of amounts in escrow or custodian accounts shall be furnished to the Budget Director and the Controller General.

Section 119. The Division of Revenue 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 120. (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, 1994, 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. Beginning in Fiscal Year 1995, the number of resident auditors shall be reduced to one.

Section 121. The Delaware State Lottery Office shall transfer to the Department of Health and Social Services \$120.0 from the State Lottery Fund during the first month of the fiscal year ending on June 30, 1994. Said \$120.0 shall be accounted for within the portion of the gross amount received from ticket sales allowed for administration and operations expense allowed the State Lottery Office by Title 29, Section 4815, Delaware Code.

ADMINISTRATIVE SERVICES

Section 122. 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 \$201.6 from the Public Service Commission's Revolving Account (Appropriation 8600) to the Public Advocate's Appropriated Special Fund account, \$2.0 of which will be for a one-time expenditure.

Section 123. Section 1 of this Act contemplates that legislation establishing a Statewide Fleet Management System will be enacted. All funds authorized for the operation of passenger vehicles and local travel, including mileage private car, other travel in-state, lease/rent cars, repair cars, repair wagons and vans, gasoline from State pumps, gasoline purchased State contracts and automotive equipment may be used for the expenses associated with the lease of passenger vehicles from the Department of Administrative Services. It is also recognized that a Statewide Fleet Management System will be established incrementally, and that the majority of the operating dollars to run such a system will come from agencies' existing vehicle expenses. It is also understood that because of the uneven distribution of vehicles and their uses among agencies, the funds associated with these vehicles are also unevenly distributed in the State system. In order that agencies which join the central pools have sufficient dollars to pay passenger vehicle lease costs, these funds must be equitably distributed. To accomplish this reallocation, the Budget Director is authorized to establish a Fleet Management Holding Account to transfer funds to and from agencies. The Budget Director, with the concurrence of the Controller General, shall use this holding account to transfer funds for the operation of passenger vehicles and passenger vehicle leasing costs so that no agency lacks the necessary appropriated funds to use the centralized fleet pool system. This holding account shall be a revolving account and used for the sole purpose of implementing State-wide Fleet Management.

Section 124. Section 1 of this Act contains \$175.7 for the Department of Administrative Services, Office of the Secretary (30-01-10), pending passage of legislation to implement a State-wide fleet consolidation plan. These funds were reallocated from other budget units as follows:

- \$ 14.9 Delaware Economic Development Authority (10-03-03)
- 12.5 Office of Attorney General (15-01-01)
- 76.8 Community Health (35-05-20)
- 10.0 Alcoholism and Drug Abuse (35-06-40)
- 10.3 Visually Impaired (35-08-01)
- 13.2 Air & Waste Management (40-09-01)
- 38.0 State Board of Education and State Board for Vocational
Education and Department of Public Instruction (95-01-01)

If the legislation to implement a Statewide fleet consolidation plan is not enacted, these funds shall be transferred back to the respective agencies' budget units.

Section 125. All acquisition of copiers in State buildings which are managed by the Division of Facilities Management (30-05-00), Department of Administrative Services (30-00-00), must have the approval of the Secretary of Administrative Services.

Section 126. During Fiscal Year 1994, the Department of Administrative Services, Division of Facilities Management, Building Operations/Maintenance IPU (30-05-20) shall retain the rental fees as Appropriated Special Funds for the building known as the Daniel L. Herrmann Courthouse. The retained portion must be deposited as per State laws and shall be disbursed per Section 1 of this Act.

Section 127. (a) The Division of Purchasing, Department of Administrative Services (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 1994, the Division of Purchasing (30-06-00) is required to purchase 22 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 128. For energy backcharge purposes, the Department of Administrative Services (host department) Fiscal 1994 Energy Budget assumes that Motor Fuel Tax uses ten percent of the new Public Safety Building, for which energy payment is the responsibility of the host department. The Department of Transportation is responsible for paying the Motor Fuel Tax portion of the energy bills upon request for payment by the host department.

Section 129. Section 1 of this Act provides an appropriation in Appropriated Special Funds to Professional Regulation (30-03-20). Recognizing that from time-to-time there may be casual deficiencies in unit revenue, the Department of Administrative Services is authorized to advance to Professional Regulation funds from other fund sources. Any such advance will be reimbursed to the source on a timely basis, but in any event, no later than June 30, 1994.

HEALTH AND SOCIAL SERVICES

Section 130. Results of investigations conducted by the Audit and Recovery Management Services 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 131. 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 nurse staffing in the Department. This report shall be made February 1, 1994, for the period ending December 31, 1993.

Section 132. Temporary, Casual and Seasonal Registered Nurses and Licensed Practical Nurses in the Department of Health and Social Services may be allowed to work more than 129 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 133. The sum of \$170.0 is hereby advanced from the general fund of the State to the Management Services 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 134. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, Social Services (35-07-01), for Title XIX federal programs (Medicaid). Notwithstanding the provisions of the Delaware Code to the contrary, the Division shall be permitted to use Medicaid (XIX-OTSI) funds when necessary to reimburse the federal government for its portion of overpayments not collected within sixty (60) days of identification. When such overpayments are collected, the funds collected shall be deposited back into the Medicaid XIX-OTSI account.

Section 135. The Secretary of the Department of Health and Social Services shall annually issue a report to the Budget Director and the Controller General on what the Health Care Cost Containment Program has accomplished relative to containing health care costs.

Section 136. The Division of Public Health, Community Health (35-05-20) is appropriated \$722.0 in School-based Health Centers for planning, implementation and operation of school-based health centers. Funding for 2.0 general fund positions related to the operation of school-based health centers is appropriated under Personnel Costs in Community Health for the continued operation of the Middletown Health Center and administration/planning for the Health Centers. During Fiscal Year 1994, Community Health shall implement two new school-based health centers for a full year and one center for part of the year in three different school districts and complete planning for six additional centers to open by September, 1994. Status reports shall be submitted to the Budget Director and the Controller General not later than December 15, 1993, and May 15, 1994.

Section 137. 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
- Family Planning Services

Public Water Systems Program
 Infant Mortality Initiative
 Speech Therapy
 Radon Testing
 Summer Food Inspection
 Casual/Seasonal Nursing Services
 Case Management for High Risk Pregnancies
 Vaccines
 Medicaid Aids Waiver
 Medicaid Contractors and Laboratory Testing and Analysis

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 percent of program collections to the general fund.

Section 138. Section 1 of this Act provides a one-time appropriation to the Department of Health & Social Services, Division of Public Health, Community Health (35-05-20) for Health Clinic Services. Of that amount, \$70.0 shall be available for medicines, equipment and part-time nursing services for a community-based health clinic serving the Claymont area of New Castle County.

Section 139. Section 1 of this Act includes an appropriation to the Department of Health & Social Services, Division of Public Health, Community Health (35-05-20) for Contractual Services. Of that amount, \$155.3 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 & 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 140. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Public Health, Director's Office (35-05-10) in the line item, "Office of Narcotics and Dangerous Drugs", in the amount of \$30.0. This amount shall be used at the discretion of the Drug Control Administrator and shall not be utilized for normal operating budget items attributed to the Office of Narcotics and Dangerous Drugs.

Section 141. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Public Health, Director's Office/Support Services (35-05-10) in Personnel Costs. Of that amount, the general funded Budget Position Number 2589 of the May 31, 1993, List of Authorized Positions Report shall be reclassified and transferred to the Community Health IPU (35-05-20) for the Worker Right-To-Know Program.

Section 142. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Public Health, Community Health (35-05-20) for Contractual Services. Of that amount, \$5.0 shall be used for a feasibility study for a community-based group home for individuals with brain and spinal injuries.

Section 143. Section 1 of this Act provides an appropriation to the Department of Health & Social Services, Division of Public Health, Community Health (35-05-20) for Contractual Services. Of that amount, \$12.0 shall be used for homeless services.

Section 144. Amend Section 9814(e), Title 16, Delaware Code, by striking said section in its entirety and by substituting in lieu thereof the following:

"(e) Funds distributed to a county for the purpose of supporting a county component of the State-wide paramedic system may be used for direct operating costs or as debt service and financing for bond issuance for that purpose. In no instance shall reimbursement include the cost of indirect services provided by the county."

Section 145. Section 1 of this Act provides Appropriated Special Funds in the Department of Health and Social Services, Alcoholism, Drug Abuse and Mental Health (35-06-00) for the revenue generated from the Health Care Financing Administration (HCFA) for disproportionate share and from Medicaid reimbursements for covered services. The Division may collect up to an additional \$3.3 million under the arrangement with HCFA. The first \$600.00 shall be deposited to the general fund. The Division shall be allowed to spend \$900.0 ASF to maintain existing services and to reinvest in the hospital; \$800.0 ASF for expansion of community-based programs to increase future revenues and expand services; and \$769.8 ASF to maintain alcohol and drug abuse programs. Any additional revenue shall

be deposited to the general fund. The Division shall file a quarterly status report to the Budget Director and the Controller General on all collection efforts.

Section 146. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Alcoholism, Drug Abuse and 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 147. 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 148. The charges associated with food contracts between Inpatient Mental Health (35-06-30) and the Terry Children's Psychiatric Center for Fiscal Year 1994 shall be finalized by July 30, 1993.

Section 149. 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 150. 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, Delaware Code, the Division shall be allowed to collect and expend the proceeds from the aforementioned accounts.

Section 151. Section 1 of this Act provides an appropriation in the Department of Health & Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Inpatient Mental Health (35-06-30) for Contractual Services. Of that amount, there is no funding for the Service Master contract.

Section 152. 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 \$60.0 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 153. 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 \$35.0 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 Claymont community.

Section 154. Section 1 of this Act provides Appropriated Special Funds for Contractual Services in the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism & Drug Abuse (35-06-40). Of that amount, \$120.0 shall be used to contract for the treatment and counseling for those Delawareans with gambling problems. These funds are transferred from the Delaware State Lottery Office out of the State Lottery Fund pursuant to Section 121 of this Act.

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, an additional \$150.0 shall be used for outpatient drug and alcohol services.

Section 156. (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) Services mandated by the Health Care Financing Administration (HCFA) for receipt of Federal Financial Participation (FFP) under Medicaid/Title XIX of the Social Security Act.

- (2) Other licensed practitioners with limitations

- (3) Clinic services including Mental Health Clinics, Federally Qualified Health Centers, etc.

- (4) Prescribed drugs with limitations

- (5) Services for individuals, age 65 or older, in institutions for mental disease

- (6) Intermediate care facility services for the mentally retarded (ICF/MR) or in Institutes for the Mentally Diseased (ICF/IMD)

- (7) Emergency hospital services

- (8) Transportation

- (9) Co-insurance and deductibles for Title XVIII/and Title XIX recipients

- (10) Limited services in the following areas:

- (a) Prosthetic and orthotic devices

- (b) Diagnostic services, as defined in 42 CFR §440, Sub-part A and as limited by the Medicaid State Plan

- (11) Private duty nursing services with limitations

- (12) Nurse-midwife services

- (13) 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

- (14) Services provided to pregnant women and infants up to 185 percent of the federal poverty level; children up to the age of six up to 133 percent of the poverty level; and children up through the age of 18 up to 100 percent of the federal poverty level shall be eligible to receive Medicaid Services in accordance with federal regulations.

(15) Services to eligible special needs children who are receiving an adoption subsidy from the Department of Services for Children, Youth and Their Families or a child who receives a IV-E adoption subsidy from another State, and who is residing in Delaware.

(16) Services to 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).

(17) Extended services for pregnant women

(18) Medicare premiums

(19) Optional Medicaid Services-Rehabilitative Services

(20) 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.

(21) Other medical or remedial care recognized 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.

(22) Optional Medicaid Services - Personal Care Services

(23) Prescribed Pediatric Extended Care

(24) Services provided as an alternative to more costly services, including, but not limited to:

(a) Hospice services

(b) Ambulatory Surgical Center services

(25) Services of a pediatric or family nurse practitioner

(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:

(1) 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;

(c) Funds appropriated by Section 1 of this Act for Title XIX OTSI or State Institutions may be expended by the Department of Health and Social Services for administrative costs involved in carrying out the purpose of this Section if approved by the Budget Director.

(d) The funds hereby appropriated for Title XIX OTSI or State Institutions shall be expended only on condition that the program is approved and federal matching funds are provided by the appropriate federal agency.

(e) Patients who reside in licensed nursing facilities, or State facilities and who receive services covered by the Medicaid Program shall be eligible for Medicaid if their income is no more than 230 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.

(f) 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.

(g) Qualified Medicare Beneficiaries (QMBs) with incomes less than 100 percent 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.

(h) Specified Low-Income Medicare Beneficiaries (SLIBs) with incomes less than 110 percent of the federal poverty level and resources less than two times SSI resource limits are eligible for Medicare Part B premiums.

Section 157. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Social Services (35-07-01) for "Renal Disease." Additionally, a permanent transfer of general funds for supplies and one Senior Secretary position will be made from the Division of Public Health to the Division of Social Services for the purpose of purchasing cyclosporine for kidney transplant patients who meet eligibility for the Chronic Renal Disease Program. Any insurance funds paid to Division of Public Health for this program after this change will be transferred to Division of Social Services for their use with this program.

The Division of Public Health will provide the following support for the Chronic Renal Disease Program: 1) provide staff support for the Chronic Renal Disease Advisory Committee, including the maintenance of the Committee membership and appointment system; 2) assist in developing programs and other public health initiatives designed to prevent chronic renal disease; 3) carry out educational programs for health professionals and the public to increase general knowledge of the prevention and treatment of chronic renal disease.

The Division of Social Services will provide the following support for the Chronic Renal Disease Program: 1) develop standards for determining eligibility for services provided by the program, with the advice of the Advisory Committee; 2) extend financial assistance to persons suffering from chronic renal disease who meet eligibility criteria; 3) periodically provide information to the Advisory Committee on services provided and expenditures for these services.

Section 158. Beginning with Fiscal Year 1994, the Renal Disease Program is transferred within the Department of Health & Social Services from Public Health, Community Health (35-05-20) to Social Services (35-07-01), in order to become Medicaid participating for those clients eligible for Medicaid. Those clients not Medicaid eligible will be served at the same level as Fiscal Year 1993.

Section 159. In Fiscal Year 1992, an appropriation was made to the Department of Health and Social Services, Social Services (35-07-00) for 4.0 general fund and 4.0 Non-Appropriated Special Fund full-time equivalent (FTE) positions. As their primary responsibilities for the fiscal year ending June 30, 1994, these employees shall be dedicated to administering implementation of the Children's Services Cost Recovery Project via the Early and Periodic Screening, Diagnosis and Treatment Program. In addition, these employees may plan, develop and administer the Early and Periodic Screening, Diagnosis and Treatment Program.

Section 160. There will be additional costs to the Department of Health and Social Services, Social Services (35-07-00) for processing claims associated with the Children's Services Cost Recovery Project (CSCR). The Office of the Budget (10-02-00) will provide funding from CSCR recoveries, as the first priority for payment, to pay for the State's one-quarter share of the processing charges.

Section 161. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, Social Services (35-07-00) for Title XIX federal programs (Medicaid). Notwithstanding any provisions of the Delaware Code to the contrary, the Division shall deposit any drug rebate funds into the Social Service's Medicaid grant line.

Section 162. Section 1 of this Act appropriates \$1,100.0 in Social Services (35-07-00) under Early Intervention for the Part H Birth to Three Program. The Interagency Resource Management Committee (IRMC) shall consult and advise the lead agency in setting program eligibility standards and shall have the authority to allocate such funds, and may advise on the use of other funds specifically designated for this project. The IRMC shall also have the authority to establish or contract for up to 21 positions needed to provide appropriate services for Children Birth to Three selected through the early intervention process and to ensure coordination with the Program for Children With Disabilities. In addition, the IRMC may recommend the transfer of general fund positions and/or general fund

dollars from the Department of Health and Social Services as necessary to operate this program. The lead agency shall report to the Budget Director and the Controller General on additional revenues that will be generated from Medicaid matching funds for reimbursable appropriate services that will be deposited into the general fund in Fiscal Year 1994.

As required by Regulation (§303.521) under IDEA, there will be no charge to the parents for the following: "(1) Implementing the Child Find requirements in §303.321; (2) Evaluation and assessment, as included in §303.322, and including the functions related to evaluation and assessment in §303.12; (3) Service coordination as included in §303.22 and §303.344(g) and (4) Administrative and coordinative activities related to the development, review and evaluation of IFSPs in §303.340 through §303.346; and to the implementation of the procedural safeguards in Subpart E and the other components of the Statewide system of early intervention services in Subparts D and F."

The Secretary of the Department of Health and Social Services shall ensure that under the Part H Birth to Three Program, no child will be denied services because of his/her parent's inability to pay. The following will be adhered to by the Department of Health and Social Services in developing Part H/vendor agreements: 1) vendors will agree to bill Third Party Insurance including Medicaid and clients; 2) client fees will be based on the DHSS scale developed by the Ability to Pay Committee and found in the Department's Policy Memorandum 37; and 3) those agencies who have sliding payment scales currently will be permitted to continue using them as long as those scales do not require a greater financial burden than that of the Department of Health and Social Services scale.

Section 163. Section 1 of this Act appropriates certain sums for Alcoholism, Drug Abuse and Mental Health (35-06-00), Mental Retardation (35-11-00), and Public Health (35-05-00) for services that are eligible for federal Medicaid matching funds. The director of each Division shall initiate a transfer of general funds not later than July 30, 1993, of the following estimated amounts to Social Services (35-07-00), Medicaid - Other Than State Institutions: Alcoholism, Drug Abuse and Mental Health, \$1,250.0 for community services; Mental Retardation, \$640.0 for community-based waived services; and Public Health, \$90.0 for maternal and child health services. Adjustments to these estimated amounts to actual amounts shall be made during the last quarter of the fiscal year with fund transfers as necessary and appropriate.

Section 164. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division for the Visually Impaired (35-08-01) for Contractual Services. Of that amount, \$4.0 shall be used to compensate correctional inmates for the purpose of producing Braille materials for visually impaired school children.

Section 165. The State accepts the provisions and benefits of the Vocational Rehabilitation Act of 1973 (P.L. 93-112), as amended. The Department of Health and Social Services shall act as the sole State agency with the Secretary of the Department as the State Officer, and Visually Impaired (35-08-00) as the Designated State Unit for all monies from the Act that are designated for persons with visual impairment and blindness, as defined in a Cooperative Agreement dated December 1985, between Visually Impaired and Vocational Rehabilitation (60-08-00), Department of Labor. The Department shall cooperate with the U.S. Department of Education, Rehabilitation Services Administration and, in accordance with all State laws, prepare the State Plan and carry out the Rehabilitation Act of 1973 and amendments thereto.

Section 166. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division for the Visually Impaired (35-08-01) for Capital/Equipment. Of that amount, an additional \$8.0 shall be used for adaptive equipment for school children.

Section 167. Section 1 of this Act provides an appropriation of \$399.0 Appropriated Special Funds (ASF) in the Department of Health and Social Services, Child Support Enforcement (35-10-00) for the operation of the Division. In Fiscal Year 1994 child support collections and federal incentive dollars will increase an estimated \$598.0 over Fiscal Year 1993. The first \$299.0 shall be deposited to Child Support Enforcement's ASF account to support 9.2 ASF FTEs and 17.8 NSF FTEs related to initiatives of the Family Support Act of 1988. The positions shall not be filled until Child Support Enforcement has received its share of the ASF revenues appropriated for the initiatives. The balance shall be deposited to the general fund.

Section 168. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Mental Retardation, Institutional Services (35-11-20) for Contractual Services. Of that amount, up to \$10.0 shall be available for services provided by Camp Barnes.

Section 169. The Division of Mental Retardation, Community Services, receives Medicaid reimbursement for the provision of day rehabilitation services provided in State operated day centers. Notwithstanding the provisions of Title 29, Section 6102 of the Delaware Code, the Division shall be allowed to collect and deposit the Medicaid reimbursement in an Appropriated Special Fund account entitled "Day Rehabilitation Services Reimbursement." Receipts in the account may be used to fund community residential and day program contracts currently funded out of the Purchase of Care and Purchase of Services lines.

Section 170. Section 1 of this Act appropriates an additional \$500.0 over Fiscal Year 1993 funding in Mental Retardation, Community Services (35-11-30). The Department shall ensure that these funds are used for inflationary increases to address salary and turnover issues among direct care staff in community homes operating under contracts with the Division.

Section 171. 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 to reimburse facilities to provide sheltered workshop services to clients while they are actively attending sheltered workshop programs. The Director of Mental Retardation shall submit a report detailing the various cost components of each facility's per diem to the Budget Director and the Controller General no later than December 1, 1993. The Director of Mental Retardation shall ensure that only reasonable and appropriate cost items shall be included in each facility's per diem. The reimbursement shall not in the aggregate exceed the appropriation amount in Fiscal Year 1994.

The Division is encouraged, where appropriate, to provide supported employment opportunities for these clients within the appropriation limit.

Section 172. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Mental Retardation, Community Services (35-11-30) for Purchase of Care. Of that amount, \$200.0 shall be used for residential placements to be taken from the critical waiting list.

Section 173. The Division of Mental Retardation is encouraged, where appropriate, to reallocate resources so as to maximize community-based residential placements for persons with mental retardation. Such reallocation initiatives have to be made within the total Division's appropriation limit with the approval of the Budget Director and the Controller General. These reallocation initiatives shall not compromise the standard of care of the remaining Stockley Center population.

Section 174. The Division of Mental Retardation, Institutional Services receives a federal reimbursement for the purchase of wheelchairs. Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and deposit the federal reimbursement into an Appropriated Special Fund account entitled "Wheelchair Reimbursement". The account shall be used as a revolving fund to purchase additional wheelchairs.

Section 175. 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 176. 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 177. Community Services (35-12-30) 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 178. If at any time during the fiscal year ending June 30, 1994, there should be a temporary delay in receiving federal funds to start up the Low Income Energy Assistance Program (LIEAP) with the Department of Health and Social Services, Community Services (35-12-30), such funds as may be required to assure initial awards to eligible households receiving energy assistance shall be advanced from unobligated overcharge funds pending approval by the Delaware State Clearinghouse. The Department of Health and Social Services, Community Services (35-12-30) shall promptly reimburse the oil overcharge fund upon receipt of the federal funds.

Section 179. Any funds received from hedging of LIHEAP petroleum products (heating oils and kerosene) shall be re-distributed to the Low-Income Energy Assistance Program with the Department of Health and Social Services, Community Services (35-12-30). These funds shall be used to provide for the purchase of additional petroleum products for current or future beneficiaries of the program.

Section 180. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, Community Services (35-12-30), for emergency assistance. Some of this appropriation may be used for programs of longer than 30 days duration.

Section 181. The position of Director, Community Services shall remain exempt from classified service until such time as the position becomes vacant.

Section 182. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Aging (35-14-01) for Contractual Services. Of that amount, \$25.0 shall be used to provide a Nautilus Program.

Section 183. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Aging (35-14-01) for Contractual Services. Of that amount, \$52.1 shall be utilized for the Joining Generations Program.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 184. The Secretary of the Department of Services for Children, Youth and Their Families shall keep the Budget Director and the 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 185. Section 1 of this Act provides appropriations to the Department of Public Education, Block Grants and Pass Through Programs (95-03-00) in the line items "Parent Early Education Center" and "Pregnant Students". These funds shall be used as a match for available federal funds for the Children's Trust Fund. They will not be available to match any other federal funds during Fiscal Year 1994.

Section 1 of this Act also provides appropriations to the Department of Services for Children, Youth and Their Families for Parent Education (training). These funds shall be used as a match for available federal funds for the Children's Trust Fund. They will not be available to match any other federal funds during Fiscal Year 1994.

These appropriations shall only be available for programs and services which are consistent with the broad range of child abuse and neglect prevention activities referred to in the Child Abuse Prevention and Treatment Act (P.L. 93-247). These appropriations shall be included in the Delaware Children's Trust Fund's application for matching federal funds under this Act.

Section 186. The Department of Services for Children, Youth and Their Families (37-00-00) anticipates generating an estimated \$2,950.0 from Medicaid reimbursement for covered services. As the Department undertakes new cost recovery efforts, the Department will ensure the amount estimated at \$1,350.0 shall be deposited to the general fund on a regular and timely basis during Fiscal Year 1994. The balance of the revenues, not to exceed \$1,600.0, shall be used by the Department for Appropriated Special Fund initiatives as authorized in Section 1 of this Act to support and/or improve the existing system of children's services. Any additional revenue above the \$2,950.0 shall be deposited to the Office of the Budget, Children's Services Cost Recovery Project account, to be deposited to the general fund. It shall be determined on a service by service basis by the Budget Director, Secretary of the Department of Health and Social Services and the Secretary of the Department of Services for Children, Youth and Their Families if a transfer of matching general funds and an estimated amount of that transfer to Medicaid is necessary. The department shall be responsible for all claims processing and/or other related Medicaid fiscal agent costs, and audit exceptions associated with the new initiatives. Repayment of disallowances, including any penalties and fees, shall be the responsibility of the Department. The Department will also generate revenue from Title IV-E reimbursement for covered activities through the Cost Allocation Plan. Of that revenue, the Department shall retain an amount not to exceed \$300.0 for Appropriated Special Fund initiatives as authorized in Section 1 of this Act to support and/or improve the existing system of children's services. The balance of the revenues from this source shall be deposited to the general fund.

The Department shall, with the approval of the Budget Director and the Controller General, use its portion of revenues allocated for initiatives including one-time costs associated with the Residential Treatment Centers upgrade and the Youth Rehabilitation

Services initiatives, technology initiatives and any unanticipated operating deficits. When the Department has demonstrated funds are available, it shall request of the Budget Director and the Controller General authorization of up to 25 Appropriated Special Fund positions for these purposes.

Section 187. Section 1 of this Act reflects a reorganization of the Department of Services for Children, Youth and Their Families. Further reorganizational changes may be submitted to the Budget Director and the Controller General during Fiscal Year 1994. The Budget Director and the Controller General shall review these reorganizational changes and make a recommendation to the Joint Finance Committee for their approval.

The Controller General and the Budget Director shall transfer positions and resources to affect the reorganizational changes approved by the Joint Finance Committee.

Section 188. For Fiscal Year 1994, the Department of Services for Children, Youth and Their Families, Division of Family Services (37-02-00) shall have one (1.0) additional exempt position over what is authorized by Title 29, Section 5903 of the Delaware Code.

Section 189. 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, 1993, the goal will be 222 children. This goal statement is intended to satisfy the requirements of the Federal Adoption Assistance and Child Welfare Act (P.L. 96-272).

Section 190. 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 191. Section 1 of this Act provides appropriations in the Division of Planning and Evaluation (37-08-00) and the Division of Child Mental Health (37-03-00). Of that amount, \$43.5 shall be used to fund an Education Diagnostician and \$121.4 for 2.0 Child Psychologist III and 1.0 Secretary. These positions shall collaborate with the Division of Youth Rehabilitation Services to facilitate comprehensive case plans for the Youth Rehabilitation population as necessary under the Dispositional Guidelines Pilot Project with the Family Court.

Section 192. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Division of Child Mental Health, Terry In-patient Treatment (37-03-40) for Contractual Services. Of that amount, \$15.0 shall be used for a Fellowship Program in Child Psychiatry.

Section 193. 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 194. Section 1 of this Act provides an appropriation to the Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitation Services (37-05-00). Of that amount, \$372.9 shall be used to fund 1.0 position for statistical analysis and evaluation of juvenile corrections data, 9.0 positions to support rising probation caseloads, 1.0 position at Stevenson House Detention Center for diagnostic evaluations and 2.0 positions to provide clerical support of the above efforts.

Section 195. Indications are that the excessive expenditure of casual/seasonal and overtime in the Division of Youth Rehabilitation Services, Secure Care (37-05-50) is being caused by high utilization of sick leave and incidences of tardiness, in addition to vacancy rates, training and transportation costs and the occasional use of correctional officers. As a means of monitoring and improving the problem areas, the Secretary of the Department of Services for Children, Youth and Their Families shall file a quarterly report with the Budget Director and the Controller General on casual/seasonal and overtime expenditures. The report should include but not be limited to sick leave usage, incidence of tardiness, vacancy rates, training and transportation costs and the use of correctional officers at the Ferris School, New Castle County Detention Center and Stevenson House. The report should reflect all actions (including disciplinary) being taken to expeditiously correct the noted problem areas.

Section 196. Section 1 of this Act includes an appropriation to Executive, Office of the Budget, Contingency and One-Time Items (10-02-04), for "Contingency: Overtime" in the amount of \$266.4. These funds shall be used, if necessary, for overtime in the Department of Services for Children, Youth, and Their Families, Youth Rehabilitative Services, Secure Care (37-05-50), with the approval of the Budget Director and the Controller General.

CORRECTION

Section 197. Section 1 of this Act provides an appropriation for Contractual Services to the Department of Correction, Office of the Commissioner (38-01-01). Included in this appropriation is funding for expanding the Third Party Custody Program for Pre-Trial Detainees. The Department shall develop a Request for Proposal (RFP) for the purchase of services for third party custody. The Department is authorized to enter into an agreement for such services upon review and acceptance of a successful bidder.

Section 198. The following positions within the Department of Correction (38-00-00) will remain vacant during Fiscal Year 1994, unless hiring approval is granted by the Budget Director and the Controller General. Approval will be contingent upon the Department identifying alternative positions that will generate comparable savings. No later than September 30, 1993, the Department shall delete four (4.0) general fund positions from the list below or from other positions throughout the Department or a combination of both. The Department shall notify the Budget Director and the Controller General of the deleted positions and the list below will be adjusted accordingly:

<u>Budget Unit</u>	<u>Position Title</u>	<u>Position Numbers</u>
38-01-10	Sr. Accountant	6930
38-01-10	Accountant I	6888
38-01-60	Correctional Officer/ Trades Instructor I	7617
38-01-70	Teacher	6977
38-01-70	Teacher	6978
38-04-03	Correctional Lieutenant	7313
38-04-04	Deputy Warden	7466
38-04-04	Sr. Correctional Counselor	7605
38-04-06	Typist	65628
38-06-02	Typist	59918
38-06-06	Correctional Officer	56303
38-06-07	Community Work Program Coordinator II	7753
38-06-07	Correctional Officer/ Supervised Custody Officer	7780

Section 199. The Department of Correction may make disbursements from current year funds, for legal-related expenses, to pay prior year obligations.

Section 200. Section 1 of this Act includes funding for four (4.0) positions for an Internal Affairs Unit in the Department of Correction, Office of the Commissioner (38-01-01) and one (1.0) Internal Affairs Investigator for Delaware Correctional Center. The Internal Affairs Investigator positions must have at least ten years of investigative experience and are to be classified as exempt positions. Merit Rule 7.0100 (Recruitment) shall not apply to these positions.

Section 201. Section 1 of this Act transfers two (2.0) general fund positions from the Department of Correction (38-01-01) to the Attorney General (15-01-01). These positions include two (2.0) Deputy Attorneys General. The Office of Attorney General shall henceforth provide legal representation as required to the Department of Correction.

Section 202. Section 1 of this Act provides an appropriation for Contingency - SENTAC Treatment Initiatives to the Department of Correction - Office of the Commissioner (38-01-01). These funds shall be used to provide a continuum of treatment programs for offender dedicated treatment. The Department shall coordinate all offender treatment programs with the Treatment Access Committee established by Volume 68, Chapter 443, Laws of Delaware. The Treatment Continuum Program shall include, but not be limited to, Short Term Residential, Intensive Outpatient, Outpatient, Treatment Engagement Groups and a Urine Monitoring Program.

Section 203. 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 Commissioner of Correction or his designee.

Section 204. The Department of Correction, Facilities Maintenance, (38-01-40) receives funding for maintenance and restoration projects in the Budget Act and the Capital Improvements Act. The Department must submit a

quarterly report to the Budget Director and the Controller General, detailing the expenditure of such funds and the respective projects. The Department shall submit a preliminary plan for maintenance projects for Fiscal Year 1995 by October 30, 1993, to the Budget Director and the Controller General.

Section 205. 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 Personnel/Staff Training (38-01-02) for the purpose of training classes. During the training sessions, up to 30 positions will be made available to accommodate the class being trained.

Funding is authorized to seed the first-time use of these 30 positions. In order to utilize these positions after the first time use, the Department will use salary savings realized throughout the year.

Section 206. Section 1 of this Act includes funding for relief positions in the Personnel/Staff Training IPU of the Department of Correction (38-01-02). These positions shall be used primarily for training relief. The Department of Correction shall provide a quarterly report to the Budget Director and the Controller General detailing the non-training relief assignments of the staff training relief officers.

Section 207. Section 1 of this Act appropriates the sum of \$9.0 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 his/her 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 his/her place of residence, shall forfeit all such funds and shall be provided with a one-way bus ticket to his/her place of residence, as well as sufficient funding to provide food during travel.

Section 208. Section 1 of this Act provides an appropriation of \$48.9 for the Prison Arts Program funded in the Office of the Bureau Chief - Prisons (38-04-01). Included in this appropriation is \$1.7 for Supplies & Materials and \$7.5 for Casual & Seasonal.

Section 209. The position of Correctional Officer (position #7261) within the Department of Correction - Delaware Correctional Center (38-04-03) shall be reclassified as a Correctional Officer/Electronics Technician. The paygrade of said position shall be determined by the Office of State Personnel.

Section 210. Section 1 of this Act provides an appropriation for Personnel Costs to the Department of Correction - Delaware Correctional Center (38-04-03). Of the total amount appropriated, up to \$15.0 shall be used to employ an Attorney on a casual and seasonal basis to oversee the paralegal staff assigned to the Department of Correction.

Section 211. Section 1 of this Act provides an appropriation for Personnel Costs to the Department of Correction - Delaware Correctional Center (38-04-03). Included in this appropriation is \$15.0 for legal services as required by the Warden of Delaware Correctional Center.

Section 212. Section 1 of this Act provides an appropriation for Supplies & Materials to the Department of Correction - Delaware Correctional Center (38-04-03). Included in this appropriation is \$11.5 for supplies related to maintaining the electronic fence in use at the Institution.

Section 213. Section 1 of this Act provides an appropriation for Personnel Costs to the Department of Correction - Delaware Correctional Center (38-04-03). Included in this appropriation are Casual & Seasonal funds in the amount of \$20.0 to allow the Department to oversee a program to manufacture reading materials in braille for the visually impaired. The Department shall provide this service in cooperation with the Division of the Visually Impaired.

Section 214. Section 1 of this Act provides an appropriation for Personnel Costs to the Department of Correction - Women's Correctional Institution (38-04-05). Included in this appropriation is \$125.0 and 5.0 general fund Correctional Officers dedicated to the opening of a new housing unit for the purpose of providing Drug & Alcohol Treatment and Counseling. This funding is contingent upon the receipt of federal funding to provide Drug & Alcohol Treatment for the Women's Correctional Institute. Should such funds be denied, \$125.0 shall revert to the general fund and the total general fund positions complement shall be reduced by 5.0.

Section 215. (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 216. Section 1 of this Act makes an appropriation to the Department of Correction, Prisons, Multi-Purpose Criminal Justice Facility (38-04-06) for Contractual Services. Of this appropriation, \$376.8 shall be used for the KEY program.

Section 217. 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 218. Section 1 of this Act makes an appropriation of \$808.5 to the Department of Correction - Community Custody and Supervision - Office of the Bureau Chief (38-06-01) for various drug and alcohol treatment programs.

The Secretary of Health and 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 219. Section 1 of this Act makes an appropriation of \$337.1 and 11 positions to the Department of Correction, Community Custody and Supervision (38-06-00). Four of these positions will be used to enhance the collection of supervision fees. The Department shall submit to the Budget Director, Controller General and Chairs of the House and Senate Corrections Committees, a monthly report of revenues collected from supervision fees and updated projections for the balance of the fiscal year. The Budget Director and the Controller General, upon review of the monthly reports, may authorize the filling of up to seven additional general fund Probation and Parole Officer positions authorized in Section 1 of this Act, once they are satisfied that the projected revenues from the supervision fees are sufficient to cover the associated expenses. All personnel collecting supervision fees and all other fees, costs, etc., shall offer a legitimate receipt upon collection of said fees.

Section 220. Section 1 of this Act includes an appropriation for Contingency - Kent County Sanctions to the Department of Correction, Community Custody and Supervision, Probation and Parole (38-06-02). Of this appropriation, \$71.0 shall be used for lease of office space for the Dover Probation and Parole Office and a Kent County Sanction/Day Reporting Center. These funds are contingent upon the award of a federal grant for the Kent County Sanction/Day Reporting Center. These funds shall be transferred to Office of the Budget Contingency and One-Time Items (10-02-04) if the grant is not awarded to the Department.

Section 221. Section 1 of this Act makes an appropriation to the Department of Correction, Community Custody and Supervision, Probation and Parole (38-06-02) for Contractual Services. Of this amount, \$100.0 shall be used to continue to contract for one position for one year and provide drug pre-treatment services at the Wilmington Day Reporting Center. Funding for Fiscal Year 1993 was provided through a Clark Foundation grant, which is due to expire in August, 1993. The Department shall evaluate the effectiveness and necessity of continuing the services provided through this contract beyond the proposed one year period. This evaluation shall be completed and a report shall be forwarded to the Budget Director and the Controller General on or before April 1, 1994.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 222. Section 1 of this Act provides an appropriation to the Special Programs, Parks and Recreation, Department of Natural Resources and Environmental Control (40-06-03), for Contractual Services in Appropriated Special Funds. Of that amount, \$5.0 shall be used to provide primitive camping services in State Parks for non-profit youth organizations and \$5.0 shall be used to provide park activities for Senior Citizens for special events and to provide use of the Showmobile for non-profit organizations and municipalities.

Section 223. During Fiscal Years 1993 and 1994, Air and Waste Management, Air Quality Management (40-09-02) is authorized to borrow \$200.0 from the Penalty Account (40-01-01-88-60); \$200.0 from the Hazardous Substance Cleanup Fund (40-09-03-86-50) and \$139.8 from the Lab Certification Loan Repayment Account (40-01-01-87-60) for the purpose of supporting the development of regulations to meet the requirements of the 1990 Federal Clean Air Act Amendments. The loans shall be repaid following the adoption of the federally mandated fee schedule, but no later than June 30, 1996.

Section 224. The appropriations in Section 1 of this Act for Air Quality Management (40-09-02) is based on the assumption that legislation will be enacted which will provide a fee schedule for Title V Major Stationary Source Permit Fees as follows:

1. For Calendar Year 1993, \$15.00 per ton, effective 7/1/93;
2. For Calendar Year 1994, \$19.00 per ton;
3. For Calendar Years 1995 and 1996, the actual dollar amount equal to 25 constant 1989 dollars, as established by the Federal Consumer Price Index for all urban consumers published by the United State Department of Labor.

If no legislation is enacted or the fee schedule is different than the schedule above, the Department shall submit to the Budget Director and the Joint Finance Committee a revised budget based upon the enacted fee schedule.

Upon approval of the Budget Director and the Joint Finance Committee, the Budget Director is authorized to adjust the appropriations and position complement consistent with the revised budget.

The Department shall not fill any positions to be supported through the Title V Major Stationary Source Permit Fees without approval of the Budget Director and the Joint Finance Committee. The Department shall examine the feasibility of using Contractual Services through the Delaware Institute of Environmental Sciences in lieu of full-time positions and with approval of the Budget Director and Joint Finance Committee may transfer ASF appropriations from Personnel Costs to Contractual Services accordingly.

The Department shall also provide the Budget Director and the Joint Finance Committee with quarterly reports containing revenue and expenditure projections and staffing levels. Included in these quarterly reports shall be the status of any loans made pursuant to Section 223 of this Act.

PUBLIC SAFETY

Section 225. Section 1 of this Act makes an appropriation to the Division of Emergency Planning and Operations (45-01-30) of \$16.5 in anticipation of a change in federal grant status requiring State matching funds. In the event a State match is not required, these funds will be transferred to Office of the Budget Contingency and One-Time Items (10-02-04).

Section 226. Section 1 of this Act makes an appropriation to the Department of Public Safety, Office of the Secretary, Communication (45-01-20) of \$27.0 for 3.0 Communication Technicians to implement the 800 MHZ program. The Department of Public Safety must receive approval from the Budget Director and the Controller General prior to filling these positions. Such approval shall be dependent upon the status of the "backbone" infrastructure project.

Section 227. Section 1 of this Act makes an appropriation to the Division of State Police, Executive (45-06-01). Included in this amount 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 228. The Division of State Police receives funds resulting from drug and other seizure activities. If seizure is defined as being under federal jurisdiction, then the funds flow to State Police - Executive (45-06-01) as Non-Appropriated Special Funds. The Division shall submit a plan for the expenditure of these funds to the Budget Director and the Controller General. This plan shall be updated quarterly. A quarterly report as to the expenditure of such funds and to the respective projects shall be submitted to the Budget Director and the Controller General.

Section 229. Section 1 of this Act includes appropriations of \$167.0 and 4.0 FTE to the Division of State Police, Criminal Investigation (45-06-04) and \$85.7 and 3.0 FTEs to Community Relations (45-06-12), to continue the DARE and Victims Services Programs, respectively, which are currently supported with federal grants that are due to expire in Fiscal Year 1994. These appropriations are contingent upon enactment of legislation that would increase general fund revenue from Justice of the Peace Court criminal court costs by an estimated \$1,863.0 annually, beginning in Fiscal Year 1994. Should such legislation not be enacted, the above appropriations are deauthorized.

Section 230. (a) Section 1 of this Act appropriates \$100.0 to State Bureau of Identification (45-06-08) for Contingency - Child Care Provider Background Checks. This amount is to be used to provide four positions and operating costs as follows:

Personnel Costs	\$ 37.5
Contractual Services	1.6
Supplies and Materials	.9
F.B.I. Background Checks	<u>60.0</u>
	\$100.0

(b) Amend Volume 68, Chapter 441 by striking Section 4 and Section 5 in their entirety and substituting in lieu thereof the following:

"This Act shall become effective January 1, 1994."

(c) Amend Volume 68, Chapter 441 by striking in Section 3 the date "February 1, 1994," and substituting in lieu thereof "February 1, 1995."

(d) Amend Volume 68, Chapter 441 by striking the date "January 1, 1993 to December 31, 1993" and substituting in lieu thereof "January 1, 1994 to December 31, 1994."

Section 231. Section 1 of this Act makes an appropriation to the Department of Public Safety, Division of State Police, Communications (45-06-10) of \$180.0 for 9.0 FTEs. These positions shall be filled with civilian personnel in order to relieve uniformed officers for patrol activities.

Section 232. The positions in State Police, Office of Highway Safety (45-06-13) shall remain in the classified service until such time as they become vacant. As vacancies occur, the position(s) shall be made exempt from the classified service and shall be given a Merit System Comparability in accordance with Section 11 of this Act.

Section 233. Should the State of Delaware fail to enact legislation to comply with requirements for motorcycle helmet usage and should the Federal Government require Department of Transportation construction funds be transferred to Highway Safety, Highway Safety shall obtain approval from the Joint Finance Committee before disbursing any of these funds.

Section 234. Section 1 of this Act makes an appropriation to the Department of Public Safety, Division of Licenses, Taxes and Registration, Administration (45-07-01) of \$71.6 for 1.0 Program Administrator and 1.0 Network Administrator. The Program Administrator shall provide oversight for the implementation and operation of the enhanced inspection and maintenance program. The Network Administrator shall implement systems enhancements required by various federally mandated initiatives, including but not exclusive to the Clean Air Act, International Registration Plan, Motor Voter and shall also provide continued support for the Division system.

TRANSPORTATION

Section 235. 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 236. 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 237. The Delaware Transportation Authority budget, as set forth in memorandum form in Section 1 of this Act, shall be expended in accordance with the following 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 County 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 in the previous year. It is intended that management and direction of these services shall reside with the Delaware Transportation Authority who may contract for this service as required.

(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.

(h) Funds provided for "DAST Operations" are intended to include funding to allow DAST or a private operator to continue to provide the present level of service to dialysis patients on normal service days during the hours offered in New Castle County by DART to the extent that such service does not place DAST in violation of federal Americans with Disabilities Act.

Section 238. Section 1 of this Act appropriates \$499.5 to the Office of Planning (55-03-01) for Operations/Capital. Of this amount, \$25.0 shall be used for infrastructure research and forums through the University of Delaware, College of Urban Affairs and Public Policy. Funding for this initiative is derived from Transportation Trust Fund revenues.

Section 239. Section 1 of this Act makes various appropriations from the Transportation Trust Fund for all transportation-related operations. The Department of Transportation shall promulgate and carry out the policies and procedures necessary to deauthorize any unprogrammed appropriations remaining at the end of each fiscal year with the concurrence of the Budget Director and the Controller General.

Section 240. The Department of Transportation may participate in heating oil price hedging contract/s by transferring a sum of \$6.4 to the Division of Purchasing (30-06-00). Any unused portion will be promptly returned to the Department of Transportation.

Section 241. Section 1 of this Act authorizes disbursement of \$12,155.2 in Transportation Trust Funds for Debt Service, General Obligation. Of this amount, \$138.8, which reflects savings from previous General Obligation refunding activities, shall be remitted to the State Treasurer, Debt Management, to offset payments of authorized but unissued General Obligation debt.

Section 242. Section 1 of this Act gives the Department of Transportation authorization to spend the following amounts on Clean Air Act initiatives:

Line	Service	Amount
DTA Operations	CDT Service	\$ 150.0
DTA Operations	Employee Shuttle	107.0
DART Operations "Public"	Fare Increase Deferral	75.0
Rail Operations	SEPTA Service	930.0
		<u>\$ 1,262.0</u>

These authorizations are contingent upon the passage of legislation increasing transportation revenues.

Section 243. Section 1 of this Act gives the Department of Transportation authorization to spend the following amounts to implement a proposed motor fuel tax increase for non-diesel powered vehicles.

(55-01-02) Office of Financial Management and Budget	Operations/Capital	\$57.0
(55-06-01) Delaware Transportation Authority	Motor Fuel Tax	
	Personnel Costs	\$ 7.5
	Operations/Capital	\$45.3

These authorizations are contingent upon enactment of legislation that increases the motor fuel tax for non-diesel powered vehicles.

Section 244. Amend Title 29, Chapter 84, Section 8411 of the Delaware Code by deleting the following "(5) Chief of Turnpike Administration;" and, "(7) Deputy Secretary of Transportation;" and substituting in lieu thereof, "(5) Head of the Office of Financial Management and Budget;" and, "(7) Head of the Office of External Affairs."

Section 245. The Director, Division of Motor Fuel Tax, shall assume the same responsibilities as the Motor Fuel Tax Administrator as defined in Section 1331, Title 2 of the Delaware Code. When a vacancy occurs in the Director, Division of Motor Fuel Tax position, that position shall be made exempt from the classified service and shall be given a Merit System Comparability in accordance with Section 11 of this Act. In addition to becoming an exempt position, the Director, Division of Motor Fuel Tax position, at such time as it becomes vacant shall be renamed as Motor Fuel Tax Administrator. All remaining positions within the former Division of Motor Fuel Tax shall maintain merit system status.

LABOR

Section 246. Section 1 of this Act authorizes one (1) new general fund position with an appropriation of \$23.4 for the Division of Industrial Affairs (60-07-01). Said position shall be an Administrative Management position and shall be exempt.

Section 247. Section 1 of this Act authorizes a new general fund position and appropriates \$21.8 for the Division of Industrial Affairs (60-07-01). Said position shall be a caseworker, the authorization and associated appropriation for which shall be contingent upon enactment of Senate Bill No. 177. Should Senate Bill No. 177 not be enacted during the 137th General Assembly, said position shall be deauthorized and the appropriation shall revert.

Section 248. (a) Section 1 of this Act provides an appropriation of \$135.2 to Employment and Training, Training Services (60-09-20) for the Delaware State Summer Youth Employment Program to operate a ten-week program commencing July 1, 1993. This sum is to be allocated in the following manner:

New Castle County (outside the City of Wilmington)	\$ 40.5
City of Wilmington	40.7
Kent County	27.0
Sussex County	27.0
TOTAL	\$135.2

(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 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 ten-week program such supplies and equipment shall be reverted to the Department of Labor.

Section 249. The funds appropriated for the Delaware State 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 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 250. (a) Section 1 of this Act provides an appropriation to the Department of Agriculture, Promotion and Production Support, Harness Racing Commission (65-04-03). Of the amount appropriated, \$150.0 may be used for the "First State Trotting and Pacing Series". This will consist of special harness horse races to be contested at Delaware's parimutuel 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 percent to the total funding made available by the Department of Agriculture for this program.

Section 251. Amend Title 3, Section 7107, Delaware Code by redesignating the existing section as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) Notwithstanding the provisions of subsection (a) of this section, in no event shall the State of Delaware be liable or otherwise legally obligated to pay compensation to any person/s or other entities in any amount exceeding \$5 million during any single state fiscal year as a result of the State's having ordered the destruction of any poultry to prevent the spread of disease."

ELECTIONS

Section 252. If passage of the State's Motor Voter legislation allows the State mail system to carry the registration forms from points of collection to the County Election Offices, the funding for motor fuel in the Commissioner's Office (70-01-01), \$.4, and the funding for a vehicle, \$12.0, in the Contingency and One-Time Items IPU (10-02-04), shall revert to the General Fund.

FIRE PREVENTION

Section 253. Section 1 of this Act provides an appropriation to the Fire Prevention Commission, Office of the State Fire Marshal (75-01-01) for Personnel Costs. Of that amount, 1.0 additional Deputy Fire Marshal position, funded and authorized for Fiscal Year 1994, shall be utilized in Sussex County.

Section 254. Section 1 of this Act provides an appropriation of \$75.0 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 Statewide Fire Safety Education Program.

Section 255. Of the funds appropriated in Section 1 of this Act to the Fire Prevention Commission (75-03-01) in the line item "Contingency - Extraordinary Expenses", 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 Fire Prevention Commission upon the request of a volunteer fire company. An extraordinary expense under the provisions of this Act shall be defined as those expenses for which a volunteer fire company would not normally prepare for in its company budget and are not covered by said company's own private insurance.

NATIONAL GUARD

Section 256. Section 1 of this Act provides an appropriation to Delaware National Guard (76-01-01) for Energy. Within this appropriation, sufficient energy funds are included to defray energy expenses of the Lora Little School building that are not directly attributable to occupancy by the Delaware National Guard.

HIGHER EDUCATION

Section 257. (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 \$2,010.0 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 258. 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	\$ 1,249.0	
Scholarships	748.5	
Title VI Compliance	926.3	
Aid-to-Needy Students	783.1	
Delaware Scholars Program	200.0	
Student Employment Program	136.9	
Total		\$ 4,043.8

Agricultural Programs:

Agricultural Experimental Station	\$ 93.9	
Agricultural Cooperative Extension	361.9	
Poultry Disease Research	244.9	
Crop Extension	32.5	
Agricultural Environmental Quality	38.5	
Soil Testing and Pesticide Control	99.1	
Diagnostic Poultry Program	54.1	
Total		\$ 924.9

Other Programs:

Academic Incentive	\$ 100.0	
Sea Grant	365.6	
Summer School for Teachers	213.1	
Urban Agent Program	62.7	
Public Service and Applied Research Projects	121.0	
Research Partnership Fund	1,005.0	
Afro-American and Other Minority Person Recruitment	208.9	
Pike Creek Greenway	50.0	
Urban Journalism	4.0	
Financial Services Center	25.4	
Local Government Research and Assistance	20.4	
Total		\$ 2,176.1

Section 259. Section 1 of this Act appropriates \$1,005.0 for the "Research Partnership Fund" at the University of Delaware, subject to the following:

(a) This appropriation shall be used to match, on a dollar-for-dollar basis, grants or contracts from private industry to conduct cooperative research with the University. The objective of the cooperative research efforts shall be to attract new high-technology research facilities and industries to locate within the State of Delaware.

(b) This appropriation shall be used to match "new" money and cannot be allocated to any projects in progress.

(c) The University President shall submit to the Governor, members of the General Assembly and the Controller General, within 120 days after the close of each fiscal year, a report containing an account of how these funds were expended; what new, industrial research organizations were attracted to the State; and plans for the ensuing fiscal year.

Section 260. Section 1 of this Act provides an appropriation to the University of Delaware (90-01-01) for Agricultural Programs. Within that appropriation are sufficient funds to add one Agricultural Extension Agent in New Castle County and sufficient funds when placed with existing funds to fully fund an Agricultural Extension Agent in Kent County.

Section 261. This Act provides that the Family Services Cabinet Council will determine how to create a sustained, collaborative research-extension-public policy linkup that will improve the public accountability for children and families in Delaware. This effort is consistent with the land-grant missions of the University of Delaware and Delaware State College and these institutions are requested to give their full cooperation to this effort.

Section 262. Section 1 of this Act makes an appropriation to the University of Delaware (90-01-01) for Operations. Of that amount, \$20.0 shall be allocated to increasing funding support for the Medical Technology Program.

Section 263. Section 1 of this Act provides an appropriation to the University of Delaware (90-01-01) for Medical Technology. The University of Delaware shall provide the Joint Finance Committee a report on the Medical Technology Program including funding sources, why University funding was reduced for Fiscal Year 1993, why University funding has not been increased for Fiscal Year 1994, in the context of other educational program priorities, current goals and future requirements if the program is intended to be continued.

Section 264. Section 1 of this Act appropriates \$1,533.6 to the Delaware Institute of Medical Education and Research (90-02-01). This amount shall be allocated as follows:

Jefferson Medical College	\$ 1,002.0
University of Delaware	49.0
Medical Center of Delaware	200.0
Scholarships/Loans	257.0
Summer Research Program	24.6
Academy of Medicine	1.0
	<u>\$ 1,533.6</u>

Any changes in this allocation must receive prior approval from the Budget Director and the Controller General.

The scholarship loan allocation of \$257.0 as identified above is to be used to provide financial assistance in the form of loans for students attending Jefferson Medical College and allocated by the DIMER Board. Beginning July 1, 1993, persons receiving loans who had not previously received loans shall be required to repay those loans. These loans shall be repaid under terms and conditions that will be set by the Delaware Higher Education Commission who shall be responsible for the record-keeping. Loan recipients may discharge their repayment obligation by agreeing to serve in Delaware providing primary care services such as pediatrics, internal medicine, family medicine or obstetrics/gynecology. The service obligation shall be calculated so as to make equal the ratios represented by the loan to the annual tuition and the time of service to a calendar year.

Section 265. Section 1 of this Act provides funds to the University of Delaware (90-01-01) and Delaware State College (90-03-01) which were 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 266. 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 267. For the period July 1, 1993, through June 30, 1994, in order to continue the assessment of procedures implemented during Fiscal Year 1993 intended to reduce the administrative burden incurred as a result of processing accounting transaction data into two independent accounting systems, the Budget Director has authorized Delaware State College to:

(a) Discontinue detail data input to the Delaware Financial Management System (DFMS) for encumbrance and vendor payment transactions related to general fund, federal financial assistance and college funds;

(b) Effect vendor payment disbursements of the above identified funds on Delaware State College checks, generated through the College Accounting System and drawn on a College bank account;

(c) Summarize general fund and federal financial assistance fund disbursements on a weekly, post disbursement basis, and draw down the corresponding amounts through the standard DFMS Payment Voucher process.

This authorization does not provide for any change to the processing of encumbrances and vendor payment transactions related to Bond/Capital funds; it does not affect payroll processing and does not relax or alter any control requirements prescribed by law or policy related to procurement, encumbrance and payment activity.

The College shall comply with specific procedures developed and prescribed by the Office of the Budget and the Department of Finance, Division of Accounting. In addition, the College shall cooperate fully with the Office of Auditor of Accounts to aid in any review or examination of the College's accounting procedures, records and system.

Operations as enabled by this section shall be periodically reviewed and evaluated during the stated period by the Office of the Budget, the Department of Finance and the

Office of Auditor of Accounts. Any procedural/control weaknesses identified shall be addressed and resolved, and this authority may be withdrawn for cause at any time during the stated period, with the allowance that Delaware State College will be provided reasonable time to revert to standard processes.

Section 268. Section 1 of this Act provides an appropriation to Delaware Technical and Community College, Office of the President (90-04-01) for Parallel Program Operations and Parallel Program Academics. This appropriation is to assist in the provision of the Delaware Technical/University of Delaware Parallel Program which will be operated jointly by the two institutions under a two-year contract initiated by Delaware Technical and Community College. Under this contract, the University of Delaware will teach students at Delaware Technical and Community College's facilities. Future budget requests will be made jointly by Delaware Technical and Community College and the University of Delaware, and budget cuts, if necessary, will be shared on a pro rata basis. Approval of tuition and other fees will be made by the Board of Trustees of the institution that delivers the relevant service and after the institutions have reached an agreement for tuition sharing. Representatives from both institutions will meet at least once each semester to review program operations.

Section 269. Section 1 of this Act makes an appropriation to Delaware Technical and Community College, Terry Campus (90-04-06) for Aid-To-Needy Students. Of that amount, \$3.0 is to be utilized for match for the SEOG, a federal program.

Section 270. 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. This program also will serve clients in the Community Mental Retardation Program.

PUBLIC EDUCATION

Section 271. During the fiscal year ending June 30, 1994, the State Board of Education and the Department of Public Instruction will undertake a comprehensive examination of the current special education classification and funding structure. This examination must begin by September 1, 1993, and preliminary recommendations shall be presented to the State Budget Director and the Controller General by December 1, 1993. Final recommendations shall be presented to the Governor, the President Pro Tempore, the Speaker of the House, the State Budget Director and the Controller General by May 1, 1994.

The State Board in its review shall create a process where the public advocate groups and other interested parties may place their ideas, concerns and recommendations before the State Board in a public meeting or meetings.

The examination should include review of national patterns and current best-practice methodologies nationwide. These national findings should be utilized in developing study recommendations.

Operational expenses incurred in performing this study of special education may, upon approval of the Budget Director and the Controller General, be covered out of the Education General Contingency in the State Board of Education budget.

Section 272. Amend Section 1318(g), Title 14, Delaware Code by striking the fraction "1/239" and substituting the fraction "1/204" in lieu thereof. This change shall apply retroactively to retirees during the course of the fiscal year ending June 30, 1993. Any financial obligation from the prior year due to the retroactivity of this section may be covered out of current year funding.

Section 273. Amend Section 1320, Title 14, Delaware Code by striking the fraction "1/239" and substituting the fraction "1/204" in lieu thereof.

Section 274. At the end of Fiscal Year 1993, all Division II - All Other Costs, Division II - Energy and Division III - Equalization Funds shall become a continuing appropriation in each local school district for the period of one fiscal year. The provisions of this section shall apply only if the end of year balance is greater than \$250 in an individual appropriation line.

Section 275. Amend Section 121(3), Title 14, Delaware Code by striking the word "Directors" as it appears therein.

Section 276. Amend Section 1321(a), Title 14, Delaware Code by striking in its entirety the column labeled "Director/Senior Education Associate" in each of the salary schedules.

Section 277. Amend Section 1321(a), Title 14, Delaware Code by adding the following to the first paragraph after the salary schedules:

"The State Board of Education shall be authorized to pay an annual amount of \$7,000.00 to each individual designated as a Team Leader as a supplement for administrative responsibility. Such supplement shall be in addition to any other salary the individual is entitled to receive in accordance with the provisions of this Chapter."

Section 278. Section 1 of this Act authorizes positions for Public Education, School District Operations, Formula Salaries (95-02-00). This number is an estimate of the total number of the State-funded positions in the school districts within the State. Included in this number are all administrators, teachers, custodians, secretaries, cafeteria workers, aides and other State-funded positions. Also, included in this number are State-funded positions associated with numerous school district programs that receive funding on a pass through basis through the Department of Public Instruction. In addition to these State-funded positions, it is estimated that there will be 290.2 FTE locally-funded positions and 651.9 FTE federally-funded positions in the school districts of the State in Fiscal Year 1994.

Section 279. Section 1 of this Act makes an appropriation to (95-00-00) Public Education. The positions included in that appropriation that are assigned to the Department of Public Instruction shall be displayed in the manner as shown on the Team Organization Chart dated May 14, 1993 as proposed by the State Board of Education to the Joint Finance Committee.

Section 280. Amend Section 1918(b), Title 14, Delaware Code, by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(b) The district shall prepare at the close of each fiscal year, a financial report as specified in Section 1509 of this Title. This financial report shall have been examined and approved by the Board prior to its publication and submission to the State Superintendent of Public Instruction, not later than August 31 for the prior fiscal year. Copies of the financial report shall be placed on file for review by the public in each school in the district, in the district's central administrative offices and in each public library located within the school district."

Section 281. All provisions of Section 1509, Title 14, Delaware Code shall apply to the fiscal year ending June 30, 1994, with the exception of the required carryover balance which shall be 10.0 percent for Fiscal Year 1994.

Section 282. Section 1 of this Act makes an appropriation of \$15.0 to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction (95-01-01) 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 283. The Department of Public Instruction shall provide the Controller General and the Budget Director with a report on prevention programs in the individual school districts for the following programs: health prevention, family living skills initiatives, and substance abuse programs.

Section 284. Section 1 of this Act provides appropriations of \$212,649.5 for Formula Salaries and \$80,061.1 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 \$7.3 and \$83.2, respectively.

Section 285. During the fiscal year ending June 30, 1994, school districts are authorized to receive cash for any official administrative position that the district qualifies for under the provisions of Title 14, Section 1321, Delaware Code. This option shall apply only if the district has not filled the position at any time during the fiscal year. The value of this cash option will be the corresponding value of Doctorate plus ten years of experience on schedule 1305 plus the amount for State administrative supplement from salary schedule 1321(c), at nine years experience for the administrative type involved. If a position is gained as a result of unit growth, and this option is utilized for that position, the district will receive three-fourths of the above funds. Districts

wishing to exercise this option must make application to the State Board of Education.

Funds received as a result of this section may be used for any Division I or Division II purpose. Funds received as a result of this section may not be used to supplement State salaries authorized in Title 14, Chapter 13, Delaware Code for any employee.

Section 286. Amend Section 1707(b)(3), Title 14, Delaware Code by striking Subsection 1707(b)(3) in its entirety and by substituting in lieu thereof the following:

"(3) 'Authorized Amount' means \$20,000 for Fiscal Year 1994, \$20,300 for Fiscal Year 1995 and as established in the annual State Budget Appropriation Act thereafter."

Section 287. Amend Section 1707(b)(10), Title 14, Delaware Code by striking the number "85%" as it appears therein and by substituting in lieu thereof the number "75%".

Section 288. Amend Section 1707(d), Title 14, Delaware Code by striking the number ".67" as it appears therein and by substituting in lieu thereof the number ".68".

Section 289. Amend Section 1707(b)(5), Title 14, Delaware Code by striking the words "at least every 2 years" as they appear therein and by substituting in lieu thereof the words "on an annual basis."

Section 290. Section 1 of this Act makes an appropriation of \$40,450.1 to Public Education, School District Operations, Division Funding (95-02-01) for Division III -- Equalization. Of that amount, the State Board of Education may use up to \$305.5 for hold-harmless allocations to school districts in which the equalization funding per unit for the fiscal year ending June 30, 1994, computed in accordance with the current provisions of §1707, Title 14, Delaware Code, is less than the per unit equalization funding the district actually received in the fiscal year ending June 30, 1993. The Fiscal Year 1994 per unit allocation for a school district, computed in accordance with the provisions of §1707(c), Title 14, Delaware Code but excluding the 95% provision in the last sentence of that section, shall be divided by the Fiscal Year 1994 effort index, as defined in §1707(b)(11), Title 14, Delaware Code. If this quotient exceeds the Fiscal Year 1993 per unit allocation the school district actually received, then it shall qualify for no hold-harmless allocation. If the quotient is less than the Fiscal Year 1993 per unit allocation the school district actually received, then the school district shall qualify for a hold-harmless allocation computed using the following formula: the difference between the Fiscal Year 1993 and Fiscal Year 1994 per unit allocation shall be multiplied by the Fiscal Year 1994 effort index, as defined in §1707, Title 14, Delaware Code, and that product shall then be multiplied by the number of Division I units the school district earned in Fiscal Year 1993.

Section 291. 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, Block Grants and Pass Through Programs, Pupil Transportation, or the local school districts. Examples of such use are: salary line transfers and adjustments; unit adjustments; State share of tuition payment for private placement of handicapped pupils; for Delaware residents of the Delmar School District attending Maryland schools; expenditures for Americanization classes; pupil transportation costs.

Section 292. Amend Section 6519(e), Title 29, Delaware Code, by striking the last sentence of said section and substituting in lieu thereof:

"The provisions of this section may be utilized only once by each reorganized local school district during the course of any one fiscal year and may not be utilized for the June 30th payroll."

Section 293. Section 1 of this Act provides certain appropriations to Public Education, School District Operations, Other Items (95-02-02) and Block Grants and Pass Through Programs (95-03-00) for school districts in the State for the fiscal year ending June 30, 1994. 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 294. 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	206.5
Contractual Services	11.4
Total	\$ 334.9

Section 295. 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 the fiscal year ending June 30, 1994, 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 \$1,285.00. A Division II - All Other Costs Unit shall be valued at \$2,571.00.

Section 296. Section 1 of this Act provides an appropriation of \$18,171.8 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 Data Administration of the Office of the Budget.

Section 297. Section 1 of this Act provides an appropriation of \$3,393.7 to Public Education, Block Grants and Pass Through Programs, Adult Education and Work Force Training Block Grant (95-03-10). This appropriation shall be allocated by the State Board of Education to the following programs: Adult Incarcerated, Adult Trade Extension, Apprentice Program, James H. Groves High School, Adult Basic Education, New Castle County Learning Center, Delaware Skills Center and Alternative Secondary Education Program. For Fiscal Year 1994, each program shall receive no less than the same allocation from this appropriation as its Fiscal Year 1993 allocation.

Section 298. Section 1 of this Act makes an appropriation to Public Education, Block Grants and Pass Through Programs, Education Block Grants (95-03-10). Of that amount, any amounts allocated to Delaware Skills Center shall be transferred to New Castle County Vocational Technical School District for Adult Education.

Section 299. Section 1 of this Act provides an appropriation to Public Education, Block Grants and Pass Through Programs, Education Block Grants (95-03-10). The State Board of Education shall transfer any amount allocated to the New Castle County Learning Center to the Christina School District for the purpose of continuing the services provided by the New Castle County Learning Center.

Section 300. Section 1 of this Act provides an appropriation to Public Education, Block Grants and Pass Through Programs, Education Block Grants (95-03-10). The State Board of Education shall transfer any funds allocated for the Adult Incarcerated Program to the New Castle County Vocational Technical School District which shall continue to administer this program.

Section 301. Section 1 of this Act makes an appropriation to the State Board of Education Block Grant and Pass Through Programs, Education Block Grants (95-03-10). Of the amount appropriated, \$13,341.3 shall be used to fund units for academic excellence in the school districts in accordance with Section 1716, Title 14, Delaware Code. The balance of \$2,973.0 shall be allocated to school districts in proportion to the number of Division I units each district enrolls on the last school day in September, 1993. School districts may use the funds to: purchase computer hardware, software or services; fund homebound instruction costs; provide substitute teachers; provide additional nurses so long as the district is entitled to less than one nurse per school; provide a student work-study program.

Section 302. Section 1 of this Act appropriates \$2,461.3 in general funds and \$500.0 in Appropriated Special Funds to Public Education, Block Grants and Pass Through Programs, Education Block Grants (95-03-10) for the Professional Accountability and Instructional Advancement Fund. It is the intent that the \$500.0 in Appropriated Special Funds and up to \$1,150.0 in general funds appropriated in that line be used to continue the "New Directions for Education in Delaware" plan.

Section 303. Section 1 of this Act provides an appropriation of \$2,461.3 to Public Education, Block Grants and Pass Through Programs, Education Block Grants, Professional Accountability and Instructional Advancement Fund (95-03-10). This appropriation is to be used by the State Board of Education to operate staff development programs for educational personnel, to operate programs to assess student performance, to operate programs for educator accountability initiatives and to support New Directions activities.

Section 304. The State Board of Education shall make a study of elementary counseling services provided to the students in public schools. The study shall describe by school in each district the type of counseling services provided, and the length of time these services have been provided, the method of the provision of those services and the funds from all sources used to pay for those services. This study, with recommendations, shall be submitted to the Budget Director and the Controller General by December 15, 1993.

Section 305. Section 1 of this Act makes an appropriation which may be used for homebound instruction to the Public Education Block Grants and Pass Through Programs, Education Block Grants (95-03-10). School districts may form consortiums, utilizing homebound funds, to purchase or provide services. No homebound funds may be spent to provide services to students who have been suspended or expelled from school.

Section 306. Section 1 of this Act provides an appropriation of \$476.0 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) for Parent Early Education Center. Funding provided above the previous year's appropriation level will be utilized to expand this program, to the extent possible within appropriated resources Statewide.

Section 307. Section 1 of this Act makes an appropriation to Public Education, Block Grants and Pass Through Programs, K-12 Pass Through (95-03-15) for Project Assist. The Department of Public Instruction shall review this program to determine its applicability to public education and report its findings to the Controller General and the Budget Director by December 15, 1993.

Section 308. Section 1 of this Act provides \$25.0 for the Christina Estuary Model as a one-time appropriation to budget unit 95-03-15. Upon request by the Christina School District, the State Board of Education is authorized to initiate the transfer of those funds to the Christina School District provided that once functioning, the estuary model will be made available for use by all school districts in the State.

Section 309. Section 1 of this Act provides an appropriation of \$9.9 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) 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 310. Section 1 of this Act provides an appropriation of \$101.9 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) 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 311. Section 1 of this Act provides an appropriation of \$97.2 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) 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 312. Section 1 of this Act provides an appropriation of \$90.0 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) 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 313. Section 1 of this Act appropriates \$100.0 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Through (95-03-15) for the Delaware Principals Academy, which will be held in the summer of 1994. The Department of Public Instruction shall determine, in coordination with the University of Delaware, the goals and objectives of this program including how it will further the objectives of New Directions. The Controller General and the Budget Director shall insure that the proposed program is cost efficient and meets the objectives outlined in the section before agreeing to transfer the appropriation from the Department of Public Instruction to the University of Delaware.

Section 314. General Fund appropriations to Public Education in Appropriation Units (95-03-00), (95-04-00) and the Delmar Tuition, General Contingency, Teacher 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.

Section 315. 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. The State Board shall report annually to the Budget Director and the Controller General on or before April 1 on the actions and results of actions required by this section.

Section 316. Section 1 of this Act makes an appropriation of \$515.9 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Children's Services Cost Recovery Project (CSCR).

All local school districts shall fully participate in the implementation and operation of the project for the fiscal year ending June 30, 1994. Local school district participation shall be on a district-wide basis.

The following resources are appropriated to support implementation of the Children's Services Cost Recovery Project during the fiscal year ending June 30, 1994. Of the total amount appropriated, up to \$10.0 may be allocated for supplies and up to \$9.0 may be allocated for in-state travel, including reimbursement for the costs associated with operating personal vehicles pursuant to this section. No appropriation is made for the purchase of additional State-owned vehicles pursuant to this section. The appropriated funds for supplies and in-state travel pursuant to this section shall be dedicated to implementing the Children's Services Cost Recovery Project.

In addition, 13.0 full-time equivalent (FTE) staff positions are appropriated to support this project: 1.0 FTE shall be an Education Associate - Cost Recovery Associate at the Department of Public Instruction (DPI). The State Board of Education is hereby permitted to authorize the hiring of up to 12.0 FTE positions in the local school districts for the sole purpose of implementing this section. The State Board of Education shall designate specifications regarding required skills and abilities and a job title for these positions. The 12.0 FTE local school district positions shall be paid in accordance with the Financial Secretary salary schedule 1308(a) including the local salary supplement in place at the employing local school districts.

All revenue generated through the cost recovery project from local school district sources will, after the deduction of all operational project costs, be divided on a 70/30 basis between the State general fund and the local school district's operating funds. Any funds returned to a local school district that were generated through recovery on services provided by a tuition-based special school must be made available to the special school for expenditure at the special school.

Audit exceptions, including any penalties and fees, will be covered from drawdowns on future recoveries on a 70/30 basis between the State general fund and the local school district operating funds where the exception occurred.

Section 317. For the purpose of participating in the Children's Services Cost Recovery Project, provisions of the Delaware Code to the contrary notwithstanding, school psychologists certified or otherwise licensed by the State Board of Education in accordance with the provisions of Title 14, Section 1092, Delaware Code, shall be considered in

compliance with qualification standards equivalent to State licensure to practice psychology as set forth in Title 24, Section 3507, Delaware Code. Such equivalent State licensure status shall be limited to the delivery of services related to State Board of Education or local school district approved school programs conducted within the course of the regular school day at a State Board of Education or local school district approved school site or least restrictive environment location. The provisions of this Section shall in no way be construed as entitling a person not otherwise qualified to do so to represent himself to the public by any title or description of services incorporating the words "psychology," "psychological," and/or "psychologist" within the meaning of Title 24, Section 3501, Delaware Code, except as may be herein specifically provided.

Section 318. Section 1 of this Act provides an appropriation of \$1,613.4 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the operation of the Program for Children with Disabilities. The school districts in which children reside who are to be provided the special services are authorized to levy and collect local tuition tax to cover the local share of the program costs.

Section 319. Section 1 of this Act provides an appropriation of \$1,613.4 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Program for Children with Disabilities (PCD).

The Interagency Resource Management Committee (IRMC) established in Fiscal Year 1992, shall continue in existence in Fiscal Year 1994. The IRMC shall be composed of the following members:

- Superintendent of Public Instruction who shall be the chairperson of the IRMC;
- Cabinet Secretary, Department of Health and Social Services;
- Cabinet Secretary, Department of Services for Children, Youth and Their Families;
- Budget Director;
- Controller General.

The affirmative vote of a majority of all members shall be required to take action.

The IRMC shall periodically review eligibility criteria for services under PCD and make recommendations to the State Board of Education as appropriate.

The IRMC was created to promote interagency collaboration in the service of those eligible for the PCD, to promote the cost-effective use of existing resources -- federal and State, public and private, and to promote the opportunity for coordination with programs for other exceptional children. To accomplish these goals, the IRMC shall do the following:

1. Allocate all funds provided by the State, obtained by it, or under its control, which are designated for the service of children eligible for the PCD including:
 - a. State general funds authorized by this section; and,
 - b. Monies provided by the Federal Government.
2. Seek to coordinate services to children eligible for the PCD with those provided by other public and private agencies.
3. Coordinate resources to support family-centered services for eligible children and their families, as appropriate.
4. Seek to develop collaborative approaches with the institutions of higher education for the service of those eligible for the PCD. Special emphasis shall be placed on the use of existing preschool educator training and child care provider training programs.
5. At its discretion, hire a full-time coordinator who shall report to the IRMC. The coordinator shall serve as liaison to the Department of Public Instruction, Instructional Services Branch.
6. The staff of DPI is encouraged to provide assistance in implementation of PCD.

The IRMC may, at its discretion, apply for and allocate grant funds that will serve children eligible for the PCD and further any of the purposes of this Section. Sources of

such grant funds may include the Federal Childcare Block Grant, Developmental Disabilities Council, Federal Child and Maternal Health grant, Federal Title XX, Delaware First Again grants, where appropriate.

The IRMC is hereby granted the power to use any funds under its control and not otherwise restricted to either hire employees or contract for services.

The IRMC shall report at least twice annually on its activities. The first report shall be made by December 19, 1993, and the second report by April 15, 1994. Each report shall be to the Governor, President Pro-Tempore of the Senate, and the Speaker of the House. Each report shall include:

1. A summary of IRMC experience in attempting to accomplish its purposes as stated above; and,
2. A recommendation of the IRMC whether and how to institutionalize its activities and functions.

The Budget Director and the Controller General are hereby authorized to transfer additional funds serving this population among the budgets of the departments represented on the IRMC if there is prior agreement by the secretary or superintendent of the Department, as the case may be, to which the funds were previously allocated.

For the purpose of facilitating a continuation of services, programs receiving an allocation under the provisions of this section may receive 20 percent of the prior year's allocation at the outset of Fiscal Year 1994. These programs are required to present program proposals to the IRMC at the first IRMC meeting of Fiscal Year 1994. Upon IRMC approval, adjustments to the program allocations may be made.

Section 320. Section 1 of this Act makes an appropriation to (95-03-20) Student Discipline Programs. These funds shall be used to set-up programs in each county for students with severe disciplinary problems who have been or are likely to be expelled from school, and others who have serious violations of the local school district discipline code. The funds shall be allocated in the following funding units: New Castle County - 4 units; Kent County - 2 units and Sussex County - 2 units. Each funding unit will have the value of \$50.0 and shall be matched by direct local school district expenditures at the rate of .30 cents of local district expenditure which may be covered by tuition payments for each .70 cents State fund expenditure. The programs shall operate under the supervision and direction of the State Board of Education. To the extent feasible, programs offered under this component should serve eligible pupils within a county; however, multiple sites may be operated by a single consortium of school districts within a county.

As the State Board of Education is deciding about the implementation of such programs, it shall consider Sections 1601, 1603 and 1604 of House Bill No. 247 of the 137th General Assembly in the general program design.

Section 321. Section 1 of this Act provides an appropriation of \$1,279.6 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs, Unique Alternatives (95-03-20) to implement Title 14, Section 3124, Delaware Code. For the fiscal year ending June 30, 1994, any placement made pursuant to this Section shall be considered a special program placement and shall be eligible for inclusion in local school district tuition tax rate setting. Districts shall contribute 30 percent of the total cost associated with the placement of any district student in such a program. The provisions of the Delaware Code to the contrary notwithstanding, for the fiscal year ending June 30, 1994, the State Board of Education is authorized to continue utilizing funds appropriated in Section 1 of this Act to develop unique program alternatives, in lieu of private placement, for 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 six 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.

Section 322. Section 1 of this Act appropriates \$1,279.6 to the Public Education, Block Grants and Pass Through Programs, Special Needs Programs, Unique Educational Alternatives for Students with Handicaps (95-03-20). Before the State Board of Education can authorize expenditures for new placements from this appropriation, the case must be reviewed by the Interagency Collaborative Team. The Interagency Collaborative Team shall consist of:

Division Director, Division of Child Mental Health Services of DSCYF;
 Division Director, Division of Program Support of DSCYF;
 Division Director, Child Protective Services of DSCYF;
 Division Director, Division of Mental Retardation of DHSS;
 Division Director, Division of Alcoholism, Drug Abuse and Mental Health of DHSS;

Director of the Office of the Budget or designee;

The Controller General or designee;

The Team Leader, Exceptional Children's Team, DPI, who will serve as Chair;

Associate Superintendent, Improvement and Assistance, DPI.

The Interagency Collaborative Team shall invite to its meetings:

1. A representative of a responsible school district for the case under consideration;
2. The parents of the child;
3. The Director of Youth Rehabilitative Services, when the child is involved with YRS;
4. Other persons the team believes can contribute to their deliberations.

The Interagency Collaborative Team shall:

1. Review existing assessments of new referrals;
2. Prescribe, if required, additional assessments for new referrals;
3. Review proposed treatment plans of new referrals;
4. Recommend alternatives for treatment plans of new referrals;
5. Coordinate interagency delivery of services;
6. Review at least annually, current Unique Educational Alternatives for the appropriateness of treatment plans and transition planning;
7. If appropriate, designate a Primary Case Manager for the purpose of coordination of services among agencies.

The Interagency Collaborative Team will ensure that State costs incurred as the result of a Team recommendation or assessment of a child currently funded from the Unique Educational Alternatives appropriation for this purpose in Section 1 of this Act will be covered from the existing appropriation. New referrals will be assessed in the inter-agency manner described above. The Interagency Collaborative Team may accept and review cases initiated by other agencies, but in all cases the school district of residence must be involved in the review.

Cases reviewed by the ICT will employ Unique Educational Alternatives funding to cover State costs to the extent determined appropriate by the Interagency Collaborative Team. Other agencies may recognize a portion of the responsibility for the treatment of these children if determined appropriate by the Team. Funds may be transferred upon the approval of the Budget Director and the Controller General.

The Interagency Collaborative Team shall report on its activities to the Governor, Budget Director, President Pro-Tempore, Speaker of the House and the Controller General by December 16, 1993, and May 15, 1994. The report shall include those items listed in the work plan detailed in the Interagency Treatment Planning and Service Delivery Team Final Report dated May, 1992, as updated in subsequent reports.

Section 323. Section 1 of this Act provides an appropriation of \$699.1 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) 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, Subsection 1703(d), Delaware Code. The deduct contained in Title 14, Subsection 1703 (1), Delaware Code, shall not apply to the units authorized by this Section.

Section 324. 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 deaf students in the Lake Forest School District, Caesar Rodney School District, Capital School District, Seaford School District and Woodbridge School District.

Section 325. Section 1 of this Act provides, at the discretion of the State Board of Education, for the possible operation of a RE:Learning Program or its successor. 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 of Education 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. If operated, 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, 1993, regarding the activities of the pilot schools and the implications that their collective experiences have produced in terms of further refinements to the State formula aid system.

Section 326. 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, 1994. 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 327. Section 1 of this Act provides, at the discretion of the State Board of Education, for the possible operation of a tuition reimbursement program for the purpose of reimbursing public school employees and teachers employed by State agencies for tuition payments for graduate college courses they successfully complete. 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 required 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 and other educational priorities established by the local boards of education based on staff development goals or to ameliorate identified deficiencies. A copy of each school district's prioritized plan for the allocation of these funds shall be filed with the State Board of Education by December 15, 1993.

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 allocation made by the State Board, a minimum of .75 percent 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, 1993. 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, 1994. The second one-half shall be prorated as described above among eligible employees who complete their courses prior to June 15, 1994. 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 supersede collective bargaining agreements to the contrary.

Section 328. Section 1 of this Act makes an appropriation to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for Tech Prep 2+2. A Delaware Tech Prep Consortium is formed to provide for overall program development and management, coordination and technical assistance. The Consortium will review and provide technical assistance and in-service training for each proposal submitted to the State Board of Education by any partnership initiating or operating a Tech Prep Program. The Consortium will adopt rules and regulations consistent with State regulations and federal legislation.

The Consortium Board of Directors shall include: the President, Delaware Technical And Community College; the Superintendent of New Castle County Vocational-Technical School District; Kent County Vocational-Technical School District; the Sussex County Vocational-Technical School District; the State Director of Vocational Education, Department of Public Instruction, (Ex-Officio); the Executive Director of Delaware Advisory Council on Career and Vocational Education; President or Designee, Delaware State College and Wilmington College and one representative of business and industry. The Superintendent or Designee of two comprehensive local school districts will also be appointed consistent with the rules and regulations of the consortium. Programs will be conducted in all three counties, on all campuses of Delaware Technical And Community College and other

Postsecondary Institutions as specified by the consortium consistent with federal legislation. All Secondary Schools are eligible.

Kent County Vocational-Technical School District will act as financial agent for the consortium and an annual financial and program report will be submitted to the Co-Chairpersons of the Delaware Legislative Joint Finance Committee.

The Consortium may select another member to serve as the financial agent in a subsequent year consistent with the rules and procedures it adopts.

Section 329. (a) Section 1 of this Act provides an appropriation of \$2,900.0 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, 1994, shall be allocated and shall not exceed \$37,044.5, 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 \$.28 per gallon for contractors. For districts and contractors north of the Chesapeake and Delaware 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 Chesapeake and Delaware 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 Chesapeake and Delaware 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 1994 operating allowance adjustment for inflation shall be 2.21 percent.

(3) For the fiscal year ending June 30, 1994, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 1993 State bid price for new buses minus three percent for salvage value, 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 1993. 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, 1994, 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) The State Board of Education is authorized to amend its formula to allow the purchase of diesel-powered buses as the minimum standard in those sizes where gasoline-powered buses are no longer available.

(e) Except as specified in this Section, or for changes in the price of gasoline, or for the adjustments of those items changed by State or federal laws, the State Board of Education shall not change the transportation formula unless the change has been authorized by the General Assembly and an appropriation therefore has been made by the General Assembly.

Section 330. (a) During the fiscal year ending June 30, 1993, 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 331. During the fiscal year ending June 30, 1994, 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. 13.

Section 332. For the fiscal year ending June 30, 1993, any sum in the School Pupil Transportation 1990 appropriation (95-04-01-01-90) shall remain encumbered and shall not be subject to lapsing until June 30, 1994.

Approved July 1, 1993.

CHAPTER 65

FORMERLY

HOUSE BILL NO. 349

AN ACT TO AMEND AN ACT ENTITLED "AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1994; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS", BEING HOUSE BILL NO. 300 OF THE 137TH GENERAL ASSEMBLY OF THE STATE OF DELAWARE.

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

Section 1. AMEND Section 1 of House Bill No. 300 of the 137th General Assembly of the State of Delaware by striking the figure "114,982.2" as it appears on line 43, page 23 of said Bill and inserting in lieu thereof the figure "\$100,931.2".

Section 2. FURTHER AMEND Section 1 of House Bill No. 300 of the 137th General Assembly of the State of Delaware by recomputing all totals and subtotals as they appear in said Bill.

Approved July 1, 1993.

CHAPTER 66

FORMERLY

HOUSE BILL NO. 340

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 1994; 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:

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
	<u>Dept. of Health & Social Services</u>	
(35-01-10)	Office of Secretary Adolescent Program	\$ 528,100
(35-05-30)	Office of Paramedic Administration Paramedic Program Operations	\$ 4,581,800

<u>Accounting Code</u>	<u>Organization/Description</u>	<u>Amount</u>
(35-14-10)	<u>Division of Aging</u>	
	<u>Senior Centers</u>	
	Absolom Jones Senior Center	\$ 107,498
	Brandywine Senior Center	78,751
	Bridgeville Senior Center	80,746
	Cape Henlopen Senior Center	130,936
	Chesapeake and Delaware Senior Center	49,082
	Clarence Fraim Senior Center	112,468
	DeLaHarr Senior Center	82,751
	Frederica Adult Center	68,025
	Georgetown CHEER Center	31,563
	Greenwood CHEER Center	31,563
	Harrington Senior Center	63,397
	Harvest Years Senior Center	34,957
	Howard Weston Senior Center	211,310
	Huling Cove Community Center-	
	Lewes CHEER Center	49,021
	Indian River Senior Center	73,785
	Jewish Community Center	66,515
	Jimmy Jenkins Senior Center	64,639
	Julia Tallman Golden Age Center	62,896
	Mamie A. Warren Maturity Center, Inc.	60,196
	Cornerstone United Methodist Church Senior Center	27,972
	Laurel Senior Center	136,519
	Lewes Senior Citizens Center	38,706
	Los Abuelos Senior Center	
	(Methodist Action Program)	22,196
	M.O.T. Senior Center	73,082
	Mid-County Senior Center	133,260
	Milford Senior Center	75,397
	Modern Maturity Center	186,246
	Nanticoke Indian Elder CHEER Center	25,835
	Nanticoke Senior Center	115,333
	New Castle Senior Center	58,974
	Newark Senior Center	109,220
	Northeast Senior Center	66,048
	Oak Grove Senior Center, Inc.	132,871
	Oak Orchard CHEER Center	31,563

Ocean View CHEER Center	16,692
Peoples Settlement - Senior Citizens Program	54,083
Roxana CHEER Senior Center	31,563
St. Ann's Neighborhood Services	84,466
St. Anthony's Senior Center	87,146
St. Hedwig's Senior Center	163,352
St. Patrick's Senior Center	108,006
St. Peter's Adult Center	84,806
St. Thomas Senior Center	98,749
Sellers Senior Center	85,751
Slaughter Neck CHEER Center	31,563
Lillian Smith Senior Center	25,406
South Wilmington Senior Adult Center	17,710
West Center City Senior Activity Center	75,096
Wilmington Senior Center	144,314

Department of Public Safety

(45-01-01)	Office of Secretary - Administration	
	Local Police Coordination	\$ 45,000
	Aid to Local Law Enforcement	<u>400,000</u>
	TOTAL - Section 1	\$ <u>9,356,924</u>

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Category/Description</u>	<u>Amount</u>
<u>One-Time Items:</u>	
Department of Public Safety -	
Aid to Local Law Enforcement	\$ 1,400,000

Arts/Historical/Cultural/Tourism

Afro-American Historical Society of Delaware, Inc.	\$ 17,400
Associated Community Talents, Inc.-The Everett Theater	16,100
Delaware Academy of Science-Iron Hill Museum	6,400
Delaware Agricultural Museum Assoc., Inc.	36,050
Delaware City Day Committee	14,500
Delaware Humanities Council-Visiting Scholars Program	31,900
Delaware Nature Society, Inc.	10,800
Delaware State Fair	180,000
Duck Creek Historical Society, Inc.	3,387
Greater Harrington Historical Society	14,100
Historic Red Clay Valley, Inc.	
Wilmington & Western Railroad	11,600
Historical Society of Delaware	65,000
Miss Delaware Pageant	6,500
Naaman's Kill Questors, Inc.	5,400
Nanticoke Indian Association, Inc.	8,100
New Castle - Separation Day	11,600
New Castle Historical Society	6,400
WHYY	400,000
Wilmington Garden Center, Inc.	15,000

Aging - Other

Boys Club of Wilmington	\$ 15,300
Creative Grandparenting, Inc.	10,000
Geriatric Services of Delaware, Inc.	115,000
Meals on Wheels - Lewes and Rehoboth	38,400
Rehabilitative Opportunities for Homebound Residents	32,400
Sussex County Home Services (HOPE Program)	40,000
William Hicks Anderson Community Center	
- Physical Fitness Program	6,900

Handicapped/Health/Labor

AHEDD, Inc. - Dover/Wilmington	\$ 44,000
Adult Special Education Program, Inc.	45,000
Alliance for the Mentally Ill	40,000

American Diabetes Assoc. - Delaware Affiliate, Inc.	5,400
Arthritis Foundation	16,100
Association for the Rights of Citizens with Mental Retardation in Delaware	8,600
Career Exploration Program, Inc.	36,500
Delaware Alzheimer's Association	5,200
Delaware Association for Blind Athletes	6,000
Delaware Association for the Blind	47,200
Delaware Center for Wellness	26,000
Delaware Elwyn Institute	18,600
Delaware Epilepsy Association	10,000
Delaware Hospice, Inc.	193,000
Delaware Nursing Centers, Inc. - Westside Health Service	10,700
Delaware Paralyzed Veterans Prosthetic Foundation, Inc.	28,900
Delaware Special Olympics	14,000
Easter Seal Society for Crippled Children & Adults of Delaware	85,000
Institute for Development of Human Resources	24,000
Jobs for Delaware Graduates	183,200
Kent/Sussex Industries	52,000
Mancus Foundation	35,400
Mental Health Association in Delaware	13,500
National Multiple Sclerosis Society of Delaware	10,700
Opportunity Center, Inc.	5,000

Family and Youth Services

Residential Treatment	
Aid-in-Dover, Inc.	\$ 46,100
Children's Home, Inc.	46,100
Diamond State Youth, Inc.	110,000
Independent Living, Inc.	91,100
Layton Home for Aged Persons	150,000
Minquadales Home, Inc. - Gilpin Hall	10,800
The Shepherd Place, Inc.	12,000

Other

Because We Care II	\$ 20,000
Big Brothers/Big Sisters of Delaware, Inc.	45,600
Boys Club of Wilmington	17,700
Child Care Connection	74,000
Child, Inc.	78,200
Delaware Assn. of Chiefs of Police - Camp Barnes	22,500
Del. Guidance Services for Children & Youth, Inc.	160,700
Del. Parent Aide & Resource Mother Coalition	10,000
Del. State Headstart Parents Association	15,000
Delawareans United To Prevent Child Abuse	32,200
Family & Children Services of Delaware, Inc.	173,600
IAABO Holiday Basketball Invitational Corporation/ Slam Dunk to the Beach, Inc.	25,000
Jewish Family Service of Delaware, Inc.	22,500
Lutheran Community Services, Inc.	10,000
National Council on Agricultural Life and Research Fund, Inc.	30,000
Northern Delaware Youth for Christ, Inc.	10,000
Peoples Place II	93,360
Turnabout Counseling Center/Seaford Action Committee	182,100
United Cerebral Palsy of Delaware, Inc.	53,600
YMCA of Southern Delaware	26,800
Youth Guidance Program	15,000
Supporting K.I.D.D.S.	10,000

Adult Day Care

Total Living Care, Inc.	\$ 26,800
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Alcohol/Drug Abuse

1212 Program	\$ 25,600
Addictions Coalition of Del., Inc.	15,000
ANKH, Inc.	26,800
Brandywine Counseling, Inc.	12,000

Center for Pastoral Care	33,800
City of Dover's Substance Abuse Prevention Program	20,000
Delaware Association for Children of Alcoholics	12,000
Linen House	39,700
Open Door, Inc.	125,400
Peoples Settlement Association	16,700
Resource Center, Inc.	51,450
Sojourner's Place, Inc.	8,000

Neighborhood/Community Services

American Red Cross, Delaware Chapter	\$ 12,000
Casa San Francisco	51,800
Chesapeake Bay Girl Scout Council, Inc.	31,100
Civil Air Patrol - Cadet Program	15,000
Claymont Community Center	236,200
Community Legal Aid - Social Security Advocacy	100,200
CONTACT Delaware, Inc.	64,300
Delaware Crime Stoppers	15,000
Delaware Crop Improvement Association	2,500
Delaware Housing Coalition	17,200
Delaware - Panama Partners	4,000
Delaware Safety Council, Inc.	35,000
Delmarva Rural Ministries, Inc.	23,600
Eastlawn Area Human Services, Inc.	32,000
Eastside Citizens, Inc.	48,200
Edgemoor Educational and Recreational Community Center	182,100
First State Resource Conservation & Dev. Council, Inc.	20,000
Food Bank of Delaware	120,000
Girls Club of Delaware	35,000
Greater Elsmere Recreation & Education Center	141,700
Hilltop Lutheran Neighborhood Center	36,000
Hockessin Community Center	80,900
Home of Divine Providence, Inc.	39,700
Ingleside Homes, Inc. - Church Care Foundation, Inc.	35,350
Ingleside Homes, Inc. - Project C.A.R.E.	25,000
Jewish Community Center	10,000
Latin American Community Center, Inc.	34,500
Mary Mother of Hope - House of Joseph	32,000
Mary Mother of Hope House - Phase I	55,700

Neighborhood/Community Services (cont.)

Mary Mother of Hope House - Phase II and III	\$ 60,000
Mary Mother of Hope House - Emmanuel Dining Room	59,000
Mary Mother of Hope House - Job Placement Center	23,000
Methodist Mission and Church Extension Society, Inc. - Methodist Action Program	36,000
Neighborhood House, Inc.	52,800
Neighborhood House - Lower New Castle County Program	65,000
New Castle County Crisis Pregnancy/A Door of Hope, Inc.	26,000
Newark Housing Ministries	40,000
Richardson Park Community Action	16,440
Rosehill Community Center, Inc.	150,000
Salvation Army Emergency Housing	86,500
Salvation Army - Kent County Crisis Alleviation	30,200
Salvation Army - Supported Employment Program	10,000
Salvation Army - Sussex Crisis Alleviation	5,400
Seamen's Center of Wilmington, Inc.	5,000
Slaughter Neck Community Action Committee	41,000
Southbridge Medical Advisory Council, Inc.	
T/A Henrietta Johnson Medical Center	97,000
Southwest Wilmington Community Center	102,000
STEHM, Inc.	12,000
Sussex Community Crisis Housing Services, Inc.	19,500
Sussex County Community Action	57,300
Tri-State Bird Rescue and Research	23,000
Union Baptist Services	70,000
West End Neighborhood House, Inc.	36,000
Whatcoat Social Service Agency	53,000
YMCA of Delaware Eastern Sussex Family Branch	21,000
YWCA of New Castle County	183,000

TOTAL - Section 2

\$ 8,405,637

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	\$ 15,279
Belvedere Volunteer Fire Company	Belvedere	15,279
Brandywine Hundred Fire Co. No. 1	Bellefonte	15,279
Christiana Fire Co.	Christiana	15,279
Claymont Fire Co.	Claymont	15,279
Cranston Heights Fire Co.	Cranston Heights	15,279
Delaware City Fire Co.	Delaware City	15,279
Elsmere Fire Co.	Elsmere	15,279
Five Points Fire Co. No. 1	Richardson Park	15,279
Goodwill Fire Co. No. 1	New Castle	15,279
Hockessin Fire Co.	Hockessin	15,279
Holloway Terrace Fire Co.	Holloway Terrace	15,279
Mill Creek Fire Co.	Marshallton	15,279
Minquedale Fire Co.	Minquedale	15,279
Minquas Fire Co. No. 1	Newport	15,279
Odessa Fire Co., Inc.	Odessa	15,279
Port Penn Volunteer Fire Co., Inc.	Port Penn	15,279
Talleyville Fire Co., Inc.	Talleyville	15,279
Townsend Fire Co., Inc.	Townsend	15,279
Volunteer Hose Co., Inc.	Middletown	15,279
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	15,279

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	\$ 15,279
Camden-Wyoming Fire Co.	Camden	15,279
Carlisle Fire Co.	Milford	15,279
Cheswold Volunteer Fire Co.	Cheswold	15,279
Citizens' Hose Co. No. 1, Inc.	Smyrna	15,279
Clayton Fire Co.	Clayton	15,279
Robbins Hose Co. (Dover Fire Dept.)	Dover	15,279
Farmington Volunteer Fire Co.	Farmington	15,279
Felton Community Fire Co.	Felton	15,279
Frederica Volunteer Fire Co.	Frederica	15,279
Harrington Fire Co.	Harrington	15,279
Hartly Volunteer Fire Co.	Hartly	15,279
Houston Volunteer Fire Co.	Houston	15,279
Leipsic Volunteer Fire Co.	Leipsic	15,279
Little Creek Volunteer Fire Co.	Little Creek	15,279
Magnolia Volunteer Fire Co.	Magnolia	15,279
Marydel Volunteer Fire Co., Inc.	Marydel	15,279
South Bowers Fire Co.	South Bowers	15,279

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 15,279
Blades Volunteer Fire Co., Inc.	Blades	15,279
Bridgeville Volunteer Fire Co.	Bridgeville	15,279
Dagsboro Volunteer Fire Co.	Dagsboro	15,279
Delmar Fire Department	Delmar	15,279
Ellendale Volunteer Fire Co.	Ellendale	15,279
Frankford Volunteer Fire Co.	Frankford	15,279
Georgetown Fire Co., Inc.	Georgetown	15,279
Greenwood Volunteer Fire Co.	Greenwood	15,279
Gumboro Volunteer Fire Co., Inc.	Gumboro	15,279
Indian River Volunteer Fire Co.	Indian River	15,279
Laurel Fire Department, Inc.	Laurel	15,279
Lewes Fire Department, Inc.	Lewes	15,279
Millsboro Fire Co.	Millsboro	15,279
Milton Volunteer Fire Co.	Milton	15,279
Millville Volunteer Fire Co.	Millville	15,279
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	15,279
Roxanna Volunteer Fire Co.	Roxanna	15,279

Seaford Volunteer Fire Dept., Inc.	Seaford	15,279
Selbyville Volunteer Fire Co., Inc.	Selbyville	15,279
Slaughter Beach Memorial Fire Co.	Slaughter Beach	15,279
TOTAL		\$ 916,740

(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	\$ 2,093
Blades Volunteer Fire Co., Inc.	Blades	2,093
Bridgeville Volunteer Fire Co.	Bridgeville	2,093
Bowers Volunteer Fire Co., Inc.	Bowers	2,093
Brandywine Hundred Fire Co., No. 1	Bellefonte	2,093
Camden-Wyoming Fire Co.	Camden	2,093
Carlisle Fire Co.	Milford	2,093
Cheswold Volunteer Fire Co.	Cheswold	2,093
Christiana Fire Co.	Christiana	2,093
Claymont Fire Co.	Claymont	2,093
Cranston Heights Fire Co.	Cranston Heights	2,093
Dagsboro Volunteer Fire Co.	Dagsboro	2,093
Delaware City Fire Co.	Delaware City	2,093
Delmar Fire Department	Delmar	2,093
Ellendale Volunteer Fire Co.	Ellendale	2,093
Eismere Fire Co.	Eismere	2,093
Felton Community Fire Co.	Felton	2,093
Five Points Fire Co. No. 1	Richardson Park	2,093
Frankford Volunteer Fire Co. No. 1	Frankford	2,093
Frederica Volunteer Fire Co.	Frederica	2,093
Goodwill Fire Co. No. 1	New Castle	2,093
Greenwood Volunteer Fire Co.	Greenwood	2,093
Gumboro Volunteer Fire Co., Inc.	Gumboro	2,093
Harrington Fire Co.	Harrington	2,093
Hartly Volunteer Fire Co., Inc.	Hartly	2,093
Holloway Terrace Fire Co.	Holloway Terrace	2,093
Hockessin Fire Co.	Hockessin	2,093
Laurel Fire Department, Inc.	Laurel	2,093
Leipsic Volunteer Fire Co.	Leipsic	2,093
Lewes Fire Department, Inc.	Lewes	2,093
Magnolia Volunteer Fire Co.	Magnolia	2,093
Mill Creek Fire Co.	Marshallton	2,093
Millville Volunteer Fire Co., Inc.	Millville	2,093
Milton Volunteer Fire Co.	Milton	2,093
Minquadales Fire Co.	Minquadales	2,093
Minquas Fire Co. No. 1	Newport	2,093
Port Penn Volunteer Fire Co.	Port Penn	2,093
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,093
Roxanna Volunteer Fire Co.	Roxanna	2,093
Seaford Volunteer Fire Co., Inc.	Seaford	2,093
Selbyville Volunteer Fire Co., Inc.	Selbyville	2,093
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,093
Talleyville Fire Co., Inc.	Talleyville	2,093
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	2,093
TOTAL		\$ 92,092

(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	\$ 2,093
Bethany Beach Volunteer Fire Co.	Bethany Beach	2,093
Blades Volunteer Fire Co.	Blades	2,093
Bowers Volunteer Fire Co., Inc.	Bowers	2,093
Brandywine Hundred Fire Co. No. 1	Bellefonte	2,093
Bridgeville Volunteer Fire Co.	Bridgeville	2,093
Camden-Wyoming Fire Co.	Camden	2,093
Carlisle Fire Co.	Milford	2,093
Cheswold Volunteer Fire Co.	Cheswold	2,093
Christiana Fire Co.	Christiana	2,093
Citizens' Hose Co. No. 1, Inc.	Smyrna	2,093
Claymont Fire Co.	Claymont	2,093
Clayton Fire Co.	Clayton	2,093
Cranston Heights Fire Co.	Cranston Heights	2,093

Dagsboro Volunteer Fire Co.	Dagsboro	2,093
Delaware City Fire Co.	Delaware City	2,093
Delmar Fire Department	Delmar	2,093
Robbins Hose Co. (Dover Fire Dept.)	Dover	2,093
Elsmere Fire Co.	Elsmere	2,093
Farmington Volunteer Fire Co.	Farmington	2,093
Felton Community Fire Co.	Felton	2,093
Five Points Fire Co. No. 1	Richardson Park	2,093
Frederica Volunteer Fire Co.	Frederica	2,093
Georgetown Fire Co.	Georgetown	2,093
Greenwood Fire Co. No. 1	Greenwood	2,093
Goodwill Fire Co. No. 1	New Castle	2,093
Gumboro Volunteer Fire Co., Inc.	Gumboro	2,093
Harrington Fire Co.	Harrington	2,093
Hartly Volunteer Fire Co., Inc.	Hartly	2,093
Hockessin Fire Co.	Hockessin	2,093
Holloway Terrace Fire Co.	Holloway Terrace	2,093
Indian River Volunteer Fire Co.	Indian River	2,093
Laurel Fire Dept., Inc.	Laurel	2,093
Leipsic Volunteer Fire Co.	Leipsic	2,093
Lewes Fire Department, Inc.	Lewes	2,093
Little Creek Volunteer Fire Co.	Little Creek	2,093
Magnolia Volunteer Fire Co.	Magnolia	2,093
Marydel Volunteer Fire Co.	Marydel	2,093
Mill Creek Fire Co.	Marshallton	2,093
Millsboro Fire Co.	Millsboro	2,093
Millville Volunteer Fire Co., Inc.	Millville	2,093
Milton Volunteer Fire Co.	Milton	2,093
Minquadales Fire Co.	Minquadales	2,093
Minquas Fire Co. No. 1	Newport	2,093
Odessa Fire Co., Inc.	Odessa	2,093
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,093
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,093
Roxanna Volunteer Fire Co.	Roxanna	2,093
Seaford Volunteer Fire Department, Inc.	Seaford	2,093
Selbyville Fire Co., Inc.	Selbyville	2,093
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,093
South Bowers Fire Co.	South Bowers	2,093
Ellendale Volunteer Fire Co.	Ellendale	2,093
Houston Volunteer Fire Co.	Houston	2,093
Talleyville Fire Co., Inc.	Talleyville	2,093
Townsend Fire Co., Inc.	Townsend	2,093
Volunteer Hose Co., Inc.	Middletown	2,093
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	2,093

TOTAL \$ 121,394

(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	\$ 3,120
Brandywine Hundred Fire Co., No. 1	Bellefonte	3,120
Christiana Fire Co.	Christiana	3,120
Claymont Fire Co.	Claymont	3,120
Delaware City Fire Co.	Delaware City	3,120
Elsmere Fire Co.	Elsmere	3,120
Five Points Fire Co. No. 1	Richardson Park	3,120
Goodwill Fire Co. No. 1	New Castle	3,120
Hockessin Fire Co.	Hockessin	3,120
Mill Creek Fire Co.	Marshallton	3,120
Selbyville Volunteer Fire Co., Inc.	Selbyville	3,120
Volunteer Hose Co., Inc.	Middletown	3,120
Wilmington Manor Volunteer Fire Co.	Wilmington Manor	3,120

Kent County

Carlisle Fire Co.	Milford	\$ 3,120
Citizens' Hose Co., No. 1, Inc.	Smyrna	3,120
Hartly Volunteer Fire Co., Inc.	Hartly	3,120

Robbins Hose Co., (Dover Fire Dept.)	Dover	3,120
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Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$ 3,120
Lewes Fire Department, Inc.	Lewes	3,120
Millsboro Fire Co.	Millsboro	3,120
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	3,120
Seaford Volunteer Fire Co., Inc.	Seaford	3,120
TOTAL		\$ 68,640

(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	\$ 1,890
Citizens' Hose Co. No. 1, Inc.	Smyrna	1,890
Delaware City Fire Co.	Delaware City	1,890
Goodwill Fire Co. No. 1	New Castle	1,890
Holloway Terrace Fire Co.	Holloway Terrace	1,890
Leipsic Volunteer Fire Co.	Leipsic	1,890
Little Creek Volunteer Fire Co.	Little Creek	1,890
Milton Volunteer Fire Co.	Milton	1,890
Port Penn Volunteer Fire Co., Inc.	Port Penn	1,890
Roxanna Volunteer Fire Co.	Roxanna	1,890
Seaford Volunteer Fire Co., Inc.	Seaford	1,890
South Bowers Fire Co.	South Bowers	1,890
TOTAL		\$ 22,680

(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 7 fire companies organized and equipped in the City. \$ 106,953

(ii) The maintenance of aerial or platform trucks and for the training of personnel in the techniques of extinguishing highrise fires throughout the City of Wilmington. \$ 6,240

(iii) The maintenance and operation of rescue boats in the public service. \$ 1,890

TOTAL \$ 115,083

(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	\$ 20,037
Blades Volunteer Fire Co., Inc.	Blades	20,037
Bowers Volunteer Fire Co., Inc.	Bowers	20,037
Bridgeville Volunteer Fire Co.	Bridgeville	20,037
Camden-Wyoming Fire Co.	Camden	20,037
Carlisle Fire Co.	Milford	20,037
Cheswold Volunteer Fire Co.	Cheswold	20,037
Citizens' Hose Co. No. 1, Inc.	Smyrna	20,037
Clayton Fire Co.	Clayton	20,037
Dagsboro Volunteer Fire Co.	Dagsboro	20,037
Delmar Fire Department	Delmar	20,037
Robbins Hose Co., (Dover Fire Dept.)	Dover	20,037
Ellendale Volunteer Fire Co.	Ellendale	20,037
Farmington Volunteer Fire Co.	Farmington	20,037
Felton Community Fire Co.	Felton	20,037
Frankford Volunteer Fire Co.	Frankford	20,037
Frederica Volunteer Fire Co.	Frederica	20,037
Georgetown Fire Co., Inc.	Georgetown	20,037
Greenwood Volunteer Fire Co.	Greenwood	20,037
Gumboro Volunteer Fire Co., Inc.	Gumboro	20,037
Harrington Fire Co.	Harrington	20,037
Hartly Volunteer Fire Co.	Hartly	20,037

Houston Volunteer Fire Co.	Houston	20,037
Indian River Volunteer Fire Co.	Indian River	20,037
Laurel Fire Department, Inc.	Laurel	20,037
Leipsic Volunteer Fire Co.	Leipsic	20,037
Lewes Fire Department, Inc.	Lewes	20,037
Little Creek Volunteer Fire Co.	Little Creek	20,037
Magnolia Volunteer Fire Co.	Magnolia	20,037
Marydel Volunteer Fire Co., Inc.	Marydel	20,037
Millsboro Fire Co.	Millsboro	20,037
Milton Volunteer Fire Co.	Milton	20,037
Millville Volunteer Fire Co.	Millville	20,037
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	20,037
Roxanna Volunteer Fire Co.	Roxanna	20,037
Seaford Volunteer Fire Dept., Inc.	Seaford	20,037
Selbyville Volunteer Fire Co., Inc.	Selbyville	20,037
Slaughter Beach Memorial Fire Co.	Slaughter Beach	20,037
South Bowers Fire Co.	South Bowers	20,037
TOTAL		\$ 781,443

(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	\$ 2,093
American Legion, Sussex Post #8	Georgetown	2,093
American Legion, Kent Post #14	Smyrna	2,093
Sussex Memorial Post #7422, V.F.W.	Millsboro	2,093
TOTAL		\$ 8,372

TOTAL - Section 3 \$ 2,126,444

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	\$ 27,434
Veterans of Foreign Wars, Department of Delaware	27,434
Disabled American Veterans, Department of Delaware	22,858
Vietnam Veterans of America, Department of Delaware	22,858
Paralyzed Veterans of America, Department of Delaware	22,858

(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	\$ 6,671
American Legion, Department of Delaware	6,671
Disabled American Veterans, Department of Delaware	6,671
Vietnam Veterans of America	6,671
Jewish War Veterans of the U.S., Department of Delaware	3,819
Delaware Veterans of World War I	2,852
Paralyzed Veterans of America, Department of Delaware	5,719

(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 \$5,392 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 \$5,392 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 \$2,155 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 \$ 175,455

Section 5. Section 2 of this Act appropriates \$180,000 to the Delaware State Fair. Of that amount, \$75,000 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 1994. The remaining \$105,000 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. In order to be considered for a Grant-in-Aid Appropriation under Section 1 or Section 2 of this Act, an agency must meet the following criteria:

1. Be incorporated, non-profit (or under umbrella of parent organization which is incorporated, non-profit);
2. Have By-laws that clearly state the purpose of the Corporation and include definition of duties of Board of Directors;
3. Have an active, community-represented, volunteer Board of Directors that sets policies, goals and objectives, and maintains minutes of regularly scheduled meetings and any special meetings;
4. Have programs that are unduplicated and satisfy unmet human needs of the community;
5. Have personnel policies including job descriptions and classifications;
6. Employ no member of the General Assembly on a salaried basis or in exchange for any emolument;
7. Have competent executives, competent staffing and reasonable facilities;
8. Practice non-discrimination;
9. Have accounting (budget) procedures and an annual audit;
10. Use funds in accordance with the application;
11. Demonstrate community support;
12. Request funds only for a program which does not receive full funding from other sources of revenue.

Section 9. (a) No funds appropriated in this Act shall be expended in a political campaign or for partisan political purposes.

(b) No funds appropriated in this Act may be used to hire lobbyists.

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 1995 in grants-in-aid to

agencies for the purchase of capital equipment, relocation, rehabilitation, renovation or purchase of buildings. Organizations will not be eligible for consideration of a grant-in-aid appropriation unless they have been incorporated and operating for a two-year period prior to June 30th of the fiscal year in which they apply for funding for the following fiscal year.

Section 12. 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. Upon notification by the Chairman of the Joint Finance Committee, the State Treasurer shall be directed to withhold such installment payment(s). An installment payment may be delayed or withheld if the grant-in-aid recipient because of, but not limited to, the following:

- (a) Has not submitted a quarterly statement of expenditures if required to do so;
- (b) Expended funds from the grant-in-aid for purposes not intended by the General Assembly;
- (c) Expended funds for day care, purchase of capital equipment, relocation, renovation, rehabilitation or purchase of buildings; and
- (d) Agency is no longer in operation.
- (e) Failure to pay Corporation Franchise Tax.

Section 13. (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 1995:

- (1) An audit prepared by a Certified Public Accountant covering the prior full fiscal year of the receiving agency, or
- (11) 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 appropriations 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 1995.
- (f) For Fiscal Year 1994, 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, 1993. Such financial information shall be in the form as defined in Subsection (a)(1) or Subsection (a)(11) of this Section covering full fiscal year of the receiving agency. If any Grant-in-Aid recipient fails to comply with this Subsection (f) the funds appropriated by this Act to that recipient shall revert to the General Fund of the State.

Section 14. This Act is a supplementary appropriation and the monies appropriated shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended or unencumbered as of June 30, 1994, shall revert to the General Fund of the State of Delaware.

Section 15. (a) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation in Section 2 of this Act at

the beginning of the first quarter of Fiscal Year 1994 for the agencies as follows:

Association for Retarded Citizens
 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
 National Multiple Sclerosis Society
 New Castle Historical Society
 New Castle - Separation Day
 Sojourner's Place, Inc.
 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 1994 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 1994.

Section 16. (a) Section 2 of this Act appropriates a one-time item to the Department of Public Safety - Aid to Local Law Enforcement in the amount of one million four hundred thousand dollars (\$1,400,000) 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 Department of Public Safety 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 Department of Public Safety 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, 1991.

(d) The funds appropriated in Section 2 for the Department of Public Safety - Aid to Local Law Enforcement 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, 1994, 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, 1994, as to the agencies that were awarded grants from these funds, the amount of the grant, and the purpose of the grant.

Section 17. Section 1 of this Act makes an appropriation to the Department of Health & Social Services, Public Health, Office of Paramedic Administration (35-05-30), 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.

agencies for the purchase of capital equipment, relocation, rehabilitation, renovation or purchase of buildings. Organizations will not be eligible for consideration of a grant-in-aid appropriation unless they have been incorporated and operating for a two-year period prior to June 30th of the fiscal year in which they apply for funding for the following fiscal year.

Section 12. 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. Upon notification by the Chairman of the Joint Finance Committee, the State Treasurer shall be directed to withhold such installment payment(s). An installment payment may be delayed or withheld if the grant-in-aid recipient because of, but not limited to, the following:

- (a) Has not submitted a quarterly statement of expenditures if required to do so;
- (b) Expended funds from the grant-in-aid for purposes not intended by the General Assembly;
- (c) Expended funds for day care, purchase of capital equipment, relocation, renovation, rehabilitation or purchase of buildings; and
- (d) Agency is no longer in operation.
- (e) Failure to pay Corporation Franchise Tax.

Section 13. (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 1995:

- (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 appropriations 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 1995.
- (f) For Fiscal Year 1994, 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, 1993. 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 14. This Act is a supplementary appropriation and the monies appropriated shall be paid by the State Treasurer from General Fund monies not otherwise appropriated. Any funds remaining unexpended or unencumbered as of June 30, 1994, shall revert to the General Fund of the State of Delaware.

Section 15. (a) The State Treasurer is authorized to take the necessary steps to make a total payment of the appropriation in Section 2 of this Act at

the beginning of the first quarter of Fiscal Year 1994 for the agencies as follows:

Association for Retarded Citizens
 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
 National Multiple Sclerosis Society
 New Castle Historical Society
 New Castle - Separation Day
 Sojourner's Place, Inc.
 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 1994 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 1994.

Section 16. (a) Section 2 of this Act appropriates a one-time item to the Department of Public Safety - Aid to Local Law Enforcement in the amount of one million four hundred thousand dollars (\$1,400,000) 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 Department of Public Safety 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 Department of Public Safety 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, 1991.

(d) The funds appropriated in Section 2 for the Department of Public Safety - Aid to Local Law Enforcement 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, 1994, 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, 1994, as to the agencies that were awarded grants from these funds, the amount of the grant, and the purpose of the grant.

Section 17. Section 1 of this Act makes an appropriation to the Department of Health & Social Services, Public Health, Office of Paramedic Administration (35-05-30), 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.

Section 18. For Fiscal Year 1994, the remaining balance in the Fiscal Year 1993 account (35-05-30-01-81) shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 1994.

Section 19. Appropriations made in Section 1 of this Act to the Office of Paramedic Administration and Aid to Local Law Enforcement and in Section 2 of this Act to One-time Items--Aid to Local Law Enforcement shall not be subject to the provisions in Sections 11, 12 and 13. Funds appropriated to Aid to Local Law Enforcement shall not be subject to reversion at the end of the fiscal year if unexpended or unencumbered, but shall be continued for a period of up to three years.

Section 20. In recognition that the Statewide Paramedic Program is now fully operational, the Budget Office, Office of the Controller General and Department of Health and Social Services shall undertake a study of Statewide paramedic training. This study shall examine the current system and develop recommendations as to how this training should be offered in the future and also as to what the State's role should be in providing this training. These recommendations shall be submitted to the Joint Finance Committee no later than December 15, 1993.

Section 21. For F.Y. 1994, direct paramedic initial training, recertification training and testing for the Statewide paramedic program shall be offered at a single site.

Section 22. Section 2 of this Act appropriates funds to Government Units, Aid to Local Law Enforcement. These funds shall be distributed based on (a) \$3,000 to each police agency; (b) any funds in excess of "(a)" based on the ratio of the number of police officers each police agency has to the total number of police in all agencies.

Section 23. Section 1 of this Act makes an appropriation to Neighborhood House - Lower New Castle County Program. Upon determination the conditions have changed, the Budget Director and Controller General may transfer that appropriation to another agency.

Section 24. Section 1 of this Act appropriates funds to Eastlawn Area Human Services, Inc. None of these funds, nor any Federal, State or Local Government funds, shall be expended for the purchase of television, cable T.V. and/or radio broadcasting services. Beginning September 30, 1993, quarterly reports shall be submitted to the Joint Finance Committee and Delaware State Auditor on the disposition of funds appropriated and expended. No later than November 30, 1993, the State Auditor shall provide to the Joint Finance Committee a follow-up review of Eastlawn Area Human Services, Inc. to assess the progress correcting the deficiencies outlined in the Audit Report of March 16, 1993. Should the proper steps not be taken to correct the aforementioned deficiencies, no further payments shall be made to Eastlawn Area Human Services, Inc. until such corrections are made.

Section 25. Section 1 of this Act provides an appropriation to the Delaware Safety Council. No quarterly payments shall be made until the Delaware Safety Council has provided a report to the Controller General's Office outlining expenditures from Grant-in-Aid funds.

Section 26. Section 1 of this Act appropriates funds to the Afro-American Historical Society. Beginning September 30, 1993, quarterly reports shall be submitted to the Joint Finance Committee and Delaware State Auditor on the disposition of funds appropriated and expended. No later than November 30, 1993, the State Auditor shall provide to the Joint Finance Committee a follow-up review of the Afro-American Historical Society to assess the progress in correcting the deficiencies outlined in the Audit Report of March 4, 1993. Should the proper steps not be taken to correct the aforementioned deficiencies, no further payments shall be made to the Afro-American Historical Society until such corrections are made.

Approved July 1, 1993.

CHAPTER 67

FORMERLY

SENATE BILL NO. 138
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 65, TITLE 14, DELAWARE CODE, RELATING TO CHANGING THE NAME OF DELAWARE STATE COLLEGE TO DELAWARE STATE UNIVERSITY.

WHEREAS, Delaware State College had its inception as a result of the passage of federal legislation, namely, the Morrill Act of 1890, and in 1891 the 58th Delaware General Assembly enacted into law Chapter 119, Volume 19, Laws of Delaware establishing the institution of higher learning, giving it the name of "Delaware College for Colored Students"; and

WHEREAS, the name change to Delaware State College occurred in 1947 as a result of the passage of legislation by the 114th General Assembly; and

WHEREAS, the college is a land-grant institution whose history exceeds more than one-hundred years; and

WHEREAS, the mission of the institution when it was first established on February 2, 1891 was to offer a baccalaureate degree in the following disciplines: Agriculture, the Mechanical Arts, the English Language, the various branches of Mathematics, Physical, Natural and Economic Science, and in 1897, a three-year normal course leading to a teacher's certificate was initiated, which in 1911 said normal course was extended for four years leading to a Bachelor of Pedagogy Degree; and

WHEREAS, in 1893, a Preparatory Department was established for students who were not qualified to pursue a major course of study upon entrance which lasted until 1916-17 when it was phased out to be replaced by a high school granting a diploma on completion of a four-year course of study; and

WHEREAS, in 1923, a Junior College Division was added and a four-year curricula in the Arts and Sciences, Elementary Education, Home Economics, Agriculture, and Industrial Arts were established; and

WHEREAS, in 1951-52 academic year, the High School Department was discontinued which was replaced by the then William Henry High School for Negro Students presently located in the Capital School District; and

WHEREAS, in April of 1957, the college was fully accredited by the Middle States Association of Colleges and Schools and the accreditation has since been reaffirmed by the Association in 1962, 1972, 1982, 1987, and 1992; and

WHEREAS, since 1957 the college has grown in stature as a center for teaching, research and public service and while recognizing its historical heritage, the college has broadened its outlook to reflect the changing times and today the college provides higher education for a diverse student population; and

WHEREAS, in 1981 Delaware State College offered its first graduate program, a Master of Arts Degree Program in the field of education and by 1987 eleven Master Degree programs were being offered by the college which include biology, business administration, chemistry, education, physics, and social work; and

WHEREAS, in 1986 the office of Dean of Graduate Studies and Research was established thus creating a distinct administrative structure for graduate education; and

WHEREAS, in 1991-92 academic year, the Division of Academic Affairs was reorganized to house the undergraduate programs in "schools" with each school headed by a senior academic administrator at the rank of Dean. The undergraduate schools are Arts and Sciences, Business and Economics, and Professional Studies. The School of Education will be established in July of 1993; and

WHEREAS, the School of Arts and Sciences houses the Departments of Art and Art Education; Biology; Chemistry; English, Foreign Languages; Health;

Physical Education, and Recreation; History and Political Science; Mathematics and Computer Sciences; Music, Philosophy; Physics; Astronomy; Psychology and Sociology; and

WHEREAS, the School of Business and Economics contains the Departments of Economics, Business Administration and Accounting; and

WHEREAS, the School of Professional Studies includes the Departments of Nursing, Social Work, Education, Airway Science, Agricultural and Natural Resources, and Home Economics; and

WHEREAS, more than eighty curriculum options leading to the Bachelor's Degree are offered by twenty-two academic departments; and

WHEREAS, in the fall of 1992 head count enrollment of the college was 2,935, an all time high, with approximately 34% of the undergraduate students majoring in the traditional arts and science disciplines while 66% majored in professional areas; and

WHEREAS, during the past 25 years there has been a steady growth in research at the college, much of which has been in the biomedical sciences, agriculture and natural resources and federal support continues to increase yearly. For the 1992-93 academic year total extramural funding for research and special programs exceeded \$4.6 million; and

WHEREAS, Delaware State College has a distinguished faculty that has received numerous national and local awards from professional associations in recognition of their scholarly pursuits; and

WHEREAS, in 1992, the college had a faculty of approximately 166, with 99 holding Doctorate degrees in the various disciplines, and with 27 holding the rank of professor, 43 holding the rank of associate professor; 56 assistant professors; 20 instructors; 1 research professor; 2 assistant research professors; 4 research instructors and 13 visiting faculty; and

WHEREAS, the college has recently completed a major enhancement of its library resources by completing a \$5.8 million addition/renovation and by enhancing the use of technology, including the installation of a new library computer and on-line catalog system; and

WHEREAS, the name "university" better reflects what Delaware State College has become over the years; and

WHEREAS, the name change is a recognition of the diversity, depth and quality that Delaware State College has achieved through vision and dedication to its mission; and

WHEREAS, of the 17 historically black land-grant institutions, Delaware State College and Fort Valley State College (in Georgia) are the only institutions that have not been designated universities; and

WHEREAS, of the 161 colleges and universities that belong to the National Association of State Universities and Land-Grant Colleges, including the 17 historically black institutions, Delaware State College and Fort Valley State College are the only member institutions that have not been designated as universities; and

WHEREAS, the university designation will make it clear to the public that the institution offers a comprehensive array of programs at the bachelors and masters levels in the liberal arts, the sciences and selected professional areas; and

WHEREAS, recruitment of outstanding students and faculty will be enhanced because the institution will not have prospects who hold the popular view that a college is limited in its offerings, thus allowing the institution to better compete with peer institutions for students and faculty; and

WHEREAS, the question of what constitutes a "university" as distinct from a "college" is central to the consideration of a request to rename a college as a university; and

WHEREAS, while there have been many widely used definitions of what constitutes a "university" as distinct from a "college", the truth is that historically there have been no concrete, commonly accepted criteria distinguishing between a university and a college other than the broad public belief that a university is somehow larger, more graduate and research oriented, and features a greater breadth and depth of degree offerings than a college; and

WHEREAS, the most recent and widely accepted classification of higher education institutions is in the 1987 report of the Carnegie Foundation for the Advancement of Teaching in which they classify the 3,400 colleges and universities into 10 general categories based upon the level of degrees awarded, the fields in which the degrees are conferred, and, in some categories, enrollments, federal research support, and selectivity of admissions criteria; and

WHEREAS, under the Carnegie classification system, Delaware State College is classified among the comprehensive university and colleges I and it is noteworthy that under the Carnegie classification scheme they make no distinction as to whether a comprehensive institution is called a university or college; and

WHEREAS, under the Carnegie Classification of Comprehensive Universities and Colleges I over seventy-five (75) percent of the public institutions are designated universities; and

WHEREAS, it is the belief of Delaware State College that they can change their name without adversely affecting their standards of quality or the quality of higher education in the State of Delaware; and

WHEREAS, the name change will not change the priorities and mission of Delaware State College; and

WHEREAS, the presence of a readily identified university in central Delaware will serve to make central and southern Delaware even more attractive to new businesses and to potential employees of new and existing businesses, thus permitting Delaware State College to become a resource in economic development; and

WHEREAS, university status is a plus when competing for extramural funding, both private (foundations and corporation funding) and federal, thus allowing Delaware State College to substantially increase its ability to raise funds from external sources.

NOW, THEREFORE:

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

Section 1. Amend Chapter 65 of Title 14, Delaware Code, by striking the words "Delaware State College" wherever they appear in said Chapter and substituting in lieu thereof the words "Delaware State University" and further amending the Chapter by striking the word "College" wherever it appears throughout the Chapter and substituting in lieu thereof the word "University".

Section 2. The Delaware Code Revisors are hereby authorized and directed to strike the name "Delaware State College" wherever it appears in the Delaware Code and substituting in lieu thereof the words "Delaware State University".

Approved July 1, 1993.

CHAPTER 68

FORMERLY
HOUSE BILL NO. 351

AN ACT TO PROVIDE FOR A SUPPLEMENTAL APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, 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 fourteen million fifty one thousand dollars (\$14,051.0) is hereby appropriated to the Department of Health and Social Services, 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, 1994, shall revert to the General Fund of the State of Delaware.

Approved July 1, 1993.

CHAPTER 69

FORMERLY
HOUSE BILL NO. 243

AN ACT TO AMEND CHAPTER 1, TITLE 3 OF THE DELAWARE CODE RELATING TO AGRICULTURE.

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

Section 1. Amend Chapter 1, §101, Title 3 of the Delaware Code by adding a new paragraph 9 to read as follows:

"Exercise authority to make rules and regulations covering the possession, control, care and maintenance of ostriches, emus, or rheas domesticated and confined for commercial farming purposes; specifically excluding ostriches, emus or rheas that are kept and maintained primarily for exhibition purposes."

Approved July 2, 1993.

CHAPTER 70

FORMERLY

SENATE BILL NO. 133

AN ACT TO AMEND CHAPTER 5, TITLE 13, DELAWARE CODE RELATING TO CHILD SUPPORT ENFORCEMENT.

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

Section 1. Amend Section 513, Chapter 5, Title 13 of the Delaware Code by striking (b)(1) and (b)(1)a. in their entirety and substituting in lieu thereof the following:

"(1) Where a duty to support has been determined to exist and a new or modified support order is established, and regardless of whether support payments are in arrears, 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:

a. One of the parties demonstrates, and the Court (or administrative process) finds that there is good cause not to require immediate income withholding. Any finding that there is good cause not to require immediate income withholding must be based on at least: (i) a written determination that, and explanation by the Court or administrative authority of why, implementing immediate income withholding would not be in the best interests of the child and; (ii) proof of timely payment of previously ordered support in cases involving modification of support orders, or

b. A written agreement is reached between both parties which provides for an alternative arrangement. As used herein, 'written agreement' means a 'written alternative arrangement signed by both parents, or by the obligor and a representative of the Division of Child Support Enforcement in cases brought under Title IV-D of the federal Social Security Act [42 U.S.C., Section 651 et seq.] in which there is an assignment of support rights to the State, and reviewed and entered in the record by the Court or administrative authority."

Section 2. Amend Section 513, Chapter 5, Title 13 of the Delaware Code by redesignating the existing subsection (b)(1)b. as subsection (b)(1)c. and by striking the words "subparagraph a." as they appear in the second line thereof and substituting in lieu thereof the words "subparagraph (1)."

Approved July 2, 1993.

CHAPTER 71

FORMERLY

SENATE BILL NO. 131

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO CERTIFICATE OF TITLE ISSUANCE.

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

Section 1. Amend Subsection 2306(a), Chapter 23, Title 21 of the Delaware Code by adding at the end thereof the following:

"The Department may make address and vehicle registered weight changes to the vehicle record and registration card without issuing a new title."

Approved July 2, 1993.

CHAPTER 72

FORMERLY

SENATE BILL NO. 129

AN ACT TO AMEND CHAPTER 23, TITLE 21, OF THE DELAWARE CODE RELATING TO AGE REQUIREMENT FOR APPLICATION FOR CERTIFICATE OF TITLE.

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

Section 1. Amend Subsection 2302(c), Chapter 23, Title 21 of the Delaware Code by striking the words "18 years of age or under" as it appears therein and inserting in lieu thereof the words "under 18 years of age".

Section 2. Amend Subsection 2306(d), Chapter 23, Title 21 of the Delaware Code by striking the words "18 years of age or under" as it appears therein and inserting in lieu thereof the words "under 18 years of age".

Approved July 2, 1993.

CHAPTER 73

FORMERLY

SENATE BILL NO. 128

AN ACT TO AMEND CHAPTER 45, TITLE 21 OF THE DELAWARE CODE RELATING TO SIZE AND WEIGHT OF VEHICLES AND LOADS.

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

Section 1. Amend Subsection 4502(b) (4), Chapter 45, Title 21 of the Delaware Code by striking the figure "42" as it appears therein and inserting in lieu thereof the figure "45".

Section 2. Amend Subsection 4503(b)(3)(b), Chapter 45, Title 21 of the Delaware Code by striking the figure "42" as it appears therein and inserting in lieu thereof the figure "45".

Approved July 2, 1993.

CHAPTER 74

FORMERLY

SENATE BILL NO. 127

AN ACT TO AMEND CHAPTER 25 OF TITLE 21 OF THE DELAWARE CODE RELATING TO APPLICATION FOR CERTIFICATE OF TITLE AND LATE FEE.

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 2503(a), Chapter 25, Title 21, Delaware Code by adding at the beginning of said subsection the following:

"The transferee of a Delaware registered vehicle shall make application for a new certificate of title immediately following purchase, but in no case more than 30 days after purchase of said vehicle. If due to extraordinary circumstances the purchaser is unable to apply for a certificate of title within 30 days of the purchase date, the Director, in the Director's discretion and for good cause shown, may grant an extension of time within which the purchaser must do so."

Section 2. Amend Subsection 2508, Chapter 25, Title 21, Delaware Code by adding at the end of said section the following:

"A \$25.00 penalty fee shall be charged for the issuance of a new certificate of title on a Delaware titled vehicle when the application is received more than 30 days after the transfer date of said vehicle. The penalty fee shall be waived if the Director has granted an extension of time within which to apply for a certificate of title in accordance with Subsection 2503(a) of this title."

Approved July 2, 1993.

CHAPTER 75

FORMERLY

SENATE BILL NO. 119
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 27, TITLE 21 DELAWARE CODE RELATING TO REQUIREMENTS AND QUALIFICATIONS FOR LICENSING SCHOOL BUS DRIVERS.

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

Section 1. Amend §2709, Chapter 27, Title 21, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§2709. Out-of-State School Bus Drivers Qualifications

(a) Out-of-State school bus drivers shall meet the requirements of their home state for driving a school bus and supplemental Delaware DPI training as determined by DPI.

(b) Out-of-State school bus drivers shall provide a Delaware DPI Physical Examination Certification indicating a valid and approved Delaware State Board of Education physical exam completed within the last year.

(c) Out-of-State school bus drivers shall upon first employment provide to their Supervisor a current copy of their home State Driving Record. The driver's Supervisors shall maintain on file a current copy of their State Driving Record. These records will be annually reviewed using the same qualification criteria as found in Section 2708 of this Title."

Approved July 2, 1993.

CHAPTER 76

FORMERLY

SENATE BILL NO. 6

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

AN ACT TO AMEND CHAPTER 20, TITLE 15, DELAWARE CODE, RELATING TO AGENCY BASED REGISTRATION.

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

Section 1. Amend Chapter 20, Title 15 of the Delaware Code by adding the following new subchapter:

"Subchapter VII. Agency Based Registration

§2050. Registration through State Agencies

(A) Registration through the Division of Motor Vehicles

(1) In addition to registration as provided for elsewhere in this chapter, each application for a motor vehicle driver's license under the laws of Delaware (including any renewal application) shall serve as an application for voter registration.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

(3) An applicant for a motor vehicle license may decline in writing to be registered to vote by way of the application for a motor vehicle driver's license. The fact that an applicant has declined to be registered through the motor vehicle application process shall not be used for any purpose other than voter registration.

(4) Applications for a motor vehicle license shall include as a part of the application a voter registration component. The voter registration component may not require any information which duplicates information required in the motor vehicle license component other than a second signature or information listed in subparagraph (a)(5)(a). The form shall also contain a provision which allows an applicant to decline to use the form to register to vote.

(5) The voter registration component of the motor vehicle license application shall contain:

(a) the minimum amount of information necessary to ensure the prevention of duplicate voter registrations and preserve the ability of election officials to determine eligibility of the applicant and otherwise administer voter registration and the election process;

(b) a statement setting forth voting eligibility requirements and an attestation that the applicant meets the requirements;

(c) the signature of the applicant under penalty of perjury; and

(d) no requirement or notarization or other formal authorization.

(6) Any change of address form submitted to the Division of Motor Vehicles shall serve as notification of change of address for voter registration purposes unless the registrant states on the form that the change of address is not for voter registration purposes.

(B) Registration Through Other State Agencies

(1) The Secretary or Chief Administrative Officer of each of the State agencies listed in subsection (B)(2) shall provide the voter registration services listed in (B)(3) for its employees and the public it serves.

(2) In addition to the manner of voter registration provided for under Subsection (A), a person who is qualified to register to vote may complete

a voter registration application or apply to change a previous voter registration at the following divisions of state agencies:

(a) Department of Health and Social Services, Division of Economic Services;

(b) Department of Labor, Division of Training and Division of Vocational Rehabilitation; and

(c) The Secretary or Chief Administrative officer of each State agency not enumerated under subsection (a) or (b) may provide voter registration services for its employees and the public it serves.

(3) At each voter registration agency, the following services shall be made available:

(a) Distribution of mail voter registration application forms as required by Subchapter IV of this Chapter in conjunction with the agency's own application for the service it provides to the public, and with each of the agency's application for recertification, renewal or change of address form relating to the services the agency provides, unless the applicant, in writing, declines to register to vote; to the greatest extent practicable, the registration agencies' forms shall incorporate a means by which a person who completes the forms may decline, in writing, to register to vote.

(b) Employees of the registration agencies who are trained to provide non-partisan voter registration assistance, and who shall routinely inquire of members of the public served by the agency whether they wish to register to vote and, if requested, assist such members of the public in completing the registration forms. Any such agency employee shall provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms. An agency employee who provides such assistance shall not:

(1) Seek to influence an applicant's political preference or party registration;

(2) Display any such political preference or party allegiance; or

(3) Make any statement to an applicant to take any action the purpose or effect of which is to discourage the applicant from registering to vote.

(c) Acceptance of completed voter registration applications for transmittal to the appropriate office of the Department of Elections;

(4) No information relating to a declination to register to vote in connection with an application made at a registering agency may be used for any purpose other than voter registration.

(5) Registering Agencies shall:

(a) Inform all applicants for voter registration of voter eligibility requirements;

(b) Inform all applicants for voter registration of the penalties provided under law for submission of a false voter registration application; and

(c) Ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

§2051. Appointment of Voter Registration Coordinator--Coordination Among Voter Registration Agencies, Department of Elections and the Office of Information Services

(A) The State Election Commissioner shall be the statewide coordinator for Agency Based Registration.

(B) Each of the Voter Registration Agencies identified in this subchapter shall appoint an existing employee to implement and oversee the training necessary to provide non-partisan voter registration, and to collect and enter on each registration application all information required to properly identify the applicant, including a complete location of residence. The employee designated to assist registrants at each Voter Registration Agency shall further ensure that each voter registration application to be transmitted to the appropriate Department of Elections contains both the correct identification of the Voter Registration Agency office, the origin and signature of the employee of the Voter Registration Agency office who prepared or assisted in preparing the application and who witnessed the applicant's signature.

(C) The Statewide Coordinator shall ensure that all applicable intake and application forms used by each agency shall be the same forms used by the Department of Elections in the respective Counties.

(D) The Statewide Coordinator shall provide properly trained personnel to transmit a sufficient number of appropriate applications to each Voter Registration Agency and to transmit completed voter registration applications to the Department of Elections within three business days after completion to the Department of Elections located in the applicant's county of residence. This requirement may be satisfied by putting the completed applications into the State mail within three business days.

(E) The Statewide Coordinator shall provide procedural assistance to each Registration Agency for appropriate training of the employee designated to assist in voter registration.

(F) The Statewide Coordinator shall institute appropriate procedures to facilitate implementation of the provisions of this Subchapter and to ensure coordination of those procedures among the Department of Elections located in each County, the Office of Information Systems and the Voter Registration Agencies.

§2052. Statistical Compilations

(A) The Department of Elections in each County shall collect, maintain, and publish statistical data reflecting the number of electors enfranchised pursuant to this Subchapter by each of the Voter Registration Agencies created herein.

§2053. Effective Date

The provisions of Subchapter VII shall take effect on January 30, 1994 and shall be known as the Agency Based Registration."

Approved July 3, 1993.

CHAPTER 77

FORMERLY

HOUSE BILL NO. 350 June 30, 1993

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 1994; DEAUTHORIZING STATE GUARANTEED BOND AUTHORIZATIONS AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE; AUTHORIZING THE ISSUANCE OF REVENUE BONDS OF THE DELAWARE TRANSPORTATION AUTHORITY; REVERTING AND REPROGRAMMING CERTAIN FUNDS OF THE STATE; CREATING CERTAIN FUNDS OF THE STATE; APPROPRIATING GENERAL FUNDS AND SPECIAL FUNDS OF THE STATE; APPROPRIATING FUNDS FROM THE TRANSPORTATION TRUST FUND AND SPECIAL FUNDS OF THE DELAWARE TRANSPORTATION AUTHORITY; INCREASING AND DECREASING CERTAIN REVENUES AND FEES DEDICATED TO THE TRANSPORTATION TRUST FUND; CREATING A SMALL RETAIL GASOLINE STATION ASSISTANCE PROGRAM; CLARIFYING CERTAIN CONTRACTUAL RIGHTS OF THE DELAWARE TRANSPORTATION AUTHORITY; 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-quarters of all members elected to each House thereof concurring therein):

Section 1. Fiscal Year 1994 Capital Improvements Project Schedule Addendum.

The General Assembly hereby authorizes the following projects in the following amounts to be expended for the purposes set forth in this Section. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, 1996, shall be subject to reversion or deauthorization.

SECTION 1 ADDENDUM
FISCAL YEAR 1994 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHOR- IZATIONS	DEAUTHOR- IZATION OF STATE GUAR- ANTEED BONDS	REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANS. TRUST FUNDS	GENERAL FUNDS	TOTAL
BUDGET OFFICE									
800 Megahertz System	10-02-01	90002SGE	\$2,000,000	\$0	\$0	\$0	\$0	\$0	\$2,000,000
Subtotal			\$2,000,000	\$0	\$0	\$0	\$0	\$0	\$2,000,000
DELAWARE DEVELOPMENT OFFICE									
Delaware Strategic Fund	10-03-03	94001SGD	\$0	\$0	\$0	\$0	\$0	\$2,250,000	\$2,250,000
DE Technical Innovation Fund	10-03-03	90004SGD	0	0	0	0	0	200,000	200,000
Chrysler Technical Education Assistance	10-03-03	94002SGD	0	0	0	0	0	1,000,000	1,000,000
Industrial Park Development - Selbyville	10-03-03	94003SGD	358,000 *	0	0	0	0	0	358,000
Rehoboth Convention Center Renovations	10-03-03	93001SBC	350,000 *	0	0	0	0	0	350,000
Fishon - Water Infrastructure Improvements	10-03-03	94004SBC	100,000 *	0	0	0	0	0	100,000
Delaware City - Rehabilitation, Well No. 5	10-03-03	94005SGC	0	0	0	0	0	14,100	14,100
Multi - Purpose Sports Facility - Land Acquisition	10-03-03	94006SGL	0	0	0	0	0	350,000	350,000
Brandywine & Christina Rivers Imp. Project	10-03-03	94007SGD	0	0	0	0	0	50,000	50,000
Fire State Center - Wilmington	10-03-03	92001SBC	1,250,000	0	0	0	0	0	1,250,000
Port of Wilmington Expansion	10-03-03	94008SBC	3,000,000	0	0	0	0	0	3,000,000
Agr. Biotechnology Ctr./Biocontainment Ctr.	10-03-03	94009SBR	350,000	0	0	0	0	0	350,000
Subtotal			\$5,406,000	\$0	\$0	\$0	\$0	\$3,854,100	\$9,270,100
STATE									
Stabilization Endowment for the Arts	20-07-01	93007SGC	\$0	\$0	\$0	\$0	\$0	\$1,000,000	\$1,000,000
Winterthur Museum Constr. - Phase III	20-01-01	92004SBC	500,000	0	0	0	0	0	500,000
Subtotal			\$500,000	\$0	\$0	\$0	\$0	\$1,000,000	\$1,500,000

SECTION 1 ADDENDUM
FISCAL YEAR 1994 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHOR- IZATIONS	REAUTHOR- IZATION OF STATE GUAR- ANTEED BONDS	REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANS. TRUST FUNDS	GENERAL FUNDS	TOTAL
ADMINISTRATIVE SERVICES									
Asbestos Abatement	30-05-10	86019SBM	\$336,000 *	\$0	\$0	\$0	\$0	\$0	\$336,000
Architectural Barrier Removal	30-05-10	91016SBM	210,000 *	0	0	0	0	0	210,000
MCI & Equipment - Admn. Services	30-05-10	82021SSM	0	0	0	343,000	0	0	343,000
Legislative Hall Alt./Add.	30-05-10	90022SBR	2,500,000	0	0	0	0	0	2,500,000
Sussex County Courthouse Acquisition	30-05-10	94010SBC	1,714,000 *	0	0	0	0	0	1,714,000
Murphy House	30-05-10	94011SBR	280,000 *	0	0	0	0	0	280,000
Georgetown Parking - Laurel St. Demol./Pave	30-05-10	94012SBR	50,000 *	0	0	0	0	0	50,000
Delaware Development Office Projects:									
DE Technology/Composites Park	30-05-10	88004SBC	800,000	0	0	0	0	0	800,000
Department of State Projects:									
NCCo. - Bear Area Library	30-05-10	93002SBC	868,000	0	0	0	0	0	868,000
State Library Renovations	30-05-10	92002SBR	151,200 *	0	0	0	0	0	151,200
NCCo. - Concord Pike Regional Library	30-05-10	93003SBC	304,000	0	0	0	0	0	304,000
Veterans Cemetery Enhancements	30-05-10	94013SBC	90,000 *	0	0	0	0	0	90,000
Rothoboth Public Library - Planning	30-05-10	94014SBR	48,000 *	0	0	0	0	0	48,000
Dept. Children, Youth & Their Families Projects:									
Secure Care Continuum Improvement Plan	30-05-10	91022SBC	0	1,000,000	0	0	0	0	1,000,000
Ferrie Renovations - Phase IV	30-05-10	91024SBR	0	223,100 *	0	0	0	0	223,100
Department of Correction Projects:									
MCI & Equipment	30-05-10	80005SSM	0	0	0	30,000	0	0	30,000
Women's Correctional Institute	30-05-10	91078SBC	240,000	0	0	0	0	0	240,000
Boiler Replacement - DCC	30-05-10	94015SBR	892,000 *	0	0	0	0	0	892,000
Department of Natural Resources & Env. Control									
MCI & Equipment	30-05-10	90003SSM	0	0	0	60,000	0	0	60,000
Department of Public Safety Projects:									
Emergency Planning & Operations - Fac. Planting	30-05-10	94016SBR	0	41,500 *	0	0	0	0	41,500
Department of Agriculture Projects:									
Redden State Lodge Rehab/Add. - Arch. Study	30-05-10	94017SBR	25,000 *	0	0	0	0	0	25,000
Horse Show Arena - Harrington Fair	30-05-10	94018SBC	0	0	0	0	0	250,000	250,000
Delaware National Guard Projects:									
Lore Little Renovations - Reuse Study	30-05-10	94019SBR	0	50,000 *	0	0	0	0	50,000
Subtotal			\$8,506,200	\$1,314,600	\$0	\$433,000	\$0	\$250,000	\$10,503,800

SECTION 1 ADDENDUM
FISCAL YEAR 1994 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	OFMS NO.	BOND AUTHOR- IZATIONS	REVISION OF STATE ANTEED BONDS	REVERSION PROGRAMMING	STRIPPER WELL	TRANS. TRUST FUNDS	GENERAL FUNDS	TOTAL
DEPARTMENT OF HEALTH & SOCIAL SERVICES									
Minor Capital Improvements & Equipment	35-01-20	83029SSM	\$0	\$0	\$0	\$87,000	\$0	\$0	\$87,000
Georgetown Service Center Exp./Renov.	35-01-20	91020SBR	2,523,700	0	178,700	0	0	0	2,702,400
Campus Renewal	35-01-20	87036SBR	1,150,000	0	0	0	0	0	1,150,000
Stockley Center-Therapeutic Pod	35-01-20	94020SGC	0	0	0	0	0	400,000	400,000
Subtotal			\$3,673,700	\$0	\$178,700	\$87,000	\$0	\$400,000	\$4,319,400
NATURAL RESOURCES & ENVIRONMENTAL CONTROL									
Wastewater Management-Const. Grant Program	40-08-04	90033SBC	\$2,300,000	\$0	\$0	\$0	\$0	\$0	\$2,300,000
Wastewater Management-State Rev. Loan Fund	40-08-04	93009SBC	2,866,900	0	133,100	0	0	0	3,000,000
Conservation Cost Sharing Prog.	40-07-04	85033SGO	0	0	0	0	0	420,000	420,000
Park Rehabilitation	40-06-02	91031SBR	625,000 *	0	0	0	0	0	625,000
Beach Preservation	40-07-03	78032SGO	0	0	0	0	0	1,700,000	1,700,000
Tax/Public Ditches	40-07-02	78031SBC	600,000 *	0	0	0	0	0	600,000
Resource Conservation & Development Projects	40-07-02	91037SBC	1,125,000 *	0	0	0	0	0	1,125,000
Nantuxote River Access Area	40-05-01	94021SBC	225,000 *	0	0	0	0	0	225,000
Brandywine Hundred Aquatic Center	40-06-02	80026SBC	2,000,000 *	0	0	0	0	0	2,000,000
Killens Pond Pool Expansion	40-06-02	94022SBR	250,000 *	0	0	0	0	0	250,000
Killens Pond Cabins	40-06-02	92014SBC	50,000 *	0	0	0	0	0	50,000
Cape Henlopen Pier Project	40-06-02	94023SBR	139,000 *	0	0	0	0	0	139,000
Bowers Beach Park-Matching Grant Funds	40-06-02	94024SGO	0	0	0	0	0	25,000	25,000
Water Resources Agency-NCCo. Plumbing Study	40-08-04	94025SBR	30,300 *	4,700 *	0	0	0	0	35,000
Carpenter State Park-Band Stand	40-06-02	94026SBR	43,100 *	0	0	0	0	6,900	50,000
Subtotal			\$10,254,300	\$4,700	\$133,100	\$0	\$0	\$2,151,900	\$12,544,000
PUBLIC SAFETY									
Helicopter Replacement	45-01-01	90041SGE	\$0	\$0	\$0	\$0	\$0	\$250,000	\$250,000
Subtotal			\$0	\$0	\$0	\$0	\$0	\$250,000	\$250,000

SECTION 1 ADDENDUM
FISCAL YEAR 1994 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	OFMS NO.	BOND AUTHOR- IZATIONS	DEAUTHOR- IZATION OF STIPEND	REVERSION FUNDING GRAMMING	STRIPPER WELL	TRANS. TRUST FUNDS	GENERAL FUNDS	TOTAL
TRANSPORTATION									
Conidor/Non-Corridor Program (66/00)	55-05-00	78040STT	\$0	\$0	\$0	\$0	\$27,002,000	\$0	\$27,002,000
Paving and Rehabilitation (64/00)	55-05-00	78042STT	0	0	0	0	15,000,000	0	15,000,000
Public Transit Improvs. (73/00)	55-05-00	82015STT	0	0	0	0	11,112,000	0	11,112,000
Tumpike Improvements (73/00)	55-05-00	83011STT	0	0	0	0	860,000	0	860,000
Safety, Transportation Enhancements, Interchange/Misc. Improvements (63/00)	55-05-00	81056STT	0	0	0	0	2,900,000	0	2,900,000
Traffic Control Devices (61/00)	55-05-00	78044STT	0	0	0	0	600,000	0	600,000
Engineering and Contingencies (57/00)	55-05-00	78048STT	0	0	0	0	10,662,000	0	10,662,000
Advanced Right of Way Program (59/00)	55-05-00	80055STT	0	0	0	0	2,075,000	0	2,075,000
Advanced Planning Program (60/00)	55-05-00	80056STT	0	0	0	0	2,872,000	0	2,872,000
Suburban Streets/Misc. Drainage (56/00)	55-05-00	78043STT	0	0	0	0	15,150,000	0	15,150,000
Dirt Roads/Surface Treatment (62/00)	55-05-00	78048STT	0	0	0	0	1,000,000	0	1,000,000
Municipal Street Aid (71/00)	55-05-00	89034STT	0	0	0	0	3,000,000	0	3,000,000
Reserve Account	55-05-00	90044STT	0	0	0	0	1,200,000	0	1,200,000
Subtotal			\$0	\$0	\$0	\$0	\$93,433,000	\$0	\$93,433,000

SECTION 1 ADDENDUM
FISCAL YEAR 1994 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHOR- IZATIONS	DEAUTHOR- IZATION OF STRIKES ANTEED BONDS	REVERSION OF ORAMING	STRIPPER WELL	TRAME THURST FUNDS	GENERAL FUNDS	TOTAL
FIRE COMMISSION									
Training Equipment - State Fire School, Dover	75-02-01	94027SGE	\$0	\$0	\$0	\$0	\$0	\$27,100	\$27,100
Hydraulic Rescue Tools	75-02-01	92017SGE	0	0	0	0	0	45,000	45,000
			\$0	\$0	\$0	\$0	\$0	\$72,100	\$72,100
UNIVERSITY OF DELAWARE									
Chem. Biochem. Marine Sci. Bldg.	90-01-01	90054SBC	\$1,000,000	\$0	\$0	\$0	\$0	\$0	\$1,000,000
Facilities Renovation/Restoration	90-01-01	94028SBR	800,000	0	0	0	0	0	800,000
Add./Renovate Colburn Laboratory	90-01-01	94028SBR	3,000,000	0	0	0	0	0	3,000,000
			\$4,800,000	\$0	\$0	\$0	\$0	\$0	\$4,800,000
Subtotal									
			\$5,000,000	\$0	\$0	\$0	\$0	\$0	\$5,000,000
DELAWARE STATE UNIVERSITY									
Science Center Annex	90-03-01	91054SBC	\$5,000,000	\$0	\$0	\$0	\$0	\$0	\$5,000,000
			\$5,000,000	\$0	\$0	\$0	\$0	\$0	\$5,000,000
Subtotal									
			\$10,000 *	\$0	\$0	\$0	\$0	\$0	\$10,000
DELAWARE TECHNICAL & COMMUNITY COLLEGE									
Pres. Bldg. Renovation (Food Repair/Study)	90-04-01	94030SBR	\$10,000 *	\$0	\$0	\$0	\$0	\$0	\$10,000
Land Acquisition - Rt. 18/113 - Southern	90-04-02	93015SGL	0	0	0	0	0	250,000	250,000
Land Acquisition, Demolition, Parking - Wilm.	90-04-04	93016SGL	0	0	875,500	0	0	511,500	1,387,000
		93016SRL	2,545,000	0	0	0	0	0	2,545,000
Industrial Training Facility - Terry	90-04-06	93014RBC	2,545,000	0	0	0	0	0	2,545,000
			\$2,585,000	\$0	\$875,500	\$0	\$0	\$761,500	\$4,182,000
Subtotal									
			\$2,585,000	\$0	\$875,500	\$0	\$0	\$761,500	\$4,182,000

* 10 - Year Bonds

SECTION 1 ADDENDUM
FISCAL YEAR 1994 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHOR- IZATIONS	DE AUTHOR- STATE OMB- ANTEED BONDS	REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANS TRUST FUNDS	GENERAL FUNDS	TOTAL
STATE BOARD OF EDUCATION									
Woodbridge Add/Renov. Jr. Sr. High (70/30)	95-35-00	93017SBC	\$2,177,300	\$0	\$534,700	\$0	\$0	\$0	\$2,712,000
Smyrna Add/Renov. Clayton Elementary (70/30)	95-24-00	93016SBC	743,000	0	0	0	0	0	743,000
Indian River, Long Neck Elem. School (60/40)	95-36-00	93026SBC	2,612,800	0	0	0	0	0	2,612,800
Woodbridge Add/Renov. Woodbridge Elem. (70/30)	95-35-00	93025SBC	1,495,500	0	0	0	0	0	1,495,500
Smyrna Add/Renov. Smyrna Elementary (70/30)	95-24-00	93021SBC	118,000	0	0	0	0	0	118,000
Indian River, Georgetown Elementary (60/40)	95-36-00	93027SBC	3,653,200	0	0	0	0	0	3,653,200
Indian River, Seelyville Middle (28/72)	95-36-00	93028SBC	693,000	0	0	0	0	0	693,000
Cape Henlopen, Shields Elem. Addition (60/40)	95-17-00	93023SBC	198,800	0	0	0	0	0	198,800
Kent Vo-Tech Conversion Construction (60/20)	95-39-00	91069SBC	1,001,800	0	0	0	0	0	1,001,800
Sussex Vo-Tech Conversion Construction (64/36)	95-40-00	91070SBC	633,200	0	0	0	0	0	633,200
Christina Add/Renov. Audette School (100%)	95-33-00	94031SBR	2,203,200	0	0	0	0	0	2,203,200
Architectural Barrier Removal (60/40)	95-01-20	91074SBR	160,000 *	0	0	0	0	0	160,000
Capital, Wm. Henry Bathrooms (70/30)	95-13-00	94032SBR	623,400	0	0	0	0	0	623,400
Red Clay, Add/Renov. Lewis Elementary (60/40)	95-32-00	94033SBR	224,000	0	0	0	0	0	224,000
Capital, Central Middle Roof & Ext. Repairs (70/30)	95-13-00	94034SBR	1,500,000	0	0	0	0	0	1,500,000
Appoquinimink, New High School (67/33)	95-29-00	94035SBR	818,600	0	0	0	0	0	818,600
Red Clay, Add/Renov. Add/Billingham Elem. (60/40)	95-32-00	94036SBR	598,000	0	0	0	0	0	598,000
Capital, Wm. Henry Roof (70/30)	95-13-00	94038SBR	630,000	0	0	0	0	0	630,000
Red Clay, Add/Renov. Richey Elementary (60/40)	95-32-00	94039SBR	450,000	0	0	0	0	0	450,000
Capital, Dover High Athletic Fields (70/30)	95-13-00	94040SBR	153,000	0	0	0	0	0	153,000
Brandywine, Convert Springer to Jr. High (60/40)	95-31-00	94041SBR	900,000	0	0	0	0	0	900,000
NCCo. Vo-Tech, Marshall Bldg. Roof (60/40)	95-38-00	94042SBR	150,000	0	0	0	0	0	150,000
NCCo. Vo-Tech, Delaware Skills Center (100%)	95-38-00	94043SBR	155,000 *	0	0	0	0	0	155,000
Asbestos Abatement (60/40)	95-01-02	94044SBR	914,000 *	0	0	0	0	0	914,000
Subtotal			\$23,014,800	\$0	\$534,700	\$0	\$0	\$0	\$23,549,500
GRAND TOTAL:			\$65,710,000	\$1,319,300	\$1,722,000	\$500,000	\$93,433,000	\$8,748,600	\$171,433,900

* 10 - Year Bonds

Section 2. Deauthorization of State Guaranteed Bonds.

(a) Amend §5054(d)(2) of Title 29 of the Delaware Code, as amended, by striking the number "\$12,861,415" wherever it appears in said subsection and inserting in lieu thereof the number "\$11,542,115."

(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 3. Authorization of Twenty-Year Bonds. The State hereby authorizes the issuance of Fifty-Nine Million Forty-Two Thousand Four Hundred Dollars (\$59,042,400) of bonds, in addition to Eleven Million Nine Hundred Seventy-Three Thousand, Two Hundred Dollars (\$11,973,200) for local share of school 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, except for local share of school bonds, are hereby appropriated for a portion of the purposes set forth in the Section 1 Addendum of this Act and summarized as follows:

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>		
Budget Office	\$ 2,000,000		
Delaware Development Office	4,250,000		
Department of State	500,000		
Department of Administrative Services	7,426,000		
Department of Health and Social Services	3,673,700		
Department of Natural Resources and Environmental Control	7,166,900		
University of Delaware	5,150,000		
Delaware State University	5,000,000		
Delaware Technical and Community College	2,545,000		
State Board of Education	<u>21,330,800</u>		

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Maximum Total Cost</u>
Woodbridge Add Jr/Sr High (70/30)	\$ 2,177,300	\$ 933,100	\$ 3,110,400
Smyrna Add/Renov Clayton Elem. (70/30)	743,000	318,400	1,061,400
IR, Long Neck Elem. (60/40)	2,612,800	1,741,900	4,354,700
Woodbridge Add Woodbridge Elem. (70/30)	1,495,500	640,900	2,136,400
Smyrna, Add Smyrna Elem. (70/30)	118,000	50,600	168,600
IR, Georgetown Elem. (60/40)	3,655,200	2,436,800	6,092,000
IR, Selbyville Middle (28/72)	693,000	1,689,400	2,382,400
Cape Henlopen (60/40)	198,800	132,500	331,300
Kent Vo-Tech Conversion (80/20)	1,001,800	250,400	1,252,200
Sussex Vo-Tech Conversion (64/36)	633,200	356,100	989,300
Christina, Add - Autistic School (100%)	2,203,200	0	2,203,200
Red Clay, Add - Lewis Elem. (60/40)	629,400	419,600	1,049,000
Appoquinimink, High School (67/33)	1,500,000	738,800	2,238,800
Cape Henlopen, Add - Brittingham Elem. (60/40)	818,600	545,700	1,364,300
Red Clay, Add - Shortledge Elem. (60/40)	588,000	392,000	980,000
Capital, Wm. Henry Roof (70/30)	630,000	270,000	900,000
Red Clay, Add - Richey Elementary (60/40)	450,000	300,000	750,000
Capital, Dover High Athletic Fields (70/30)	133,000	57,000	190,000
Brandywine, Convert Springer to Jr. High (60/40)	900,000	600,000	1,500,000
NC Co. Vo-Tech, Marshallton Roof (60/40)	150,000	100,000	250,000
<u>Subtotals</u>	<u>\$21,330,800</u>	<u>\$11,973,200</u>	<u>\$33,304,000</u>
<u>TOTAL</u>			<u>\$59,042,400</u>

Section 4. Authorization of Ten-Year Bonds. The State hereby authorizes the issuance of Seven Million Nine Hundred Eighty-Six Thousand Nine Hundred Dollars (\$7,986,900) in bonds, in addition to One Hundred Ninety-Five Thousand Dollars (\$195,000) for local share of school 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, except for local share of school bonds, are hereby appropriated for a portion of the purposes set forth in the Section 1 Addendum of this Act and summarized as follows:

Department, Agency, or Instrumentality	Amount		
Delaware Development Office	\$ 806,000		
Department of Administrative Services	2,394,800		
Department of Natural Resources and Environmental Control	3,092,100		
Delaware Technical and Community College	10,000		
State Board of Education	<u>1,684,000</u>		

Purpose	Maximum State Share	Local Share	Maximum Total Cost
Capital-Wm. Henry Bathrooms and Exterior Repair (70/30)	\$ 231,000	\$ 99,000	\$ 330,000
Capital, Central Middle Roof and Exterior Repairs (70/30)	224,000	96,000	320,000
NC Co. Vo-Tech, Delaware Skills Center (100%)	155,000	0	155,000
Asbestos Abatement (100%)	914,000	0	914,000
Architectural Barrier Removal	<u>160,000</u>	<u>0</u>	<u>160,000</u>
<u>Subtotals</u>	<u>\$1,684,000</u>	<u>\$ 195,000</u>	<u>\$1,879,000</u>
<u>TOTAL</u>			<u>\$7,986,900</u>

Section 5. Transfers 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 (12-05-03-8101).

Department, Agency, or Instrumentality	Authorized Ch. & Vol.	Project Appropriation Code	Amount
Department of Administrative Services	360/66	30-05-10-5919	\$511.14
Department of Administrative Services	385/65	30-05-10-5715	1,400.00
Department of Administrative Services	360/66	30-05-01-5920	11,000.00
Department of Health & Social Services	360/66	35-01-20-5912	369.05
Department of Services for Children, Youth and Their Families	46/67	37-01-15-6012	122.06
Department of Services for Children, Youth and Their Families	46/67	37-01-15-6013	122.06
Department of Natural Resources and Environmental Control	385/65	40-05-01-5716	29,883.37
Department of Natural Resources and Environmental Control	285/67	40-08-02-6112	.82
Department of Natural Resources and Environmental Control	389/63	40-09-03-5312	20,000.00
Delaware Technical & Community College	46/67	90-04-06-6012	<u>10.00</u>
<u>TOTAL</u>			<u>\$63,418.50</u>

Section 6. 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 Sixty-Three Thousand Six Hundred Dollars (\$63,600) from the State Treasurer's Bond Reversion Account (12-05-03-8101) to the following departments in the following amounts for the purposes set forth in the Section 1 Addendum of this Act.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Natural Resources and Environmental Control	\$63,600
TOTAL	\$63,600

Section 7. Transfers to the State Treasurer's School 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 (12-05-03-8102).

<u>Department, Agency, or Instrumentality</u>	<u>Authorized Ch. & Vol.</u>	<u>Project Appropriation Code</u>	<u>Amount</u>
Department of Public Instruction	46/67	95-01-02-6012	\$7,636.70
Department of Public Instruction	46/67	95-10-00-6062	5,505.80
Department of Public Instruction	285/67	95-13-00-6184	136.80
Department of Public Instruction	285/67	95-13-00-6192	.02
Department of Public Instruction	285/67	95-13-00-6193	.62
Department of Public Instruction	46/67	95-15-00-6012	24,951.29
Department of Public Instruction	46/67	95-24-00-6062	1,350.00
Department of Public Instruction	285/67	95-29-00-6114	429.32
Department of Public Instruction	46/67	95-31-00-6062	90.00
Department of Public Instruction	285/67	95-31-00-6182	1,200.00
Department of Public Instruction	46/67	95-32-00-6062	3,834.00
Department of Public Instruction	46/67	95-33-00-6012	127,734.99
Department of Public Instruction	46/67	95-33-00-6062	1,631.06
Department of Public Instruction	285/67	95-33-00-6112	353,701.02
Department of Public Instruction	46/67	95-34-00-6062	7.34
Department of Public Instruction	46/67	95-36-00-6062	.06
Department of Public Instruction	285/67	95-37-00-6163	.12
Department of Public Instruction	46/67	95-38-00-6012	328.50
Department of Public Instruction	46/67	95-40-00-6062	786.46
TOTAL			\$529,324.10

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 Five Hundred Thirty-Four Thousand Seven Hundred Dollars (\$534,700) on deposit in the School Bond Reversion Account (12-05-03-8102) for the following purposes in the following amounts as set forth in the Section 1 Addendum of this Act.

<u>Department, Agency, or Instrumentality</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Maximum Total Cost</u>
State Board of Education			\$534,700
<u>Purpose</u>			
Woodbridge, Add./Renov. (70/30)	\$534,700	\$229,200	\$763,900

Section 9. Transfers to the First State Improvement Fund. 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 projects, to the First State Improvement Fund (12-05-03-9600).

<u>Department, Agency, or Instrumentality</u>	<u>Authorized Ch. & Vol.</u>	<u>Project Appropriation Code</u>	<u>Amount</u>
Department of State	212/65	20-01-01-9601	\$ 941.42
Department of State	385/65	20-01-01-9622	3,505.10
Department of Administrative Services	385/65	30-05-10-9601	529.96
TOTAL			\$4,976.48

Section 10. Appropriation of First State Improvement Fund. The State hereby authorizes the appropriation of Sixty-Nine Thousand Five Hundred Dollars (\$69,500) from the First State Improvement Fund for a portion of the purposes set forth in the Section 1 Addendum of this Act.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Natural Resources & Environmental Control	<u>\$69,500</u>

Section 11. Appropriation of General Funds. It is the intent of the General Assembly that Eight Million Seven Hundred Forty-Nine Thousand Six Hundred Dollars (\$8,749,600) be appropriated to the following departments, agencies and instrumentalities of the State and in the following amounts for the purposes set forth in the Section 1 Addendum of this Act. Any funds remaining unexpended or unencumbered by June 30, 1996, shall revert to the General Fund of the State of Delaware.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Delaware Development Office	\$3,864,100
Department of State	1,000,000
Department of Administrative Services	250,000
Department of Health & Social Services	400,000
Department of Natural Resources & Environmental Control	2,151,900
Department of Public Safety	250,000
Fire Commission	72,100
Delaware Technical & Community College	<u>761,500</u>
TOTAL	<u>\$8,749,600</u>

Section 12. 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, 1993, 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, 1996.

<u>Department, Agency, or Instrumentality</u>	<u>Authorized Ch. & Vol.</u>	<u>Project Appropriation Code</u>	<u>Amount</u>
Delaware Development Office	46/67	10-03-03-0181	\$179,058.23
Department of Natural Resources and Environmental Control	46/67	40-06-04-0185	67.13
Department of Public Safety	405/68	45-01-01-0183	<u>1,345.00</u>
TOTAL			<u>\$180,470.36</u>

(b) The State Treasurer shall transfer the remaining appropriation balances listed in Subsection (a) above to the following department in the following amount for the purposes set forth in the Section 1 Addendum of this Act. Any remaining appropriation balance not transferred herein shall revert to the General Fund of the State of Delaware.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Delaware Technical & Community College	<u>\$180,400</u>

(c) Amend Section 11(a) of Chapter 405 of Volume 68 of the Laws of Delaware by adding the following sentence to the end of said subsection: "Those transactions which continued the following general fund appropriations at the end of Fiscal Year 1992 into Fiscal Year 1993 were processed in complete conformance with the intent of the Legislature:".

Section 13. Health Facilities Subsidy Fund. Notwithstanding the provisions of Chapter 90 of Title 16 of the Delaware Code, there is hereby appropriated the sum of One Hundred Seventy-Eight Thousand Seven Hundred Dollars (\$178,700) from the Health Facilities Subsidy Fund held by the State Treasurer (93-12-05-03-9400) to the following department in the following amount for the purposes set forth in the Section 1 Addendum of this Act. Any funds remaining unexpended or unencumbered by June 30, 1996, shall revert to the Health Facilities Subsidy Fund.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Health and Social Services	<u>\$178,700</u>

Section 14. Appropriation of Special Funds. There is hereby appropriated the sum of Six Hundred Ninety-Five Thousand One Hundred Dollars (\$695,100) from the Bond Sale 170 account, held by the State Treasurer (93-12-05-03-8593), to the following department in the following amount for the purpose set forth in the Section 1 Addendum of this Act. Any funds remaining unexpended or unencumbered by June 30, 1996, shall revert to the General Fund of the State of Delaware. Any remaining balance shall be used to reduce debt service.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Delaware Technical & Community College	<u>\$695,100</u>

Section 15. Allocation of Stripper Well Funds.

The State hereby authorizes the Department of Administrative Services to allocate Five Hundred Thousand Dollars (\$500,000) from the proceeds of the Stripper Well Court Case Settlement for eligible projects up to the amounts set forth in Section 1 Addendum of this Act. All potentially eligible projects shall be submitted to the State Energy Office for review. Eligible projects shall be referred to the State Energy Weatherization Committee for approval for funding from proceeds from the Stripper Well Court Case. For all projects found eligible for Stripper Well funding by the State Energy Weatherization Committee, the Department of Administrative Services shall allocate and release funds in a manner consistent with the Stripper Well Court Case Settlement.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of Administrative Services	\$433,000
Dept. of Administrative Services	\$343,000
Dept. of Nat. Resources & Env. Control	60,000
Dept. of Correction	30,000
Department of Health and Social Services	<u>67,000</u>

<u>TOTAL</u>	<u>\$500,000</u>
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Section 16. Continuing Appropriations. For the fiscal year ending June 30, 1993, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1994.

<u>Fiscal Year</u>	<u>Appropriation</u>	<u>Account Codes</u>	<u>Remarks</u>
1991		10-02-01-6114	800 MHz Radio System
1988		10-03-01-0180	Harrington Industrial Development
1990		10-03-03-0190	Sussex Airport
1989		10-03-03-0184	Dover Civic Center
1991		10-03-03-6115	Little Mill Sewer
1990		10-03-03-9643	Dover Civic Center
1991		10-03-03-6112	Dover Civic Center
1992		15-01-01-0180	Extradition
1992		15-01-01-0198	One-Times
1991		20-06-01-6116	Redding House Study
1993		20-06-02-0198	Leg. Tape Program/Historic Markers
1991		20-06-04-6114	Belmont Hall
1991		20-08-01-6114	Bridgeville Library
1991		20-08-01-6212	Hockessin Library
1991		20-08-01-6112	Hockessin Library
1989		30-05-10-5920	Fire Marshal's Office
1991		30-05-10-6121	Marine Bay Program
1991		35-05-20-6112	Public Health Lab
1991		37-01-15-6112	Girls Staff-Secure Res. Fac.
1991		38-01-40-6112	Minor Capital Improvements
1991		38-04-03-6115	ACLU DCC Sinks, Etc.
1991		38-04-03-6114	ACLU DCC Plumbing
1991		38-04-03-6112	DCC Sewer
1991		38-04-05-6113	Women's Correctional Institute
1991		38-04-06-6113	Gander Hill
1990		40-06-04-0184	Park Development-Bellevue
1991		40-07-02-6113	Resource, Conservation & Development
1990		40-08-01-6012	Water/Waste Water
1991		45-01-01-6113	MCI and Equipment
1990		55-01-01-0197	Architectural Barrier Removal
1991		76-01-01-6112	Lora Little Acq./Renovations
1991		76-01-01-6113	National Guard Land Acquisition

1991	90-04-02-6112	Higher Ed. Fac.-Southern
1991	95-31-00-6193	Architectural Barrier Removal
1990	95-31-00-6012	P. S. duPont Elementary
1991	95-33-00-6113	Barrett Run

Section 17. Exxon Funds. It is the intent of the General Assembly that the monies appropriated in this Act and funds authorized for minor capital improvements pursuant to the passage of House Bill 300 of the 137th General Assembly 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 Section 1 Addendum of this Act.

OFFICE OF THE BUDGET

Section 18. 800 Megahertz Radio Infrastructure. It is the intent of the General Assembly that Two Million Dollars (\$2,000,000) appropriated in the Section 1 Addendum of this Act to the Budget Office be used for 800 Megahertz Radio Infrastructure. The General Assembly also hereby directs the Advisory Committee on Technology and Information, 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.

DELAWARE DEVELOPMENT OFFICE

Section 19. Felton Water Improvements. Funds authorized shall be used for critical replacements and/or additions to the town of Felton's water supply system as defined in the August, 1992 Master Water Plan prepared by Cabe Associates, Inc.

Section 20. First State Center. Amend Section 14 of Chapter 156 of Volume 68 of the Laws of Delaware and amend Section 19 of Chapter 405 of Volume 68 of the Laws of Delaware by replacing the phrase "Director of the Delaware Development Office" wherever it appears with the phrase "Budget Director" and by deleting the last sentence in its entirety and inserting in lieu thereof the sentence, "The Governor's appointees will be the Budget Director, the Secretary of Finance, and the Secretary of the Department of Administrative Services." Further amend said Sections by adding a new sentence at the end of each said Section to read as follows: "The expenditure of state funds shall be contingent upon state approval of the following: final architectural and engineering drawings, space requirements analysis, building energy efficiencies, bidding and awarding of construction contracts, and change orders greater than or equal to 2% of the project cost."

Section 21. Rehoboth Convention Center Renovation. Funds authorized in the Section 1 Addendum of this Act shall be released by the Delaware Development Office to the City of Rehoboth upon receipt of authorized invoice(s) for renovations completed to the Center. None of the funds authorized in this Act may be used to expand or improve City of Rehoboth administrative areas. The Delaware Development Office is further directed to provide technical assistance to ensure optimal public use of the Center relative to management strategies and development of a marketing plan.

Section 22. Chrysler Technical Education Assistance.

The General Assembly finds that, in order to help ensure the successful launch of the Dodge Intrepid at the Chrysler Newark, Delaware, plant, the State shall provide financial assistance to upgrade and retrain employees at the Newark, Delaware, plant. Funds authorized in the Section 1 Addendum of this Act shall be granted upon approval, by the Delaware Development Office to Chrysler Corporation and/or Chrysler Corporation trainers and shall be used for, but not limited to, the following, training purposes:

- (i) Upgrade and retrain the Newark, Delaware Chrysler employees with skills necessary to successfully launch the Dodge Intrepid.
- (ii) Pay the wages of the Newark, Delaware Chrysler employees while in training.
- (iii) Salaries of trainers and/or supervisors involved in the development and delivery of training curriculum.
- (iv) Pay for the reimbursement for training which has taken place prior to July 1, 1993, that is directly related to the launch of the Dodge Intrepid at the Newark, Delaware, plant.

In addition, funds authorized shall be used for, but not limited to, the following approved activities:

- (i) Classroom instruction provided by local training institutions and/or Chrysler designated trainers.

- (ii) Hands-on, work-site and/or on-the-job training.

The Chrysler Corporation shall prepare a formal training plan for the Delaware Development Office's review detailing all training to be funded through this authorization.

Section 23. Delaware Strategic Fund.

(a) Legislative Intent. The General Assembly finds that Delaware's development finance programs are necessary to compete for new and existing businesses. Furthermore, the General Assembly finds the finance programs of the Delaware Development Office as heretofore structured did not maximize efficiency of administration by the State or the business community. It is the intent of the General Assembly to solve this problem by consolidating the development finance programs of the Delaware Development Office into a new Delaware Strategic Fund.

(b) Creation of the Fund. A special Fund to be known as the "Delaware Strategic Fund" hereinafter referred to as the "Fund," shall be created.

- (1) The Fund shall initially consist of Two Million Two Hundred and Fifty Thousand Dollars (\$2,250,000) appropriated in the Section 1 Addendum of this Act to the Delaware Development Office ("Office") on behalf of the Delaware Economic Development Authority ("Authority") to be used for Fund activities as defined in the following paragraphs. The Fund shall also consist of present balances and future payments of monies transferred from discontinued programs as indicated below.
- (2) 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 shall be deposited in the Fund.

(c) Fund Purposes.

- (1) Monies appropriated to the Fund may be loaned, granted or used in other financing mechanisms by the Authority within the State of Delaware. The Fund may be used for, but is not limited to, the following purposes:
 - (i) Retention and expansion of existing firms;
 - (ii) Recruitment of new firms; and
 - (iii) Formation of new businesses.
- (2) Monies appropriated to the Fund may be used for, but are not limited to, the following activities:
 - (i) Working capital;
 - (ii) Renovations, construction or any other type of improvements to roads, utilities and related infrastructure;
 - (iii) Assistance for equipment, machinery, land and building acquisition, development; and
 - (iv) Assistance for the development of re-use strategies and implementation plans for sites located in the State and targeted for development by the Office.
 - (v) Assistance for the development and implementation of modernization strategies for existing manufacturing firms to strengthen their competitive position in regional, national and international markets.

(d) Findings and Determinations for Assistance.

- (1) Projects shall be approved and recommended by the Council on Development Finance ("Council"). No project shall receive any support from the Fund unless such support is recommended by a majority of the members of the Council.
- (2) The Authority shall draft rules and regulations pertaining to the Fund eligibility, which will include criteria on which the Council shall review the projects.

- (3) By December 1 of each year, the Delaware Development Office shall report the Fund's previous year's uses to the General Assembly.

(e) Amend Subchapter V-A of Chapter 50, Title 29 of the Delaware Code, by transferring any and all Development Incentive Fund balances as well as any and all future payments to the Development Incentive Fund to the Delaware Strategic Fund and then by deleting said Subchapter V-A of Chapter 50, Title 29 of the Delaware Code in its entirety.

(f) Amend Subchapter I-B of Chapter 50, Title 29 of the Delaware Code, by transferring any and all Land Acquisition Fund balances as well as any and all future payments to the Land Acquisition Fund to the Delaware Strategic Fund which is being created in this Section of this Act and then by deleting said Subchapter I-B of Chapter 50, Title 29 of the Delaware Code in its entirety.

(g) Amend Section 10 of Chapter 204 of Volume 68 of the Laws of Delaware, by disbursing any and all Relocation Assistance Fund balances as well as any and all future payments to the Relocation Assistance Fund to the Delaware Strategic Fund and then by deleting said Section 10 of Chapter 204 of Volume 68 of the Laws of Delaware in its entirety.

Section 24. Economic Development Fund.

(a) Amend Section 29 of Chapter 360 of Volume 66 of the Laws of Delaware by relettering Subsection (c) to Subsection (d) and by appropriately relettering all other Subsections within Section 29 accordingly and by creating a new Subsection (c) which shall contain the following language:

"(c) The Delaware Development Office, acting through the Delaware Economic Development Authority, is authorized to use a portion of the funds as follows:

- i) to provide portfolio insurance to participating financial institutions to enable the financial institution to expand small business lending; and/or
- ii) to be used for venture capital purposes which could include but is not limited to direct investment in businesses and/or in private sector venture capital funds; and/or
- iii) to be disbursed to the Delaware Strategic Fund which is created in Section 23 of this Act and shall be used in accordance with said Section.

This new Subsection (c) shall not be subject to any of the other language in the subsections or the paragraphs of this Section 29. To effectuate this Subsection, the Director of the Delaware Development Office shall author and adopt rules and regulations detailing the use of these Funds."

(b) Amend Section 23 of Chapter 405 of Volume 68 of the Laws of Delaware by deleting the following words in the second sentence "to provide financing up to \$100,000 per business with the State's ownership interest not to exceed 20%".

Section 25. Small Business Revolving Loan and Credit Enhancement Fund.

(a) Amend Section 5046 of Subchapter III-A of Chapter 50, Title 29 of the Delaware Code by deleting the last three words "of required capital" of the second sentence and replacing them with the word "financing."

(b) Amend Section 5048(a) of Subchapter III-A of Chapter 50, Title 29 of the Delaware Code by deleting the word "capital" on the second line and replacing it with the word "debt."

(c) Amend Section 5049(1) of Subchapter III-A of Chapter 50, Title 29 of the Delaware Code by inserting the words "Delaware based" after the word "fewer" and before the word "employees." Also insert the words "at the time of application" after the word "employees."

(d) Amend Section 5049(3) of Subchapter III-A of Chapter 50, Title 29, of the Delaware Code by deleting the word "loan" on the second line and replacing it with the word "debt."

(e) Amend Section 5049(4) of Subchapter III-A of Chapter 50, Title 29 of the Delaware Code by deleting the word "standard" and replacing it with the words "to the greatest extent possible bank like."

Section 26. Port of Wilmington. (a) The General Assembly has been requested by the City of Wilmington to provide capital funding for port warehouse expansion in the amount of Six Million Dollars (\$6,000,000). The Section 1 Addendum of this Act has authorized Three Million Dollars (\$3,000,000) to this project. Release of such funds by the Delaware Development Office shall be made (1) upon receipt of a signed Port Services Agreement, approved by the City of Wilmington, between the Port of Wilmington and prospective user of said expanded facilities and (2) upon receipt of authorized invoice(s) for the cost of said construction.

(b) The Delaware River and Bay Authority may be asked to undertake this project pursuant to the Compact (17 Del. C., Sec. 1701) and applicable statutory requirements. The provisions of 17 Del. C. Sec. 1726 require that any Major Project of the Delaware River and Bay Authority located in the State or Delaware River and Bay shall have first secured legislative authorization and approval pursuant to an act of the General Assembly, passed with the concurrence of three-fourths of all members elected to each house. If undertaken and funded by the Delaware River and Bay Authority in the amount of Six Million Dollars (\$6,000,000), the said project is hereby authorized and approved by this Act.

(c) Should the Delaware River and Bay Authority provide \$6.0 million of funding for this project, the \$3.0 million authorized in subsection (a) shall be allocated to the First State Center.

Section 27. Agricultural Biotechnology and Biocontainment Facility. The Section 1 Addendum of this Act authorizes Three Hundred Fifty Thousand Dollars (\$350,000) to ensure construction of said facility. The University of Delaware shall assume and maintain full responsibility for the operating costs of such facility upon completion and occupancy.

DEPARTMENT OF STATE

Section 28. Stabilization Endowment for the Arts. It is the intent of the General Assembly that funds authorized in the Section 1 Addendum of this Act be known as the "Principal" and shall remain intact. Only the interest earned and/or the investment yield from said Principal shall be used for capital related expenses including stabilizing, preserving, rehabilitating or remodeling private, non-profit, art-related facilities. Funds shall be authorized to the Department of State, Division of the Arts, responsible for the disbursement of said "Principal" for investment by the Trustee of the Community Foundation. Further, the Department of State, Division of the Arts shall be responsible for the disposition of interest earnings and shall submit an annual report of investment and expenditure activity to the Budget Director and Controller General by March 1 of each year. State funds cannot be expended until a two-for-one (2 for 1) non-state match has been secured.

DEPARTMENT OF FINANCE

Section 29. Bond Proceeds Reimbursement. It is the intent of the General Assembly that the interest on the general obligation bonds which are authorized herein (or which have been authorized in any prior authorization act) to fund certain projects shall be excluded from gross income for purposes of Section 103 of the Internal Revenue Code of 1986. The provisions of this Act authorize the issuance of the State's general obligation bonds to finance the costs of certain capital projects specified herein. Pursuant to the State's budget and financial policies, no funds other than the proceeds of such bonds, are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the State to pay the costs of such capital projects. However, after such authorization but prior to the issuance of such bonds, it is expected that non-bond funds in the General Fund or other State funds which are available for such purpose on a temporary basis, may be expended to pay the costs of such projects, with the expectation that such non-bond funds will be reimbursed from the proceeds of the bonds when issued. For the purposes of United States Department of Treasury Regulations §1.150-2, if any such funds are advanced on a temporary basis, the State hereby declares it reasonably expects to issue its bonds to reimburse such funds temporarily advanced to pay the costs of such capital projects. The use of bond proceeds for such reimbursement will occur within 18 months of the later of the date on which the original expenditure to be reimbursed is paid or the date on which the property is placed in service or abandoned, but in no event more than three years after the original expenditure. The maximum principal amount of bonds that may be issued for such purposes is the amount of bonds authorized for such capital projects in other provisions of this Act. In any case not covered by the previous sentences of this Section where non-bond funds are applied to pay any costs of a capital project which are expected to be reimbursed from bond proceeds, the Secretary of Finance is authorized by written action to declare the State's intent pursuant to the aforesaid regulation to issue its bonds to reimburse such

expenditures. No action to declare the State's intent shall be required to be taken where the preliminary expenditures paid from non-bond funds which are expected to be reimbursed are not in excess of 20 percent of the aggregate issue price of the issue or issues that finance or are reasonably expected to finance the project for which the preliminary expenditures were incurred. Preliminary expenditures include architecture, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of the project. Preliminary expenditures do not include land acquisition, site preparation and similar costs. No amounts so reimbursed may be used to create or increase a sinking fund, reserve or replacement fund, or to refund an issue of governmental obligations.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Section 30. Transfers to the Department of Administrative Services.

(a) It is the intent of the General Assembly that on the effective date of this Act, the State Treasurer shall transfer the remaining appropriation balances, from the department or agency listed below to the Department of Administrative Services ("Department") Budget Unit 30-05-10 to be used for the purpose of the funds as listed:

FY	APPROPRIATION CODE	Project Name
93	20-08-01-0182	NCCo. Concord Pike Library
93	20-08-01-0184	Millsboro Library
93	20-08-01-0185	Dover Library
91	20-08-01-6114	Bridgeville Library
93	20-08-01-6314	NCCo. Bear Library
93	37-01-15-6312	Secure Care Continuum Improvement Plan
93	37-01-15-6313	Ferris Phase III-Snowden/Mowlds
92	38-01-40-6212	Correction-MCI & Equipment
92	38-01-40-6213	Correction-DCC Projects
91	38-04-03-6112	Correction-DCC Sewer
91	38-04-03-6114	Correction-DCC Plumbing
91	38-04-03-6115	Correction-DCC Sinks, etc.
91	38-04-05-6113	Correction-Women's Prison
91	38-04-06-6113	Correction-Gander Hill
93	38-04-06-6312	Correction-Gander Hill
93	45-01-01-6312	Public Safety-MCI & Equipment
93	65-01-01-0183	Horse Arena
93	75-02-01-6312	Northern Fire Training Center
92	75-03-01-0183	Northern Fire Training Center Planning
93	76-01-01-6312	National Guard MCI & Equipment

(b) The original agency of authorization shall continue to be responsible for administering remaining open purchase orders so that work can be completed. Each original agency of authorization shall make the Department aware of each open purchase order and the status of each open purchase order. The Department shall provide technical assistance to the original agency of authorization until all funds encumbered by each existing purchase order are expended or unencumbered.

Section 31. Construction Management.

(a) Notwithstanding any other State law, the Department of Administrative Services ("Department") shall be responsible for the design and construction of all the projects listed in Section 30 and listed under "The Department of Administrative Services" in the Section 1 Addendum of this Act. In performance of these duties, the Department shall in the following areas, consult with the agency for which the project is being or will be completed: predesign services, architectural plans and preliminary cost estimates, selection and negotiation of professional services, approval of MCI projects to be bid and awarded, approval of final architectural and engineering drawings for non-MCI projects, and approval of change orders greater than or equal to 2% of a project cost. For those projects for which the appropriation is passed to an entity and for which the State is not a party to the construction contract, the Department shall provide technical assistance.

(b) Notwithstanding any other State law, there is hereby created an Appeals Board, to be composed of the Lieutenant Governor, the Budget Director, and the Controller General. The Appeals Board shall approve the use of all unencumbered monies after that project is deemed "substantially complete." A project shall be deemed "substantially complete" when the project is occupied by 75% of the planned tenants or when deemed completed by the Appeals Board. One year after a project is deemed "substantially

complete," any unencumbered authorization balance shall revert. In no case shall this subsection empower the Appeals Board to allow for the expenditure of funds for uses other than for the funds' authorized purpose(s).

(c) The Department shall submit a quarterly status report to the Budget Director and Controller General on the projects listed in Section 30 and listed under "The Department of Administrative Services" in the Section 1 Addendum of this Act.

Section 32. Sussex County Courthouse Acquisition. Funds authorized in the Section 1 Addendum of this Act shall enable the Department of Administrative Services to enter into negotiation with the Sussex County Council to acquire the Sussex County Courthouse and any other pertinent property. Funds authorized shall be used as partial payment for said acquisition. Of the funds authorized, Fourteen Thousand Dollars (\$14,000) shall be used to reimburse the Department for the cost of appraisal of the courthouse.

Section 33. Rehoboth Public Library. Funds authorized for planning shall be used to provide needs assessment, determining square footage and preliminary cost estimates.

Section 34. Division of Emergency Planning and Operations. Funds authorized for planning a new office building shall incorporate plans for an appropriate sized "cold-site" backup site to accommodate state computational facilities in the event of catastrophic outages.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Section 35. Minor Capital Improvements and Equipment. Amend Section 37 of Chapter 405 of Volume 68 of the Laws of Delaware by deleting the words "Director of the Delaware Development Office," from said Section.

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

Section 36. Secure Care Continuum Improvement Plan. Amend Section 40 of Chapter 405 of Volume 68 of the Laws of Delaware by deleting the words "Ferris Restructuring" in the title and paragraph of said Section and inserting in lieu thereof the words "Secure Care Continuum Improvement". Further Amend Section 40 of Chapter 405 of Volume 68 of the Laws of Delaware by deleting the words "Director of the Delaware Development Office" from said Section. Amend Page A-2 of the "Fiscal Year 1993 Capital Improvements Project Schedule" as attached to and made a part of Chapter 405 of Volume 68 of the Laws of Delaware by deleting the phrase "Ferris Restructuring" under "SERVICES FOR CHILDREN, YOUTH & THEIR FAMILIES" and substituting in lieu thereof the phrase "Secure Care Continuum Improvement Plan".

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 37. Beach Preservation. The General Assembly hereby appropriates One Million Seven Hundred Thousand Dollars (\$1,700,000) to the Department of Natural Resources and Environmental Control ("Department") in the Section 1 Addendum 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 are available for such projects. The funds provided for beach preservation as defined in Chapter 61 of Title 30 of the Delaware Code can be used for local match. The availability of the aforementioned non-state matching funds must be approved by the Budget Director and the Secretary of the Department.

Section 38. Conservation Cost-Sharing Program. It is the intent of the General Assembly that Four Hundred Twenty Thousand Dollars (\$420,000) appropriated to the Department of Natural Resources and Environmental Control ("Department") in the Section 1 Addendum of this Act be used for the Department's Soil and Water Conservation Program. Of the Four Hundred Twenty Thousand Dollars (\$420,000) appropriated herein, the Department shall spend one-third (One Hundred Forty Thousand Dollars (\$140,000) for use in each County.

Section 39. Waste Water Project Oversight. The State Treasurer and Budget Office shall transfer the following remaining unencumbered authorization balances to the Department of Natural Resources & Environmental Control, budget unit 40-08-04:

FY	APPROPRIATION CODE	Project Name
91	10-03-03-6115	NCCo. Little Mill Sewer Interceptor
92	10-03-03-6212	NCCo. Little Mill Sewer Interceptor

Section 40. Resource, Conservation and Development Projects. It is the intent of the General Assembly that One Million One Hundred Twenty-Five Thousand Dollars (\$1,125,000) authorized in the Section 1 Addendum of this Act to the Department of Natural Resources and Environmental Control ("Department") be used for the following projects in the following amounts:

<u>Project</u>	<u>Cost</u>
Little Mill Flood Abatement	\$600,000
Wyoming Pond Stabilization	26,000
Woodsdale/Bellevue Drainage	325,000
Beck's Pond-Study Faulty Dam	15,000
Haverly Road	31,000
Savannah Road	16,000
Benjamin Boulevard	29,000
West Clairemont Drive	33,000
Paper Mill Road - Water Main Connection	50,000
<u>TOTAL</u>	<u>\$1,125,000</u>

Section 41. Park Rehabilitation. Of the funds authorized in the Section 1 Addendum of this Act, One Hundred Thousand Dollars (\$100,000) shall be used to match federal monies for the Cape Henlopen Pier Project. The Department of Natural Resources and Environmental Control shall complete said project in an expeditious manner.

Section 42. Churchman's Reservoir Environmental Impact Study (EIS). Amend Section 48 of Chapter 405 of Volume 68 of the Laws of Delaware by inserting "City of Wilmington;" after "New Castle County;" and before "and the New Castle County Water Resources Agency." Further amend Section 48 of Chapter 405 of Volume 68 of the Laws of Delaware by adding a sentence at the end of said Section to read "In addition, one non-voting representative of the State Budget Office, appointed by the State Budget Director, shall be named to said Committee."

DEPARTMENT OF TRANSPORTATION

Section 43. Transportation Trust Fund Authorizations.

(a) There is hereby appropriated Ninety Three Million Four Hundred Thirty Three Thousand Dollars (\$93,433,000) from the Transportation Trust Fund for transportation programs as set forth in the Section 1 Addendum of this Act.

(b) To fund a portion of the amount set forth in (a) above, the Delaware Transportation Authority is hereby authorized to issue bonds in an amount not exceeding Seventeen Million Seven Hundred Thousand Dollars (\$17,700,000) pursuant to the provisions of Chapter 14 of Title 2 of the Delaware Code, as amended, of which Sixteen Million Five Hundred Thousand Dollars (\$16,500,000) shall be used for purposes set forth in the Section 1 Addendum of this Act with the remainder of One Million Two Hundred Thousand Dollars (\$1,200,000) to be used to fund issuance costs and necessary reserves from the Reserve Account.

Section 44. 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 Section 1 Addendum of this Act. 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 descriptions 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 Department of Transportation 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 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 previous acts to ensure the bridge repairs and replacements are carried out in an expeditious manner.

(c) It is the intent of the General Assembly that the Co-Chairs of the Capital Budget Committee shall be delegated with the legislative responsibility of approving modifications to the list of projects in the "Paving and Rehabilitation" portion of the "Supplemental List of Transportation Projects," when the Department of Transportation seeks to make such modifications. These changes may be made, subject to the Co-Chairs' approval, when the Department (a) has completed or determined that it has sufficient funds on hand to complete projects in that program category, or (b) when projects so listed cannot be constructed in the construction season covered by this Act because of conflicting public works projects in progress or scheduled, or for other compelling

reasons, and (c) funds appropriated to the Paving and Rehabilitation program category are thus available for use on additional or other projects fitting within that category. In modifying the list, the Department must substitute the next suitable project(s) from the most recently approved Department of Transportation Capital Improvement Program or from the most recent project priority "Paving and Rehabilitation" listing.

(d) Any funds appropriated from the "Suburban Street Program" (56/00) of the "Supplemental List of Transportation Projects" attached hereto may be designated for Greenways with a transportation component as long as those Greenways will be dedicated to public use. Legislators may designate monies to be appropriated into a general pooled account to be used statewide, or may reserve monies for Greenways projects to be designated at a later time, or may designate specific sums of monies to specific Greenways projects. For the purposes of this Subsection, a project shall be deemed to have a "transportation component" whenever it involves walkways, pathways, bikeways, trails or other routes for the movement of people or goods. Project estimates shall be prepared by the Department of Natural Resources and Environmental Control (DNREC) and processed through the Department of Transportation's (DOT) Suburban Street Program procedure for inclusion in the Bond and Capital Improvement Act by the General Assembly. Funds appropriated through this Act will be funded from the Transportation Trust Fund and transferred to DNREC by DOT. DNREC will be responsible for the design, rights-of-way purchasing, construction and maintenance of such Greenways and establishing a process similar to DOT's process of administering the Suburban Street Program.

(e) As part of the Department of Transportation's efforts to comply with the Clean Air Act, the Department is hereby authorized to explore and/or construct feasible alternatives to traffic signals, including, but not limited to, geometric design changes to intersections or crossovers, in the vicinity of those locations where traffic signals may currently exist or otherwise be considered as warranted.

Section 45. Department of Transportation Administration Building. It is the intent of the General Assembly that funds appropriated in this Act to the Department of Transportation ("Department") and listed in the Engineering and Contingencies Account (55-05-00-57-00) in the Section 1 Addendum of this Act may be expended by the Department for the purpose of making heating, ventilation, air conditioning, electrical, structural and such other improvements as may be necessary to the Department of Transportation Administration Building.

Section 46. Amend Section 56 of Volume 67, Chapter 46 of the Laws of Delaware, as amended by Section 53 of Volume 68, Chapter 405 of the Laws of Delaware, by creating a new subsection (e) thereof, to read as follows:

"(e) Notwithstanding the provisions of subsections (a), (c), and (d) hereof, of the funds appropriated herein up to Three Hundred Eighty-Seven Thousand Five Hundred Dollars (\$387,500) may be utilized by the Authority to provide a matching grant for the U. S. Department of Commerce grant sought by Levy Court for the Kent County Aeropark. This Authority grant shall be used solely for the transportation components of the project for which the Commerce Department grant was sought."

Section 47. Additional Commuter Railroad Stations. The Delaware Rail Administration is authorized to design and construct three additional railway stations to accommodate expanded commuter service to Newark, Delaware. The Rail Administration is also authorized to rehabilitate the existing Claymont Station to comply with the Americans With Disabilities Act. Since the fastest and possibly the most economical method of procuring these stations and rehabilitating the Claymont Station is to solicit sealed competitive proposals for one company to both design and build them, the Secretary of Transportation is hereby authorized to solicit sealed competitive proposals and execute contracts to design and build the needed rail facility construction. In order to accomplish the purpose expressed herein, any relevant Delaware law, rule or regulation to the contrary is hereby waived.

Section 48. Amend Section 57, Chapter 405, Volume 68, Laws of Delaware, by deleting the last sentence thereof in its entirety.

Section 49. Motor Fuel Tax--Gasoline. Amend Section 5110(c), Chapter 51, Title 30 of the Delaware Code by deleting the first three sentences appearing therein and inserting in lieu thereof the following:

"Notwithstanding subsection (a) of this section, the tax levied and imposed in subsection (a) of this section shall be 19 cents per gallon through

August 31, 1993. Thereafter, the tax shall be 22 cents per gallon. Effective September 1, 1993, the tax shall be no more or no less than 22 cents per gallon until increased or decreased by the State."

Section 50. Amend Section 5110(c), Chapter 51, Title 30 of the Delaware Code by deleting the first three sentences appearing therein and inserting in lieu thereof the following:

"Notwithstanding subsection (a) of this section, the tax levied and imposed in subsection (a) of this section shall be 22 cents per gallon through December 31, 1994. Thereafter, the tax shall be 23 cents per gallon. Effective January 1, 1995, the tax shall be no more or no less than 23 cents per gallon until increased or decreased by the State."

Section 51. Section 49 of this Act shall become effective September 1, 1993. Section 50 of this Act shall become effective January 1, 1995.

Section 52. Motor Fuel Tax--Special Fuel. Amend Section 5132(a), Chapter 51, Title 30 of the Delaware Code by deleting the phrase "the same rate" appearing therein and inserting in lieu thereof the phrase "19 cents per gallon."

Section 53. Amend Section 5132(b), Chapter 51, Title 30 of the Delaware Code by deleting the phrase "the same rate," appearing therein and inserting in lieu thereof the phrase "19 cents per gallon."

Section 54. Amend Section 5132(a), Chapter 51, Title 30 of the Delaware Code by deleting the phrase "19 cents per gallon" appearing therein and inserting in lieu thereof the phrase "22 cents per gallon."

Section 55. Amend Section 5132(b), Chapter 51, Title 30 of the Delaware Code by deleting the phrase "19 cents per gallon" appearing therein and inserting in lieu thereof the phrase "22 cents per gallon."

Section 56. Sections 52 and 53 of this Act shall become effective September 1, 1993. Sections 54 and 55 of this Act shall become effective January 1, 1995.

Section 57. Motor Vehicle Document Fee. Amend Section 3002, Chapter 30, Title 30 of the Delaware Code by deleting subsection (c) thereof in its entirety and inserting in lieu thereof the following:

"(c) The document fee imposed herein shall be computed as follows:

- (1) Where the purchase price is less than \$400, there shall be a uniform rate of \$8;
- (2) Where the purchase price is \$400 or more, up to and including \$500, the document fee shall be \$13.75;
- (3) The document fee payable thereafter shall increase in increments of \$2.75 per each additional \$100 of purchase price or any fraction thereof, rounded to the nearest dollar."

Section 58. Section 57 of this Act shall become effective September 1, 1993.

Section 59. Amend Section 2151(3), Title 21 of the Delaware Code by inserting the following between the word "year" and the period "." at the end of the last sentence thereof:

"except as provided in subsection (9) of this section".

Section 60. Amend Section 2151, Title 21 of the Delaware Code by creating a new subsection (9), to read as follows:

"(9) For the registration of trailers with a gross weight of 1,000 pounds or less the fee shall be \$10 per year; if a trailer's gross load weight exceeds 1,000 pounds there shall be an additional fee of \$2 per year for each 1,000 pounds or fraction thereof over and above the 1,000 pounds up to a maximum of 2,000 pounds. The fee for the registration of trailers with a gross weight exceeding 2,000 pounds shall be as provided in subsection (3) of this section.

Section 61. Sections 59 and 60 of this Act shall become effective September 1, 1993.

Section 62. Amend Chapter 14, Title 2 of the Delaware Code by creating a new Section 1418, to read as follows:

"Section 1418. Any funds authorized in a Bond and Capital Improvements Act for the Suburban Streets Program but not designated to a specific transportation project within a three (3) year period from the effective date of that Act shall be deauthorized; however, no such funds will be deauthorized prior to July 1, 1996."

Section 63. It is the intent of the General Assembly that of the amount authorized in the Section 1 Addendum of this Act to the Engineering and Contingencies Account (55-05-00-57-00), Four Million Dollars (\$4,000,000) is to be used by the Department of Transportation in conjunction with the Department of Natural Resources and the Delaware Development Office to fund the activities of the Small Retail Gasoline Station Assistance Program.

Section 64. It is the intent of the General Assembly that of the amount authorized in the Section 1 Addendum of this Act to the Engineering and Contingencies Account (55-05-00-57-00), Four Million Dollars (\$4,000,000) shall be used by the Department of Transportation for the purpose of providing Capital Improvements necessary to implement the Motor Vehicle Enhanced Inspection and Maintenance Program. If legislation authorizing this program is not enacted into law by July 15, 1994, the amount of Four Million Dollars (\$4,000,000) shall be deauthorized from the amount appropriated to the Engineering and Contingency Account (55-05-00-57-00).

Section 65. Amend Section 511(a)(1), Title 30, Delaware Code by striking the word "to" after the word "sold" and inserting therein the following language: "and delivered to and used by."

Section 66. Amend Section 5133(a), Title 30, Delaware Code, by striking the words "to or" after the word "sold" and inserting therein the following language: "and delivered to and."

Section 67. It is the intent of the General Assembly that the Department of Transportation be authorized to review the potential for use for transportation purposes, the property known as the Pennsylvania Railroad Building in the City of Wilmington, and if the Department determines that the property would be feasible and useful in carrying out its responsibilities, purchase the property using available funds.

Section 68. Amend Title 2, Chapter 13 of the Delaware Code by adding a new Section 1332 to read as follows:

"Section 1332. (a) The General Assembly has determined as a matter of public policy that it is in the best interests of the citizens of Delaware to apply a limitation of liability for any passenger rail carrier not otherwise protected under State law in order to financially enable the Authority and such rail carriers to provide such service. No legal or equitable action seeking damages for personal injury or death as a result of any operation, service or program shall be permitted, maintained or recovered against the owner and/or operator of passenger rail service within State boundaries which has contracted with the Authority to provide such service except as otherwise indicated herein.

(b) It is the expressed intent of the General Assembly, as a matter of public policy, to extend the immunity of the State to all owners and operators of rail facilities and/or providing such rail operations pursuant to an agreement with the Delaware Transportation Authority specifically referencing this section. Any such waiver of immunity from lawsuit or liability whether by operation of law or contract shall be strictly limited to the terms of this section.

(c) The Delaware Transportation Authority is expressly given authority to contract with one or more rail service operators hereinafter referred to as "Contractors" to maintain and operate rail service between points in Pennsylvania and Delaware, within Delaware and/or between points in Maryland and Delaware, and to indemnify and save harmless said Contractors from any and all liability to the extent such indemnification shall be covered by insurance either through a commercially procured policy or through a self-insurance fund as shall be determined by the Authority and approved by the General Assembly and in conformance with Section 1329 of this Title. For the purposes of this section, rail service operators shall include but not be limited to SEPTA (Southeastern Pennsylvania Transportation Authority), AMTRAK (National Railroad Passenger Corporation), MARC (Mass Transit Administration, Maryland Commuter Rail) and CONRAIL (Consolidated Rail Corporation)."

Section 69. It is the intent of the General Assembly that Two Hundred Fifty Thousand Dollars (\$250,000) of funds appropriated to the Department of Transportation be authorized for purposes of funding research programs of the Delaware Transportation Institute. Use of these program funds is subject to prior approval of the organizational structure, the research approach, and specific research projects of the Institute by the existing Policy Committee for the Institute, which shall include representation from the Department of Transportation, the University of Delaware, the Chairperson of the House Transportation and Infrastructure Committee, and the Chairperson of the Senate Highways and Transportation Committee.

Section 70. It is the intent of the General Assembly that the Department of Transportation transfer a parcel of excess property adjacent to the Sterck School to the Christina School District. The Secretary shall enter into an agreement with the School District specifying the terms and conditions of said transfer including but not limited to restrictions of the use of the property for public use purposes only.

SMALL RETAIL GASOLINE STATION ASSISTANCE PROGRAM

Section 71. Amend Chapter 74, Title 7 of the Delaware Code by denominating Sections 7401 through 7419 thereof as "Subchapter 1," and creating a new Subchapter II for said Chapter as follows:

"Subchapter II. Small Retail Gasoline Station Assistance Program.

Section 7420. Legislative Findings and Intent.

The General Assembly finds and declares that it is in the best interests of the people of Delaware that small retail gasoline station owners and operators continue to maintain their economic viability, while taking the remedial and preventive measures necessary to protect Delaware's environment and to comply with this chapter and other state and federal environmental protection laws. The General Assembly further finds that such station owners and operators are often unable to obtain financing for needed remedial and preventive measures in the private financing market, and accordingly it is necessary for the State of Delaware to provide affordable financing if the public interest is to be protected. Therefore, there shall be established in the Department of Natural Resources and Environmental Control ('Department') a loan assistance program, the purpose of which is provide loans to small retail gasoline station owners and operators ('small stations') to carry out the following activities necessary to comply with state and federal environmental laws:

- (1) Installation of air quality protection devices; and/or
- (2) replacement of existing underground storage tank systems; and/or
- (3) removal and abandonment of underground storage tank systems; and/or
- (4) Installation of water quality protection devices.

Section 7421. Small Retail Gasoline Station Assistance Loan Fund: Source of Funds, Interest Rate, and Capitalization.

(a) Loan proceeds and the state's expenses in administering this program shall be drawn from a special account of the Transportation Trust Fund known as the 'Small Retail Gasoline Station Assistance Loan Fund,' hereinafter referred to as the 'Small Station Fund.'

(b) Loans made from the Small Station Fund shall require interest payments at a simple interest rate which is 2% above the Federal Reserve discount rate in effect at the time the loan application is filed with the Department.

(c) The Small Station Fund account shall be capitalized in an amount not to exceed \$12 million over the life of the program out of funds of the Transportation Trust Fund as authorized by Title 2, Chapter 14.

Section 7422. Small Station Fund Eligibility.

(a) Any applicant for a Small Station Fund loan must demonstrate that the applicant meets the following criteria:

- (1) The loan shall be made only to small station owner/operators as defined in eligibility rules established under this section and who also qualify as a "Small Business" under rules established by the Small Business Administration, provided,

however, that no loan may be provided to a small station which has a total throughput of 75,001 gallons or more of gasoline and/or special fuel (diesel) products as a monthly average for the twelve months preceding the date of application for the loan;

(2) The loan proceeds for any individual site may not exceed \$100,000, and shall be used for a project approved under this section to accomplish one of the following purposes:

- (a) installation of air quality protection devices; and/or
- (b) replacement of existing underground storage tank systems; and/or
- (c) removal and abandonment of underground storage tank systems; and/or
- (d) installation of water quality protection devices.

(3) In no event shall the loan proceeds exceed 90% of the total amount required to complete the project for which the loan is made. Applicants must also show proof of ability to repay the Small Station Fund within a time period not exceeding seven years;

(4) The application for a loan from the Small Station Fund shall be made on or before November 15, 1997, accompanied by a non-refundable application fee of \$250, which shall immediately upon receipt be transferred to the Transportation Trust Fund. No loans shall be made after July 1, 1998;

(5) Such other criteria as may be specified pursuant to Section 7422(b) of this chapter; and

(6) The loan for the project to be provided to the small station by the Small Station Fund shall be approved by the Secretary of the Department, the Secretary of the Department of Transportation, and the Director of the Development Office.

(b) Before making any loan from the Small Station Fund, the Department, in coordination with the Development Office and the Department of Transportation, shall specify:

(1) Standards, consistent with Section 7422(a) of this chapter, for determining the eligibility of borrowers and the type of projects to be financed with loans from the Small Station Fund;

(2) Procedures for submitting applications for loans from the Small Station Fund and procedures for approval of such applications;

(3) Conditions for loans from the Small Station Fund consistent with the provisions of Section 7422(a) of this chapter; and

(4) Other relevant criteria, standards or procedures.

Section 7423. Loan Payment Mechanism; Prepayment and Security Options.

(a) Except as provided in subsection (b) of this section, small stations shall make their loan payments under this program through a surcharge of not less than one cent per gallon for each gallon for which fuel taxes are assessed, to be paid with the fuel tax returns filed each month by themselves or their distributors/suppliers on their behalf, pursuant to the provisions of Chapter 51 of Title 30 of the Delaware Code. The surcharge is not to be treated as a fuel tax payment, and will be applied to the credit of the small station on the unpaid balance of principal and interest on the loan.

(b) In addition to the payment mechanism set forth in subsection (a) of this section, as well as other methods of secured repayment provided for pursuant to Section 7422(b) of this Chapter, small stations may also make larger loan payments through other mechanisms approved under Section 7422(b) of this chapter, to enable the small station to prepay the loan without penalty."

Section 72. Amend §1404, Chapter 14, Title 2 of the Delaware Code by adding the following at the end of said section:

"Subject to appropriations in the annual Capital Improvements Acts, the Department shall create a special account in the Fund for the purposes of capitalizing the Small

Retail Gasoline Station Assistance Loan Fund ('Small Station Fund') established in Chapter 74 of Title 7 of the Delaware Code. This special account shall be subject to the following terms and conditions:

(a) The total authorization in any fiscal year for this Small Station Fund shall not exceed \$4 million, including administrative expenses;

(b) The total authorization of moneys for the Small Station Fund shall not exceed \$12 million;

(c) All loan repayments under this program shall immediately upon receipt be deposited into accounts of the Transportation Trust Fund; and

(d) A Memorandum of Understanding shall be executed between the Secretary of the Department of Transportation, the Secretary of the Department of Natural Resources and Environmental Control, and the Director of the Development Office, which shall include by way of illustration and not limitation the following:

(1) an agreement as to eligibility requirements;

(2) a cap on administrative expenses;

(3) provisions for auditing the Small Station Fund Program; and

(4) a requirement for a Quarterly Activity Report on the administration of the Small Station Fund Program, showing the loans made, amounts repaid and an itemization of administrative expenses."

Section 73. Amend Section 5102, Title 30 of the Delaware Code by adding the following after the last sentence of the section: "Retailers participating in the Small Retail Gasoline Station Assistance Loan Fund established in Chapter 74 of Title 7 of the Delaware Code, must as a condition of their license, make their loan payments as prescribed therein; if their fuel supplier is not a distributor licensed under this Chapter, then the retailer must file its own fuel tax return with the Department of Transportation for this purpose."

Section 74. Amend Section 5103, Title 30 of the Delaware Code by adding a new subsection (d) thereof, to read as follows:

"(d) As a condition of their license, distributors shall make the required loan payments for themselves or their retailer customers who: (1) participate in the Small Retail Gasoline Station Assistance Loan Fund, established in Chapter 74 of Title 7 of the Delaware Code; and (2) provide these funds to the distributor."

Section 75. Amend Section 5134, Title 30 of the Delaware Code by adding the following after the last sentence of subsection (a) thereof: "As a condition of their license, persons shall make the required loan payments on their own account or for their retailer customers who: (1) participate in the Small Retail Gasoline Station Assistance Loan Fund, established in Chapter 74 of Title 7 of the Delaware Code; and (2) provide these funds to the person."

STATE BOARD OF EDUCATION

Section 76. Howard Career Center. Amend Chapter 405 of Volume 68 of the Laws of Delaware by deleting the word "Entrance" from the Fiscal Year 1993 Capital Improvements Project Schedule Addendum, page A-6, under the heading "State Board of Education", project name "NCCo. Vo-Tech, Howard Career Center Entrance" and inserting the word "Modifications" in lieu thereof.

Section 77. 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 the Section 1 Addendum 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 78. Asbestos Abatement.

(a) Amend Subsection 7528(a) of Chapter 75 of Title 29 of the Delaware Code by adding ", asbestos abatement" in the second sentence after the words "...water systems

or facilities" and before the words "and the removal of architectural barriers to the handicapped".

(b) Amend Subsection 7528(b) of Chapter 75 of Title 29 of the Delaware Code by adding "or asbestos" in the second sentence after the words "architectural barriers for the handicapped".

(c) Funds authorized in the Section 1 Addendum of this Act to the Department of Administrative Services and transferred to school districts for asbestos abatement projects shall be considered the State's sixty percent (60%) share of asbestos abatement projects as defined in Section 7528 of Title 29 of the Delaware Code. Each qualifying school district having approved asbestos abatement 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 79. Asbestos Abatement. The sum of Nine Hundred Fourteen Thousand Dollars (\$914,000) authorized in the Section 1 Addendum of this Act for asbestos abatement projects in public schools shall be transferred to the Department of Administrative Services to budget unit 30-05-10 upon the effective date of this Act.

Section 80. Amend §7503(b), Chapter 75, Title 29, Del. C., by adding after the second paragraph and before the last paragraph thereof a new paragraph to read as follows:

"For the statewide Autistic Program and Margaret S. Sterck School for Hearing Impaired, construction shall be 100% state-funded."

Section 81. 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 82. 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 83. 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 84. Effective Date. This Act shall take effect in accordance with the provisions of State law.

Approved July 1, 1993.

SUPPLEMENTAL LIST OF TRANSPORTATION PROJECTS
Fiscal Year 1994

I. Corridor/Non-Corridor (66/00)

Naamans Rd.	\$ 6,958,000
SR1, Rehoboth Ave	1,087,000
SR896N of Summit BR to SR4	4,802,000
SR273, Newark to US13 (Hares Corner)	7,027,000
SR48, Lancaster Pike	1,585,000
Newark Area Improvement	191,000
SR7 (SR1), US 13 to PA	2,293,000
Valley Road	407,000
Netroform Area Improvement	1,220,000
Susser Corridor Improvements	<u>1,434,000</u>
	\$27,002,000

II. Public Transit Improvements (73/00)

Rail Improvements	\$760,000
DART Improvements	5,813,000
DAST Improvements	3,214,000
Commuter Services Improvements	825,000
Aeronautic Improvements	<u>500,000</u>
	\$11,112,000

III. Paving and Rehabilitation (100% State Funded) (64/00)

CO.	ROAD NO./NAME	FROM	TO
N	Rd. 4 (US 202) Concord Pk	Rd. 49 Augustine Cut-Off	Rd. 203 Foulk Rd
N	Rd. 9 (Del. 52) Kennett Pk	Rd. 265 Buck Rd	Rd. 52 Dupont Rd
N	Rd. 11 (Del. 2) Elkton/Newark Rd	Maryland Line	Rd. 9 (Del. 52) Delaware Ave
N	Rd. 17 (Del. 92) Naamans Rd	1000+ W. of Rd. 204 Ebright Rd	Clearview Ave
N	Rd. 17 (Del. 92) Naamans Rd	Rd. 23 Marsh Rd	Herrbrook Rd
N	Rd. 21 (Del. 41) Newport Gap Pk	Int. of Rd. 21 (Del. 41) & Newport Gap Pike	Rd. 12 Old Capitol Trail
N	Rd. 21 (Del. 41) Newport Gap Pk	Int. of Rd. 21 (Del. 41) & Newport Gap Pike	Rd. 237 (Del. 48) Lancaster Pk
N	Rd. 26 Old Belt. Pike	Maryland Line	Rd. 387 (Del. 896)
N	Rd. 31 (Del. 7-A) Limestone Rd	Rd. 288 Brackenville Rd.	Pa. Line
N	Rd. 210 Veale Rd	Rd. 232 Silverside Rd	Rd. 209 Harvey Rd
N	Rd. 210 Murphy Rd/Vilson Rd	Rd. 4 NB (US 202) Concord Pk	Rd. 203 (Del. 261) Foulk Rd
N	Rd. 261 (Del. 82) Mt. Cuba Rd	Rd. 247 Snuff Mill Rd	Rd. 262 Pyles Ford Rd
N	Rd. 267 (Del. 141) New Bridge Rd	Begin Divided S. of Alapocas	Rd. 232 Rockland Rd
N	Rd. 294 Valley Rd	Rd. 31 (Del. 7) Limestone Rd	Rd. 285 Evanson Rd
N	Mun. Str. Mo. 295 The Connector	Rd. 28 S. Heald St	Rd. 19 (Del. 9) New Castle Ave
N	Rd. 336 (Del. 7)	200' S. of Rd. 339 (Del. 58) Churchmans Rd	Rd. 31 (Del. 7) Limestone Rd
N	Rd. 356 (Del. 72)	Int. of Rd. 385 Raybold Rd	
N	Rd. 3 NB & SB (Del. 273)	End of Qualization . E. of Rd. 67 (Del. 1)	End Hot Mix W. of Rd. 347 Chopin Rd.
N	Rd. 9 (Del. 52) Kennett Pk	Pennsylvania Line	Brookvalley Rd.
N	Rd. 11 (SR2) Kirkwood Hwy	Int. of Rd 31 (SR7)	
N	Rd. 16 NB & SB (Del. 896)	Rd. 35 (Del. 71)	Summit Bridge
N	Rd. 21 (Del. 41) Newport Gap Pk	Rd. 280 Hilltown Rd.	Rd. 237 EB Lancaster Pk
N	Rd. 24 Philadelphia Pk	0.18 S. of Sunset Drive	0.06 S. of Sunset Drive
N	Rd. 29 NB & SB Walnut St. Ext.	Howard Street	A Street
N	Rd. 34 NB (US 13) Dupont Pkwy	0.17 N. of (Rd. 406) Gov. Lea Rd.	0.12 S. of Exit No. 96 to Rd. 67 (Del. 1)
N	Rd. 35 (Del. 71) Summit Brdg Rd.	Rd. 409 Kirkwd/St. Georges Rd.	Start of concrete pavement
N	Rd. 43 Washington St.	Tenth Street	Eleventh Street
N	Rd. 48 Porter Rd.	R.R. Crossing	Concrete Plant
N	Rd. 53 Thompson Station Rd.	Rd. 13 (Del. 72) Curtis/Paper Mill Rd.	Rd. 329 Chambers Rd.
N	Rd. 64 Boulden Blvd	Rd. 33 NB (US 13)	Rd. 374 Moores Lane
N	Rd. 66 NB Frontage Rd.	Marshalla Street	Rd. 334 Bowwood Rd.
N	Rd. 69 Wilton Blvd	Rd. 32 (US 40 WB)	Rd. 343 Appleby Rd.
N	Rd. 207 Oarley Rd.	Bridge 74-C 0.03 E. of Rd. 200 Carpenter Rd.	Peachtrees Rd.

CO.	ROAD NO./NAME	FROM	TO
N	Rd. 208 Chestnut Lane	Rd. 23 Marsh Rd.	Rd. 207 Orley Rd.
N	Rd. 210 Wilson Rd.	O.15 W. of Rd. 23 Marsh Rd.	Rd. 212 Silverside Rd.
N	Rd. 228 Blackgates Rd.	Rd. 232 Rockland Rd.	Rd. 227 Mt. Lebanon Rd.
N	Rd. 237 (Del. 41) Lancaster Pk	Pennsylvania Line	O.11 W. of Rd. 300 Old Lancaster Pk
N	Rd. 237 (Del. 41) Lancaster Pk	R.R. Crossing	Rd. 21 (Del. 41)
N	Rd. 239 Pyles Ford Rd.	Rd. 262 New London Rd.	Rd. 240 Ouls Nest Rd.
N	Rd. 257 Yorklyn Rd.	Rd. 300 Old Lancaster Pk	Pond Drive
N	Rd. 262 New London Rd.	Rd. 261 Mt. Cuba Rd.	Rd. 262-A
N	Rd. 270 Faulkland Rd.	Rd. 281 Duncan Rd.	Rd. 21 (Del. 41)
N	Rd. 294 Valley Rd.	Rd. 288 Little Baltimore Rd.	Rd. 31 (Del. 7)
N	Rd. 300 Old Lancaster Pk	Rd. 294 Valley Rd.	Rd. 237 Lancaster Pk
N	Rd. 302 Hopkins Rd.	Rd. 313 (Del. 896)	Rd. 53 Milford Crossroads
		New London Rd.	
N	Rd. 311 North College Ave.	Rd. 309 Cleveland Avenue	O.15 W. of White Clay Drive
N	Rd. 316 Henderson Rd.	Rd. 322 O.09 W. of Pike Crk Rd.	Rd. 317 Old Milltown Rd
N	Rd. 319 Old Churchmans Rd.	Rd. 340 Airport Rd.	Rd. 339 Churchmans Rd.
N	Rd. 330 Stanton Rd.	Rd. 336 EB Newport/Christiana Pk	Rd. 281 Duncan Rd.
N	Rd. 334 Boswood Rd.	Read Avenue	Rd. 336 Maryland Avenue
N	Rd. 336 EB & WB	Rd. 31 (Del 7) Limestone Rd.	Newport Town Limit
	(Wilmington Christians Pk)		
N	Rd. 339 NB & SB Churchmans Rd	Rd. 56 (I-95)	Rd. 315
N	Rd. 340 Airport Rd.	Rd. 339 Churchmans Rd.	Rd. 341 Commons Blvd.
N	Rd. 341 EB & WB Commons Blvd.	End curbs near Spruance Drive	Rd. 6 (Del. 141)
	(Shoulder Vork)		
N	Rd. 345 Smealley's Dam Rd.	Cul-de-Sac	Cul-de-Sac
N	Rd. 348 Salem Church Rd.	Rd. 336 Old Baltimore Pk	Rd. 347 Chopin Rd.
N	Rd. 377 Pigeon Point Rd.	Rd. 370 Lambson Lane	Rd. 359 Terminal Avenue
N	Rd. 383 Old Porter Rd.	Rd. 48 Porter Rd.	Rd. 35 (Del. 71)
N	Rd. 401 Dellave/Caravel	Rd. 400 Porter Rd.	Rd. 356 (Del. 72)
	School Rd.		
N	Rd. 498 Broom Street	Rd. 336 Maryland Ave.	Rd. 9 (Del. 52) Penn. Ave.
N	Rd. 504 West 18th St.	Rd. 43 Washington St.	Rd. 217 Broom Street
N	Rd. 505 Jackson St.	Rd. 336 (Del. 4) Maryland Ave	Rd. 497 Fourth Street
K	Rd. 1 (US 13) NB & SB	Rd. 12 Dennys Rd	New Castle County Line
	N. Dupont Blvd.		
K	Rd. 2 (US 13) N. Dupont Hwy	Rd. 45 Main St	Rd. 102 at Garrisons Lk
K	Rd. 7 NB (US 13) Bay Rd	Rd. 23 Lookerman St	Rd. 88 Leipsic Rd
K	Rd. 8-A (Del. 1) NB & SB	Sussex County Line	Rd. 8 (US 113) Dupont Blvd
	Milford Bypass		
N	Rd. 22 (US 13) NB & SB	Rd. 441 Main St	Rd. 420 Keane Rd
	Dupont Pkwy		
K	Rd. 27 (US 113-A) S. State St	Rd. 192 Webbs Lane	Rd. 356 Lebanon Rd
K	Rd. 190 New Burton Rd	Rd. 192 Webbs Lane	Rd. 190-A N. Queen St
K	Rd. 407 Airport Rd	Rd. 388 (Del. 15) Canterbury Rd	Rd. 8 (US 113) Dupont Blvd
K	Rd. 2 NB (US 13) Dupont Hwy.	Rd. 102 Messina Hill Rd.	Rd. 149 Hickory Bridge Rd.
K	Rd. 2 SB (US 13) Dupont Hwy.	Rd. 149 Hickory Bridge Rd.	Rd. 102 Messina Hill Rd.
K	Rd. 7 NB Bay Rd.	New Constr. Lafferty Lane	Rd. 23 Lookerman St.
K	Rd. 7 SB Bay Rd.	Rd. 23 Lookerman St.	New Constr. Lafferty Ln.
K	Rd. 9 Woodland Beach Rd.	Rd. 82 Lighthouse Rd.	Rd. 11 Spectrum Farms Rd.
K	Rd. 26 Sorghum Hill Rd.	Rd. 27 (U.S. 113-A)	Rd. 356-A Sorghum Hill Rd.
N	Rd. 45 Walker School Rd.	Rd. 30 Flemings Landing Rd.	Rd. 449 Taylors Bridge Rd.
K	Rd. 56 Sandtown Rd.	Rd. 251 Ironmine Rd.	Rd. 53 Willow Grove Rd.
K	Rd. 60 Vernon Rd.	Rd. 314 West St.	Rd. 290 Fleming St.
K	Rd. 68 Kitts Hummock Rd.	Rd. 17 Bayside Dr.	End
K	Rd. 73 Hazletville Rd.	Rd. 206 Westville Rd.	Rd. 101 Pearsons Corner Rd.
K	Rd. 91 Mt. Friendship Rd.	Rd. 42 Brandford Rd.	Rd. 41 Sudlersville Rd.
K	Rd. 100 Dennys Rd.	Rd. 101 Pearsons Corner Rd.	Rd. 164 Blue Swamp Rd.
K	Rd. 102 Messina Hill Rd.	Rd. 2 N. Dupont Hwy.	Rd. 2 N. Dupont Hwy.
K	Rd. 103 Hourglass Rd.	Rd. 50 Halltown Rd.	Rd. 182 Lighthouse Station Rd.
K	Rd. 106 Woodlytown Rd.	Rd. 31 West Walnut St.	Rd. 368 Millchop Lane
K	Rd. 116 Williamsville Rd.	Rd. 6 S. Dupont Hwy.	Rd. 429 Messicks Rd.
K	Rd. 120 Milford Neck Rd.	Rd. 8 Dupont Blvd.	Rd. 422 Pritchett Rd.
K	Rd. 152 Lynnbury Woods Rd.	Rd. 92 Roxana Rd.	Rd. 102 Messina Hill Rd.
K	Rd. 154 Rose Bowl Rd.	End	Rd. 156 McKee Rd.
K	Rd. 160 Maidstone Branch Rd.	Rd. 158 Chesnut Grove Rd.	Rd. 100 Dennys Rd.

CO.	ROAD NO./NAME	FROM	TO
K	Rd. 190-A N. Queen St.	Rd. 72 Water St.	Rd. 73 Hazletville Rd.
K	Rd. 208 Mahan Corner Rd.	Rd. 209 Grygo Rd.	MDLN
K	Rd. 239 Plymouth Rd.	Rd. 108 Evens Rd.	Rd. 5 S. Dupont Hwy.
K	Rd. 243 Walnut St.	Rd. 57 Burnite Hill Rd.	Rd. 241 Peach Basket Rd.
K	Rd. 405 Raughley Hill Rd.	Rd. 81 Delaware Ave.	Rd. 289 Hopkins Cemetery Rd.
K	Rd. 429 Messicks Rd.	Rd. 36 Star Hill Rd.	Rd. 430 Jackson Ditch Rd.
N	Rd. 443 Ceciltown Rd.	MDLN	Rd. 62 Warwick Maryland Ln.
K	Rd. 443 Williamsville Rd.	Rd. 384 Killens Pond Rd.	Rd. 444 Blairs Pond Rd.
N	Rd. 449 Taylors Bridge Rd.	Rd. 453 Derricksens Rd.	Rd. 456 Union Church Rd.
N	Rd. 457 Money Rd.	Bridge	Rd. 38 St. Andrews School Rd.
K	Rd. 77	Rd. 235	Rd. 240
K	Rd. 94	Rd. 95	Rd. 44
K	Rd. 126	Rd. 127	Rd. 130
K	Rd. 147	Rd. 42	Rd. 41
K	Rd. 162	Rd. 51	Rd. 100
K	Rd. 171	Rd. 46	Rd. 101
K	Rd. 208	Rd. 53	Rd. 209
K	Rd. 331	Rd. 332	Rd. 15
K	Rd. 349	Rd. 17	End
K	Rd. 398	Rd. 36	Rd. 384
K	Rd. 404	Rd. 36	Rd. 119
K	Rd. 409	Rd. 8-A	Rd. 8
N	Rd. 413	Rd. 15	Rd. 412-A
K	Rd. 431	Rd. 36	Rd. 429
N	Rd. 482	Rd. 40	Rd. 47
S	Rd. 1 NB & SB (US 13)	Int. of Rd. 1 (US 13) &	Rd. 24 (Del. 24)
S	Rd. 14 NB & SB (Del. 1)	Rd. 206	0.35 S. of Rd. 209-A (incl. ramps)
S	Rd. 14 NB & SB (Del. 1)	Approach slabs on Bridge 150-A	Approach slabs on Bridge 150-B
S	Rd. 30	Rd. 547 Boyce Rd	Rd. 18 (Del. 18)
S	Rd. 13	Rd. 501	Barron St.
S	Rd. 14-E	Rd. 14 (Del. 1)	Rd. 14 (Del. 1)
S	Rd. 20 (Del. 20)	Rd. 13	Rd. 2 (U.S. 13)
S	Rd. 20 (Del. 20)	Rd. 28 (U.S. 9)	Rd. 62
S	Rd. 20 (Del. 20)	Rd. 432	Rd. 113 (U.S. 113)
S	Rd. 22 Massey Landing Rd.	Rd. 22-C	Rd. 24 (Del. 24)
S	Rd. 24 (Del. 24)	Rd. 421	Rd. 25 (Del. 30)
S	Rd. 28 (U.S. 9)	Rd. 13	Rd. 2 (U.S. 13)
S	Rd. 28 (U.S. 9)	Rd. 113 (U.S. 13)	Rd. 18 (U.S. 9)
S	Rd. 48	Rd. 431	Rd. 326
S	Rd. 70	Laurel Limits	Rd. 13
S	Rd. 76	Rd. 81	Rd. 510
S	Rd. 76	Rd. 502	Rd. 504
S	Rd. 224 Slaughter Beach Rd.	Rd. 14-E	Rd. 204
S	Rd. 272	Rd. 272-A	Rd. 15 (Del. 1-A)
S	Rd. 273	End	Rd. 14 (Del. 1)
S	Rd. 279	Rd. 277	Rd. 24 (Del. 24)
S	Rd. 297 (Del. 5)	Rd. 24 (Del. 24)	Rd. 297-A
S	Rd. 19-A	Rd. 19	End
S	Rd. 34-B	Rd. 16	KTLN
S	Rd. 38	Rd. 212	Rd. 198
S	Rd. 44	Rd. 630	Rd. 224
S	Rd. 84	End	Rd. 363
S	Rd. 224	Rd. 613	Rd. 36
S	Rd. 224	Rd. 44	Rd. 594
S	Rd. 245	Rd. 246	Rd. 319
S	Rd. 249	Rd. 18	Rd. 253
S	Rd. 267	Rd. 23	Rd. 18
S	Rd. 273	Rd. 15-A	End
S	Rd. 284	Rd. 24	Rd. 283
S	Rd. 298	Rd. 24	Rd. 298-A
S	Rd. 308	Rd. 310	Rd. 297
S	Rd. 312-A	Rd. 312	Rd. 24
S	Rd. 317	Rd. 318	Rd. 48

TO	ROAD NO./NAME	FROM	TO
S	Rd. 318	Rd. 432	Rd. 324
S	Rd. 326	Rd. 318	Rd. 86
S	Rd. 326	Rd. 329	Rd. 432
S	Rd. 329	Rd. 431	Rd. 321
S	Rd. 332	Rd. 335	End
S	Rd. 333	Rd. 334	Rd. 331
S	Rd. 335-A	Rd. 336	Rd. 335
S	Rd. 336-A	Rd. 331	Rd. 336
S	Rd. 341	Rd. 343	Rd. 341-B
S	Rd. 344	Rd. 342	Rd. 26
S	Rd. 346	Rd. 26	Rd. 348
S	Rd. 347	Rd. 349	Rd. 346
S	Rd. 348	Rd. 348-A	Rd. 349
S	Rd. 348	Rd. 349	Rd. 346
S	Rd. 364	Rd. 363	End
S	Rd. 368	Rd. 365	Rd. 366
S	Rd. 370	Rd. 52	Rd. 84
S	Rd. 390	Rd. 390-A	Rd. 389
S	Rd. 395	Rd. 394	Rd. 58
S	Rd. 402-B	Rd. 402	Rd. 113
S	Rd. 410	Rd. 421	Rd. Rd. 412
S	Rd. 455	Rd. 419	Rd. 455-A
S	Rd. 461	Rd. 70	Rd. 24
S	Rd. 474	Rd. 480	Rd. 479-A
S	Rd. 479	Rd. 465	Rd. 466
S	Rd. 479	Rd. 479-A	Rd. 20
S	Rd. 483	Rd. 20	Rd. 484
S	Rd. 488	Rd. 487	Rd. 13
S	Rd. 490-A	Rd. 78	Rd. 490
S	Rd. 494	MDLN	Rd. 498-A
S	Rd. 494	Rd. 493	Rd. 495
S	Rd. 500	Rd. 498	Rd. 493
S	Rd. 545	Rd. 5	Rd. 4
S	Rd. 550	Rd. 80	Rd. 21
S	Rd. 564	Rd. 17	Rd. 563
S	Rd. 566-A	Rd. 562	Rd. 17
S	Rd. 617	Rd. 36	Rd. 620
S	Rd. 618	Rd. 634	Rd. 619
S	Rd. 636	Rd. 637	Rd. 627
SUBTOTAL			\$14,425,000
Statewide Purchase of Hot-Mix Material			\$375,000
Statewide Concrete Patching			\$200,000
TOTAL			\$15,000,000

IV. Suburban Streets Program

Afton - Fairhope Road from Del Penn Road to end	94-317	33,800
Amaranth - Amaranth Lane from Road N313 (SR 896) to circle	94-132	26,000
Arundel - Elderon Drive from Arundel Drive to Elderon Drive	94-294	63,800
Arundel - Mattahoon Drive from Elderon Drive to circle	94-295	35,100
Bellevue Hills - Eskridge Dr. from Philadelphia Pike to Brandywine	94-378	48,100
Bestfield - David Road from Walnut Street to Bestfield Road	94-440	84,500
Beverly Woods - Marilyn Drive from Naamans Road to circle	94-304	46,800
Big Oak Road (K325) from Leipsic Rd (K12) to Duck Neck Rd (K83)	94-251	93,600
Big Oak Road (K325) from US 13 to SR-1 overpass	94-250	39,500
Blue Rock Manor - Shellpot Drive from Alders Drive to house #2427	93-064	32,500
Brack Ex - Sylvan Ave. from S. Woodward Ave. to Clifton Ave.	94-238	40,300
Briar Park - Briar Lane from Park Lane to Maple Lane	94-280	32,500
Briar Park - Maple Lane from Road K105 to deadend	94-278	24,300
Brook Bend - Brook Bend Dr. from Route 4 to Guernsey Dr.	94-239	27,300
Brookfield - Brookfield Dr. from Lochmeath Way to new hot mix	94-281	25,100
Brookfield - Douglas Court from Brookfield Drive to deadend	94-282	34,400
Brookmeade I - Turnstone Dr. from house #2514 to Centreville Rd.	94-198	48,100
Brookside Park - Chaucer Dr. in front of house #B7	93-063	1,300
Brookside Park - Kensington Circle from Kensington Lane to end	94-115	16,900
Brookside Park - McCord Drive in front of house #11	94-095	4,600
Brookside Park - Merry Road from Martindale Dr. to Merriman Rd.	93-286	46,800
Buckley - Chandler Circle from Courtland Circle to Circle	94-396	5,200
Buckley - Douglas Drive from Buckley Boulevard to Courtland Circle	94-399	16,900
Buckley - Harpers Place from Oorsey Lane to circle	94-397	7,800
Camden - East Street from Camden-Wyoming Ave. to dirt portion of st	94-277	26,000
Camden - William Street from East Street to deadend	94-276	14,300
Carlisle Village - Carlisle Dr. from Road 100 to new hot mix	93-458	21,000
Carlisle Village - Tammie Dr. from Carlisle Dr. to new hot mix	93-459	35,000
Castle Hills - Angola Drive from Tavernier Drive to Glen Road	94-432	22,100
Castle Hills - Wardor Avenue from Roxeter Road to circle	94-431	44,200
Chalfonte - Bodine Dr. from Belwyn Dr. to Justin Lane	94-272	58,500
Chalfonte - Landen Rd. from Kingman Dr. to Garth Rd.	94-273	24,700
Chanin - Gray Bridge Road from Ruthwell Drive to Ruthwell Drive	94-178	44,200
Chanin - Ruthwell Drive from Ramblewood Drive to end	94-177	45,500
Chapel Crest - Chapel Crest Lane from Shipley Road to end	94-254	22,100
Chatham - Brantlin Road and Larkal Road	94-255	24,700
Chelsea Estates - Godwin Rd. from Louise Rd. to Mark Dr.	94-079	22,100
Chelsea Estates - Louise Road from Morris Road to Gainor Road	94-097	54,600
Chestnut Valley - entrance to Chestnut Valley and Route 72	94-184	5,850
Clayton Rd. drainage (Duck Creek Rd.) from Cherry Alley to Clayton	94-187	11,700
Clayton Rd. drainage (Duck Creek Rd.) from Wilson Ave. to Cherry Al	94-186	10,100
Colonial Heights - South Cleveland Ave. from Taft Rd. to Dupont Rd.	94-237	44,200
Coventry - Clyde Circle from Dunsinane Drive to circle	93-461	10,400
Crofton (Rivers End) - Bynum Place from Providence Drive to circle	94-364	18,200
Crofton (Rivers End) - Cedar Creek Dr. from Providence to end	94-368	16,900
Crofton (Rivers End) - S. Cedar Creek Court from Cedar Creek to end	94-370	14,300
Crofton (Rivers End) - S. St. George's Terrace from S St. G. to end	94-367	16,900
Crofton (Rivers End) - St. George's Terrace from Providence to end	94-369	32,500
Crofton (Rivers End) - North Hyde Place from Providence Drive to end	94-365	11,700
Crofton - Cypress Bridge Pl. from Providence Dr. to circle	94-204	26,000
Del Park Manor - Armour Drive from Ferguson Drive to end	94-030	34,500
Del Park Manor - Byrd Court from Ferguson Drive to circle	94-036	11,700
Del Park Manor - Duff Circle from Ferguson Drive to circle	94-034	9,100
Del Park Manor - Paulson Dr. from Saint Chames Church to Ferguson	94-031	31,200
Devon - South Rockfield Drive from Shipley Road to Halvern Court	94-120	28,600
Dewey Beach - Bellview from ocean to Road S50 (SR 1)	94-129	14,300
Dewey Beach - Jersey Street from ocean to Road S50 (SR 1)	94-130	11,700
Dewey Beach - Salisbury Street from ocean to Bayard Avenue	94-131	14,300
Dover - Boggs Drive	94-403	27,200
Dover - Frear Drive	94-401	32,700
Dover - Korschak Avenue	94-404	11,200
Dover - Sussex Avenue	94-402	10,000
Dover - Historic district signs	94-428	2,022
Drummond Hill - Holt Road from Chad Road to Dewalt Road	94-395	18,200
Oouross Heights - King Ave. from Old Churchmans Rd. to Allegretto Rd	94-078	37,700
Oouross Heights - Mowery Rd. from Oon Ave. to Betts Ave.	94-065	9,100
Oouross Heights - Prosperity Rd. from Airport Rd. to Betts Ave.	94-064	29,900
East Minquidale - Wilde Ave. from Route 13 to Hazeldell Ave.	94-483	110,500
Eastburn Acres - Marta Drive and Oak Drive	94-394	49,400
Edenridge III - Kilburn Rd. from Westcliff Rd. to Chilton Rd.	94-210	29,900

Edgemoor Gardens - Rysing Drive in front of house #706	94-452	1,600
Edward Cordrey Subdivision - Miller Drive from Road S297 to end	94-138	20,000
Elmwood - Chancellor Drive from Roabert Oakes Drive to circle	94-244	61,100
Fairfax - Inglewood Rd. from Murphy Rd. to Fairfax Boulevard	93-415	72,550
Fairthorne - Fairthorne Ave. from Barley Mill Rd. to Orient Ave.	94-200	61,100
Fairway Falls - Pinehurst Dr. from Fairway Dr. to end	94-059	31,200
Frederica - sidewalk project 93-01, South West Market Street	94-194	49,980
Glagow Pines - Hawksbury Court from Kildoon Drive to circle	94-382	15,600
Glendale - Cassandra Dr. from E. Clairmont Dr. to Glendale Blvd.	94-344	80,600
Gordy Estates - Balsam Terrace from Balsam Road to Route 41	94-208	66,300
Governors Avenue - entrance to Cross Gates Subdivision	94-173	11,700
Grears Corner Road (N459) from Road N25 to Road N458	94-252	139,000
Green Tree-Walnut Tree from existing 4" sidewalk @ #623 to Darley	94-044	18,200
Green Valley - Lower Valley Lane from H. Green Valley to Valley Cir	94-413	31,200
Harbor Estates (Delaware City) - Reybold Drive	94-438	147,000
Henderson Heights - Candate Court from Henderson Hill Rd. to circle	94-391	40,300
Hickory Hills - Faraday Road from Hemingway Drive to Cabot Drive	94-338	41,600
Highland West - Baltimore Lane from Whiteklrk Drive to Glenbarry Dr.	94-320	28,600
Highland West - Whiteklrk Drive and Drummond Drive	94-319	14,600
Hilldale - Hilldale Rd. from Road K66 to Road K15	94-249	15,600
Ivy Ridge - Cawdor Lane from Airport Road to circle	94-098	35,100
Limestone Acres - Bailey Drive from Pickwick Dr. to Limestone Road	94-415	104,000
Limestone Hills - Belmont Dr., Kinglet Court, Sparrow Court	94-309	14,600
Limestone Hills - Middleton Drive from Saratoga Drive to Tern Court	94-337	31,200
Lindell Village - Lindell Blvd. from house #2103 to Milltown Rd.	94-405	42,900
Lyndalia - Third Avenue from Augustine Street to end	94-207	52,000
Magnolia - sidewalk project 93-01, 113-A North Street	94-195	49,998
Manor Park - West Mintut Drive from Sykes Road to end	93-042	35,100
Manor Park - Intersection of Pennsylvania Avenue and Bacon Avenue	94-417	9,100
Marydale - Jeandell Ave. from Ellen to end, Ellen from Salem Church	94-436	44,200
Medallion Circle from Layton Avenue to deadend	94-163	9,100
Mendenhall Village - Quail Hollow Rd. from Fox Run Dr. to end	94-299	32,500
Mendenhall Village - Village Dr. from Ridgewood Dr. to Signal Hill	94-340	17,500
Middleboro Crest - Paynter Drive from East Reamer Avenue to circle	94-362	55,900
Middleboro Manor - Valley Rd. from South Oupont Rd. to end	94-361	37,700
Milford - N. E. Eighth Street	94-220	20,000
Milford - Walnut Street (Opposite Milford Senior High School)	94-286	10,400
New Castle Avenue in front of house #1500	94-339	2,000
New London Road from existing curb to north of Scotch Pine to side.	94-451	10,400
North Bowers Beach - Dept. of Natural Resources public parking lot	94-139	39,500
North Graylyn Crest - Longcome Dr. from Knowles Rd. to Rambler Rd.	94-334	92,300
Oak Acres - Pin Oak Dr., Red Oak Dr., White Oak Dr.	94-118	28,600
Palmer Park - Palmer Road from Road 105 to Road 105	94-021	39,000
Palmer Park - Palmer Road from Road 105 to Road 105	94-022	36,400
Pembrey - East Pembrey Drive from West Pembrey Drive to Pembrey Pl.	94-179	39,000
Pembrey - Pembrey Pl. from Foulk Rd. to East Pembrey Dr.	94-180	18,200
Pencader Farms - Pencader Lane from Denny's Road (Road 396) to end	94-004	46,800
Pleasant Valley Road left turn lane into Pleasant Valley Estates	94-424	9,700
Pleasanton Acres - Pleasanton Dr. from Road K337 to dead end	94-253	26,500
Porter Square - De Rose Court from house #317 Nilson Dr. to circle	94-393	20,800
Porter Square - Dover Court from circle to circle	94-371	31,200
Porter Square - Eastweld Rd. from Jayson Dr. to S. Bridge Road	94-374	28,600
Porter Square - South Bridge Road from Eastweld Drive to circle	94-372	27,300
Porter Square - West Bridge Road from house #26 to Dover Court	94-373	32,500
Princeton Woods - Colonial Circle from Freedom Rd. to Freedom Rd.	94-345	54,600
Raintree Village - West Kapok Drive from Trefoll Drive to circle	94-269	32,500
River Vista - River Vista from Road 10 to dead end	92-173	26,650
Road 331 drainage (Hickory Dale Acres) from Hickory to 300' east	94-027	18,200
Road 40 (Dulaney Road) from bridge 1-434 to 650' west toward Md.	94-092	38,100
Road 534 - Sabo ditch drainage from Road 3 (US 13) to bridge 241	93-009	700
Road 539 - Sussex Avenue, Seaford, from Road 536 to Road 21	93-005	89,300
Road K137 (Carter Road) - 800' west of Road 90 (Sunnyside Road)	94-422	8,300
Road K202 from new hot mix east of K203 to K203	94-283	20,800
Road S248 from Road S252 to Road S251 - drainage	94-270	26,000
Road S269 from Road S12 to Road S268	94-407	75,400
Road S270 from Road S14 (SR 1) to 3130'	94-408	67,600
Road S30 from Road S21 to Road S547	94-468	14,300
Road S58 (SR 54) westbound turn lane at entrance to Keen-Hik West	94-140	29,900
Robscott Manor - turnoff at Sanford Road	94-052	1,500
Route 8 and Road 344 - SR 1 overpass east to Fox Road (K344)	94-172	30,000
SR 4 - west of SR B96 at Park Drive cul-de-sac	93-075	7,400
Sharpley - Whitby Road from Cardiff Road to Sharpley Road	94-123	46,800

Sheridan Square - Dombey Dr. from Pickwick Dr. to end	94-300	45,500
Sherwood Forest - Regal Ct. from East Regal Blvd. to circle	94-261	28,600
Sherwood Forest - Sonat Dr. from Brownleaf Rd. to Stature Dr.	94-262	45,500
Sherwood Forest - Stallion Ct. from Stature Dr. to circle	94-263	36,400
Shipley Heights - Dakota Avenue from Glenwood Avenue to end	94-183	57,200
Smith Hill Farms - Old Stable Lane from Ebenezer Church Road to end	94-434	31,200
Smyrna Landing - Road 64 from w. inter. of Road 9 to 500' north	94-042	20,800
South Graylyn Crest - Faun Rd. from Crestover Rd. to Silverside Rd.	94-133	49,400
South Graylyn Crest - Graywell Rd. from Graylyn Rd. to Wilson Rd.	94-134	66,300
Stein Highway - Intersection at Front St. (US 13 Alt.) SE corner	94-017	1,700
Taylorstowne (Woodland Trails)-Poe Way from Taylor Dr. to Taylor Dr.	93-329	50,100
Taylorstowne - Dickens Terrace from Penman to Dickens Lane, Dickens	94-241	42,900
Thorn Lane from Casho Mill Road to city line	94-203	57,200
Todd Estates - Lynch Dr. from Pearson Dr. to Anderson Dr.	92-166	41,600
Todd Estates - Todd Lane from Chestnut Hill Rd. to circle	92-168	26,000
Tree Top - Helios Court from Henderson Hill Road to end	94-392	32,500
Tuxedo Park - Delaware Ave. from Maryland Ave. to Cleveland Ave.	94-225	32,500
Tuxedo Park - Lincoln Ave. from Delaware Ave. to Maryland Ave.	94-222	27,300
Tuxedo Park - Maryland Ave. from Cleveland Ave. to Washington Ave.	94-224	33,800
Tuxedo Park - Pennsylvania Ave. from Cleveland Ave. to Wash. Ave.	94-221	36,400
Tuxedo Park - Roosevelt Ave. from Delaware Ave. to Maryland Ave.	94-223	24,700
Villa Monterey - Villa Place from Duncan Road to Phila. Pike	94-202	57,200
Vintage Village - Vintage Road from Southwood Road to circle	94-380	40,300
Voshell Hill Road (K105) from Route 13 to Route 13A	94-279	34,700
Webster Farms - Marcella Dr. from Homewood Dr. to Webster Dr.	93-416	62,400
Weldin Farms - Saddle Lane from Turkey Run Road to circle	93-119	31,200
Wellington Hills - Jacqueline Dr., Pierson Dr. and E. Pierson Dr.	94-342	17,500
Westgate Frms - Oldbury Dr. from Hembly Dr. to Westgate Dr.	94-235	39,000
Westview - Denver Road from Glover Road to Farwell Road	94-106	18,200
Westview - Farwell Road from Washington Ave. to Cleveland Ave.	94-107	16,900
Westview - Glover Road from Washington Ave. to Cleveland Ave.	94-108	32,500
Wilmington Manor - Lincoln Ave. from Dupont Hwy. to Pennsylvania Av	94-116	14,300
Wilmington Manor - Lincoln Ave. from Dupont Hwy. to Pennsylvania Av	94-117	18,200
Wilmington Manor - Intersection of Pennsylvania Ave. and Van Buren	94-418	9,100
Wilmington Manor East-Gordy Avenue between #413 and #417 Stahl Ave.	94-040	5,200
Windsor Hills - Canterbury Dr. from Harwick Dr. to Rockingham Dr.	94-063	49,400
Windy Hills - Hillcroft Rd. from S. Dillwyn Rd. to N. Dillwyn Rd.	94-291	71,500
Woodbury - Basswood Drive from Sumac Drive to deadend	94-124	12,700
Woodbury - Dailey Drive from Road K33 to deadend	94-125	32,000
Woodbury - Hackberry Drive from Basswood Drive to deadend	94-127	33,800
Woodbury - Sumac Drive from Road K33 to Hackberry Drive	94-126	20,800
Woodland - Wagoner Drive from Gallery Road to Centre Road	93-095	45,500
Woodland Park - Glenoak Road from Faulkland Road to end	93-098	62,400
Northland (Knollwood) - Colby Ave. in front of house #46	94-103	3,900
Beverly Wood - Janice Drive from Marilyn Drive to circle	94-305	22,000
Buckley - Dorsey Lane from circle to circle	94-400	1,600
Carrcroft - Crest Road from Marsh Road to Ivydale Drive	94-442	11,600
Crofton (Rivers End) - Green Spring Dr. from Providence to Plum Run	94-366	1,000
Dunleith - Anderson Drive from Bunche Boulevard to end	93-129	113,000
Ebright Road from Concord High School to Pa. line	94-005	34,000
Elmwood - Elm Drive from Robert Oaks Drive to Salem Church Road	94-243	37,800
Keen-Wik - Oak Road from Cedar Road to dead end	94-447	23,000
Lake Pines - all streets	94-410	125,000
Lighthouse Road (N501) from Edgemoor Road (N3) to I-495 off ramp	94-441	4,700
Meadowdale - Meadowdale Drive from Winterhaven Court to Route 72	93-196	40,000
Meadowood - Rockrose Drive from Cloverleaf Rd. to Meadowood Dr.	94-479	1,000
Miford - North Street	94-219	100,000
Naaman's Manor - Locust Avenue from Foulk Road to end	93-141	10,700
Northcrest - Chinchilla Drive from Wrexham to Wrexham	94-484	37,050
Road 21 shoulders from Maryland line to 1.5 miles east	94-485	26,220
Route 141 (old section) - Barley Hill Road from new construction	93-116	31,900
Talley Hill - Talley Hill Lane and Dansfield Drive	93-077	10,350
The Highlands - Keswick Court from East Riding Drive to circle	93-427	1,000
Mycliffe - N. Cliffe Drive, S. Cliffe Drive, Clearfield Avenue	92-093	30,000

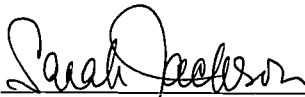
1st Representative District - City of Wilmington	94-701	85,900
1st Representative District - Greenways - Brandywine Park	94-914	5,000
1st Representative District - tree planting - Wilm. Garden Center	94-915	30,000
2nd Representative District	94-702	225,000
3rd Representative District	94-703	112,000
4th Representative District - City of Wilmington - street repair	94-704	38,900
5th Representative District	94-705	225,000
6th Representative District	94-706	16,783
6th Representative District - Greenways - Fox Point Park	94-868	24,000
8th Representative District	94-708	225,000
9th Representative District	94-709	27,900
11th Representative District - Greenways	94-711	20,750
12th Representative District	94-712	16,000
13th Representative District	94-713	29,100
14th Representative District	94-714	122,250
16th Representative District	94-716	9,850
17th Representative District	94-717	31,800
18th Representative District	94-718	13,900
20th Representative District	94-720	33,600
22nd Representative District	94-722	170,350
23rd Representative District	94-723	115,900
24th Representative District	94-724	60,200
25th Representative District	94-725	109,400
27th Representative District	94-727	34,300
27th Representative District - Greenways	94-955	20,000
28th Representative District	94-728	92,200
29th Representative District	94-729	197,000
30th Representative District	94-730	265,660
31st Representative District	94-731	134,389
32nd Representative District	94-732	56,900
32nd Representative District - Greenways	94-972	25,000
34th Representative District	94-734	33,400
35th Representative District	94-735	205,000
36th Representative District	94-736	113,000
37th Representative District	94-737	3,450
37th Representative District - Greenways	94-959	25,000
39th Representative District	94-739	66,130
40th Representative District	94-740	225,000
41st Representative District	94-741	183,000
1st Senatorial District	94-801	225,000
2nd Senatorial District	94-802	86,250
3rd Senatorial District	94-803	225,000
4th Senatorial District	94-804	42,350
7th Senatorial District	94-807	6,000
8th Senatorial District	94-808	19,400
9th Senatorial District	94-809	19,050
10th Senatorial District	94-810	39,400
11th Senatorial District	94-811	2,300
12th Senatorial District	94-812	11,000
13th Senatorial District	94-813	39,600
14th Senatorial District	94-814	151,600
15th Senatorial District	94-815	128,550
16th Senatorial District	94-816	11,362
17th Senatorial District	94-817	110,739
18th Senatorial District	94-818	84,800
20th Senatorial District	94-820	66,000
21st Senatorial District - Laurel Greenways	94-821	100,000
Arden	94-851	4,000
Ardencroft	94-853	2,000
Ardentown	94-852	2,000
Ash Avenue from Kirkwood Highway to cul-de-sac	94-976	8,700
Belvidere	94-993	30,000
Brandywine Springs Manor	94-994	30,000
Bridgeville - road repaving	94-943	10,000
Bridgeville streets	94-986	67,000
Broad Dyke Wetland Restoration project	94-960	50,000
Cave colony - paving/overlay	94-954	25,000
Christina Woods - entrance improvements	94-939	5,000
City of Dover - Blue Beach Drive	94-969	33,900
City of Dover - Clarence Street	94-947	6,400
City of Dover - Dover Street	94-948	28,300
City of Dover - Mayberry Lane	94-970	23,900

City of Dover - Silver Lake Drive	94-949	4,900
City of Milford - Donovan Street	94-997	25,000
City of Milford - S. W. Front Street Bridge	94-953	35,000
City of Milford - West Clark Avenue	94-952	65,000
City of New Castle road improvements	94-961	84,000
City of Rehoboth Beach	94-958	39,250
City of Wilmington - 11th St from Adams St. to Madison St.	94-864	35,000
City of Wilmington - 16th and Walnut Street	94-980	30,000
City of Wilmington - 2010 - 2012, 2014, 2016 Washington St.	94-982	12,500
City of Wilmington - 218 West 27th Street	94-984	4,500
City of Wilmington - 2100 block West Street	94-983	16,850
City of Wilmington - 2837 West Street	94-985	12,500
City of Wilmington - 2925 Northeast boulevard	94-981	17,400
City of Wilmington - Brandywine River erosion study	94-873	5,000
City of Wilmington - Kaimar Myckel	94-979	25,000
City of Wilmington - South Madison Street	94-996	25,000
City of Wilmington - South Madison Street improvements	94-860	60,000
City of Wilmington - South Madison Street improvements	94-917	30,000
City of Wilmington - 8th & Jackson Streets	94-861	1,100
Dillwyn Road from Kirkwood Highway to city limits	94-973	23,000
East & West Pembrey Drives - New Castle County Conservation District	94-957	25,600
Ellendale	94-989	10,000
Foulk Woods - Blackwood Road entrance	94-956	12,000
Georgetown - construction and drainage on street to H.O. Brittingham	94-987	55,000
Gordy Mae Street - drainage	94-945	4,000
Grace Court	94-912	2,000
Greenwood	94-988	20,000
Greenwood - road repaving	94-944	10,000
Greer Court	94-911	1,000
Heather Woods - Heather Road - speed humps	94-940	1,800
Highland Terrace Avenue	94-946	20,000
Kaimar Myckel foundation	94-859	20,000
Keenwick - Oak Road	94-965	20,000
Lancaster Court	94-865	40,000
Meadow Road	94-995	21,950
Milton - Governor's walkway - Greenways	94-982	25,000
Milton - park access	94-991	10,000
Milton - streets	94-990	25,000
Newark - Academy Street from E. Main St. to Delaware Ave.	94-901	46,000
Newark - Dallam Road from Bent Lane to Radcliffe Drive	94-902	36,000
Newark - Delrem Drive from Windsor Drive to Casho Mill Road	94-904	39,000
Newark - Windsor Drive from Country Club Drive to Delrem Drive	94-903	50,000
Newkirk Estates - Longview Drive from Darwin Drive to end	94-977	55,900
North Park Drive lighting	94-863	5,000
Oak Meadows - subdivisions drainage/pipe	94-962	8,000
Orchard Avenue from Kirkwood Highway to Woodlawn Avenue	94-975	10,100
Poplar Road from Kirkwood Highway to Woodlawn Avenue	94-974	9,000
Road 348 - Clarksville from Bay Colony south	94-967	59,500
Road 381 - culbert pipe/soil conservation	94-963	15,000
Rockwood Woods - Big Rock Drive and Pebble Drive	94-916	74,100
Route 10 and Old Mill Road - opticom devices	94-937	1,700
Route 40 and Appleby Road - flood amelioration	94-910	90,000
Schutte Park from Electric St. to parking lot of park complex	94-951	20,000
Selbyville - Main Street/Route 54	94-966	27,500
Talleybrooke - Brooklet Drive	94-858	5,600
Talleybrooke - Rickdale Drive	94-857	3,000
Todd Estates - Brennan Drive	94-941	80,000
Town of Elsmere	94-998	20,000
Town of Georgetown	94-872	9,000
Town of Millsboro	94-854	47,000
Town of Millsboro	94-870	30,000
Town of Rehoboth Beach	94-855	39,000
Town of Selbyville	94-856	24,000
Town of Selbyville - flood study/soil conservation	94-964	15,000
Twin Oaks - Woodley and Forest Drives	94-866	1,767
Univ. of Delaware - Old College/Taylor Gym	94-906	50,000
University of Delaware - Carpenter Sports building	94-905	75,000
University of Delaware - Goodstay	94-862	20,000
University of Delaware - Horrillow Hall Road	94-909	40,000
Harwick Millsboro - 313/313A - street lights	94-968	1,500
West Dover fire station - street preparation	94-950	70,000

Office of the Secretary of Finance
Debt Limit Statement
Dated June 30, 1993

This Debt Limit Statement to be attached to
H. B. 350 as required by Section 7422, Title 29, Delaware Code.

- (1) Estimated Net General Fund revenue
for the fiscal year ending June 30, 1994
as per the joint resolution of the House
and Senate and signed by the Governor in
connection with the adoption of the annual
Budget Appropriation Bill for that fiscal year \$1,314,200,000
- (2) Multiply by 5% x .05
- (3) Maximum aggregate principal amount of tax-
supported obligations which may be authorized
by the State in the fiscal year ending
June 30, 1994 \$ 65,710,000
- (4) Less: Aggregate principal amount of previously
authorized tax-supported obligations subject to
debt limit \$ (0)
- (5) AVAILABLE DEBT LIMIT prior to appended
legislation (3-4) \$ 65,710,000
- (6) Less: Aggregate principal amount of new tax-
supported obligations subject to debt limit
to be authorized \$ (65,710,000)
- (7) REMAINING DEBT LIMIT (5-6) \$ 0


Secretary of Finance
June 30, 1993
Date

6/30/93

CHAPTER 78

FORMERLY

HOUSE BILL NO. 144

AN ACT TO AMEND TITLE 16, TITLE 18, TITLE 20, AND TITLE 29, RELATING TO THE DIVISION OF EMERGENCY PLANNING AND OPERATIONS: AND CHANGING THE CODE REFERENCES TO THAT DIVISION.

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

Section 1. Amend Chapter 97, Title 16 of the Delaware Code by striking the words "Division of Emergency Planning and Operations" wherever the same appear in said Chapter, and substituting the words "Delaware Emergency Management Agency" in lieu thereof.

Section 2. Amend Chapter 66, Title 18 of the Delaware Code by striking the words "Division of Emergency Planning and Operations" wherever the same appear in said Chapter, and substituting the words "Delaware Emergency Management Agency" in lieu thereof.

Section 3. Amend Chapter 31, Title 20 of the Delaware Code by striking the words "Division of Emergency Planning and Operations" wherever the same appear in said Chapter, and substituting the words "Delaware Emergency Management Agency" in lieu thereof.

Section 4. Amend Chapter 61, Title 29 of the Delaware Code by striking the words "Division of Emergency Planning and Operations" wherever the same appear in said Chapter, and substituting the words "Delaware Emergency Management Agency" in lieu thereof.

Section 5. Amend Chapter 82, Title 29 of the Delaware Code by striking the words "Division of Emergency Planning and Operations" wherever the same appear in said Chapter, and substituting the words "Delaware Emergency Management Agency" in lieu thereof.

Approved July 6, 1993.

CHAPTER 79

FORMERLY

HOUSE BILL NO. 210

AN ACT TO AMEND CHAPTER 13, TITLE 9, DELAWARE CODE RELATED TO THE NEW CASTLE COUNTY DEPARTMENT OF PARKS AND RECREATION.

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

Section 1. Amend §1382, Chapter 13, Title 9, Delaware Code by striking said Section in its entirety and by substituting in lieu thereof the following:

"§1382. Parks and Recreation Board.

The Parks and Recreation Board shall consist of nine members who shall serve without compensation and who shall be residents of New Castle County for a period of three years immediately preceding appointment. Not more than five members shall be affiliated with the same political party. The County Council, with the advice and consent of the County Executive, shall appoint eight members for terms of four years from Councilmanic Districts 1 through 6, provided that not more than two members shall be appointed from any one district. The terms of the original members shall be established in a manner that one shall expire each year. The County Executive, with the advice and consent of the County Council, shall appoint one member who shall be chairman and who shall serve at the pleasure of the County Executive."

Approved July 6, 1993.

CHAPTER 80

FORMERLY

HOUSE BILL NO. 275

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF §106(a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF JACQUELINE LOUGHMAN AND NORMAN POWELL.

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

Section 1. Jacqueline Loughman and Norman Powell are hereby exempted from the provisions of 13 Del. C. §106(a) which state that a clergyman or minister of a recognized religion, or the clerks of the peace of various counties may solemnize marriages; and the Honorable Andrew G. T. Moore, II of the Delaware Supreme Court is hereby authorized to solemnize the marriage between Jacqueline Loughman and Norman Powell. The Clerk of the Peace for New Castle County shall issue to Jacqueline Loughman and Norman Powell one official marriage license pursuant to this Act, the provisions of 13 Del. C. §107 to the contrary notwithstanding.

Approved July 6, 1993.

CHAPTER 81

FORMERLY

HOUSE BILL NO. 192

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE V OF THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO ABSENTEE REGISTRATION AND ABSENTEE VOTING.

WHEREAS, an Amendment to the Constitution of the State of Delaware was proposed in the 136th General Assembly, being Chapter 263, Volume 68, Laws of Delaware, as follows:

"AN ACT PROPOSING AN AMENDMENT TO ARTICLE V OF THE CONSTITUTION OF THE STATE OF DELAWARE, RELATING TO ABSENTEE REGISTRATION AND ABSENTEE VOTING.

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 §4A, Article V of the Constitution of the State of Delaware by adding the phrase ', or his or her spouse or dependents when residing with or accompanying him or her' after the words 'United States or of this State' and before the words ', because of the nature of his or her business'.

Section 2. Amend §4B, Article V of the Constitution of the State of Delaware by striking the words 'or persons accompanying or serving therewith' and substituting in lieu thereof the words 'or his or her spouse or dependents when residing with or accompanying him or her'."

WHEREAS, the said proposed Amendment was adopted by two-thirds of all members elected to each House of the 136th 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 part of the Constitution of the State of Delaware.

Effective June 29, 1993.

CHAPTER 82

FORMERLY

HOUSE BILL NO. 230

AN ACT TO AMEND TITLE 9, CHAPTER 69, OF THE DELAWARE CODE RELATING TO THE POWER OF THE BOARD OF ADJUSTMENTS OF SUSSEX COUNTY, TO HEAR VARIANCES.

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

Section 1. Amend Section 6917(3) of subchapter 1 of Chapter 69, Title 9, Delaware Code, by adding to subparagraph a., the phrase "or exceptional practical difficulty" after the phrase "the unnecessary hardship".

Section 2. Amend Section 6917(3) of subchapter 1 of Chapter 69, Title 9, Delaware Code, by adding to subparagraph c., the phrase "or exceptional practical difficulty" after the phrase "such unnecessary hardship".

Approved July 6, 1993.

CHAPTER 83

FORMERLY

HOUSE BILL NO. 310
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, TITLE 30, DELAWARE CODE RELATING TO OCCUPATIONAL LICENSES FEES AND TAXES AND TO AMEND CHAPTER 29, TITLE 30 RELATING TO RETAIL AND MERCHANTS' LICENSE REQUIREMENTS AND TAXES.

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

Section 1. Amend §2301, Chapter 23, Title 30, Delaware Code by adding a new paragraph (w) to read as follows:

"(w) Licensees to conduct horse racing meetings and licensees to conduct pari-mutuel or totalizator wagering or betting licensed under Chapter 101 of Title 3 of this Code or Chapter 4 of Title 28 of this Code shall be exempt from any license or license fees under this Chapter, to the extent activities under this Chapter are related to the conduct of horse racing meets."

Section 2. Amend §2908, Chapter 29, Title 30, Delaware Code by adding a new paragraph (1) to read as follows:

"(1) This Chapter shall not apply to any person holding a license for the conduct of horse racing meetings or a license to conduct pari-mutuel or totalizator wagering or betting under Chapter 101 of Title 3 of this Code or Chapter 4 of Title 28 of this Code, to the extent activities under this Chapter are related to the conduct of horse racing meets."

Section 3. Sections 1 and 2 of this Act shall be effective for tax years commencing after December 31, 1990.

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 6, 1993.

CHAPTER 84

FORMERLY

HOUSE BILL NO. 182
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 72, TITLE 3, DELAWARE CODE RELATING TO POSSESSION OF MAMMALS OR REPTILES EXOTIC TO DELAWARE.

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

Section 1. Amend Chapter 72, Title 3, Delaware Code by striking said Chapter Title and Sections 7201 and 7202 in their entirety and substituting in lieu thereof the following:

"Chapter 72. Possession of Mammals or Reptiles Exotic to Delaware

§7201. Possession: permit required.

No person shall bring into this State, possess, sell or exhibit any live wild mammal or hybrid of a wild mammal or live reptile not native to or generally found in Delaware without first securing a permit under this chapter. The Department of Agriculture may adopt regulations to exempt such mammals and reptiles that do not represent a significant threat to community interests from the provisions of this chapter.

§7202. Permit: rules and regulations: exemptions.

The Department of Agriculture shall enforce this chapter and may issue a permit where the possession or exhibition of a live wild mammal or hybrid of a wild mammal or live reptile will be in the public interest, and may promulgate rules and regulations for the proper enforcement of this chapter. The Department may designate agencies authorized to conduct animal cruelty enforcement and/or dog control enforcement to enforce the provisions of this Chapter. The Department shall receive a fee of \$25 for each and every permit issued. Nothing in this chapter shall be deemed to prevent the use of any live wild mammal or hybrid of a wild mammal or live reptile in medical or psychological research or for display in any municipal zoological park or traveling circus after issuance of a permit."

Approved July 6, 1993.

CHAPTER 85

FORMERLY

HOUSE BILL NO. 242
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, TITLE 7, OF THE DELAWARE CODE RELATING TO STATE PARKS.

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

Section 1. Amend Chapter 47, Subchapter I, Title 7, §4701 of the Delaware Code by adding a new subparagraph (a)(5)(C) as follows:

"(C) Delaware residents who are disabled, and who hold a valid and current Gold Access Passport Card, as issued by the National Park Service of the United States Department of the Interior, shall be exempted from the annual or daily entrance fees required by this Section."

Approved July 6, 1993.

CHAPTER 86

FORMERLY

HOUSE BILL NO. 168
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 29, TITLE 24, DELAWARE CODE, RELATING TO REAL ESTATE BROKERS AND SALESPERSONS, AND CHAPTER 25, TITLE 6, RELATING TO PROHIBITED TRADE PRACTICES AND SELLER'S DISCLOSURE OF THE CONDITION OF REAL PROPERTY.

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

Section 1. Amend Chapter 29, Title 24 of the Delaware Code by renumbering Section 2912(a)(10) to (a)(12) and by adding new subsections (10) and (11) to Section 2912(a) which shall read as follows:

"(10) Violating the Delaware Consumer Fraud Act as found in Chapter 25, Title 6 of the Delaware Code.

(11) Misrepresenting the availability of or content of the form of Seller's Disclosure of Condition of Real Property as provided in Subchapter VII, Chapter 25, Title 6 of the Delaware Code."

Section 2. Amend Chapter 25, Title 6 regarding Prohibited Trade Practices by adding a new subchapter VII as follows:

"Sub-Chapter VII. Disclosure of the Condition of Real Property.

§2570. Short Title.

This sub-chapter may be cited as the "Buyer Property Protection Act.

§2571. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Residential Real Property" means any estate or interest in a manufactured housing lot or real property, improved by dwelling units for 1-4 families.

(2) "Seller" means any individual, partnership, corporation, or trustee transferring residential real property.

(3) "Buyer" means any individual, partnership, corporation or trustee purchasing any estate or interest in real property.

(4) "Agent" means any individual, partnership, corporation or trustee defined as a Broker in 24 Del. C., §2901, acting on behalf of a Seller or Buyer of residential real property.

(5) "Sub-Agent" means any individual, partnership, corporation or trustee defined as a Broker or Sales person in 24 Del. C., §2901 acting on behalf of an Agent.

(6) "Final Settlement" means the time at which the parties have signed and delivered all papers and consideration to convey title to the estate or interest in residential real property being conveyed.

§2572. Disclosure of Material Defects.

(a) Except as excluded by Section 2577 hereof, a Seller transferring residential real property shall disclose, in writing, to the Buyer, Agent and Sub-Agent, as applicable, all material defects of that property that are known at the time the property is offered for sale or that are known prior to the time of final settlement.

(b) This disclosure shall be made in writing before the Seller signs the listing agreement and shall be updated as necessary for any material changes occurring in the property before final settlement.

§2573. Property Condition Report.

(a) The Agent, Sub-Agent or Seller, as applicable, shall give a copy of the Seller's Disclosure of Real Property Condition Report to all prospective Buyers or prospective Buyer's Agent prior to the time the Buyer makes an offer to purchase. This written disclosure form, signed by Buyer and Seller, shall become a part of the purchase agreement.

§2574. Other Inspections or Warranties.

The Seller's completed disclosure form is a good faith effort by the seller to make the disclosures required by this subchapter, and is not a warranty of any kind by the Seller or any Agents or Sub-Agents representing Seller or Buyer in the transfer and is not a substitute for any inspections or warranties that the Seller or Buyer may wish to obtain.

§2575. Cause of Action.

The Buyer shall not have a cause of action against the Seller, Agent and/or Sub-Agent for: (a) material defects in condition of the residential real property disclosed to the Buyer prior to the Buyer making an offer to purchase; (b) material defects developed after the offer was made but disclosed prior to final settlement, provided Seller has complied with the Agreement of Sale; or (c) material defects which occur after final settlement.

§2576. Applicability.

This subchapter shall apply to transfers by sale, exchange, installment land sale contract, lease with an option to purchase, or ground lease of a manufactured housing lot, or residential real property, improved with dwelling units for 1-4 families.

§2577. Exemptions.

This subchapter shall not apply to the following transfers of residential real property:

(a) Transfers governed by the Delaware Out-of-State Land Sales and Promotions Act where the property disclosure report required by that law is provided to a prospective purchaser.

(b) Transfers pursuant to Court Order such as transfers ordered by the Court of Chancery in the administration of an estate, trust or guardianship or pursuant to a Writ of Execution, by a trustee in bankruptcy or a receiver, by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor in default by a deed in lien of foreclosure.

(d) Transfers by any Sheriff's sale for default on an obligation secured by a mortgage, judgment, tax or other lien.

(e) Transfers by a fiduciary in the course of the administration of the decedent's estate, guardianship or trust.

(f) Transfers from one co-owner to one or more other co-owners.

(g) Transfers made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(h) Transfers between spouses resulting from a property settlement incident to a divorce

(i) Transfers to or from any government entity.

§2578. Property Condition Report Form.

The Delaware Real Estate Commission shall develop a standard form or forms to be used as the Seller's Disclosure of Real Property Condition Report, for the disclosure of the condition of residential real property. This form or forms shall be available no later than October 30, 1993."

Section 3. This Act shall be effective for all contracts entered into on or after January 1, 1994.

Approved July 6, 1993.

CHAPTER 87

FORMERLY

SENATE BILL NO. 116
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 27, TITLE 21 DELAWARE CODE RELATING TO REQUIREMENTS AND QUALIFICATIONS FOR LICENSING SCHOOL BUS DRIVERS.

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 §2708, Chapter 27, Title 21, Delaware Code, entitled School Bus Driver's License; Qualifications, by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"Section 2708. School Bus Driver's Qualifications

(a) No person shall drive, nor shall any contractor, or public, parochial or private school, permit any person to drive a school bus within the state unless such driver has qualified for a Commercial Driver's License (CDL) under Chapter 26, and a school bus endorsement under Chapter 27 of this Title, and other pertinent rules and regulations of the Department. Furthermore, except when in possession of a CDL permit and undergoing training or evaluation and accompanied by a certified Delaware School Bus Driver Trainer, school bus drivers shall at all times while operating or in control of a school bus have in their immediate possession the following:

(1) A properly endorsed and classified Delaware CDL license, with a P (passenger) and S (school bus) endorsement. In exceptional circumstances, the Department of Public Instruction (DPI) may request the Department issue a 45 day temporary S endorsement to allow a driver to drive upon completion of all requirements except the twelve hours of classroom training. Out-of-state school bus drivers shall comply with Section 2709, this Title.

(2) A Physical Examination Certification indicating a valid and approved State Board of Education physical exam completed within the last year.

(b) To qualify for an S (school bus) endorsement an applicant must meet all the following requirements:

(1) Be at least 18 years of age with one year of driving experience.

(2) Have qualified for a CDL license with P (passenger) endorsement.

(3) Show completion of a course of training with specific course content as determined by the State Board of Education. Such course shall contain as a minimum twelve hours of classroom training and six hours of training aboard a school bus with a certified Delaware School Bus Driver Trainer. Training on the school bus must include 4 hours of actual driving, 2 of which must be with students on the bus.

(4) Pass a road test in a school bus administered by the Department. This test may be waived by the Department if the driver has already obtained a P endorsement on the CDL license.

(5) Not have more than five points on his or her driving record at the time of application.

(6) Not have had his or her license suspended, revoked or disqualified in this state or any other jurisdiction for moving violations in the last five years.

(7) Never have been convicted of the manufacture, delivery or possession of a controlled substance or a counterfeit controlled substance classified as such in Schedule I, II, III, IV or V of Chapter

47, Title 16 of the Delaware Code in this State or any other jurisdiction.

(8) Never have been convicted of a felony in this State or any other jurisdiction within the last five years.

(9) Never have been convicted of a crime against a child in this State or any other jurisdiction.

(c) Any time a license with a school bus endorsement is suspended, revoked, or disqualified, for moving violations or the driver exceeds eight points for moving violations the school bus endorsement shall become invalid, and the endorsement shall be removed from the license.

(d) Renewal of the school bus endorsement shall be as required for other licenses.

(e) The Department shall provide school bus driver records at no charge to DPI or to companies contracted to DPI for school bus services."

Approved July 6, 1993.

CHAPTER 88

FORMERLY

SENATE BILL NO. 99

AN ACT AUTHORIZING AND DIRECTING THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES OF THE STATE OF DELAWARE TO AMEND THE SPOUSAL IMPOVERISHMENT PROVISIONS OF THE STATE PLAN UNDER TITLE XIX (MEDICAID) OF THE SOCIAL SECURITY ACT.

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

Section 1. The Department of Health and Social Services of the State of Delaware is hereby authorized and directed to amend the spousal impoverishment provisions of the State Plan under Title XIX (Medicaid) of the Social Security Act to reflect the following minimum resources eligibility limitation:

"Minimum Resource Standard: \$25,000".

Approved July 6, 1993.

CHAPTER 89

FORMERLY

SENATE BILL NO. 174

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 3313, Chapter 33, Title 19 of the Delaware Code by redesignating the subsections "(g), (h), (i), (j), (k), and (l)" as they appear therein as subsections "(h), (i), (j), (k), (l), and (m)", respectively.

Section 2. Amend Section 3313, Chapter 33, Title 19, Delaware Code by inserting a new subsection (g) to read as follows:

"(g) For claims establishing a benefit year beginning July 1, 1993, 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 \$265 unless the Unemployment Insurance 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 \$165 million. When the Unemployment Insurance Trust Fund balance is less than \$165 million, but equal to or greater than \$150 million, the maximum weekly benefit amount shall be no more than \$245. When the Unemployment Insurance Trust Fund balance is less than \$150 million, but equal to or greater than \$90 million, the maximum weekly benefit amount shall be no more than \$225. When the Unemployment Insurance Trust Fund balance is less than \$90 million, the maximum weekly benefit amount shall be no more than \$205. Computation of 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."

Section 3. Amend Section 3353, Chapter 33, Title 19 of the Delaware Code by redesignating the subsections "(b), (c), and (d)" as they appear therein as subsection "(d), (e), and (g)", respectively.

Section 4. Amend Section 3353(a), Chapter 33, Title 19 of the Delaware Code by deleting this subsection in its entirety as it appears therein and inserting a new subsection (a) to read as follows:

"(a) Transfers of employment and benefit wage experience from a predecessor to a successor employer shall be required by the Department if there is a substantial continuity of ownership and management by the successor of the business of the predecessor. For the purpose of this section, such a transfer will be considered a 'mandatory transfer'."

Section 5. Amend Section 3353, Chapter 33, Title 19 of the Delaware Code by inserting a new subsection (b) to read as follows;

"(b) Transfers of employment and benefit wage experience from a predecessor to a successor employer may be approved by the Department, upon request of the successor employer, if there is a continuation of essentially the same business activity as the predecessor employer by the successor employer. For the purpose of this section, such a transfer will be considered a 'voluntary transfer';"

Section 6. Amend Section 3353, Chapter 33, Title 19 of the Delaware Code by inserting a new subsection (c) to read as follows:

"(c) The successor employer need not have been previously subject to this title in order to obtain a transfer of employment and benefit wage experience from a predecessor employer. No reduced rate will be permitted unless both the predecessor and successor employers have met the requirements of Section 3350 (6) of this title if applicable."

Section 7. Amend Section 3353, Chapter 33, Title 19 of the Delaware Code by inserting a new subsection (f) to read as follows:

"(f) For the purpose of this section, the date of transfer of employment and benefit wage experience for mandatory and voluntary transfers shall be the date of liability of the successor employer subsequent to the acquisition of the predecessor employer as determined by this Department in accordance with Section 3302(7) of this title. However, for a voluntary transfer of employment and benefit wage experience to be effective as of the date of liability of the successor employer subsequent to the acquisition of the predecessor employer, the successor employer shall be required to apply, in writing, with the Department for such a transfer within 30 days of the date of acquisition of the organization, trade, or business or substantially all the assets of the predecessor employer. If the successor employer applies for a voluntary transfer of employment and benefit wage experience after the required 30 day period, the date of transfer of employment and benefit wage experience shall then be the first day of the first month of the quarter following the quarter in which the application for a voluntary transfer was received by the Department."

Approved July 1, 1993.

CHAPTER 90

FORMERLY

SENATE BILL NO. 187

AN ACT TO AMEND CHAPTER 90, TITLE 14, DELAWARE CODE, RELATING TO THE COLLEGE AND UNIVERSITY SECURITY INFORMATION ACT.

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

Section 1. Amend Chapter 90, Title 14, Delaware Code by deleting that Chapter in its entirety and adding in lieu thereof a new Chapter 90 to read as follows:

"CHAPTER 90. COLLEGE AND UNIVERSITY SECURITY INFORMATION ACT

§9001. Short Title.

This Act shall be known and may be cited as the College and University Security Information Act.

§9002. Participating Institutions.

All educational institutions and branch campuses required to comply with the federal "Student Right-To-Know and Campus Security Act" (P.L. 101-542 as amended) are subject to the requirements promulgated herein.

§9003. Crime Statistics.

(a) Each participating institution shall prepare a report, on at least a monthly basis, of the numbers and types of reported criminal offenses occurring on property owned or controlled by the institution within the same contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or any building or property owned or controlled by student organizations recognized by the institution. Such report shall be public record and shall be provided to any person upon request. Reports prepared pursuant to this subsection shall be consistent with the crime reporting format mandated by 34 CFR Part 668, Section 668.48 "Institutional Security Policies and Crime Statistics".

(b) The crime statistics as reported under subsection (a) shall also be published on an annual basis for the most recent three-year period, where available, in a campus newspaper or other suitable ways prescribed by the institution's chief executive officer 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.

§9004. Disclosure of Campus Security Policy.

(a) Each participating institution shall publish, in conjunction with the annual report of campus crime statistics specified under section 9003(b), information with regard to campus security policies as required for compliance with Title II of the federal Student Right-To-Know and Campus Security Act (P.L. 101-542 as amended). This information shall be provided to any person upon request.

(b) 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 facilities which are owned or leased by the institution.

(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.

§9005. Rules and Regulations.

The Office of the Attorney General shall be responsible for oversight and implementation of this Act.

§9006. 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."

§9007. Effective Dates.

The first monthly report required under section 9003(a) shall be published within 60 days of enactment. Annual reports required under section 9003(b) shall be published no later than September 1.

Approved July 6, 1993.

CHAPTER 91

FORMERLY

HOUSE BILL NO. 159 AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, SUBCHAPTER II, SUBPART D OF TITLE 11 OF THE DELAWARE CODE BY ADDING THE NEW SEXUAL CRIME OF BESTIALITY.

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

Section 1. Amend Subpart D, of Subchapter II, of Chapter 5, Title 11, Delaware Code by adding a new section thereto as follows:

"Section 777. Bestiality; Class D Felony.

A person is guilty of bestiality when he or she intentionally engages in any sexual act involving sexual contact, penetration or intercourse with the genitalia of an animal or intentionally causes another person to engage in any such sexual act with an animal for purposes of sexual gratification.

Bestiality is a class D felony."

Approved July 6, 1993.

CHAPTER 92

FORMERLY

SENATE BILL NO. 166
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18, DELAWARE CODE TO BRING THE DELAWARE INSURANCE CODE INTO COMPLIANCE WITH NATIONAL SOLVENCY STANDARDS.

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

Section 1. Amend §322 (a), Chapter 3, Title 18, Delaware Code, by deleting this section in its entirety and substituting the following in lieu thereof:

"The Commissioner or any of his or her examiners may conduct an examination under this Act of any company as often as the Commissioner is his or her sole discretion deems appropriate but shall at a minimum, conduct an examination of every insurer licensed in this State not less frequently than every five years. In scheduling and determining the nature, scope and frequency of the examinations, the Commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports or independent Certified Public Accountants and other criteria as set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners and in effect when the Commissioner exercises discretion under this section. Examination of an alien insurer, shall be limited to its insurance transactions, assets, trust deposits and affairs in the United States except as otherwise required by the Commissioner."

Section 2. Amend §325, Chapter 3, Title 18, Delaware Code, by renumbering the present subsections (c), (d), (e) and (f), and inserting a new subsection (c) as follows:

(c) No later than sixty days following completion of the examination, the examiner in charge shall file with the Department a verified written report of examination under oath. Upon receipt of the verified report, the Department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report. If the company so requests in writing within such thirty day period, the Commissioner shall grant a hearing as to the report and shall not file the report until after the hearing and after such modifications have been made therein as the Commissioner deems proper."

Section 3. Amend §325 (f), Chapter 3, Title 18, Delaware Code, by deleting this section in its entirety and substituting the following in lieu thereof:

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the Commissioner or any other person in the course of an examination made under this Chapter shall be given confidential treatment and are not subject to subpoena and may not be made public by the Commissioner or any other person except to insurance departments of any state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as such agency or office receiving the report or as such agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this Section, unless the prior written consent of the company to which it pertains has been obtained."

Section 4. Amend §1115, Chapter 11, Title 18, Delaware Code, by deleting subsection (b) in its entirety and substituting the following in lieu thereof:

"(b) Notwithstanding any other provision of this section, no bond or other evidence of debt shall be valued in excess of the value established by the National Association of Insurance Commissioners' Security Valuation Office."

Section 5. Amend Chapter 11, Title 18, Section 1117(b) Delaware Code, by deleting this subsection in its entirety and substituting the following in lieu thereof:

"(b) Real property owned by an insurer shall be valued at cost plus capital improvements less depreciation. Such a value shall not be in excess of the NAIC accounting practices and procedures manual valuation nor in excess of fair market value as determined by a recent appraisal acceptable to the Commissioner. If the valuation is based on an appraisal more than three years old, the Commissioner may require a new appraisal to determine fair market value."

Section 6. Amend §1806, Chapter 18, Title 18, Delaware Code, by adding the following at the end of this section:

"An MGA shall retain all records pertaining to a specific insurer until the conclusion of the regular financial examination on that insurer by the domestic regulator."

Section 7. This Act shall become effective 30 days after enactment.

Approved July 6, 1993.

CHAPTER 93

FORMERLY

SENATE BILL NO. 120

AN ACT TO AMEND CHAPTER 42. TITLE 21 OF THE DELAWARE CODE RELATING TO REPORTS OF ACCIDENTS; PENALTIES; INTERPRETATION OF LAWS.

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

Section 1. Amend §4202(b), Chapter 42, Title 21, Delaware Code, by deleting the subsection in its entirety and substituting in lieu thereof the following:

"(b) Whoever violates subsection (a) of this section shall be fined not less than \$115 nor more than \$5750 or imprisoned not less than 30 days nor more than 5 years or both. The secretary shall revoke the driver's license and/or driving privilege of every person so convicted. Such revocation shall be for a period of one (1) year."

Approved July 6, 1993.

CHAPTER 94

FORMERLY

HOUSE BILL NO. 35

AN ACT TO AMEND CHAPTER 22, TITLE 25 OF THE DELAWARE CODE RELATING TO UNIT PROPERTIES.

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

Section 1. Amend §2241, Subchapter VIII, Chapter 22, Title 25 of the Delaware Code by striking the period (.) at the end of subsection (b), and substituting in lieu thereof the following:

"; provided however, that where a portion of any meeting of unit owners or any council is reserved for consultations with legal counsel, or for personnel matters relating to employees of the Council, such portion of the meeting shall be excluded from the provisions of this subsection."

Approved July 6, 1993.

CHAPTER 95

FORMERLY

HOUSE BILL NO. 75

AN ACT TO AMEND CHAPTER 8, TITLE 29, DELAWARE CODE RELATING TO THE COMPOSITION OF AND REAPPORTIONMENT OF THE GENERAL ASSEMBLY.

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

Section 1. Amend §821(32), Chapter 8, Title 29, Delaware Code by deleting all the words after the words "County Road 66 and turning right onto" and before the words "onto Bacon Avenue" and in lieu thereof substitute the following:

"an imaginary line on the east side and running parallel with Nimitz Road so as to include all the residences along said road in the 32nd District, thence continuing along said imaginary line to the southwestern boundary of Williams Park, thence continuing along said boundary to its intersection with a tributary of Little River which is the boundary line between enumeration district 307 and 304B as shown on the 1991 Census map of Kent County, thence continuing along said tributary and turning left onto an imaginary line proceeding from the tributary to Nimitz Road extended, thence turning left on said extension and continuing onto Nimitz Road, thence turning right"

Section 2. Amend §821(28), Chapter 8, Title 29, Delaware Code by deleting all the words after "along the tributary of the Little River" and before the words "and turning left onto White Oak Road" and in lieu thereof substitute the following:

"and turning right onto the boundary line of the Williams Park, thence continuing along said boundary line to its intersection with an imaginary line on the east side and running parallel with Nimitz Road so to exclude all the residences along said road from the 28th District, thence proceeding along said imaginary line to its intersection with"

Section 3. Amend §821(31), Chapter 8, Title 29, Delaware Code by deleting all the words after "thence continuing along Bacon Drive and" and before the words "a tributary of Little River" and in lieu thereof substitute the following:

"turning left on Nimitz Road, thence continuing on Nimitz Road extended and turning right on an imaginary line extending from a tributary of Little River, thence continuing on said imaginary line and turning right onto"

Approved July 6, 1993.

CHAPTER 96

FORMERLY

HOUSE BILL NO. 177
AS AMENDED BY HOUSE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND CHAPTER 9, TITLE 10, DELAWARE CODE RELATING TO EXTENDED JURISDICTION OVER JUVENILE OFFENDERS BY THE FAMILY COURT:

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

Section 1. Amend Chapter 9, Title 10, Delaware Code by adding thereto a new Section 928 to read as follows:

"Section 928. Extended Jurisdiction.

(a) Prior to trial upon petition of the Attorney General, the State may seek extended jurisdiction of the Family Court over a juvenile up to age 21.

(b) Extended jurisdiction shall mean that a juvenile subject to the jurisdiction of the Family Court, if found delinquent of the offense(s) giving rise to the petition, shall be subject to the jurisdiction of the Family Court until said juvenile reaches age 21 or is discharged from jurisdiction by the Court.

(c) The determination whether extended jurisdiction is appropriate shall be made by the Family Court based upon the juvenile's need for rehabilitation and the public's right to safety and shall take into consideration the following:

(i) the seriousness of the underlying offense(s), with extended jurisdiction presumed to be appropriate where a juvenile has committed a Class A or B felony or a felony sexual offense, excluding those crimes set forth in 10 Del. C. Section 938(a)(1);

(ii) the age of the juvenile at the time of trial or disposition, with consideration being primarily based upon the time needed to effectively rehabilitate the juvenile or to protect the public and whether either or both objectives may be met by the juvenile's 18th birthday.

(d) A determination by the Family Court that extended jurisdiction is appropriate shall only be subject to review on an abuse of discretion standard.

(e) In any case where extended jurisdiction is determined to be appropriate, the juvenile is found delinquent of the crime(s) giving rise to extended jurisdiction and, further rehabilitation of the juvenile is ordered at a Level IV or V facility, review of the appropriateness of continued placement at Level IV or V shall be conducted by the Court at six-month intervals after the juvenile's 18th birthday. A failure to conduct a review within thirty days of a six-month interval shall result in the Department of Correction assuming jurisdiction for purpose of placement, with a presumption that a placement at less than Level IV or V facility will be imposed. The review period herein set forth may be extended for a period of sixty days upon good cause shown by the State in a petition filed by the State prior to the expiration of the six-month plus thirty-day period.

(f) Juveniles placed in the extended jurisdiction program shall be considered subject to the processes of the Family Court until the termination of the Court's order. In the event that a person who has reached his or 18th birthday commits any crimes while subject to extended jurisdiction, the commission of said crime(s) shall be considered a violation of the extended jurisdiction program, subjecting said violator to any sanction the Family Court could have originally imposed upon the offense(s) giving rise to extended jurisdiction, including placement at a Level IV or V facility housing adult offenders. Trial of any person who has turned age 18 for an offense(s) committed while subject to extended jurisdiction shall be in the appropriate court as required by Delaware

law. Any sentence of incarceration imposed by an adult court shall take precedent to and be in lieu of any sentence of incarceration imposed by the Family Court pursuant to extended jurisdiction for the original offense or a violation of the extended jurisdiction program.

(g) Nothing contained herein shall effect the provisions of 10 Del. C. Section 938 concerning amenability or 11 Del. C. Section 1447(d), except that upon agreement of the State and the juvenile, a juvenile may agree to be subjected to extended jurisdiction in lieu of being proceeded against pursuant to the provisions of 10 Del. C. Section 938 or 11 Del. C. Section 1447(d).

(h) For purposes of this section, Level IV and Level V facilities are defined as follows:

(i) A facility includes any treatment center, institution or any other place designated for confinement.

(ii) A Level IV facility is a place of partial confinement such as a half-way house, residential treatment facility, or restitution facility. It may include house arrest at the juvenile's home, or at a shelter, group home, foster home or other facility. For juveniles who have reached their eighteenth birthday, a Level IV facility shall include any similar house or facility of the Department of Correction.

(iii) A Level V facility is a place of confinement in a secured facility. For juveniles who have reached their eighteenth birthday, a Level V facility shall include any secured facility of confinement of the Department of Correction."

Approved July 6, 1993.

CHAPTER 97

FORMERLY

HOUSE BILL NO. 294

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 ANNEXATION WHEN ALL PROPERTY OWNERS ARE IN FAVOR AND TO PROVIDE A PROCEDURE FOR ANNEXATION WHEN ONLY THE EXEMPT LAND IS INVOLVED, TO ELIMINATE THE WEIGHTED VOTE IN ANNEXATION AND BOND ELECTIONS, TO ELIMINATE PROPERTY OWNERSHIP AS A QUALIFICATION TO HOLD OFFICE, TO REQUIRE THAT NO PERSON MAY FILE AS A CANDIDATE PRIOR TO FEBRUARY 1, TO DESIGNATE THE MEMBERS OF CITY COUNCIL AS COUNCIL PERSONS, AND TO AUTHORIZE THE CITY COUNCIL TO SIT AND ACT UPON THE RECOMMENDATION OF THE CITY MANAGER CONCERNING THE QUALIFICATIONS OF CANDIDATES, TO PERMIT A PERSON WHO HOLDS ELECTIVE OFFICE TO SEEK ANOTHER ELECTIVE OFFICE IN THE CITY WITHOUT VACATING HIS PRESENT OFFICE, TO CHANGE THE NAME OF THE VICE-PRESIDENT OF THE CITY COUNCIL TO DEPUTY MAYOR, TO PROVIDE REGULATIONS FOR CONDUCTING THE ANNUAL MUNICIPAL ELECTION, TO AUTHORIZE THE ASSESSMENT OF TAXES WITHOUT LIMITATION TO PAY BONDED INDEBTEDNESS, TO REDUCE THE AGE FOR BEING ASSESSED, TO PROVIDE THAT APPEALS FROM THE TAX ASSESSMENT SHALL BE IN WRITING AND REQUIRING THE CITY COUNCIL TO FIX A TIME AND DATE TO HEAR THOSE APPEALS, TO EXTEND THE TIME FOR THE PAYMENT OF PROPERTY TAXES, TO ADD ALL UTILITY CHARGES AS CREATING A LIEN ON REAL ESTATE, TO PERMIT BORROWING AGAINST ANTICIPATED REVENUES TO TEN PERCENT OF ASSESSED VALUATION OF REAL ESTATE, TO CONFIRM THE PROCEDURE FOR PUBLIC STREETS, TO AUTHORIZE THE CITY COUNCIL TO PROVIDE FOR A BOARD OF ADJUSTMENT AND TO REVISE THE DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF PUBLIC SAFETY.

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

Section 1. Section 1, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by inserting the letter "(a)" following the number "1".

Section 2. Section 1, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by adding to Section 1 a new Subsection following Subsection (a) to be designated as Subsection (b) to read as follows:

"(b) For the purpose of this Chapter, a 'leaseholder' shall be deemed to mean and include a person holding land under a valid lease, either in his own name or as a coparcener or jointly with his or her spouse from either the State of Delaware or from the Commissioners of Lewes or The City of Lewes for a term of at least ten (10) years whose Lease is recorded in the Office of the Recorder of Deeds, in and for Sussex County, and who has erected upon the leasehold an improvement having an assessed valuation of at least One Thousand Dollars (\$1,000.00) as shown by the records of The City of Lewes, and, for all purposes of this Chapter, the word "freeholder" shall be deemed to include any person who holds fee simple title to real estate either in his own name, as a tenant in common, or as a joint tenant or as a tenant by the entirety."

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

"ANNEXATION OF TERRITORY

In the event it becomes feasible and necessary for the future of The City of Lewes to enlarge its then existing limits and territory, such annexation accomplished with the following procedure shall be lawful:

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

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

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

(c) Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the committee shall submit a written report containing its findings and conclusions to the Mayor and City Council. The reports so submitted shall include the advantages and disadvantages of the proposed annexation both to the City and to the territory proposed to be annexed and shall contain the committee's recommendations 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 City and to the territory proposed to be annexed, within sixty (60) days after receiving the report, a second Resolution shall then be passed by the City Council proposing to the property owners and residents of both the city and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. In the event that the committee appointed by the mayor concludes that the proposed annexation is disadvantageous either to the City or to the territory proposed to be annexed, within thirty (30) days after receiving the report of the committee, the resolution proposing to the property owners and residents of both the city and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the resolution failed to receive the required affirmative vote. The second Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper published in The City of Lewes at least one (1) week prior to the date set for the public hearing, or, if no newspaper is published in the City, publication shall be had in a newspaper having a general circulation both in the City and in the territory proposed to be annexed, or, at the discretion of the City

Council, said resolution shall be posted in five (5) public places both in the City and in the territory proposed to be annexed.

(d) Following the public hearing, but in no event later than thirty (30) days thereafter, a Resolution may then be passed by a majority of the City Council ordering a special election to be held not less than thirty (30) days nor more than sixty (60) days after the said public hearing on the subject of the proposed annexation. The passage of this resolution shall ipso facto be considered the City Council's determination to proceed with the matter of the proposed annexation.

(e) The notice of the time and place of holding the said special election shall be printed within thirty (30) days immediately preceding the date of the special election in at least two (2) issues of a newspaper published in the City, or, if no newspaper is published in the City, the notice may be printed within thirty (30) days immediately preceding the date of the special election in two (2) issues of a newspaper having a general circulation both in the city and in the territory proposed to be annexed, or, in the discretion of the City Council, said notice may be posted in five (5) places both in the City and in the territory proposed to be annexed, at least fifteen (15) days prior to the date of the special election.

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

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

(h) The City Council shall determine by Resolution whether paper ballots or voting machines are to be used at the said Special Election. In any event, the form of ballot shall be as follows:

[] For the proposed annexation.

[] Against the proposed annexation.

PLEASE MARK YOUR PREFERENCE

(i) The Mayor shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom must reside and be the owner or leaseholder, as defined herein, of property in the City, and at least one (1) of whom must reside and be the owner or leaseholder, as defined herein, of property in the territory proposed to be annexed. One (1) of said persons so appointed shall be designated the presiding officer. Voting shall be conducted in the City Hall and the Board of Election shall have available, clearly marked, two (2) ballot boxes. All ballots cast by those persons, partnerships or corporations authorized to vote as residents, property owners or leaseholders, as defined herein, in the territory proposed to be annexed shall be deposited in one (1) such ballot box, and all ballots cast by those persons, partnerships, or corporations who are

authorized to vote as residents or property owners of the City shall be deposited in the other such ballot box. The polling places shall be open from 12:00 Noon, prevailing time, until 7:00 in the evening, prevailing time, on the date set for the Special Election.

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

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

(l) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books of the Board of Assessment of Sussex County, no election shall be necessary and the City Council of The City of Lewes may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation or by a written Petition with the signature of each such Petitioner duly acknowledged if such property is owned by an individual, requesting the City Council to annex that certain territory in which the property is located. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the proposed annexation. Upon receipt of the certified copy of the Resolution or the Petition, the Mayor of the City of Lewes shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The City of Lewes 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 City and to the territory proposed to be annexed, the City Council of Lewes may then proceed to pass a second Resolution annexing such territory to The City of Lewes. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the Committee appointed by the Mayor concludes that the proposed annexation is disadvantageous either to the City or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths (3/4) of all the elected members of the City Council. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution receives the required number of votes, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The City of Lewes from the time of recordation. The failure of the City

Council to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution."

Section 4. Section 5, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the first sentence of said Section 5 and substituting in lieu thereof a new first sentence to read as follows:

"The qualifications for Mayor and for City Council Person at the time of this election shall be as follows:"

Section 5. Subsection (a), Section 5, 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) A bona fide citizen of the United States and of the State of Delaware and a resident of The City of Lewes for at least ninety (90) days next preceding the date of the annual election."

Section 6. Subsection (d), Section 5, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (d) and substituting in lieu thereof a new Subsection (d) to read as follows:

"(d) Each of the qualifications for the Mayor and for the City Council Persons shall be continuing qualifications to hold office, and the failure of either the Mayor or any of the City Council Persons to have any of the qualifications required by this Section during his term of office shall create a vacancy in the office."

Section 7. Subsection (e), Section 5, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (e).

Section 8. Section 6, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended, by striking out the first sentence of said Section 6 and substituting in lieu thereof a new sentence to read as follows:

"Each candidate for Mayor and City Council Person shall be nominated as follows:"

Section 9. Subsection (a), Section 6, 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) Each candidate shall notify the City Manager in writing of his candidacy for the office of either Mayor or City Council Person, or five (5) or more persons qualified to vote in the Annual Election may file the name of the candidate for the office of Mayor or City Council Person with the City Manager, provided that the candidate endorses his written consent thereon."

Section 10. Subsection (b), Section 6, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (b) and substituting in lieu thereof a new Subsection (b) to read as follows:

"(b) All such notifications of candidacy shall be filed at the office of the City Manager during the regular business hours of the City not earlier than the opening of business on February 1 and prior to the close of business on the first Thursday in April and thereon, it shall be the duty of the City Manager to deliver all notifications of candidacy or nominations for candidacy to the City Council at the regular meeting of the City Council in April of each year at which time the City Council shall sit in open meeting to hear the recommendations of the City Manager concerning the qualifications of each candidate. The City Council shall act upon the recommendation of the City Manager concerning each candidate."

Section 11. Subsection (c), Section 6, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the words "Vice President of the City Council" and substituting in lieu thereof the words "Deputy Mayor of the City".

Section 12. Subsection (d), Section 6, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (d) and substituting in lieu thereof a new Subsection (d) to read as follows:

"(d) The City Council shall cause to be printed sufficient ballots in order for each citizen of the City to vote at the Annual Municipal Election. Said ballot shall contain the names of all persons nominated and shall designate the office for which each is a candidate, and such ballots shall be delivered to the Board of Election prior to the time for the opening of the polls at the Annual Municipal Election. No ballots to be used for voting at the Annual Municipal Election shall be available for distribution to any person prior to the time of his or her actually presenting himself or herself for the purpose of voting; provided however, that the Board of Election shall have available for distribution five (5) days prior to the date of the Annual Municipal Election sample ballots marked or defaced in such a manner that they cannot be used at the Annual Municipal Election. Only those ballots prepared in accordance with the provisions of this Section shall be used at the Annual Municipal Election. Where voting machines or electronic voting devices are used, the procedures enacted by the General Assembly as Chapters 50 and 50A, Title 15, Del. C., shall receive compliance."

Section 13. Section 7, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Section 7 and substituting in lieu thereof a new Section 7 to read as follows:

"Section 7. The procedure for holding the Annual Municipal Election shall be as follows:

(a) The Annual Municipal Election shall be held at the City Hall in The City of Lewes on the second Saturday in May of each and every year from 8:00 in the morning, prevailing time, until 6:00 in the evening, prevailing time.

(b) At each Annual Municipal Election, there shall be elected two (2) Council Persons who shall serve for a term of two (2) years or until their successors have been duly elected and qualified, except at the Annual Municipal Election in the year when a Mayor is to be elected at which time two (2) Council Persons shall be elected to serve for a term of two (2) years or until their respective successor shall be duly elected and qualified.

(c) The Annual Municipal Election shall be conducted by a Board of Election consisting of an Inspector and two (2) judges together with such alternates as are determined by the Mayor to be necessary all of whom shall be appointed by the Mayor of The City of Lewes with the concurrence of a majority of the members of the City Council at the last regular meeting of the City Council prior to the date of the Annual Municipal Election. The Board of Election shall determine who is and who is not entitled to vote thereat, taking reasonable steps to see that the law pertaining to the Annual Municipal Election receives compliance and for the purpose of counting the votes and certifying the result to the City Council. The Board of Elections shall keep a list of all persons who vote at such Annual Municipal Election.

(d) At such Annual Municipal Election, every person, male or female, who shall have attained the age of eighteen (18) years on the date of the Annual Municipal Election and who shall be a citizen of the United States and a citizen of The City of Lewes shall have one (1) vote, provided, that he or she is registered on the Books of Registered Voters of The City of Lewes. For the purposes of this Section, a citizen of The City of Lewes shall be deemed to include any person who is a qualified voter of the Third Election District of the Thirty-Seventh Representative District of Lewes, Sussex County, Delaware, residing within the corporate limits of The City of Lewes as

defined in this Charter. The City Council of The City of Lewes shall provide two (2) registers to be known as the "Books of Registered Voters" which are to be kept at the office of the City Manager. The Books of Registered Voters shall contain the following information for each registrant: the names of the registered voters arranged in alphabetical order, the addresses of the voters, the birth date of the voters, the dates the registrants became citizens of the United States, the date that the registrants became residents of The City of Lewes and any other pertinent information. No person shall be registered upon the Books of Registered Voters unless he will have acquired the qualifications to vote in the Annual Municipal Election for the year in which he registers. A person shall be required to register only one (1) time; provided, however, that if a registered voter fails to vote in two (2) consecutive annual municipal elections in which there is a contest for any office, his name shall be removed from the Books of Registered Voters and notice sent to said registered voter at his last known address by registered mail with return receipt requested advising that his name has been removed from the Books of Registered Voters and that it will be necessary to register again in order to vote in the Annual Municipal Election. A person may register at the office of the City Manager during the regular business hours of such office until the close of business of such office on the 15th day prior to the date of the Annual Municipal Election by completing such forms as may be provided by the City. The City Council may provide by resolution for the Office of the City Manager to be open on one (1) Saturday within the thirty-day period immediately preceding the date of the Annual Municipal Election for the purpose of permitting persons to register to vote in such Annual Municipal Election.

(e) The City Council of The City of Lewes may, by ordinance, provide for any qualified registered voter to cast an absentee ballot if such person is unable to appear and cast his or her ballot.

(f) In the event that no person files or is nominated for each office for which an election is to be held within the time set forth in Section 6 of this Charter, the incumbent shall be deemed to be re-elected for a full term and it shall not be necessary to hold an election.

(g) In the event that only one (1) person files or is nominated for each office for which an election is to be held within the time set forth in Section 6 of this Charter, the person who files or who is nominated shall be deemed to be elected for a full term and it shall not be necessary to have an election.

(h) No person other than the Board of Election, the City Manager and the clerks of the Board of Election, the challengers and persons actually voting shall be admitted within the voting place without the unanimous consent of the Board of Election.

(i) Each candidate may appoint some suitable person to act as a challenger who may be within the voting place. Each challenger shall be protected in the discharge of his duty by the Board of Election.

(j) No person other than the City Manager, the Board of Election, the Clerks of the Board of Election and the challengers designated by the candidates shall remain within fifty (50) feet of the entrance to the building except for the purpose of offering his vote except that a physically handicapped person shall be permitted to bring with him into the election room an elector or two (2) electors if the nature of the disability, in the opinion of the Board of Election, such as total disability to walk to the election room, requires it in order to render the necessary assistance. Each candidate shall be permitted to have one (1) person present in the voting room for the purpose of recording the names of the persons who vote.

(k) No person shall electioneer nor engage in any political discussion within the building during the hours of election or during the counting of the ballots.

(l) No more than one (1) person shall be permitted to occupy any voting booth at any one time except as otherwise provided in this Charter.

(m) No person shall remain in or occupy a voting booth longer than is necessary to prepare his ballot and in no event longer than three (3) minutes.

(n) Upon the close of the election, the votes shall be read and counted publicly and in the case of an election of Council Persons, the persons having the highest number of votes shall be declared to be elected and in the case of the election of a Mayor, the person having the highest number of votes shall be declared to be elected. Such person shall continue in Office during the term for which they were elected or until their successors shall be duly elected or appointed and qualified.

(o) The Board of Election shall enter in a book to be provided for that purpose minutes of the election containing the names of the persons so elected. They shall subscribe the same and shall make and deliver to the person elected certificates of their election. The book containing such minutes, the ballots and the list of those persons who voted shall be delivered to the City Manager who shall preserve the same and shall be evidence in any Court of law or equity.

(p) If two (2) or more candidates for the office of Council Person or for Mayor shall receive an equal number of votes so that there shall not be an election of a Mayor or Council Person, the incumbent Mayor or Council Person shall continue in Office until the run-off election as herein provided is held. The Board of Election shall declare the election a tie and shall report that result to the Mayor and the City Council which shall, within twenty (20) days thereafter, hold a Special Election between those candidates where a tie resulted under the same rules as hereinbefore set forth. No person shall be permitted to register to vote following the Annual Municipal Election and before the Special Election in order to vote at the Special Election."

Section 14. Subsection (a), Section 8, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the first sentence of said Subsection (a) and substituting in lieu thereof the following:

"At any time subsequent to the date of election and prior to the first regular meeting following the Annual Municipal Election and before entering upon the duties of their respective offices, the Mayor-elect and the Council Person-elect shall be sworn by a notary public to perform faithfully and impartially the duties of their respective offices with fidelity."

Section 15. Subsection (b), Section 8, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the word "Vice President" as they appear in said Subsection (b) and substituting in lieu thereof the words "Deputy Mayor".

Section 16. Section 12, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended, by striking out the word "Councilmen" as it appears in said Section and substituting in lieu thereof the words "Council Person."

Section 17. Section 13, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended, by striking out the word "Councilmen" as it appears in said Section and substituting in lieu thereof the words "Council Person."

Section 18. Subsection (g), Section 15, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the words "Vice President" and substituting in lieu thereof the words "Deputy Mayor".

Section 19. Subsection (b), Section 16, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking

out the words "freeholder or leaseholder, as defined herein," and substituting in lieu thereof the word "citizen".

Section 20. Subsection (b), Section 19, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended, by striking out the word "Councilmen" as it appears in said Section and substituting in lieu thereof the words "Council Person."

Section 21. Subsection (e), Section 20, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the words and figures "for each one hundred dollars (\$100.00) of assessed valuation or part thereof as shown by the books of the City."

Section 22. Subsection (i), Section 20, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by adding at the end of the Subsection (i) the following:

"There shall be no limitation upon the amount of ad valorem taxes collected to pay the principal of and interest on any bonded indebtedness incurred pursuant to the provisions of this Section."

Section 23. The second Paragraph of Subsection (i), Section 20, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the words "provided that this authority shall not exceed a distance of one (1) mile."

Section 24. Subsection (a), Section 25, 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) At the first regular meeting following the Annual Municipal Election, the Mayor with the advice and consent of all the elected members shall appoint a bona fide resident being a freeholder or leaseholder as defined herein of the City to be the Assessor."

Section 25. Subsection (b), Section 26, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the words and figures "twenty-one (21)" as they appear in said Subsection and substituting in lieu thereof the words and figures "eighteen (18)".

Section 26. Subsection (f), Section 26, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (f) in said Section 26 and substituting in lieu thereof the following:

"(f) Immediately upon receiving the annual assessment list from the Assessor, the City Council shall cause a full and complete copy of same containing the amount assessed to each taxable to be hung in a public place in The City of Lewes, and there it shall remain for a period of at least ten (10) days for the information of and examination of all concerned. Appended thereto and also in five (5) or more public places in said City, there shall be posted notices advising all concerned that any property owner or leaseholder who desires to appeal his assessment shall file an appeal in writing stating the reason or reasons therefor not later than a certain day mentioned therein and not earlier than ten (10) days after the date of posting the true and correct copy of the annual assessment list and further that at the next regular meeting of the City Council following the expiration of time when an appeal shall be filed, the City Council will fix a time and date when the City Council will hold a Board of Appeals at which time it shall hear appeals filed in writing within the time specified from the said annual assessment. The decision of the City Council, sitting as a Board of Appeals, shall be final and conclusive, and said City Council shall revise and complete said assessment at this sitting. No Council Person shall sit upon his own appeal, but the same shall be heard and determined by the other members of the City Council."

Section 27. Subsection (e), Section 26A, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the first sentence of said Subsection (e) and substituting in lieu thereof the following:

"The Assessor shall publish a notice of the place or places where the supplemental assessment list may be inspected together with a notice of the time and place in the City when appeals in writing stating the reason or reasons therefor may be filed by any property owner or leaseholder, from the supplemental assessment list, not earlier than ten (10) days from the date of last publication and noticing that at the next regular meeting following the expiration of time when an appeal may be filed, the City Council will fix a time and place when the City Council will sit as a Board of Appeals to hear those appeals filed in writing within the time specified from the Supplemental Assessment."

Section 28. Subsection (f), Section 26A, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out of all said Subsection (f) and substituting in lieu thereof a new Subsection (f) to read as follows:

"(f) Pending determination of the appeal, the property owner may either pay the tax imposed by the supplemental assessment and if on appeal the assessment is reduced, the property owner shall be entitled to a refund of the taxes which he has paid plus interest thereon at the rate of one percent (1%) per month for each month or fraction thereof from the date of payment or the property owner may decline to pay the tax imposed by the supplemental assessment in which case, interest and penalties shall accrue at the rate of one percent (1%) for each month or fraction thereof that the taxes remain unpaid and delinquent."

Section 29. Subsection (g), Section 26A, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (g) and substituting in lieu thereof a new Subsection (g) to read as follows:

"(g) In the collection of all taxes imposed by the supplemental assessment list there shall be no deduction nor abatement of the taxes and the City Manager shall add an amount equal to one percent (1%) per month for each month or fraction thereof that such taxes remain unpaid following the date that such taxes became delinquent."

Section 30. Subsection (h), Section 26A, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (h) and substituting in lieu thereof a new Subsection (h) to read as follows:

"(h) All taxes imposed by the Supplemental Assessment list and paid later than June 30 for the First Supplemental Assessment in each Year, August 31 for the Second Supplemental Assessment, November 30 for the Third Supplemental Assessment and February 28 for the Fourth Supplemental Assessment shall be delinquent."

Section 31. Subsection (e), Section 28, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended, by striking out the words and figures and date "April 30", and substituting in lieu thereof the words and figures and date "June 30".

Section 32. Subsection (g), Section 28, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the words "all utility rents laid or imposed" as they appear in said Subsection and substituting in lieu thereof the words "all charges for sewer service, water service, electric service, front footage, or any other charge laid or imposed".

Section 33. Section 32, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the words and figures "Fifty Thousand Dollars (\$50,000.00)" as they appear in said Section 32 and substituting in lieu thereof "Ten Percent (10%) of the assessed valuation of all real estate in the City and on public lands under the jurisdiction of the City Council."

Section 34. Section 32, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended, by striking out the word "Councilmen" as it appears in said Section and substituting in lieu thereof the words "Council Person."

Section 35. Subsection (a), Section 34, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by adding at the end of said Subsection (a) the following:

"The procedure set forth in this Section shall have precedence over any other procedure concerning a public street within the corporate limits of the City."

Section 36. Subsection (b), Section 38, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby amended by putting a period after the word "Adjustment" as it appears in said Subsection and striking out the words "which shall consist of the City Manager, the Mayor and the City Solicitor."

Section 37. Subsection (a), Section 40, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended, by striking out the word "Councilmen" as it appears in said Section and substituting in lieu thereof the words "Council Person."

Section 38. Subsection (c), Section 40, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (c) and substituting in lieu thereof a new Subsection (c) to read as follows:

"(c) The Director of Public Safety shall have administrative and public relations responsibilities regarding the health, safety and welfare of the citizens of the City. He shall consider public safety within the community with particular attention to roadways, pedestrian and bicycle safety, safety in and around the various waterways within the City and the reduction of any liability to public safety which may exist or develop within the City. He shall respond to complaints and inquiries and will be a public figure visible and readily available to the Mayor and the members of the City Council. He shall also be available to citizens, merchants, clubs, organizations and the like for any concerns relating to public safety within the City. The Director of Public Safety shall be in charge of operations during natural disasters, community-wide emergencies or other catastrophes."

Section 39. Subsection (d), Section 40, Chapter 170, Volume 57, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (d) and substituting in lieu thereof a new Subsection (d) to read as follows:

"(d) In the event that the position of Chief of Police becomes vacant or if the Chief of Police is unable or incapable of performing his duties, the Director of Public Safety may be assigned such duties provided this action is approved by the Mayor and receives the affirmative vote of three-fourths (3/4) of the elected members of the City Council. This action need not be delayed until the regular meeting of the City Council; however, if this action is taken at anytime other than during a regular meeting of the City Council, it shall be placed upon the agenda for consideration and a vote publicly at the next regular meeting of the City Council. He shall render to the City Council at its monthly meeting of each and every month, a public safety report, prepared in conjunction with the Chief of Police, showing the activities of the police force during the preceding month."

Approved July 6, 1993.

CHAPTER 98

FORMERLY

SENATE BILL NO. 206

AN ACT TO AMEND §3508, CHAPTER 35, TITLE 3 OF THE DELAWARE CODE RELATING TO EGG SANITATION.

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

Section 1. Amend §3508(a), Chapter 35, Title 3 of the Delaware Code by deleting the words "not higher than 60° Fahrenheit" as said words appear therein and substituting in lieu thereof the words "in accordance with United States Department of Agriculture temperature requirements".

Approved July 7, 1993.

CHAPTER 99

FORMERLY

SENATE BILL NO. 115
AS AMENDED BY SENATE AMENDMENT NOS. 2, 5 AND 7

AN ACT SUPPLEMENTING THE PROVISIONS OF TITLE 26 OF THE DELAWARE CODE ANNOTATED RELATING TO THE REGULATION OF PUBLIC UTILITIES PROVIDING TELECOMMUNICATIONS SERVICES.

BE IT ENACTED BY THE 137TH GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. This act shall be known as the "Telecommunications Technology Investment Act."

Section 2. Create a new Subchapter VIIA of Chapter 1, Title 26 Delaware Code Annotated providing as follows:

"§704. Election of a Telecommunications Service Provider to be Governed by This Subchapter VIIA.

(a) A telecommunications service provider offering services as defined within section 705 of this Subchapter may elect, upon or after the effective date of this Act, to determine its rates and prices for its telecommunications services pursuant to the provisions of this Subchapter VIIA. Upon the filing of written notice to the Commission of such an election, the provisions of Subchapter III of this Chapter 1 shall no longer apply except as specifically provided hereinafter and, in lieu thereof, the provisions of this Subchapter VIIA shall govern. No such election shall be made by a telecommunications service provider or accepted by the Commission unless accompanied by a Plan for Technological Investment and Deployment as provided in section 711 of this Subchapter.

(b) An initial election by a telecommunications service provider to be governed by the provisions of this subchapter VIIA shall be effective for a term of not less than 5 years. Not less than one year prior to the expiration of the initial term, and any subsequent term, the telecommunications service provider shall notify the Commission whether or not it wishes to continue to be governed by the provisions of subchapter VIIA. Upon receipt of such notification the Commission shall commence an open and public proceeding to determine whether the continued application of subchapter VIIA to such telecommunications service provider is in the public interest and if so, for how long or, if not, what appropriate form of regulation should be applied to such provider under the provisions of Section 703 of Title 26. The Commission shall conclude any such proceeding by final Order within 12 months from the filing of such notification and, in making its determination, the Commission shall give appropriate consideration to the form of regulation, if any, then applicable to competitors of such telecommunications service provider. A telecommunications service provider proposing to continue to be governed by the provisions of subchapter VIIA is not required to file an additional plan for technological investment and deployment under the provisions of section 711 of this subchapter.

§705. Definitions.

(a) 'Basic Services' shall mean those local exchange carrier telecommunications services: (1) which are offered in the absence of services or products with the same or similar capabilities offered by another service provider; (2) for which significant barriers exist impeding entry into the market; (3) which are provided for the purpose of completing local telephone calls; (4) which are for the purpose of providing access to the local exchange carrier's network; or (5) which are purchased as necessary components for other providers of telecommunications services to offer, exclusive of stand alone resale offerings, their telecommunications services. Unless and until the Commission shall determine otherwise pursuant to section 706 of this Subchapter, 'Basic Services' shall include the following:

(A) Residence, Business, Public and Semi-public 'Dial Tone Line' services;

- (B) Residence, Business and Public 'Local Usage Services';
- (C) 'Switched Access' services;
- (D) 'Exchange Access Component of Centrex' service;
- (E) 'White Pages Listings; whether Listed, Non-Listed or Private';
- (F) 'Local Directory Assistance Service';
- (G) 'Telecommunications Relay Service';
- (H) '911 Enhanced Emergency System';
- (I) 'Direct Inward Dialing' for PBX trunks;
- (J) 'Basic Service Elements';
- (K) 'Touchtone Service';
- (L) 'ISDN service' and features;
- (M) 'Basic Rate Interfaces';
- (N) 'Primary Rate Interfaces';
- (O) Services categorized as 'Basic Serving Arrangements' except for 'High Capacity Special Services' (1.544mb and above); and
- (P) 'Complementary Network Services' except as provided by a local exchange carrier to end users or for stand alone resale.

The Commission may, after notice and hearing, classify other telecommunication services as Basic Services.

(b) 'Discretionary Services' shall mean those telecommunications services which are neither 'Basic Services' nor 'Competitive Services'.

(c) 'Competitive Services' shall mean those services which have been classified as such by the Commission based upon its determination that: (1) there are similar or substitute services or products which are offered and generally available within the relevant geographic area from at least one unaffiliated provider; (2) there is at least one unaffiliated service provider which is present and viable; and (3) there are no significant barriers to market entry. The Commission may also consider any other factors it deems relevant and in the substantial public interest in making determinations regarding the classification of services as competitive. Unless and until the Commission shall determine otherwise pursuant to section 706 of this Subchapter, 'Competitive Services' shall consist exclusively of the following:

- (A) 'Directory Advertising';
- (B) '800 Service' and 'Wide Area Telephone Service';
- (C) Billing and collection services provided by one service provider to another telecommunications service provider or other party;
- (D) 'Centrex Intercom and Features';
- (E) 'Inside Wire Services';
- (F) 'Answer Call and Voice Mail Services';
- (G) 'High Capacity Special Services (1.544 mb and above)';
- (H) 'Operator Services -- Call Completion and Non-Local Directory Assistance';

(I) Any telecommunications service determined by the Commission to be competitive prior to the effective date of this Act.

(d) Phrases used to identify specific services within the foregoing classifications shall be given the meanings commonly ascribed to them in proceedings before the Commission. In the event the Commission concludes any of such phrases to have uncertain meaning, the Commission shall, by order after a duly noticed hearing, adopt an appropriate definition.

§706. Offering, Classification and Abandonment of Services.

(a) Any telecommunications service provider intending to offer a new telecommunications service shall provide the Commission with notice of its intention to do so as follows:

(1) For a new Basic Service, such notice shall be given no less than sixty days prior to the proposed implementation date. Such notice shall conform to Commission rules applicable to tariffed service and shall provide the Commission with information sufficient to demonstrate that the service is correctly classified as Basic and the proposed rates are just and reasonable.

(2) For a new Discretionary Service, such notice shall be given no less than 20 days prior to the proposed implementation date and shall provide information sufficient to demonstrate that the service is correctly classified as Discretionary and that the proposed rates are just and reasonable.

(3) For a new Competitive Service, such notice shall be given no less than 20 days before the proposed implementation date and shall provide information sufficient to demonstrate that the service is correctly classified as Competitive.

(4) A local exchange carrier filing notice pursuant to this subsection shall serve a copy thereof on all interexchange telecommunications carriers and service providers who have requested such notice as well as the Office of the Public Advocate.

(b) The Commission may extend the proposed implementation date for any new service for good cause shown; provided, however, that notwithstanding such extension, the service provider may offer its new service as described and classified in its original filing unless the Commission shall have, by final order entered within 90 days of such original filing, established a classification or, in the case of a Basic or Discretionary Service, rate other than that proposed by the service provider.

(c) Commencing with the date which is twelve (12) months after an initial election made pursuant to section 704(a) of this Subchapter, the Commission may reclassify telecommunications services among and consistent with the telecommunications services classifications set forth in section 705 of this Subchapter. Any party, including the Commission's staff, proposing any such reclassification shall have the burden of supporting its proposal, except with respect to the reclassification of a Competitive Service, in which case the telecommunication service provider shall bear the burden of demonstrating that said service continues to be a Competitive Service. Where the Commission shall have reclassified a service as a Basic Service, the Commission may determine whether the current rate is just and reasonable. Where the Commission shall have reclassified a service as a Discretionary Service, the Commission may determine whether the current rate is just and reasonable, but in no event shall any new rate set by the Commission be lower than the rate in effect at the time of an initial election made pursuant to Section 704(a) of this Chapter.

(d) Basic Services may be abandoned pursuant to the provisions of Section 203A of Title 26. Notwithstanding the provisions of 203A(c) of Title 26, a telecommunications service provider may abandon a Discretionary Service after providing the Commission and public with sixty (60) days notice of its intention to do so, unless 2% or more of the telecommunications service provider's customers for the service have petitioned the Commission, within the notice period, to retain the service. A telecommunications service provider may abandon a Competitive Service after providing the Commission and public with thirty (30) days notice of its intention to do so.

§707. Provision of Basic Services.

(a) Except for the determination of rate changes for Basic Services, which determinations shall be made pursuant to the provisions of this section, the offering of Basic Services in this State shall be subject to the provisions of subchapters I, II and V and sections 301, 303(a), 304, 305 and 308 of this Chapter and all Commission procedures, rules and regulations shall apply except to the extent inconsistent with the provisions of this Act. Changes to the terms and conditions for the offering of a Basic Service, other than rate changes, shall continue to require Commission approval.

(b) After January 1 of the year immediately following the initial election made pursuant to section 704 of this Subchapter, rates for Basic Services may be changed by the service provider or upon Commission initiative according to the following formula; provided, however, that a rate for a Basic Service may not be changed more than once in any calendar year:

Change in Rate = Change in Gross Domestic Product-Price
Inflator since last rate change minus 3%. The Gross Domestic Product-Price Inflation Index shall be that published by the United States Department of Commerce with the most recent available data for the relevant period or, in the event that such index is discontinued, the index determined by the Commission to most closely approximate the discontinued index.

(c) The following exceptions to the rate changes otherwise determined by the foregoing formula shall apply:

1. A service provider may elect not to implement all or a portion of a rate increase otherwise required by the formula.

2. A service provider may elect to decrease rates in circumstances where the formula would require otherwise.

3. In circumstances where a rate decrease would result from an application of the formula, the decreased rate shall not be lower than the incremental cost of providing that Basic Service as determined by the Commission.

4. Upon application by a service provider, the rate structure for a Basic Service may be adjusted by the Commission where such adjustments would neither increase nor decrease the total revenue to the service provider from that particular Basic Service.

5. Upon application by a service provider other than a local exchange carrier, the rates charged for a Basic Service which is purchased as a necessary component by such other provider of telecommunications services in order to offer its telecommunication services may be adjusted by the Commission upon a showing by such other service provider that the rate is not just and reasonable.

6. Upon the application by any ratepayer or the service provider, rates for Basic Services may be adjusted with approval by the Commission in order to reflect an unforeseen change in the service provider's costs of providing telecommunications services, which change occurs for reasons beyond the control of the applicable service provider. Such change may include, but not be limited to, legal or regulatory changes which affect such costs, the method of accounting for such costs or taxes applicable to the service provider.

(d) Rate adjustments made pursuant to subsections 707(c)(4) and (5) of this subchapter may be made with the Commission's approval at any time and shall not be limited to once in any year.

§708. Provision of Discretionary Services.

(a) Any local exchange carrier provider of a Discretionary Service may determine its rate and the terms and conditions under which such Discretionary Service will be offered subject only to the following requirements:

(1) Rates for Discretionary Services must equal or exceed the incremental cost of providing such services;

(2) If a Basic Service is used to provide a Discretionary Service, the rate for the Discretionary Service shall equal or exceed the sum of the rate for the Basic Service plus any additional incremental costs not covered by the rate for the Basic Service;

(3) All Discretionary Services must be made available for resale by other telecommunications service providers;

(4) No rate for a Discretionary Service or element thereof may be increased by more than 15% in any calendar year;

(5) Notwithstanding the provisions of this subsection (a) of Section 708 of this Title, no rate for a Discretionary Service shall be increased by a local exchange company within one year of such company's initial election made pursuant to section 704(a) of this title.

(b) No proposed change for a Discretionary Service rate may be made except upon 14 days notice to the Commission in the case of a proposed increase or upon 5 days notice in the case of a proposed decrease. Any telecommunications service provider offering Discretionary Services shall maintain a list of such services and rates currently charged for such services at the offices of the Commission, which list shall be available for public inspection.

§709. Provision of Competitive Services.

Any provider of a Competitive Service may determine its price and other terms and conditions under which such Competitive Service will be offered, subject only to the following requirements:

(1) No price for a Competitive Service may be set below the incremental cost of providing such service as determined by the Commission.

(2) If a Basic Service or a Discretionary Service is used to provide a Competitive Service, the price for such Competitive Service shall equal or exceed the sum of the rates of the Basic Services and Discretionary Services plus any additional incremental costs the provider incurs to provide the Competitive Service.

(3) In the event that a service provider offers a Competitive Service which requires the use of a Basic or Discretionary Service also offered by such service provider, such service provider must separately identify each such Basic or Discretionary service and make such services available to other service providers at the same rate and on the same terms and conditions as such service is used by such service provider.

(4) All Competitive Services except Directory Advertising must be made available for resale by other telecommunications service providers.

§710. Prohibition Against Cross-Subsidization Of Competitive Services; Cost Allocation.

(a) Cross-subsidization of Competitive Services with revenue generated by Basic Services or Discretionary Services is prohibited. Cross-subsidization of Discretionary Services with revenue generated by Basic Services is prohibited.

(b) The Commission shall initiate a proceeding to determine whether to require a service provider to follow a specified methodology for allocating costs among such service provider's intrastate services to ensure that cross-subsidization does not occur among services, and if so, the methodology that such service provider should follow. Notice of any such proceeding shall be given to all parties requesting such notice and to the public in accordance with Commission rules.

§711. Plan For Technological Investment and Deployment.

Simultaneous with any initial election made pursuant to section 704(a) of this Subchapter, any service provider which is a local exchange carrier offering Basic Services in this State shall file with the Commission a five-year plan generally outlining its projections for investment in and deployment of telecommunications technology during such five year period.

(1) Such plans shall describe a level of planned investment in technological or infrastructure enhancement.

(2) Such plans shall describe the extent to which such investment will make new telecommunications technology available to rate payers or expand the availability of current technology. In describing such new or expanded telecommunications technology, the plan shall address the findings of public policy set forth in section 702 of this Title and shall identify the economic and community development effects of the proposed investment. Specifically, the plan shall identify potential gains in the areas of education, health care and the delivery of governmental services that might be produced or assisted with proposed advances toward state-of-the-art telecommunications infrastructure.

(3) Any such plan filed by a telecommunications service provider offering Basic Services as defined within Section 705 of this Subchapter upon the effective date of this Act shall include:

(i) Target dates by which such new or expanded telecommunications technology will be available to ratepayers, including a schedule pursuant to which Integrated Services Digital Network Services shall be made available to ratepayers in this State no later than three years after an initial election made pursuant to Section 704(a) of this Subchapter, furthermore, a schedule pursuant to which all switches in this State shall be connected by fiber by the end of the period covered by the Plan.

(ii) A level of planned investment in an amount not less than \$250 million.

(4) On or before a date 24 months after an initial election by a telecommunications service provider section 704(a) of this Title, said telecommunications service provider shall file a progress report with the Commission, Public Advocate and any other interested party requesting such a report. The report shall briefly describe the telecommunications service provider's financial and technological progress relative to the investment in and deployment of telecommunications technology during the previous 24 months. A similar report shall be filed for the subsequent 24 month period."

(5) Progress reports submitted pursuant to subsection 711(4) shall include data relative to the telecommunication service provider's operating and intrastate and interstate financial performance during the relevant period.

Approved July 8, 1993.

CHAPTER 100

FORMERLY

SENATE BILL NO. 202

AN ACT TO AMEND §5129, CHAPTER 51, TITLE 6 OF THE DELAWARE CODE RELATING TO THE STANDARD WEIGHTS AND MEASURES LAWS OF THE STATE OF DELAWARE.

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

Section 1. Amend §5129, Chapter 51, Title 6 of the Delaware Code by deleting present §5129 in its entirety and substituting in lieu thereof the following:

"§5129. Sale or delivery of fuel oil or propane.

(a) Whoever sells or delivers fuel oil or propane in quantities of twenty gallons or more for heating or cooking purposes shall issue a delivery ticket which shall consist of an original and at least one carbon copy. Said ticket shall be serially numbered for the purpose of identification and shall have the date of delivery as well as the names and addresses of the vendor and the purchaser legibly recorded on the ticket prior to delivery of the fuel oil or propane. A statement of the quantity of fuel oil or propane delivered, in terms of gallons and fractions thereof, if any, the price per gallon, the grade of fuel, and the identity of the person making such delivery shall also appear on the ticket. One copy of said ticket shall be delivered to the purchaser or his agent at the time of delivery of such fuel oil or propane, unless the purchaser initiates a request in writing that the vendor deliver such ticket to another person, to another location, or at another time. Another copy of said ticket shall be retained by the vendor for a period of one year.

(b) The Administrator or Inspector of The Weights and Measures Section of the Department of Agriculture shall have the authority, at any time after the delivery of any fuel oil or propane, to enter and go into or upon, without warrant, any delivery vehicle in order to inspect or examine the metering system, vehicle tank compartment, or delivery tickets then in the actual possession of or under the control of the person making the delivery, and said Administrator or Inspector shall also have the authority to seize, without warrant, any delivery tickets or devices suspected of constituting or contributing to a deceptive or fraudulent delivery practice. No retained delivery ticket or copy thereof which is so seized shall be destroyed, but may be voided by said Administrator or Inspector and kept on file with the Department of Agriculture.

(c) On deliveries of fuel oil or propane made through a meter, the quantity determinations of the fuel oil or propane delivered shall be mechanically printed on a meter ticket at the time of delivery. A sales sequence number shall also be mechanically printed on the ticket by the ticket printing mechanism of the metering system, unless the printing mechanism is of the cumulative type. The sales sequence number shall not be returnable to zero until it has reached its highest attainable number.

(d) Only one delivery ticket shall be inserted into the printing mechanism at any given time, and in the case of vehicle tank meters said ticket shall not be inserted until immediately before a delivery is begun, and in no case shall a ticket be left in the printing mechanism while the vehicle is in motion on a public street, highway, or thoroughfare.

(e) The possession of a preprinted ticket imprinted with a gallonage amount in advance of delivery shall be prima facie evidence of intent to use such ticket in violation of this section.

(f) Any person who, by himself or herself, or by his or her employee or agent, or as the employee or agent of another person, alters or substitutes a delivery ticket in violation of the provisions of this section, or for otherwise fraudulent or deceptive purposes, shall be punished by a fine of not more than \$1,000.00 or by imprisonment of not more than one year, or both."

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act 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 on October 15, 1993.

Approved July 8, 1993.

CHAPTER 101

FORMERLY

SENATE BILL NO. 203

AN ACT TO AMEND CHAPTER 12, TITLE 3 OF THE DELAWARE CODE RELATING TO THE REGULATION OF PESTICIDE USE AND APPLICATION.

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

Section 1. Amend §1202(4)c., Chapter 12, Title 3 of the Delaware Code by adding the following sentence at the end of §1202(4)c.:

"The Secretary may by regulation declare certain types of applicators, who use or supervise the use of any pesticide on property owned or rented by the applicator or the applicator's employer, to be commercial applicators."

Section 2. Amend §1206(a), Chapter 12, Title 3 of the Delaware Code by deleting the first sentence of §1206(a) in its entirety and substituting in lieu thereof the following:

"No person shall engage in the business of applying pesticides to the lands or personal property of another unless such person has been duly licensed by the Department."

Approved July 8, 1993.

CHAPTER 102

FORMERLY

SENATE BILL NO. 204

AN ACT TO AMEND §5135, CHAPTER 51, TITLE 6 OF THE DELAWARE CODE RELATING TO OFFENSES AND PENALTIES FOR VIOLATIONS OF THE STANDARD WEIGHTS AND MEASURES LAWS OF THE STATE OF DELAWARE.

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

Section 1. Amend §5135, Chapter 51, Title 6 of the Delaware Code by designating as subsection (a) the second paragraph of present §5135, which paragraph begins with the phrase "No person shall".

Section 2. Amend §5135, Chapter 51, Title 6 of the Delaware Code by deleting the first paragraph of present §5135 in its entirety, and substituting in lieu thereof the following, to be designated as subsection (b) of §5135:

"(b) Any person who, by himself or herself or by his or her employee or agent, or as the employee or agent of another person, performs any one of the acts enumerated in paragraphs (1) through (9) of subsection (a) of this section, upon a first conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$250.00, or by imprisonment for not more than one month, or by both such fine and imprisonment; and upon any subsequent conviction thereof, shall be punished by a fine of not less than \$250.00 nor more than \$1000.00, or by imprisonment for not less than 30 days nor more than 180 days, or by both such fine and imprisonment."

Approved July 8, 1993.

CHAPTER 103

FORMERLY

SENATE BILL NO. 221

AN ACT TO AMEND TITLE 3 AND TITLE 7 OF THE DELAWARE CODE RELATING TO AQUACULTURE AND FISHING.

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

Section 1. Amend §101(1), Chapter 1, Title 3 of the Delaware Code by inserting the phrase ", cultured aquatic stock" after the word "cattle" in §101(1).

Section 2. Amend §403(1), Chapter 4, Title 3 of the Delaware Code by striking the phrase "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" and substituting in lieu thereof the phrase "controlled propagation, growth, harvest, and subsequent commerce in cultured aquatic stock by an aquaculturist".

Section 3. Amend §403, Chapter 4, Title 3 of the Delaware Code by redesignating present subsection (2) as new subsection (9), by redesignating present subsection (3) as new subsection (18), and by adding the following new subsections:

"(2) 'Aquaculture Facility' means any water system and associated infrastructures capable of holding and/or producing cultured aquatic stock.

(3) 'Aquaculture Registration' means the formal registration by application to the Department of Agriculture of an aquaculture facility by a person, partnership or corporation.

(4) 'Aquaculturist' means an individual, partnership or corporation involved in the production of cultured aquatic stock or parts thereof.

(5) 'Aquatic Organism' means an animal or plant of any species or hybrid thereof, and includes gametes, seeds, egg, sperm, larvae, juvenile and adult stages, any one of which is required to be in water during that stage of its life.

(6) 'Broodstock' means sexually mature aquatic organisms, either domesticated or wild, used to propagate cultured aquatic stock.

(7) 'Closed System' means an aquaculture facility with water discharge(s) that does not connect in any way to the waters of the State prior to the discharged water being screened, filtered or percolated to prevent cultured aquatic stock from escaping.

(8) 'Cultured Aquatic Stock' means aquatic organisms, lawfully acquired by an aquaculturist that are held and grown in a registered aquaculture facility.

(10) 'Domesticated' means an animal or plant trained, adapted and/or bred to live in a human controlled environment.

(11) 'Fee Fishing' means removing cultured aquatic stock from a registered aquaculture facility in a sportsman-like manner for a payment of a fee.

(12) 'Fee Fishing Operation' means a registered aquaculture facility where a person may fish for cultured aquatic stock.

(13) 'Native Species' means any species or hybrid thereof of any plant or animal which naturally occurs in the waters of the State.

(14) 'Naturalized Species' means any species or hybrid thereof of any plant or animal which has been introduced to the waters of this State and has become established by reproducing in the waters of this State.

(15) 'Non-Native Species' means any species or hybrid thereof of any plant or animal which does not occur naturally in the waters of the State.

(16) 'Open System' means an aquaculture facility with a water discharge(s) that connects to the waters of this State without being screened, filtered or percolated prior to discharge to prevent cultured aquatic stock from escaping.

(17) 'Registered Aquaculture Facility' means an aquaculture facility which has a valid aquaculture registration issued by the Department of Agriculture.

(19) 'Waters of the State' means all the tidal waters under the jurisdiction of the State where the lunar tide regularly ebbs and flows and all non-tidal waters under the jurisdiction of this State except for non-tidal waters contained in Aquacultural Facilities registered with the Department of Agriculture.

(20) 'Wild' means an animal or plant that is not trained, adapted and/or bred to live in a human controlled environment."

Section 4. Amend §404, Chapter 4, Title 3 of the Delaware Code by deleting subparagraph (2) in its entirety and by redesignating present subparagraph (3) as new subparagraph (2).

Section 5. Amend Chapter 4, Title 3 of the Delaware Code by adding new §§407 through 411 to read as follows:

"§407. Authority of the Department.

(a) The Department, in accordance with the administrative procedures and provisions set forth in Chapter 101, Title 29 of the Delaware Code, shall have the authority to promulgate regulations, which shall have the force and effect of law, to enhance and control aquaculture in this State.

(b) Any authorized employee of the Department, after determining there is probable cause that there has been a violation of this chapter or any regulation promulgated by the Department, may do the following without obtaining a warrant beforehand:

(1) Search, examine and/or inspect any vehicle or conveyance in which cultured aquatic stock may be present for the purpose of determining compliance with the provisions of Chapter 4, Title 3 of the Delaware Code or any regulation promulgated by the Department;

(2) Detain any person and/or person's vehicle for a reasonable length of time to conduct any search, examination and/or inspection thereof for the purpose of determining compliance with the provisions of Chapter 4, Title 3 of the Delaware Code; and

(3) Inspect, search and/or examine any registered aquaculture facility in the presence of any occupant of said facility to determine compliance with the provisions of Chapter 4, Title 3 of the Delaware Code or any regulation promulgated by the Department.

§408. Fee Fishing Operations.

(a) It shall be lawful for any person to fish, without being licensed to fish in this State, within an aquaculture facility designated as a Fee Fishing Operation and registered as same with the Department of Agriculture.

(b) The owner(s) of a Fee Fishing Operation shall apply to the Department of Agriculture to register his or her Fee Fishing Operation. The Fee Fishing Operation shall meet with the following requirements, subject to inspection and approval by the Department of Natural Resources and Environmental Control, prior to the Department of Agriculture approving the registration:

(1) The Fee Fishing Operation shall be a closed system; and

(2) The Fee Fishing Operation shall not contain any wild finfish.

(c) When authorized by the owner of a Fee Fishing Operation, it shall be lawful for a person to take and/or possess those species or hybrids thereof permitted according to the provisions of §903(j), Chapter 9, Title 7 of the Delaware Code, without regard to any seasonal restrictions, size limits, or creel limits.

(d) Any person in possession of cultured aquatic stock lawfully taken from a Fee Fishing Operation shall be issued a receipt for same by the owner or owner's agent of that Fee Fishing Operation. This receipt shall include the name and address of the Fee Fishing Operation, the date the cultured aquatic stock were taken, the identification and number of each species of cultured aquatic stock taken, and the signature of the person to whom the receipt is issued. This receipt shall remain in the possession of the person who took the cultured aquatic stock from the Fee Fishing Operation until that person enters his or her personal abode or temporary or transient place of lodging. The owner or owner's agent of the Fee Fishing Operation shall maintain a copy of each receipt for a period of at least one year from the date of issuance.

(e) Unless otherwise authorized, it shall be unlawful for any person to possess any cultured aquatic stock that remain alive after legally taking same from a Fee Fishing Operation.

§409. Aquaculture Registration.

The owner(s) of an aquaculture facility shall register same with the Department of Agriculture on forms and in accordance with procedures established by the Department of Agriculture. The Department of Agriculture shall promulgate regulations to establish criteria for the registration of an aquaculture facility. The Department of Agriculture shall maintain a registry of aquaculture facilities to assist in the administration of the State aquaculture program. Aquaculture facility registration shall be valid for five years from the date of issue. The owner of an aquaculture facility shall renew the registration of the facility in the event of any change in ownership or a significant change in operations.

§410. Suspension or Revocation of Registration.

The Department of Agriculture may, after due notice, suspend or revoke any aquaculture registration which does not comply with the requirements of this chapter or the regulations promulgated by the Department of Agriculture. A person affected by such suspension or revocation may request a hearing before the Department of Agriculture. A hearing shall be held within 30 days after the request. Within 30 days after the hearing, the Department of Agriculture shall affirm, withdraw, or modify its action by an order based upon the record of the hearing. An appeal from that order may be taken to the Superior Court within 30 days of the suspension or revocation order. If no request for a hearing is made within 30 days of the suspension or revocation order, the suspension or revocation will be effective and the registration is suspended or revoked. All fines and penalties for violations of this subsection shall be paid to the Department of Agriculture and deposited in the general fund account.

§411. Aquaculture Facility Protection.

It shall be unlawful for any person, without the written consent of the owner, to remove, destroy or release cultured aquatic stock from a registered aquaculture facility or introduce any toxic substance directly or indirectly into the waters of a registered aquaculture facility."

Section 6. Amend §1703(5), Chapter 17, Title 3 of the Delaware Code by inserting the phrase "and cultured aquatic stock" between the words "animals" and "other".

Section 7. Amend §7602(4), Chapter 76, Title 3 of the Delaware Code by striking the phrase "mules or other equines or poultry" and substituting in lieu thereof the phrase "mules, other equines, poultry, or cultured aquatic stock".

Section 8. Amend §902, Chapter 9, Title 7 of the Delaware Code by adding the following sentence at the end of §902:

"This chapter and any regulations promulgated pursuant to this chapter shall not apply to cultured aquatic stock in transit to, or in or removed from, registered aquaculture facilities pursuant to the provisions of Chapter 4, Title 3 of the Delaware Code."

Section 9. Amend §1101, Chapter 11, Title 7 of the Delaware Code by adding the following sentence at the end of §1101:

"This chapter shall not apply to cultured aquatic stock in transit to, or in or removed from, registered aquaculture facilities pursuant to the provisions of Chapter 4, Title 3 of the Delaware Code."

Section 10. Amend §502, Chapter 5, Title 7 of the Delaware Code by adding a new §502(1) to read as follows:

"(1) Any resident is exempt from the fishing license requirements of this chapter while fishing in a Fee Fishing Operation that is registered as same with the Department of Agriculture according to the provisions of Chapter 4, Title 3 of the Delaware Code."

Section 11. Amend §507, Chapter 5, Title 7 of the Delaware Code by adding a new §507(e) to read as follows:

"(e) Any nonresident is exempt from the fishing license requirements of this chapter while fishing in a Fee Fishing Operation that is registered as same with the Department of Agriculture according to the provisions of Chapter 4, Title 3 of the Delaware Code."

Section 12. Amend §1126, Chapter 11, Title 7 of the Delaware Code by striking the last sentence of §1126 and substituting in lieu thereof the following:

"Any person exempt from purchasing a Delaware fishing license under subsection (f), (g), (h), (i), (j) or (l) of §502 or subsection (e) of §507 of this title is also exempt from purchasing a Delaware trout stamp."

Section 13. Amend Chapter 11, Title 7 of the Delaware Code by adding a new §1107 to read as follows:

"§1107. Fee Fishing Operations; Exemptions.

Any person who lawfully takes and has fish in his or her possession from a Fee Fishing Operation, registered as same with the Department of Agriculture according to the provisions of Chapter 4, Title 3 of the Delaware Code, is exempt from any seasonal restrictions, size limits and/or creel limits on said fish, provided said person has in his or her possession a valid receipt for said fish, issued by the owner or the owner's agent of the Fee Fishing Operation pursuant to §408(d) of this title."

Approved July 8, 1993.

CHAPTER 104
FORMERLY
SENATE SUBSTITUTE NO. 1

TO
SENATE BILL NO. 80

AN ACT TO AMEND CHAPTERS 55 AND 56, TITLE 29, OF THE DELAWARE CODE AND SUBCHAPTER III, CHAPTER 83, TITLE 11 OF THE DELAWARE CODE TO PROVIDE A MECHANISM TO FUND POST RETIREMENT INCREASES FOR RETIRED STATE EMPLOYEES.

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

Section 1. Amend Chapter 55, Title 29, Delaware Code by adding a new §5548, to read as follows:

"§5548. Establishment Of Post Retirement Benefit Fund.

(a)(1) There shall be established a State Post Retirement Benefit Fund, hereinafter referred to as the 'Post Retirement Fund,' separate and distinct from the Funds established under §5541 of this Chapter and §5601, Chapter 56 of this Title; §8393, Subchapter III, Chapter 83, Title 11 of the Delaware Code, to which state appropriations and other employer contributions shall be deposited monthly, and to which earnings on investments, refunds, and reimbursements shall be deposited upon receipt, and from which such post retirement benefits as the General Assembly may hereafter legislate shall be paid and any fees and expenses authorized by the Board shall be paid. No money shall be disbursed from this fund except for the purpose of providing funding for post retirement increases for employees retired under this Chapter; Chapter 56 of this Title; Subchapter III, Chapter 83, Title 11 of the Delaware Code.

(a)(2) The Board of Pension Trustees shall review the balance in the Post Retirement Fund at the end of each fiscal year and make any recommendations for adjustments in the funding rate for the succeeding fiscal year to ensure that the balance in this fund, net of liabilities, does not exceed 2.5% of the total projected covered payroll of the State Employees' Pension Plan (Chapter 55, Title 29, Del. C.), the State Judiciary Plan (Chapter 56, Title 29, Del. C.), and the new State Police Pension Plan (Subchapter III, Chapter 83, Title 11, Del. C.).

(b) In the event that the General Assembly shall introduce legislation proposing post retirement increases, the Board of Pension Trustees shall review each such proposal to determine if sufficient funds are projected to be available in the Post Retirement Fund to provide the funding necessary to fund the increase over a five (5) year period. If the Board determines that insufficient funds will be available to fund the increase, they will notify the Governor and the General Assembly that an additional appropriation will be required in order to provide the post retirement increase being proposed."

Section 2. Amend §5544, Chapter 55, Title 29, Delaware Code by deleting said section in its entirety and substituting in lieu thereof a new "§5544," to read as follows:

"§5544. Actuarial Valuations and Appropriations.

(a) The actuary shall prepare an actuarial valuation of the assets and liabilities of the Funds as of June 30, each year. On the basis of reasonable actuarial assumptions and tables approved by the Board, the actuary shall determine the normal cost required to meet the actuarial cost of current service and the unfunded actuarial accrued liability.

(b) The state's appropriation to the Funds for the fiscal year 1994, and for each fiscal year thereafter, shall be the percentage of covered payroll approved by the Board on the basis of the most recent actuarial valuation, and shall equal the sum of the normal cost plus the payment required to implement the provisions of subsection (c) of this section plus the payment required to amortize the unfunded actuarial accrued liability

over 40 years from July 1, 1975. The amortization payment shall be an amount computed as a level percentage of the prospective total covered payroll over the remainder of the amortization periods, with such prospective total covered payroll to be determined on the basis of a growth rate of 4% per year, compounded annually. Except as provided in subsection (c) of this section, all funds appropriated pursuant to this subsection shall be deposited into the Fund established by §5541, Chapter 55, Title 29, of the Delaware Code.

(c) In order to provide a fund for post retirement increases, the state shall include in its annual appropriation payments equal to 2.33% of covered payroll, subject to the limitations contained in §5548 (a)(2), Chapter 55, Title 29, Delaware Code. Beginning with the fiscal year 94 budget, .70% of covered payroll shall be appropriated; in fiscal year 95 1.11% of covered payroll shall be appropriated; in fiscal year 96, 1.52% of covered payroll shall be appropriated; in fiscal year 97, 1.93% of covered payroll shall be appropriated; in fiscal year 98 and each fiscal year thereafter 2.33% of covered payroll shall be appropriated. Funds appropriated to implement this subsection shall be deposited into the Post Retirement Fund established by §5548 of this Chapter."

Section 3. Amend §8392, Subchapter III, Chapter 83, Title 11, Delaware Code by deleting said Section in its entirety and substituting in lieu thereof a new "§8392," to read as follows:

"§8392. Actuarial Valuations And Appropriations.

(a) The actuary shall prepare an actuarial valuation of the assets and liabilities of the Funds as of June 30, each year. On the basis of reasonable actuarial assumptions and tables approved by the Board, the actuary shall determine the normal cost required to meet the actuarial cost of current service and the unfunded actuarial accrued liability.

(b) The state's appropriation to the Funds for the fiscal year 1994, and for each fiscal year thereafter, shall be the percentage of covered payroll approved by the Board on the basis of the most recent actuarial valuation, and shall equal the sum of the normal cost plus the payment required to implement the provisions of subsection (c) of this section plus the payment required to amortize the unfunded actuarial accrued liability over 40 years from July 1, 1980. The amortization payment shall be an amount computed as a level percentage of the prospective total covered payroll over the remainder of the amortization periods, with such prospective total covered payroll to be determined on the basis of a growth rate of 4% per year, compounded annually. Except as provided in subsection (c) of this section, all funds appropriated pursuant to this subsection shall be deposited into the Fund established by §8393, Subchapter III, Chapter 83, Title 11, of the Delaware Code.

(c) In order to provide a fund for post retirement increases, the state shall include in its annual appropriation payments equal to 2.33% of covered payroll, subject to the limitations contained in §5548 (a)(2), Chapter 55, Title 29, Delaware Code. Beginning with the fiscal year 94 budget, .70% of covered payroll shall be appropriated; in fiscal year 95 1.11% of covered payroll shall be appropriated; in fiscal year 96, 1.52% of covered payroll shall be appropriated; in fiscal year 97, 1.93% of covered payroll shall be appropriated; in fiscal year 98 and each fiscal year thereafter 2.33% of covered payroll shall be appropriated. Funds appropriated to implement this subsection shall be deposited into the Post Retirement Fund established by §5548, Chapter 55, Title 29 of the Delaware Code."

Section 4. Amend §5616, Chapter 56, Title 29, Delaware Code by deleting said section in its entirety and substituting in lieu thereof a new "§5616," to read as follows:

"§5616. Actuarial Valuations And Appropriations.

(a) The actuary shall prepare an actuarial valuation of the assets and liabilities of the Funds as of June 30, each year. On the basis of reasonable actuarial assumptions and tables approved by the Board, the actuary shall determine the normal cost required to meet the actuarial cost of current service and the unfunded actuarial accrued liability.

(b) The state's appropriation to the Funds for the fiscal year 1994, and for each fiscal year thereafter, shall be the percentage of covered payroll approved by the Board on the basis of the most recent actuarial valuation, and shall equal the sum of the normal cost plus the payment required to implement the provisions of Subsection (c) of this section plus the payment required to amortize the unfunded actuarial accrued liability over 40 years from July 1, 1981. The amortization payment shall be an amount computed as a level percentage of the prospective total covered payroll over the remainder of the amortization periods, with such prospective total covered payroll to be determined on the basis of a growth rate of 4% per year, compounded annually. Except as provided in Subsection (c) of this section, all funds appropriated pursuant to this Subsection shall be deposited into the Fund established by §5601, Chapter 56, Title 29 of the Delaware Code.

(c) In order to provide a fund for post retirement increases, the state shall include in its annual appropriation payments equal to 2.33% of covered payroll, subject to the limitations contained in §5548 (a)(2), Chapter 55, Title 29, Delaware Code. Beginning with the fiscal year 94 budget, .70 % of covered payroll shall be appropriated; in fiscal year 95 1.11% of covered payroll shall be appropriated; in fiscal year 96, 1.52% of covered payroll shall be appropriated; in fiscal year 97, 1.93% of covered payroll shall be appropriated; in fiscal year 98 and each fiscal year thereafter 2.33% of covered payroll shall be appropriated. Funds appropriated to implement this Subsection shall be deposited into the Post Retirement Fund established by §5548, Chapter 55, Title 29 of the Delaware Code."

Section 5. This act shall become effective July 1, 1993, provided that appropriations to fund its provisions are included in the fiscal year 94 budget.

Approved July 8, 1993.

CHAPTER 105

FORMERLY

SENATE BILL NO. 230

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 83, TITLE 11 AND CHAPTERS 55 AND 56, TITLE 29, DELAWARE CODE, TO PROVIDE POST-RETIREMENT INCREASES TO PENSIONERS WHO RETIRED ON OR BEFORE JANUARY 1, 1993.

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

Section 1. Amend §5532, Chapter 55, Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof a new §5532 to read as follows:

"§5532. Any monthly service or disability pension which became effective on or before January 1, 1993 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 January 1, 1993 and is payable on the date this subsection is enacted into law shall be increased effective January 1, 1994, by 1% plus an additional 2% for pensions effective prior to January 1, 1990, up to a maximum of 3% plus .15% for each full month of retirement preceding January 1, 1981 up to a maximum of 9%. These increases shall continue to be paid through June 30, 1994 and every Fiscal year thereafter provided that funds are appropriated in accordance with §5544 of this Chapter."

Section 2. The increases provided by this Act shall not apply to pensions awarded under §5527(d), Chapter 55, Title 29, Delaware Code.

Section 3. Amend §5544, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (d) to read as follows:

"(d)(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 of this Chapter shall be the payment required to amortize the unfunded accrued liability over five years from July 1, 1993.

(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 of this Chapter in Fiscal year 1994 shall be the lump sum actuarial liability of the benefits granted."

Section 4. This Act shall become effective on January 1, 1994, provided that there are sufficient funds appropriated in the Fiscal year 1994 Budget Appropriation Act.

Approved July 8, 1993.

CHAPTER 106

FORMERLY

HOUSE BILL NO. 190
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO THE BURNING OF CROSSES OR OTHER RELIGIOUS SYMBOLS.

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

Section 1. Amend Title 11, Delaware Code by adding thereto a new §805 to read as follows:

"§805. Cross or Religious Symbol Burning.

A person is guilty of Cross or Religious Symbol Burning when he burns or causes to be burned any cross or other religious symbol upon any private or public property without the express written consent of the owner of such property and without a minimum of 48 hour advanced notification of the proposed burning to the fireboard or call board of the county in which the burning is to take place.

Cross or Religious Symbol Burning is a Class A misdemeanor"

Approved July 8, 1993.

CHAPTER 107

FORMERLY

HOUSE BILL NO. 209

AN ACT TO AMEND CHAPTERS 6, 11 AND 101 OF TITLE 29 OF THE DELAWARE CODE RELATING TO REGULATIONS AND CERTAIN OTHER GOVERNMENTAL INFORMATION.

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

Section 1. Amend §10161, Title 29, Delaware Code by designating the existing section as subsection (a) thereof and by adding thereto a new subsection to read as follows:

"(b) All agencies which are not listed in subsection (a) of this section shall only be subject to Subchapters I and II of this Chapter and §§10141, 10144 and 10145 of this Chapter."

Section 2. Amend Chapter 101, Title 29, Delaware Code, by striking Subchapter VI thereof in its entirety.

Section 3. Amend §604, Title 29, Delaware Code by striking said section in its entirety.

Section 4. Amend Chapter 11, Title 29, Delaware Code by adding thereto a new Subchapter to read as follows:

"Subchapter III. Agency Regulations

§1131. Legislative Findings.

The General Assembly has conferred on Boards, Commissions, Departments and other agencies of the Executive Branch of State Government the authority to adopt regulations. The General Assembly has found that this delegation of authority has resulted in regulations being promulgated without effective review, or oversight and conformity to legislative intent. The General Assembly finds that they must provide a procedure of oversight and review of regulations pursuant to this delegation of legislative power to curtail excessive regulations and to establish a system of accountability. It is the intent of this Subchapter to establish an effective method of ongoing review, accountability and oversight of regulations to be implemented upon the completion of the requirements of Chapter 101 of this Title. It is further the intent of this Subchapter to provide review by requiring a comment period following the proposal of regulations and requiring the agency to review any comments submitted.

§1132. Definitions

(1) 'Division' means the Division of Research of Legislative Council as established pursuant to this Chapter.

(2) 'Register' means a publication authorized and recognized by law and kept for the recording or registration of facts, documents, regulations, both proposed and promulgated, together with supplemental information required by this Subchapter compiled and periodically published by the Division.

(3) 'Agency' means as defined in §10102 of this Title.

(4) 'Registrar' means an official person in the Division who has the custody or keeping of the register.

(5) 'Substantive' or 'substantive in nature' when used in this Subchapter means when used in connection with proposed regulations, those regulations allowing, requiring or forbidding conduct in which private persons are otherwise free or prohibited to engage in, or regulations which state requirements, other than procedural, for obtaining, retaining or renewing a license or any kind of benefit or recompense.

(6) 'Regulation' means as defined in §10102 of this Title.

§1133. Register of Regulations

The Division shall establish and maintain an official Register of Regulations at the Division. The Register shall consist of copies of all proposed regulations indexed by agency and subject matter with:

- (1) text of proposed regulations or a statement of purpose;
- (2) Source in the agency, telephone number and mailing address of persons in the agency who may be contacted by interested persons;
- (3) place or places where regulations may be inspected or copied;
- (4) Fee or other requirements for obtaining copies of same.

§1134. Powers and Duties of the Registrar in Preparation and Maintenance of the Register.

(a) The Registrar in the course of his or her work of compiling and maintaining the Register shall:

(1) In writing, notify all agencies authorized to make regulations that they are to submit to the Division copies of all proposed regulations as well as all subsequent amendments, repeals, additions or new or proposed regulations as they are proposed and statements of purpose thereof; or

(2) Advise agencies as to the form and style of the regulations, as well as, to the extent practicable, the classification thereof into categories of substance, procedure and organization;

(3) Suggest revisions in form, style and classification for the purpose of any temporary or permanent publication pursuant to this subchapter;

(4) Have authority to publish the full text of some or all of such regulations as are procedural in nature and the full text of selected regulations of a substantive nature for which there is a need for immediate general availability; and

(5) Publish the following month all proposed regulations received by the 15th of the month preceding.

(b) Registrar may include in the register such other governmental information as he or she deems appropriate.

§1135. Duties of State Agencies

(a) Each state agency, after completing the requirements of Subchapter II, Chapter 101 of this Title, which plans to adopt, amend or repeal regulations shall file with the Division the full text and statement of purpose of its proposed regulations. The emergency regulations established pursuant to the provisions of §10119 of this Title shall be filed for publication in the Register, but shall otherwise be exempt from the provisions of this Subchapter.

(b) The opportunity for public comment shall be held open for at least 30 days after the proposal is published in the Register. Said comments shall then be considered by the respective agency at the end of the 30 day comment period. Following the publication of the regulations, 60 days must elapse before the agency may officially promulgate the proposal unless the agency specifies a later date and when the agency decides to promulgate the proposal, the agency must notify the public in the next publication of the Register. In the event an agency makes substantive changes as a result of the public comment period, the agency must re-propose the regulations indicating the substantive changes that were made to the original text. However, if the changes are not substantive, the agency need not be required to re-propose the regulations. Whether changes constitute substantive or nonsubstantive matter shall be determined by the agency head.

(c) Proposed action on regulations may be withdrawn by the proposing agency any time before the final 60 days have elapsed. The proposing agency shall notify the Registrar in writing that such proposed regulations

are being withdrawn and the withdrawal shall be published in the next issue of the Register.

(d) Initially, each agency shall submit to the Division a general description of its organization, its methods of operation, addresses and telephone numbers whereby information may be obtained from the agency. The submission shall include a brief statement of the nature and requirements of all rules of practice and the procedure used by the agency to exercise its statutory authority of promulgating regulations.

§1136. Public Distribution of the Register.

The Division shall cause the Register to be published for public distribution on the first day of each calendar month. The Register shall be made available to the public for inspection and copies provided to any person so requesting same for a nominal fee to be set by the Registrar. The amount to be charged for copies of the Register shall approximate and reasonably reflect all costs necessary to defray the expenses of the Register as well as the proportional expenses incurred by the Division in carrying out the responsibilities of this Subchapter. In addition, copies of the Register shall be provided gratis to the law libraries located within each county, to all public libraries in each county, to the two state daily newspapers and the Director of the Division of Libraries. Any additions and corrections to the Register shall likewise be made available as soon as practicable."

Section 5. Severability of Provisions.

If any provision of this Act or amendments hereto, or the application thereto to any person, thing or circumstances is held invalid, such invalidity shall not affect the provisions or application of this Act or such amendments that can be given effect without the invalid provisions or application, and to this end the provisions of this Act and such amendments are declared to be severable.

Section 6. The provisions of this Act shall become effective January 1, 1994.

Approved July 9, 1993.

CHAPTER 108

FORMERLY

HOUSE BILL NO. 292

AN ACT TO AMEND TITLE 16, DELAWARE CODE RELATING TO NOTIFICATION OF FIRE FIGHTERS, AMBULANCE ATTENDANTS, EMERGENCY MEDICAL TECHNICIANS, CORRECTIONAL OFFICERS, LAW ENFORCEMENT OFFICERS AND OTHER PERSONNEL OF EXPOSURE TO CONTAGIOUS OR INFECTIOUS DISEASE OR VIRUS.

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

Section 1. Amend §1201A, Chapter 12A, Title 16 of the Delaware Code by adding the words ", correctional officer, ambulance attendant" immediately after the word "technicians" as the same appears in subsection (1).

Section 2. Amend §1201A, Chapter 12A, Title 16 of the Delaware Code by striking subsection (2) in its entirety; and by re-numbering each succeeding subsection accordingly.

Section 3. Amend §1202A, Chapter 12A, Title 16 of the Delaware Code by striking subsections (b), (c) and (d), each in its entirety; and by substituting in lieu thereof the following:

"(b) Each employer of an emergency medical care provider, and every organization which supervises volunteer emergency medical care providers, shall designate an officer who shall receive requests for notification from emergency medical care providers; collect facts relating to the circumstances under which the emergency medical provider may have been exposed to a communicable disease; distribute the forms as specified by Section 1202A(c) to receiving medical facilities; report to the emergency medical care provider findings provided by the receiving medical facility; and assist the emergency care provider to take medically appropriate action when necessary. The designated officer shall delegate these duties as may be necessary to ensure compliance with this Chapter.

(c) If an emergency medical care provider desires to be notified under this Chapter, the officer designated pursuant to Section 1202A(b) shall notify the receiving medical facility within 24 hours after the patient is admitted to or treated by the facility, utilizing a form that is prescribed or approved by the State Board of Health."

Section 4. Amend §1203A, Chapter 12A, Title 16 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§1203A. Notification by a Receiving Medical Facility

(a) Each receiving medical facility shall designate an office or individual who shall receive completed forms as specified by Section 1202A(c), and who shall insure compliance with the requirements of this section.

(b) If, within 30 days after a patient is admitted or treated, a receiving medical care facility determines whether or not the emergency medical care provider has been exposed to a communicable disease, the receiving medical facility shall so notify the officer designated pursuant to Section 1202A(b) as soon as possible, but in no case more than 48 hours after that determination. The receiving medical facility shall base this determination upon information provided in the request for notification made pursuant to Section 1202A(c) and patient records or a finding at the facility.

(c) If, after expiration of the 30-day period, the receiving medical facility cannot determine whether or not the emergency medical care provider has been exposed to a communicable disease, the receiving medical facility shall notify the officer designated pursuant to Section 1202A(b) as soon as possible, but not more than 48 hours after expiration of the 30-day period.

(d) If a request for notification has been made pursuant to Section 1202A(c), the receiving medical facility shall provide to the Division a copy of the form which shall include information about whether or not the patient is infected with a communicable disease; and if exposure to the patient is

considered by the receiving medical facility to be in a manner known to transmit that communicable disease. The Division shall settle any disputes regarding whether or not an emergency medical care provider has or has not been exposed to a communicable disease."

Section 5. Amend §1205A, Chapter 12A, Title 16 of the Delaware Code by adding thereto a new paragraph, which shall read as follows:

"The Board of Health may issue regulations necessary to ensure compliance with this Chapter relating to patients who are transferred between institutions, or who may die during or shortly after being transferred. The Board of Health shall require emergency medical care facilities to notify the officer designated pursuant to Section 1202A(b) when an emergency care provider has been exposed to a communicable disease identified by the Board of Health to be transmitted through the air, even if a request for notification has not been made pursuant to Section 1202A(c)."

Section 6. Amend §1207A, Chapter 12A, Title 16 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§1207A. Confidentiality

All information contained in requests for notification and in the notification itself shall be confidential and used solely for the purposes of complying with this Chapter. However, any person or agency, including but not limited to a receiving medical care facility or officer designated pursuant to Section 1202A(b), acting in good faith to provide notification in accordance with this Chapter, shall not be liable in any cause of action related to the breach of patient confidentiality."

Section 7. Amend §1208A, Chapter 12A, Title 16 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§1208A. Failure to provide notice

A receiving medical care facility or officer designated pursuant to Section 1202A(b), acting in good faith to provide notification in accordance with this Chapter, shall not be liable in any cause of action for failure to give the required notice if the emergency medical care provider fails to properly initiate the notification procedures pursuant to Section 1202A of this title."

Section 8. Amend Chapter 12A, Part II, Title 16 of the Delaware Code by adding thereto a new section, designated as §1209A; which new section shall read as follows:

"§1209A. Minors

The provisions of this Chapter shall apply in the same manner and to the same extent to any emergency medical care provider who is a minor and above the age of 15, as if such minor were 21 years or older."

Approved July 8, 1993.

CHAPTER 109

FORMERLY

SENATE BILL NO. 46

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

AN ACT TO AMEND CHAPTERS 15, 37, AND 39 OF TITLE 12, DELAWARE CODE, BY REPEALING CHAPTER 37 IN ITS ENTIRETY AND BY ENACTING CERTAIN LAWS RELATING TO THE APPOINTMENT OF GUARDIANS FOR DISABLED PERSONS.

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

Section 1. Amend Title 12, Chapter 37, of the Delaware Code by repealing Chapter 37 in its entirety. All powers, duties and functions of trustees for mentally ill persons appointed pursuant to Chapter 37 as trustees prior to the effective date of this Act henceforth shall be performed by such trustees pursuant to the provisions of Title 12, Chapter 39 of the Delaware Code relating to guardians for disabled persons.

Section 2. Amend Title 12, Chapter 39, of the Delaware Code by striking Chapter 39 in its entirety and inserting in lieu thereof a new Chapter 39 to read as follows:

"CHAPTER 39. GUARDIANSHIP

§3901. Jurisdiction to Appoint Guardians for Disabled Persons.

(a) The Court of Chancery shall have the power to appoint guardians for the person or property, or both, of any disabled person resident of this State, a guardian of the Delaware property of any nonresident disabled person owning property located in this State, and a guardian of the person of any nonresident disabled person brought into this State for care. 'Disabled person' means any person who:

(1) by reason of being under the age of eighteen (18) is legally unable to manage his property or make decisions concerning the care of his person; or

(2) by reason of mental or physical incapacity is unable properly to manage or care for his person or property, or both, and, in consequence thereof, is in danger of dissipating or losing such property or of becoming the victim of designing persons or, in the case where a guardian of the person is sought, such person is in danger of substantially endangering his health, or of becoming subject to abuse by other persons or of becoming the victim of designing persons; or

(3) by reason of 16 Del. C. §5703(1) or (2) is deemed legally incapable of giving informed consent to sterilization.

(b) The Court of Chancery shall establish rules concerning the filing of petitions for appointment of guardians.

(c) Upon the filing of such petition, the Court shall enter an order fixing a time and place for a hearing thereon. The Court shall by rule provide for reasonable notice to the allegedly disabled person and to such others, if any, as the Court may deem desirable; provided that, in all cases where a guardian of the person or guardian of the property of an adult disabled person is sought, the allegedly disabled person shall be entitled to representation by counsel.

(d) If, upon the filing of a petition, the Court finds the allegedly disabled person is in danger of incurring imminent serious physical harm or substantial economic loss or expense the Court may without notice and hearing appoint an interim guardian of the person or property to serve for a period of up to 30 days; provided that a hearing shall be held within 30 days of such appointment in accordance with §3901(c). The guardian so appointed shall have all of the powers and duties granted to guardians in Subchapter II of this Chapter.

(e) After determining at a hearing (or, for a period of up to 30 days, after determining without a hearing in the case of a disabled person who is

in danger of incurring imminent serious economic loss or expense) that an individual is a disabled person within the meaning of this Section, the Court shall have the same powers of control over the disabled person's estate which the disabled person could exercise if not incapacitated, except the power to make a will. In exercising these powers the Court shall substitute its judgment for that of the disabled person to order relief from the incapacity or incapacities which the Court has found. In substituting its judgment, the Court shall act toward the property of the disabled person as it believes to be in the best interest of the disabled person and his estate. The powers of the Court over the property of the disabled person are plenary and include, but are not limited to, powers to make gifts and charitable contributions; to convey or release any contingent or expectant interest in property including marital property rights and any right of survivorship incident to joint tenancy or tenants by the entirety; to exercise or release his power as trustee, personal representative, custodian for minor, conservator, or as donee of a power of appointment; to enter into contracts; to create revocable or irrevocable trusts of property of the estate, which may extend beyond his incapacity or life; to exercise or grant options of the incapacitated person to purchase securities or other property; to exercise his right to select options; to cause his estate to become the beneficiary under insurance and annuity policies or to surrender such policies for their cash value; to exercise his right to an elective share in the estate of his deceased spouse and to renounce or disclaim any interest receivable by testate or intestate succession or by inter vivos transfer.

(f) After hearing or, for a period of up to 30 days, after determining without a hearing in the case of a disabled person who is in danger of incurring imminent serious physical harm and upon determining that a basis for appointment of a guardian of the person exists, the Court shall have the same powers, rights and duties respecting the disabled person that a parent has respecting his child, including the right to approve or reject medical treatment. In exercising these powers, the Court shall act in the best interest of the disabled person.

(g) The Court shall have the power to grant certificates of guardianship of the property and certified copies of orders terminating the guardianship, both of which may be filed or recorded to give record notice of the authority of the guardian, subject to general statutory requirements governing the filing or recording of documents of title to land or other property.

(h) From the time of the Court's decree appointing a guardian of the property, the disabled person shall be under disability to contract with regard to the property forming the subject matter of the guardianship during the pendency thereof.

(i) Whenever there is no Chancellor or Vice Chancellor available to exercise the powers conferred by subsection (d) of this Section, any Judge of the Superior Court may exercise such powers.

(j) Nothing in this Section shall be construed to mean an adult is infirm or incapacitated or in need of a guardian for the sole reason he relies upon, or is being furnished with, treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, nor shall anything in this Section be construed to authorize or require any medical care or treatment over the implied or express objections of said person.

§3902. Appointment of Guardian: Choice by Minor over 14 Years of Age: Guardian ad Litem.

(a) Except in accordance with §925(15), Title 10 and §3904 of this Chapter, no person shall have any right or authority as guardian of a disabled person unless he has been duly appointed by the Court of Chancery or admitted by a court of law or equity to defend a suit as guardian ad litem.

(b) The sole surviving parent of a minor child may, by written declaration or last will, name a guardian of the person or property or both of his or her child, who shall be appointed if there is no just cause to the contrary. Any parent may by written declaration or will name a

guardian as to the property which his or her child may inherit from any person, who shall be appointed if there is no just cause to the contrary.

(c) When there is no designation of guardian by written declaration or last will of the minor's sole surviving parent, or there is just cause for not appointing the guardian so designated, a minor 14 years of age or over and resident in this State may choose a guardian and the Court, if there is no just cause to the contrary, shall appoint the person chosen.

(d) When there is no designation of guardian by written declaration or last will of the minor's sole surviving parent, or there is just cause for not appointing the guardian so designated, and a minor is under the age of 14 years, or is resident out of the State or neglects to choose a proper guardian, the Court may appoint a guardian according to its discretion.

(e) When a guardian is appointed for a minor under 14 years of age, unless such appointment is according to a written declaration or the last will of a minor's sole surviving parent, if the minor, after arriving at the age of 14 years, chooses another person for a guardian, the Court shall appoint the person so chosen, if there is no just cause to the contrary and the preceding guardianship shall be thereby superseded.

§3903. Separate Guardian of the Person and Property.

The Court of Chancery may appoint 2 or more persons as guardians of the disabled person, one or more to have the care of the person of the disabled person and the other(s) to have possession and management of the property of the disabled person with all the rights and powers and subject to all the duties respecting the property of the disabled person, or the Court may appoint 1 person guardian with all the rights and powers and subject to all the duties respecting both the person and property of the disabled person.

§3904. Foreign Guardians of Nonresidents

(a) When no guardianship of the property proceeding is pending in this State, a guardian, conservator, committee or other similar fiduciary, appointed by an appropriate court of another jurisdiction to manage the property of a disabled person who is a resident of that jurisdiction may, subject to the provisions of subsection (c), exercise in this State all powers of his office, including the power to sell, purchase or mortgage real estate in the State; collect, receipt for, and take possession of money due, tangible personal property, or an instrument evidencing a debt, obligation, stock or chose in action located in this State and remove it to the other jurisdiction.

(b) When no guardianship of the person proceeding is pending in this State, a guardian of the person, or other like fiduciary, appointed by an appropriate court of another jurisdiction to care for the person of a disabled person who is a resident of that jurisdiction, whenever such disabled person is brought into the state for care and maintenance, such foreign fiduciary may, subject to the provisions of subsection (c), exercise all powers granted to him by the other jurisdiction for the care and protection of the person of such nonresident disabled person.

(c) A foreign guardian shall not be entitled to exercise the powers set forth in subsections (a) and (b) of this Section until he has filed for record in the Office of the Register in Chancery in any county of this State a certificate of his appointment from the other jurisdiction. Upon filing the certificate of appointment, the guardian will be authorized to petition the Court of Chancery of this State pursuant to court Rule 178 to exercise powers not granted by Subchapter II of this Chapter 39 upon the giving of such security as the Court of Chancery of this State may order. Upon authorization, such foreign fiduciary shall account to the Court at such times as would a fiduciary for a resident of this State appointed under this Chapter, and in the case of guardians of the property shall be issued a certificate in accordance with §3901 of this Chapter.

(d) Whenever it appears to the satisfaction of the Court of Chancery of this State that the disabled person is then a nonresident and the property in this State belonging to any such nonresident disabled person has been removed to the state wherein such fiduciary was duly appointed and has been accounted for by him according to the laws of the State wherein

such fiduciary was duly appointed, the Court of Chancery may relieve such fiduciary from further accounting before the Court.

§3905. Guardian's Bond; Requirement; Form and Entry.

(a) Every person appointed guardian shall, unless bond and/or surety is dispensed with by the Court, become bound, with surety, to the disabled person in a penal sum to be fixed by the Court, by a joint and several obligation, to be, with the security, approved by the Court, with condition that if the guardian or his executors or administrators duly renders according to law just and true accounts of the guardianship and if the guardian, his executors or administrators, upon the termination of the guardianship, shall deliver and pay to the disabled person, his executors or administrators all the property belonging to the disabled person in the possession of the guardian and all that shall be due to the disabled person from the guardian and, if the guardian shall have in all things faithfully performed and fulfilled his duties as guardian, then the obligation shall be void.

(b) Unless bond shall be dispensed with by the Court, no certificate of guardianship shall be issued by the Register in Chancery until such bond conforming to the order of court is given and added to the guardianship docket.

(c) The Court may, at any time for good cause, waive the requirements of bond and/or surety, or reduce surety in any case where bond is required.

(d) In all cases where a public agency is the petitioner and where, in the opinion of the Court of Chancery, the resources and estate of the person for whose property a guardian is sought are insufficient to warrant the payment of costs and fees, the Court of Chancery may by order provide that the guardian so appointed need not give bond either with or without surety as otherwise required by law and may further provide that in such cases all costs and fees shall be waived.

§3906. Guardian's Bond; Additional Security; Removal for Noncompliance.

If it appears in any case that the guardian's bond is insufficient, the Court of Chancery shall order the guardian to give further security and, if such order is not complied with, shall remove him from office. Further security shall be taken in the same form as original security.

§3907. Counter Security Upon Petition of Surety.

The Court of Chancery shall, on the petition of the surety of an executor, administrator or guardian, and proof that he is in danger of suffering injury or loss from such suretyship, order such executor, administrator or guardian to give the petitioner sufficient counter security to be approved by the Court and if he neglects to obey such order, the Court may remove him from office and order him to pay and deliver all the money, effects and estate in his hands as such executor, administrator or guardian to another guardian or to a receiver appointed by the Court and may enforce obedience to such order.

§3908. Removal, Resignation or Death of Guardian.

(a) The Court of Chancery may remove a guardian for any sufficient cause. A guardian may, on his petition, be allowed to resign when it appears to the Court proper to allow the same. On every such removal or resignation and also on the death of any guardian the Court may appoint a successor guardian.

(b) The Court shall direct the guardian so resigning or removed to render a full account of the guardianship before the Court and may order him to pay and deliver all the money, effects and estate in his hands as such guardian to his successor or to a receiver appointed by the Court, to the formerly disabled person, or to his personal representative and may enforce such orders. The Court may also order suit to be brought on the guardian's bond, which suit may be prosecuted in the disabled person's name by next friend or guardian and it shall in no way affect or impair the right of excepting to the guardian's accounts.

§3909. Term of Guardianship.

(a) If the only allegation of disability in the petition for appointment of a guardian was that the person was a minor, unless terminated earlier by the Court upon application of the guardian, the minor or other interested party, or by the death of the minor, the guardianship of such minor shall terminate automatically when the minor attains the age of 18 years.

(b) The automatic termination of the guardianship of the property of any minor shall not relieve the guardian of any duty to account. The guardian may be released by the Court of Chancery upon application of the guardian or the former minor.

(c) The guardianship of the person or property, or both, of any person disabled for reasons other than minority shall continue until the death of the disabled person or until terminated by the Court of Chancery upon application of the guardian, the disabled person, or any other interested party.

§3910. Receiver for Property of Minor: Appointment, Powers, Accounting and Bond.

(a) If a minor has real or personal property and no guardian, the Court of Chancery may appoint a receiver to take charge of such property during its pleasure and may make such regulations touching this matter, as are deemed proper. The Court may enforce any order made upon a receiver.

(b) The receiver shall be required to account annually or oftener and shall deposit any balance, appearing in his hands, to be invested or otherwise disposed of for the minor's benefit.

(c) A receiver, appointed under this Section, shall become bound, with sufficient surety, to the State in a joint and several obligation, to be approved by the Court, with condition, in substance, to account for all money, effects and estate which shall come to his hands pursuant to his appointment and to pay and deliver the same as the Court orders and to well and faithfully execute the trusts and duties of his office of receiver.

Subchapter II. Powers and Duties of Guardian

§3921. Powers and Duties of Guardian: General.

(a) A guardian shall have either the care of the disabled person's person or the possession and management of all the disabled person's real and personal property or both the care of the person and the possession and management of the property, except to the extent the Court of Chancery may otherwise direct.

(b) Every guardian of the property shall file with the Court within 30 days after appointment a verified inventory of the disabled person's property with respect to which the guardian acts. Said inventory shall include the fair market value of all property of which the guardian has knowledge after diligent inquiry. If, after filing an inventory, a guardian shall acquire or discover other such property not described therein, except property received from the executor to be paid by a trustee pursuant to 12 Del. C. §3525, the guardian shall file a verified supplemental inventory describing such property within 30 days after acquiring or discovering such property.

(c) The guardian of the property shall, in the name of the disabled person, do whatever is necessary for the care, preservation and increase of the disabled person's property, and shall invest the property in accordance with Chapter 33 of this Title, unless investments are restricted by the Court.

(d) The guardian may petition the Court for instructions concerning his fiduciary responsibility.

(e) The guardian may employ, retain or consult accountants, investment counsel, attorneys-at-law, and other professional advisers and pay their reasonable fees and expenses.

§3922. General Powers and Duties of the Guardian of the Person.

(a) The Court shall grant to the guardian of the person such powers, rights and duties which are necessary to protect, manage and care for the disabled person. The Court may at any time change the powers of the guardian of the person.

(b) The guardian of the person may exercise the same powers, rights and duties respecting the care, maintenance and treatment of the disabled person that a parent has respecting his unemancipated minor child, except that the guardian of the person is not liable to third persons for acts of the disabled person solely by reason of the guardianship relationship. Except as modified by the order of guardianship and without qualifying the foregoing, a guardian of the person has the following powers and duties:

(1) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the disabled person, the guardian is entitled to custody of the disabled person and may establish the disabled person's place of abode within or without this state. The guardian may not waive any right of the disabled person respecting involuntary commitment to any facility for the treatment of mental illness or deficiency.

(2) If entitled to custody of the disabled person, the guardian shall make provision for the care, comfort, and maintenance of the disabled person and, if appropriate, arrange for the disabled person's training and education. Without regard to custodial rights of the disabled person, the guardian shall take reasonable care of the disabled person's clothing, furniture, vehicle and other personal effects in the immediate possession of the disabled person and commence guardianship of the property proceedings if other property of the disabled person is in need of protection.

(3) The guardian may give such consent or approval as may be necessary to enable the disabled person to receive medical or other professional care, counsel, treatment or service and shall have power to authorize release of medical records. The guardian shall not unreasonably withhold such consent or approval nor withhold such consent or approval on account of personal beliefs held by the guardian or the disabled person, but shall take such action as he objectively believes to be in the best interest of the disabled person.

(c) A guardian of the person of a disabled person for whom a guardian of the property also has been appointed shall control the custody and care of the disabled person and is entitled to receive reasonable compensation for his services and for room and board furnished to the disabled person as approved by the Court. Compensation of the public guardian shall be governed by 12 Del. C. §3991. The guardian of the person may request the guardian of the property to make payment to third parties or institutions for the disabled person's care and maintenance.

(d) The guardian of the person shall not be required to expend his own money for the support or care of the disabled person.

§3923. Powers of the Guardian of the Property

(a) The Court may limit the power of the guardian of the property as conferred on him herein, or may confer any additional power which the Court itself could exercise under §3901.

(b) The Court may, at the time of the appointment of the guardian of the property, or later, transfer custodial control over all the estate of the disabled person to such guardian or the Court may transfer only certain specified assets of the estate of the disabled person to the guardian of the property for protection.

(c) Unless restricted by the Court, a guardian of the property has power without Court authority or confirmation to invest and reinvest personal property of the estate as provided by Chapter 33 of this Title governing fiduciary relationships.

(d) Except as modified by the order of guardianship, the guardian of the property may act without Court authorization or confirmation to reasonably accomplish the purpose for which he is appointed to:

(1) Collect, hold, and retain assets in the estate until, in his judgment, disposition of the assets should be made. Assets may be retained even though they include an asset in which the guardian is personally interested;

(2) Receive additions to the estate;

(3) Invest and reinvest estate assets in accordance with subsection (c);

(4) Deposit estate funds in a bank, including a bank operated by the guardian of the property;

(5) Sell or exercise stock, subscription or conversion rights or consent directly or through a committee or other agent to the reorganization, consolidation, merger, dissolution or liquidation of a corporation or other business enterprise;

(6) Vote directly or by proxy in any election or stockholder's meeting any share of stock in the estate including power to vote shares issued by the guardian of the property;

(7) Insure the assets of the estate against damage or loss and the guardian against liability with respect to third persons;

(8) Pay taxes, assessments, compensation of the guardian and other expenses incurred in the collection, care, administration and protection of the estate;

(9) Make payment for ordinary repairs to a dwelling owned by the disabled person and to the furniture and appliances therein;

(10) Allocate items of income or expenses to either estate income or principal as provided by law;

(11) Prosecute, defend, compromise or settle actions, claims or proceedings in any jurisdiction for the protection of estate assets;

(12) Execute and deliver all instruments which will accomplish or facilitate the exercise of powers vested in the guardian; and

(13) Hold a security in the name of the nominee or other forms without disclosure of guardianships so that title to the security may pass by delivery, but the guardian is liable for any acts of the nominee in connection with the stock so held.

(e) The guardian of the property may, without court authorization or confirmation, pay or apply income or principal from the estate as needed for the clothing, support, care, protection, welfare and rehabilitation of the disabled person, as requested by the disabled person or the guardian of the person, if any. In exercising this power, the guardian of the property shall consider the cost of support and care of the disabled person for the expected life of the disabled person and the needs of any persons dependent upon the disabled person as may be reasonably anticipated.

(f) The guardian of the property shall not be required to expend his own money for the support or care of the property or person.

§3924. Estoppel to Dispute Disabled Person's Right to Property.

Neither a guardian nor the representatives of the guardian shall dispute the disabled person's right to any property which comes to the guardian's possession unless such property has been recovered from him or there is a personal action pending on account of it.

§3925. Transfer by Guardian of Corporate Securities.

Upon the transfer by a guardian of a disabled person of the stocks, bonds or other securities of any corporation, the certificate of the Register in Chancery in which such guardian was appointed, or other proper public official, shall be sufficient authority to the officers of such corporation to transfer or reissue such stocks, bonds or other securities to such person as such guardian may in writing direct.

§3926. Exercise of Rights Belonging to a Disabled Person.

No person dealing with the receiver of a minor or with a guardian of a disabled person shall be entitled to rely on the authority of such receiver or guardian to (a) release claims; (b) settle tort claims; or (c) convey title to real property without prior court approval of such act.

Subchapter III. Accounting and Settlement

§3941. Guardian's duty to account.

(a) A guardian of the property shall fully account, in accordance with this Subchapter III of this chapter, for all the money, effects and property of the disabled person which he has received, but a guardian of the person shall have no duty to account or otherwise report to the Court, except as provided by order of the Court.

(b) The personal representative of a guardian who dies in office shall, upon appointment as personal representative, advise the Court of Chancery and the next of kin of the disabled person of the death of the guardian and thereafter assume the duties of the guardian until a successor guardian is appointed. The personal representative shall file a petition for the appointment of an appropriate successor guardian within 60 days of being appointed personal representative if no other interested party has filed such a petition. The personal representative shall render to the Court an account of the decedent's guardianship (including such period of time the personal representative performed the duties of the guardian prior to appointment of a successor guardian) within three months of the grant of letters testamentary or letters of administration.

§3942. Filing, Adjusting and Settling Guardian's Accounts.

All guardians' accounts shall be filed with and be adjusted and settled by the Court of Chancery by which such guardians were appointed.

§3943. Time of Filing Guardian's Accounts.

Every guardian of the property shall render an account of the guardianship at the end of 1 year from his appointment and afterwards as the Court of Chancery in which such guardian was appointed requires, but not more often than once in 2 years, unless there is a special occasion.

§3944. Failure to File Account: Extension of Time for Filing.

(a) If a guardian fails to account at the end of a year, the Court shall cite him to appear, for that purpose, at such day as shall be appointed and shall enforce obedience by attachment for contempt and imprisonment, but the Court may, for cause, extend the time, not to exceed 6 months.

(b) The Court may order guardians to render accounts and enforce obedience by attachment for contempt and imprisonment.

§3945. Appeals from Orders Adjusting and Settling Guardian's Accounts.

Appeals from orders of the Court of Chancery adjusting or settling guardian's accounts shall be received, heard and determined by the Supreme Court.

§3946. Settlement with Ward at Termination of Guardianship.

The Court of Chancery may order that any property in the guardian's possession, as such, at the close of the guardianship, shall be delivered

to the formerly disabled person or his representatives and enforce obedience to such order.

§3947. Absence of Disabled Person from State; Settlement of Account.

(a) If in any case a guardian of the property shall not be able to settle with and pay to the disabled person, on the termination of the guardianship, the money due from the guardian to the disabled person, in consequence of the absence of the disabled person from this State and the place of the disabled person's residence being unknown to the guardian, the guardian may settle and pay the money into the Court of Chancery for the county in which he was appointed such guardian.

(b) The Court in which such settlement and payment shall be made shall invest the money for the use and benefit of the disabled person.

(c) Upon payment of the money into Court the guardian and his surety or sureties shall be discharged from all liability for or on account of the money so paid into Court and of any interest thereon from the date of the payment into Court.

Subchapter IV. Sale of Disabled Person's Real Estate

§3951. Sale of Disabled Person's Real Estate.

(a) If it appears to the Court of Chancery that it is proper to sell any real estate of a disabled person, whether the real estate is held in severalty, joint tenancy, coparcenary or in common or in possession, reversion or remainder or any part of it, the Court may order it to be sold by the guardian of the property or by a trustee to be appointed for that purpose.

(b) On any application for such sale the Court may require an appraisal of the property by an independent qualified appraiser of real estate.

(c) Upon any such sale, the guardian or trustee shall make a deed to the purchaser which shall convey as full a title to the land as the disabled person had at the time of sale.

(d) The Court may order that the real estate be sold clear and discharged of any lien or incumbrance thereon at the time of sale created by or recovered against the disabled person and in such case the Court shall direct in the order of sale that reasonable notice of the sale be given to the holders of such lien or incumbrance by newspaper advertisement or otherwise. The lien or incumbrance shall, without change of priority, be transferred to the proceeds of sale.

§3952. Trustee's Bond.

If a trustee is appointed to sell the disabled person's real estate, the trustee may be required to give security in such sum as the Court directs.

Section 3953. Sale on Credit; Security for Purchase Price.

In any order granted by the Court of Chancery for the sale of real estate owned by a disabled person, the Court may direct such sale to be made upon credit, either as to the whole or part of the purchase money, the payment of the purchase money to be at such time or times and to be secured in such manner as the Court by the order of sale or otherwise prescribes. The Court may order and direct all such acts and proceedings touching the premises as it deems necessary to better effectuate the object of this section.

§3954. Proceeds of Sale; Payment.

The proceeds of the sale shall be personal property. Such proceeds, after deducting all expenses allowed by the Court, may be ordered to be paid to the guardian of the property to be accounted for as personal property of the disabled person in the regular course of the guardianship or such proceeds may be ordered to be deposited in a bank to the credit of

the disabled person, to be invested, loaned or disposed of for the disabled person's benefit.

§3955. Guardian's Bond.

(a) When the proceeds shall be ordered to be paid to or shall otherwise come to the hands of a guardian they shall be within the condition of the guardian's bond and the guardian and his sureties, both in the original bond and in any additional bond which may be taken, shall be liable for the proceeds in the same manner as for other property of the disabled person.

(b) In every case of the sale of a disabled person's real estate and in every case where the guardian's liability is or may be increased, the Court of Chancery may require the guardian to give such additional security as may be deemed necessary, by obligation, with surety or sureties, in the same manner and form as original security.

Subchapter V. Investment by Court of Chancery of Fund of Minors.

§3971. Investment Power of Court of Chancery: General Requirements.

(a) The Court of Chancery shall have control of money paid into Court to the credit of any minor who cannot be located, and may invest such money in bank deposits as the Court shall approve, and may change, renew, extend, call in or collect any such investment.

(b) The investment shall be in the name of the minor or minors entitled to the money, either personally or by designation as children, legatees, heirs or representatives of another and the Court may, at any time, apportion and divide the same among them.

(c) At such time as the minor for whom money is held or invested under this subchapter is located, the Court may direct the evidence of such investments to be delivered to the former minor, the guardian of the property of the minor, or in case of death of the minor, to his executors or administrators and may by order direct the bank to pay to the person entitled or to his agent or representative the evidences of ownership of the money. Such order shall vest in such person full power over such investment or all unpaid interest which may have accrued thereon.

Subchapter VI. Public Guardian

§3991. Office Established: Appointment: Term: Salary: Bond.

There is established the office of the Public Guardian. The Chancellor shall appoint the Public Guardian, who shall serve at his pleasure. The salary of the Public Guardian shall be set by the General Assembly, to be paid from the General Fund. The Chancellor, in his discretion, may require the Public Guardian to post bond.

§3992. Powers and Duties.

The Public Guardian, when appointed as guardian by Court order, shall serve as a guardian of the person or property, or both, of persons who are disabled for reasons other than minority.

§3993. Allocation of Costs.

(a) If a Public Guardian has been appointed guardian of the person or of the property, administrative costs and all costs incurred in the appointment procedure shall not be charged against the income or estate of the disabled person. However, if at any time the Court determines that the income or the estate of the disabled person can support the payment of any part of those costs, the Court may enter an order charging that part of the payment of cost against the income or the estate.

(b) If a Public Guardian has been appointed guardian of the person or of the property, all administrative costs and all costs incurred in the appointment procedure shall be paid initially from the General Fund. If the Court enters an order charging any part of those costs against the

income or estate of the disabled person, the Public Guardian shall reimburse the General Fund from the income or estate.

§3994. Court Costs.

In any proceeding for appointment of a Public Guardian, or in any proceeding involving the estate of a disabled person for whom a Public Guardian has been appointed guardian of the person or of the property, the Court may waive any court costs or filing fees.

§3995. Staff: Budgeting and Finance.

(a) The Public Guardian may appoint subordinates to assist in carrying out the purposes of this subchapter. Subordinates shall include, but not be limited to, such nonprofit organizations as the Public Guardian shall deem to be qualified in carrying out the duties as a subordinate guardian.

(b) The Public Guardian shall prepare an annual fiscal budget for the operation of the office of Public Guardian for the consideration of the General Assembly. The office of Public Guardian shall be operated within limitation of the annual appropriation and any other funds appropriated by the General Assembly or designated for that purpose from the estate of the disabled person by the Court. Special funds may be used in accordance with approved programs, grants and appropriations.

§3996. Periodic Review.

Beginning 6 months from the date of any guardianship order, the Court shall review the case and status of such person every 6 months thereafter to determine whether or not such guardianship should be continued.

§3997. Annual Report.

The Public Guardian shall make an annual report to the Chancellor and the General Assembly of the operations of the office, and render such other reports as the Chancellor or General Assembly may from time to time request or as may be required by law."

Section 3. Amend Title 12, Chapter 15, of the Delaware Code by adding a new section 1510 to read as follows:

§1510. Personal Representatives of Deceased Guardians.

"Upon appointment, every executor or administrator of the estate of a guardian who dies in office shall notify the Court of Chancery of the guardian's death and thereafter perform the duties of the guardian as specified in section 3941 of this title."

Section 4. The Act with respect to Chapter 39 of Title 12 shall apply to all trusts and guardianships created under former chapters 37 or 39 existing as of the enactment of this Act and to all guardianships created on or after enactment of this Act.

Approved July 8, 1993.

CHAPTER 110

FORMERLY

SENATE BILL NO. 186
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO THEFT OF RENTAL PROPERTY.

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

Section 1. Amend Title 11, Delaware Code by adding thereto a new Section 849 to read as follows:

"§849. Theft of Rented Property

(a) A person is guilty of theft of rental property if the person in any wrongful manner intentionally, fraudulently or by false pretenses takes, destroys, converts, wrongfully withholds or appropriates personal property leased, rented or entrusted to said person.

(b) If the finder of fact shall find: (1) that one who has leased or rented the personal property of another failed to return or make arrangements acceptable to the rentor (lessor) to return the property to the rentor or his agent within ten (10) days after proper notice following the expiration of the rental (lease) contract, and/or (2) that the rentee (lessee) presented identification to the rentor which was materially false, fictitious or not current with respect to name, address, place of employment or other appropriate items, then the finder of fact shall be permitted, but not required, to presume intent to commit theft.

(c) As used in subsection (b) above, "proper notice" shall consist of a written demand by the rentor made after the expiration of the rental period mailed by certified or registered mail to the rentee at: (1) the address he gave when he made the rental contract, or (2) his last known address if later furnished in writing by the rentee or his agent.

(d) The reasonable and fair market value of the property obtained shall be utilized in determining the amount involved in the theft.

(e) The following three (3) factors, if established by the rentee by a preponderance of the evidence, shall constitute an affirmative defense to prosecution for theft, that the rentee: (1) accurately stated his name, address, and other material items of identification at the time of the rental (2) failed to receive the rentor's notice personally due in no significant part to the fault of the rentee; and (3) or his agent, returned the personal property to the rentor or his agent within forty-eight (48) hours of the commencement of the prosecution, together with any charges for the overdue period and the value of damages (if any) to the property.

Theft of Rented Property is a Class A misdemeanor, unless the value of the property is \$500.00 or more, in which case it is a Class G felony."

Approved July 8, 1993.

CHAPTER 111

FORMERLY

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

AN ACT TO AMEND CHAPTERS 1 AND 4, TITLE 18 OF THE DELAWARE CODE RELATING TO THE DELAWARE INSURANCE AUTHORITY.

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

Section 1. Amend Title 18, Delaware Code, Chapter 4, Section 401, by striking Section 401 in its entirety and inserting in lieu thereof the following:

"(a) The Insurance Commissioner shall ascertain whether:

(1) Delaware counties, municipalities, school districts, parking authorities, and other instrumentalities and political subdivisions of the State of Delaware are finding liability and other insurance prohibitively expensive or impossible to obtain at any price.

(2) Certain private occupational groups and types of enterprise are suffering from the same prohibitive cost or unavailability of liability and other insurance.

(3) The uneconomic price or unavailability of insurance coverage for public or private risks exposes public bodies or private persons to catastrophic loss to the extent that the ability of governmental units to render services or the ability of private persons to function is severely impaired, to the grave detriment of the safety, economic stability and utility of public bodies and private persons.

(4) The problems arising from the conditions found above may be alleviated by the adoption of self-insurance joint insurance funds and an excess insurance pool.

(b) If the Commissioner finds in the affirmative pursuant to subsection (a) of this section, the Commissioner shall be authorized to activate the Authority provided under Section 403 of this Chapter, subject to the appropriation of adequate funds by the General Assembly.

(c) The Delaware Insurance Authority, by resolution duly adopted by a majority of the members of the Board, shall ascertain and certify to the Insurance Commissioner and the General Assembly on or before March 1 of each year whether the conditions justifying the affirmative findings under subsection (a) pertain. If no such certification is made, or if the certification is rejected by the General Assembly, the General Assembly shall direct the Insurance Commissioner to exercise the authority, as is appropriate, under Section 404(k), 405(l), or 406(l) of this Title. If the Insurance Commissioner rejects the certification by the Delaware Insurance Authority Board, the General Assembly may direct the Insurance Commissioner to exercise such authority, as is appropriated under Section 404(k), 405(l), 406(l) of this title.

(d) Any certification by the Delaware Insurance Authority Board pursuant to subsection (c) above shall be supported by the following:

(1) An independent market and actuarial analysis to determine the existence of the conditions listed in subsection (a) of this section. The analysis procedure shall be developed by the Board of the Delaware Insurance Authority and subject to the approval of the Insurance Commissioner; and

(2) Affidavits of five or more employers

(i) qualifying under section 404 of this Title, or

(ii) qualifying under section 405 of this Title. Such affidavits shall affirm the intent of the employer to purchase insurance from either the Public Entity fund or the Private Entity Fund.

(3) The Commissioner shall promulgate regulations governing the form and content of the affidavit."

Section 2. Amend Title 18, Delaware Code, Chapter 1, Section 104(a) by striking paragraphs (4), (5), and (6) and by striking Section 104(b).

Section 3. Amend Title 18, Delaware Code, chapter 4, Section 403 by adding the following at the end of said section:

"(o) Notwithstanding any other law, the provisions of Title 18, Chapter 5 and the requirements imposed through Section 507 of that chapter shall govern the formation and operation of entities authorized by Title 18, Chapter 4.

(p) To the extent those entities authorized by Title 18, chapter 4, Sections 404, 405, and 406 provide self-insurance, those entities shall be subject to the requirements imposed on group self-insurance by the group self-insurance model statute promulgated by the National Association of Insurance Commissioners.

(q) The Insurance Commissioner is hereby authorized to promulgate regulations embodying requirements necessary for conforming the operation of those entities authorized by Section 404, 405, and 406 to the requirements imposed by Title 18, Chapter 5, by Section 507 of that chapter."

Section 4. Amend Title 18, Delaware Code, Chapter 4 by adding thereto a new Section 420:

"The Delaware Insurance Authority and those entities authorized by Title 18, Chapter 4, Sections 404, 405, and 406 shall be governed by this chapter and the following chapters of this title:

Chapters 1, 3, 5, 9, 11, 13, 23, 25, 27, 39, 41, 47 and 59.

Section 5. Amend Title 18, Delaware Code, chapter 4, Section 404(k) by adding thereto a new paragraph 5:

"(5) A determination by the Commissioner that the conditions under which an affirmative finding was made under Section 401 of this Chapter no longer exist."

Section 6. Amend Title 18, Delaware Code, Chapter 4, Section 405(i) by adding thereto a new paragraph 5:

"(5) A determination by the Commissioner that the conditions under which an affirmative finding was made under Section 401 of this Chapter no longer exist."

Section 7. Amend Title 18, Delaware Code, Chapter 4, Section 406(i) by adding thereto a new paragraph 4:

"(4) A determination by the Commissioner that the conditions under which an affirmative finding was made under Section 401 of this Chapter no longer exist."

Section 8. Amend Title 18, Delaware Code, Chapter 4 by striking Section 404(c) in its entirety and inserting in lieu thereof the following:

"(c) The governing body of any public entity may, by resolution or ordinance as appropriate, for the purpose of insuring liability and worker's compensation as provided in this act, agree to join together with any other public entity or entities, subject to the restrictions of Subsection (a) of this section, to establish a joint insurance fund for the purpose of insuring said liability and worker's compensation and shall appropriate such monies as are required therefore."

Section 9. Amend Section 403 Title 18, of the Delaware Code by striking subsection (b) in its entirety and inserting the following:

"The Authority shall consist of a Chairman which shall be appointed by the Insurance Commissioner, and shall be someone other than the Insurance

Commissioner, and 6 other members. The Chairman shall hold office for a term of 4 years from the date of appointment unless sooner terminated for cause. The Chairman may succeed himself/herself."

Section 10. Amend Section 403, Title 18, of the Delaware Code, subsection (d) by deleting the first sentence and by deleting the words "an employee of the Insurance Department to serve as ", as they appear in the third sentence thereof so that the sentence shall read as follows: "The Chairman shall appoint a nonvoting Secretary-Treasurer of the Authority, who shall serve at the pleasure of the Chairman."

Section 11. Amend Section 403, Title 18, of the Delaware Code, subsection (e) by striking it in its entirety and inserting the following:

"Notwithstanding any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his service as an officer of the Authority."

Section 12. Amend Section 404, Title 18, of the Delaware Code, subsection (d) by striking it in its entirety and inserting the following:

"Upon the establishment of a public entity joint insurance fund, a board of directors consisting of 5 members shall be appointed for a term of 4 years. The board of directors shall be appointed as follows:

(a) Three members to be appointed by the Insurance Commissioner."

Section 13. Amend Section 404, Title 18, of the Delaware Code, subsection (f) by striking the words "The Insurance Commissioner," and insert in lieu thereof "The Chairman of the Authority."

Section 14. Amend Section 405, Title 18, of the Delaware Code, subsection (b) by striking it in its entirety and inserting the following:

"Upon the establishment of a joint insurance fund, a board of directors consisting of 5 members shall be appointed for a term of 4 years. The board of directors shall be appointed as follows:

(a) Three members to be appointed by the Governor.

(b) Two members to be appointed by the Insurance Commissioner."

Section 15. Amend Section 405, subsection (d) by striking the words "The Insurance Commissioner," and insert in lieu thereof "The Chairman of the Authority."

Section 16. Amend Section 406, Title 18, of the Delaware Code, subsection (b) by striking it in its entirety and inserting the following:

"Upon the establishment of an excess insurance fund, a board of directors consisting of 5 members shall be appointed for a term of 4 years. The board of directors shall be appointed as follows:

(a) Three members to appointed by the Governor.

(b) Two members to be appointed by the Insurance Commissioner."

Approved July 8, 1993.

CHAPTER 112

FORMERLY

SENATE BILL NO. 240
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 251, VOLUME 61, LAWS OF DELAWARE, AS AMENDED, BEING THE CHARTER OF THE CITY OF DELAWARE CITY, RELATING TO QUALIFICATIONS FOR MAYOR AND COUNCILPERSONS, FORFEITURE OF OFFICE, AND SUPPLEMENTAL ASSESSMENTS.

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 3-05, Chapter 251, Volume 61, Laws of Delaware, as amended by adding after the word "taxes" and before the word "due" the words ", fees, charges, liens and debts".

Section 2. Amend Section 3-09 B, Chapter 251, Volume 61, Laws of Delaware, as amended by deleting the period "." at the end of said subsection and adding the following:

"; or (4) failure to attend three (3) successive regular monthly meetings at any time or failure to attend four (4) regular monthly meeting in any twelve-month period, without a legitimate excuse for absence at each meeting, as determined by a vote of a majority of all members of the Mayor and Council in attendance at each such meeting of the Mayor and Council."

Section 3. Amend Section 4-01, Chapter 251, Volume 61, Laws of Delaware, by adding a new subsection E as follows:

"E. Supplemental Assessments

(1) In addition to the annual assessment provided for in this Section IV of this Charter, the Mayor and Council may, at its option, request that the Assessor prepare a quarterly supplemental assessment list for any of the following purposes:

- (a) Adding property which was not included on the last annual assessment;
- (b) Increasing the assessed value of property which was included in the last assessment;
- (c) Correcting errors on the prior annual assessment; or
- (d) Revising or modifying any exemption from taxation applicable to property within the City.

(2) The supplemental assessment list shall be prepared quarterly by the Assessor and the first such supplemental assessment shall be certified to the Mayor and Council on July 1, the second on October 1, the third on January 1, and the fourth on April 1 of each year.

(3) On the date of certification of the supplemental assessment list by the Mayor and Council, according to the procedures set forth in this Section IV of the Charter, each property owner shall be liable for the payment of real estate taxes equal to the assessed value of the property multiplied by the tax rate for the then current fiscal year applicable to the property reduced by: twenty-five percent (25%) when the property is listed on the second supplemental assessment list, fifty percent (50%) when the property is listed on the third supplemental assessment list, and seventy-five (75%) when the property is listed on the fourth supplemental assessment list.

(4) Whenever the Mayor and Council place a property on a supplemental assessment list, notice thereof shall be made by regular mail addressed to the owner of the property affected thereby at the address shown on the assessment list, or if the address of such owner does not appear on the assessment list, then

to the person occupying the property, or if there is no apparent occupant, such notice shall be posted on the property. Such notice shall be given within ten (10) days of the date on which the supplemental list on which the property appears is certified by the Mayor and Council. The certification by the Mayor and Council that the notice required by this Subsection was mailed or posted, as the case may be, shall be conclusive evidence that notice to the property owner was received.

(5) The Mayor and Council shall publish a notice of the place or places where the supplemental assessment list may be inspected together with a notice of the time and place in the Town when the Mayor and Council, not earlier than ten (10) days from the date of the notice, shall sit to hear appeals. The decision of a majority of the Mayor and Council sitting as the Assessment Board of Appeals, shall be final and conclusive in respect to all supplemental assessment appeals. All other procedural rules of the Assessment Board of Appeals not in conflict with this Subsection shall apply to supplemental assessment appeals.

(6) All taxes imposed by the supplemental assessment list and paid more than thirty (30) days following the date that notice is mailed by the Mayor and Council to the property owner or posted as provided for in this Section shall be delinquent.

(7) In the collection of all delinquent taxes imposed by the supplemental assessment list, there shall be added a penalty of five percent (5%) of the unpaid taxes and an amount equal to one percent (1%) per month for each month or fraction thereof that such taxes remain unpaid following the expiration of thirty (30) days from the date of mailing or posting, as the case may be, of the notice required under this Section."

Approved July 8, 1993.

CHAPTER 113

FORMERLY

SENATE BILL NO. 189

AN ACT TO AMEND CHAPTER 64, TITLE 21 OF THE DELAWARE CODE RELATING TO ODOMETER MILEAGE DISCLOSURES AND RECORD RETENTION.

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 6402, Chapter 64, Title 21 of the Delaware by adding the following paragraphs:

"(5) "Lessee" means any person, or the agent for any person, who has leased for a term of at least 4 months.

(6) "Lessor" means any person, or the agent for any person, who has leased 5 or more motor vehicles in the past 12 months.

(7) "Mileage" means actual distance that a vehicle has traveled.

(8) "Secure printing process or other secure process" means any process which deters and detects counterfeiting and/or unauthorized reproduction and allows alterations to be visible to the naked eye.

(9) "Transferee" means any person to whom ownership in a motor vehicle is transferred by purchase, gift, or other means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferee.

(10) "Transferor" means any person who transfers his/her ownership of a motor vehicle by sales, gift, or any means other than by creation of a security interest, and any person who, as agent, signs an odometer disclosure statement for the transferor."

Section 2. Amend Section 6407, Chapter 64, Title 21 of the Delaware Code by deleting the section in its entirety and inserting in lieu thereof the following new Section 6407:

§6407. Disclosure of Odometer Information.

(a) Each Delaware title, at the time it is issued to the transferee, must contain the mileage disclosed by the transferor when ownership of the vehicle was transferred and contain a space for the information required to be disclosed under subsection (c), (d), (e) and (f) of this section at the time of any future transfer.

(b) Any documents which are used to reassign a title shall contain a space for the information required to be disclosed under subsections (c), (d), (e) and (f) of this section at the time of transfer of ownership.

(c) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or on the document being used to reassign the title. This written disclosure must be signed by the transferor, including his/her printed name. In connection with the transfer of ownership of a motor vehicle in which more than one person is a transferor, only one transferor need sign the written disclosure. In addition to the signature and printed name of the transferor, the written disclosure must contain the following information:

- (1) The odometer reading at the time of transfer (not to include tenths of miles);
- (2) The date of transfer;
- (3) The transferor's name and current address;
- (4) The transferee's name and current address; and

(5) The identity of the vehicle, including its make, model, year and body type, and its vehicle identification number.

(d) In addition to the information provided under subsection (c) of this section, the statement shall refer to the Federal law and shall state that failing to complete or providing false information may result in a fine and/or imprisonment. Reference may also be made to applicable State Law.

(e) In addition to the information provided under subsection (c) and (d) of this section.

(1) The transferor shall certify that to the best of his/her knowledge the odometer reading reflects the actual mileage, or;

(2) If the transferor knows that the odometer reading reflects a total mileage in excess of the designed mechanical odometer limit, he/she shall include a statement to that effect; or

(3) If the transferor knows that the odometer reading otherwise differs from the actual mileage and that the difference is greater than that caused by odometer calibration error, he/she shall include a statement that the odometer reading does not reflect the actual mileage, and should not be relied upon. This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and actual mileage.

(f) The transferee shall sign the disclosure statement, print his/her name, and return a copy to the transferor.

(g) If the vehicle has not been titled or if the title does not contain a space for the information required, the written disclosure shall be executed as a separate document.

(h) No person shall sign an odometer disclosure statement as both the transferor and the transferee in the same transaction, unless permitted by Section 6410 and 6411 of this Chapter."

Section 3. Amend Chapter 64, Title 21 of the Delaware code by deleting Sections 6408, 6409, 6410, and 6411 in their entireties.

Section 4. Further amend Chapter 64, Title 21 of the Delaware Code by adding the following new Sections 6408, 6409, 6410, 6411, 6412, 6413, 6414, 6415, 6416, 6417, 6418, 6419 and 6420.

"§6408. Exemptions

Notwithstanding the requirements of Section 6407:

(a) A transferor or lessee of any of the following motor vehicles need not disclose the vehicle's odometer mileage:

(1) A vehicle having a Gross Vehicle Weight Rating of more than 16,000 pounds;

(2) A vehicle that is not self-propelled;

(3) A vehicle that is 10 years old or older; or

(4) A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

(b) A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(c) A lessor of any of the vehicles listed in subsection (a) of this section need not notify the lessee of these vehicles of the disclosure requirements of Section 6409.

§6409. Disclosure of Odometer Information for Leased Motor Vehicles.

(a) Before executing any transfer of ownership document, each lessor of a leased motor vehicle shall notify the lessee in writing that the lessee

is required to provide a written disclosure to the lessor regarding the mileage. This notice shall contain a reference to the Federal law and shall state that failing to complete or providing false information may result in a fine and/or imprisonment. Reference may also be made to applicable State law.

(b) In connection with the transfer of ownership of a leased motor vehicle, the lessee shall furnish to the lessor a written statement regarding the mileage of the vehicle. This statement must be signed by the lessee and, in addition to the information required by subsection (a) of this section, shall contain the following information:

- (1) The printed name of the person making the disclosure;
- (2) The current odometer reading (not to include tenths of miles);
- (3) The date of the statement;
- (4) The lessee's name and current address;
- (5) The lessor's name and current address;
- (6) The identity of the vehicle, including its make, model, year, and body type, and its vehicle identification number;
- (7) The date that the lessor notified the lessee of the disclosure requirements;
- (8) The date that the completed disclosure statement was received by the lessor; and
- (9) the signature of the lessor.

(c) In addition to the information provided under subsection (a) and (b) of this section:

- (1) The lessee shall certify that to the best of his/her knowledge the odometer reading reflects the actual mileage; or
- (2) If the lessee knows that the odometer reading reflects a total mileage in excess of the designed mechanical odometer limit, he/she shall include a statement to that effect; or
- (3) If the lessee knows that the odometer reading otherwise differs from the actual mileage and that the difference is greater than that caused by odometer calibration error, he/she shall include a
statement that the odometer reading is not the actual mileage and should not be relied upon.

(d) If the lessor transfers the leased vehicle without obtaining possession of it, the lessor may indicate on the title the mileage disclosed by the lessee does not reflect the actual mileage of the vehicle.

§6410. Disclosure of Odometer Information by Power of Attorney.

(a) If the transferor's title is physically held by a lienholder, or if the transferor to whom the title was issued by the State has lost his/her title and the transferee obtains a duplicate title on behalf of the transferor, and if otherwise permitted by State law, the transferor may give a power of attorney to his/her transferee for the purpose of mileage disclosure. The power of attorney shall be on a form issued by the State to the transferee that is set forth by means of a secure printing process or other secure process, and shall contain in Part A, a space for the information required to be disclosed under subsections (b), (c), (d), and (e) of this section. If a State permits the use of a power of attorney in the situation described in Section 6411(a) of this Chapter, the form must also contain, in part B, a space for the information required to be disclosed under Section 6411 of this Chapter, and, in part C, a space for the certification required to be made under Section 6412 of this Chapter.

(b) In connection with the transfer of ownership of a motor vehicle, each transferor to whom a title was issued by the State whose title is physically held by a lienholder or whose title has been lost, and who elects to give his/her transferee a power of attorney for the purpose of mileage disclosure, must appoint the transferee his/her attorney-in-fact for the purpose of mileage disclosure and disclose the mileage on the power of attorney from issued by the State. This written disclosure must be signed by the transferor, including the printed name, and contain the following information:

- (1) The odometer reading at the time of transfer (not to include tenths of miles);
- (2) The date of transfer;
- (3) The transferor's name and current address;
- (4) The transferee's name and current address; and
- (5) The identity of the vehicle, including its make, model year, body type and vehicle identification number.

(c) In addition to the information provided under subsection (b) of this section, the power of attorney form shall refer to the Federal Odometer Law and state that providing false information or the failure of the person granted the power of attorney to submit the form to the State may result in a fine and/or imprisonment. Reference may also be made to applicable State law.

(d) In addition to the information provided under subsection (b) and (c) of this section:

- (1) The transferor shall certify that to the best of his/her knowledge the odometer reading reflects the actual mileage; or
- (2) If the transferor knows that the odometer reading reflects mileage in excess of the designed mechanical odometer limit, he/she shall include a statement to the effect; or
- (3) If the transferor knows that the odometer reading differs from the mileage and the difference is greater than that caused by a calibration error, he/she shall include a statement the odometer reading does not reflect the actual mileage and should not be relied upon. This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and the actual mileage.

(e) The transferee shall sign the power of attorney form, print his/her name, and return a copy of the power of attorney form to the transferor.

(f) Upon receipt of the transferor's title, the transferee shall complete the space for mileage disclosure on the title exactly as the mileage was disclosed by the transferor on the power of attorney form to the State that issued it, with the application for new title and the transferor's title. If the vehicle is sold out-of-State or reassigned to another dealer, a copy of the front and back of the title must be made after the copy of the front and back of the title must be made after the dealership completes the disclosure. This copy of the title and Section 1 of the odometer power of attorney must be returned to the Delaware Division of Motor Vehicles. If the mileage disclosed on the power of attorney form is lower than the mileage appearing on the title, the power of attorney is void and the dealer shall not complete the mileage disclosure on the title.

§6411. Power of Attorney to Review Title Documents and Acknowledge Disclosure.

(a) In circumstances where part A of a secure power of attorney form has been used pursuant to Section 6410 of this Chapter, and if otherwise permitted by State law, a transferee may give a power of attorney to his/her transferor to review the title and any reassignment documents for mileage discrepancies, and if no discrepancies are found, to acknowledge disclosure on the title. The power of attorney shall be on part B of the form referred to in Section 6410(a) of this Chapter, which shall contain a space for the

information required to be disclosed under paragraphs (b), (c), (d), and (e) of this section and, in part C, a space for the certification required to be made under Section 6412 of this Chapter.

(b) The power of attorney must include a mileage disclosure from the transferor to the transferee and must be signed by the transferor, including the printed name, and contain the following information:

- (1) The odometer reading at the time of transfer (not to include tenths of miles);
- (2) The date of transfer;
- (3) The transferor's name and current address; and
- (4) The transferee's name and current address; and
- (5) The identity of the vehicle, including its make, model year, body type and vehicle identification number.

(c) In addition to the information provided under paragraph (b) of this section, the power of attorney form shall refer to the Federal Odometer Law and state that providing false information or the failure of the person granted the power of attorney to submit the form to the State may result in a fine and/or imprisonment. Reference may also be made to applicable State law.

(d) In addition to the information provided under paragraphs (b) and (c) of this section:

- (1) The Transferor shall certify that to the best of his/her knowledge the odometer reading reflects the actual mileage;
- (2) If the transferor knows that the odometer reading reflects mileage in excess of the designed mechanical odometer limit, he/she shall include a statement to that effect; or
- (3) If the transferor knows that the odometer reading differs from the mileage and the difference is greater than that caused by a calibration error, he/she shall include a statement that the odometer reading does not reflect the actual mileage and should not be relied upon. This statement shall also include a warning notice to alert the transferee that a discrepancy exists between the odometer reading and the actual mileage.

(e) The transferee shall sign the power of attorney form, and print his/her name.

(f) The transferor shall give a copy of the power attorney form to his/her transferee.

§6412. Certification by Person Exercising Powers of Attorney.

(a) A person who exercises a power of attorney under both §6410 and §6411 must complete a certification that he/she has disclosed on the title document the mileage as it was provided to him/her on the power of attorney form, and that upon examination of the title and any reassignment documents, the mileage disclosure he/she has made on the title pursuant to the power of attorney is greater than that previously stated on the title and reassignment documents. This certification shall be under part C of the same form as the powers of attorney executed under Section 6410 and Section 6411 and shall include:

- (1) The signature and printed name of the person exercising the power of attorney;
- (2) The address of the person exercising the power of attorney; and
- (3) The date of the certification.

(b) If the mileage reflected by the transferor on the power of attorney is less than the previously stated on the title and any reassignment documents, the power of attorney shall be void.

§6413. Access of Transferee to Prior Title and Power of Attorney Documents.

(a) In circumstances in which a power of attorney has been used pursuant to Section 6410 of this Chapter, if a subsequent transferee elects to return to his/her transferor to sign the disclosure on the title when the transferor obtains the title and does not give his/her transferor a power of attorney to review the title and reassignment documents, upon the transferee's request, the transferor shall show to the transferee a copy of the power of attorney that he/she received from his transferor.

(b) Upon request of a purchaser, a transferor who was granted a power of attorney by his/her transferor and who holds the title to the vehicle in his/her own name, must show to the purchaser the copy of the previous owner's title and the power of attorney form.

§6414. Odometer Disclosure Statement Retention.

(a) Dealers and distributors of motor vehicles who are required by this chapter to execute and odometer disclosure statement shall retain for five years a photostat, carbon or other facsimile copy of each odometer mileage statement which the issue and receive. All odometer disclosure statements shall be retained at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(b) Lessors shall retain each odometer disclosure statement which they receive from a lessee for a period of five years following the date they transfer ownership of the leased vehicle. All odometer disclosure statements shall be retained at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

(c) Dealers and distributors of motor vehicles who are granted a power of attorney by their transferor pursuant to Section 6410, or by their transferee pursuant to Section 6411 shall retain for five years a photostat, carbon, or other facsimile copy of each power of attorney that they receive. They shall retain all powers of attorney at their primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval.

§6415. Odometer Record Retention for Auction Companies.

Each auction company shall establish and retain at its primary place of business in an order that is appropriate to business requirements and that permits systematic retrieval, for five years following the date of sale of each motor vehicle, the following records:

- (a) The name of the most recent owner (other than the auction company);
- (b) The name of the buyer;
- (c) The vehicle identification number; and

(d) The odometer reading on the date which the auction company took possession of the motor vehicle.

§6416. Security of Title Documents.

Each title shall be set forth by means of a secure printing process or other secure process. In addition, any other documents which are used to reassign the title shall be set forth by a secure process.

§6417. Review of Disclosure Statements.

(a) All disclosure statements and motor vehicles in the possession of a dealer shall be made available for review upon demand by the Division of Motor Vehicles or by its authorized agents.

(b) The Secretary shall have the authority to promulgate regulations for administering this chapter.

§6418. Responsibilities of Motor Vehicle Dealers.

(a) No motor vehicle dealer, licensed in accordance with this title and Title 30 shall purchase or accept any motor vehicle unless the seller has indicated the mileage on a disclosure statement pursuant to this chapter.

(b) No licensed motor vehicle dealer shall have in his/her possession as inventory for sale any used motor vehicle for which he/she does not have in his/her possession the disclosure statement required under this chapter.

(c) A licensed motor vehicle dealer reassigning or transferring a certificate of ownership shall not be guilty of a violation of this section if such dealer has in his/her possession the disclosure statement as required by this chapter and if he/she has no knowledge that the statement is false and that the odometer does not reflect the vehicle's actual mileage.

§6419. Documents Acceptable as Odometer Disclosure Statements.

(a) Except as provided in subsection (b) and (c) of this section, any Delaware certificate of title issued which includes the odometer disclosure information, as prescribed by this chapter, shall satisfy all the requirements for issuance of odometer disclosure statements by dealers licensed in the State.

(b) Nothing in this section shall exempt a dealer and/or dealership from complying with the provisions of §6418 of this title.

(c) Any manufacturer's statement of origin accompanying an 'original application for a Delaware certificate of title' shall satisfy the requirements of the odometer disclosure statement as provided in this chapter.

§6420. Penalties: Jurisdiction.

(a) Any person who violates any of the provisions of §6404(a) of this chapter, shall be fined not less than \$10 nor more than \$100.

(b) Any person who violates any provisions in this chapter except §6404(a) shall be guilty of a misdemeanor and shall be fined not less than \$1,000 nor more than \$5,000 for each such violation. Any person who is guilty of a second or subsequent violation of this chapter except §6404(a) shall be fined not less than \$2,000 nor more than \$10,000 for each subsequent violation.

(c) In the case of a first offense by a dealer or dealership, such dealer or dealership may be placed on probation as a licensed Delaware motor vehicle dealer by the Division of Motor Vehicles for a period of 1 year. Any violation of this chapter by a dealer or dealership during any year of probation may result in the suspension of the license of the dealer or dealership for a period not exceeding 1 year.

(d) In the case of a second or subsequent violation of this chapter by a dealer or dealership, the Division of Motor Vehicles may suspend the license and/or privileges of the dealer or dealership for a period not to exceed 1 year.

(e) Common Pleas Court shall have jurisdiction violations of this chapter."

Section 5. The effective date of implementation of this Act shall be July 1, 1993.

Approved July 8, 1993.

CHAPTER 114

FORMERLY

SENATE BILL NO. 170
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 79, TITLE 29, DELAWARE CODE RELATING TO VOLUNTEER SERVICES.

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

Section 1. Amend §7914, Title 29, Delaware Code by deleting the "." at the end of said section and substituting in lieu thereof the following: ", as follows, which shall be performed by the Director, or his or her duly authorized designee, with the approval of the Secretary:

- (1) Encourage and enable persons from all walks of life and from all age groups to perform constructive volunteer services;
- (2) Establish methods for supporting and promoting private sector leadership and responsibility for meeting public needs;
- (3) Promote communication and collaboration between public and private volunteer programs in the State and between the State and the private sector's initiatives in meeting human needs;
- (4) Develop, implement and maintain a volunteer clearing house to disseminate information on volunteer opportunities in the State;
- (5) Develop strategies for more effective contributions of time, talent and resources for community projects by businesses, foundations, religious and civic groups and others;
- (6) Collect, maintain and share information on private initiatives, community, partnerships and creative solutions undertaken by businesses, foundations, voluntary organizations, religious institutions and other private sector groups in the State, in order to promote their broader use;
- (7) Provide, or arrange for the provision of, training and technical assistance to public and private organizations engaged in volunteer recruitment and programming;
- (8) Develop, implement and maintain a state plan for public recognition and support of individual volunteer efforts and successful or promising private sector initiatives and public/private partnerships which address community needs;
- (9) Identify obstacles to private sector initiatives and citizen participation and develop resources and systems which not only eliminate such obstacles but which also provide new incentives to encourage citizens and the private sector to volunteer and/or undertake new community service initiatives;
- (10) Directly administer those statewide volunteer programs which are currently administered within the Department of Health and Social Services and any other such volunteer program which may subsequently be assigned to this Department by the Governor or the General Assembly;
- (11) Serve as the State's liaison to the Federal ACTION agency and to other appropriate national and state organizations which relate to this section; and
- (12) Assume such other powers, duties and functions as the Secretary may assign which are in keeping with this section and not otherwise inconsistent with the law."

Approved July 8, 1993.

CHAPTER 115

FORMERLY
SENATE BILL NO. 233**AN ACT TO REINCORPORATE THE CITY OF HARRINGTON**

WHEREAS, it is deemed advisable that the Charter of the City of Harrington, set forth in Chapter 215, Volume 64, Laws of Delaware, with subsequent amendments, be consolidated into one complete Act and in certain respects be further amended and revised.

NOW THEREFORE:

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

1. Incorporation. The inhabitants of the City of Harrington 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, by the corporate name of the "City of Harrington" (hereinafter "City"), 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, or 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 City shall have perpetual succession and shall succeed to own or possess all property, wherever situated, 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 City of Harrington previously incorporated at Chapter 215, Volume 64, Laws of Delaware, as amended.

2. Territorial Rights. The present territorial limits of the City have been established and declared to be as follows:

Beginning at a concrete monument located on the westerly right-of-way line of the southbound lane of U.S. Route #13, which monument is 55.85 feet South of utility pole no. DST 608, and 91.81 feet North of utility pole no. DST 609, and 76.20 feet from the corner of a storm water catch basin located in the median of U.S. Route #13. THENCE running from said beginning point North eighty-four (84) degrees West a distance of four thousand nine hundred twenty-two and ninety hundredths feet (4922.90') to a concrete monument; thence running North six (6) degrees East a distance of five thousand two hundred eighty feet (5280') to a concrete monument, thence running South eighty-four (84) degrees East a distance of five thousand eight hundred fifteen and fourteen hundredths feet (5815.14') to a concrete monument on the westerly right-of-way line of the southbound lane of U.S. Rt. #13, thence turning and running with westerly right-of-way line of the southbound lane of U.S. Rt. #13 in a southerly direction, a distance of 2700 feet, more or less, thence turning and crossing the southbound lane of U.S. Rt. #13, and following the northerly boundary of parcel number 14 in the median of U.S. Rt. #13, thence turning in a northerly direction and following the westerly boundary of parcel number 18, and crossing the northbound lane of U.S. Route #13, thence turning and following the easterly right-of-way line of the northbound lane of U.S. Rt. #13, in a southerly direction, to the northerly right-of-way line of Porter Street, thence along the aforesaid northerly right-of-way line of Porter Street, in an easterly direction, five hundred seventy feet, more or less, (570') to the westerly property line of the City of Harrington Sewage Treatment Plant Site, thence turning and running in a northerly direction with the lands now or formerly of Jacob Camper, to a pipe set in the line of lands now or formerly of Camper, at a corner for lands now or formerly of Hitchens, which point bears South 25 degrees 15 minutes West a distance of 325' from the southerly right-of-way line of Delaware Rt. #14, thence turning and running with the lands of Hitchens, lands of Patman, and with lands of Breeding a distance of 363' more or less, to a pipe set at a corner for lands of Breeding and lands of Ken Meredith; thence, turning and running North 15 degrees 30 minutes East a distance of 141' to the southerly right-of-way line of Delaware Rt. #14, thence turning and running with the southerly right-of-way line of Delaware Rt. #14 South 74 degrees 30 minutes East 350', thence turning and

running North 15 degrees 30 minutes East a distance of 200' to the southerly right-of-way line of Delaware Rt. #14, thence turning and running with said right-of-way line South 75 degrees East to a point on the line of the lands now or formerly of Cook Creadick;

Thence, turning and running South 7 degrees 15 minutes West a distance of 960', and continuing to the center line of Brown's Branch ditch, thence running in a westerly direction with the center of Brown's Branch Ditch to a corner point for lands now or formerly of Albert Thistlewood, (said corner-points bears North 10 degrees, 14 minutes, 01 second East, 4.24 feet from a concrete monument on the southerly bank of said ditch), thence turning and running South 10 degrees 14 minutes 01 second West, a distance of 1966.40' passing over the aforementioned concrete monument on the southerly bank of Brown's Branch Ditch, to a concrete monument on the northerly right-of-way line of the 60' right-of-way of the Conrail Railroad, thence turning and running along said right-of-way of the Conrail Railroad North 82 degrees 22 minutes 30 seconds West 1417.16' to a point of curvature; thence, continuing along the aforementioned railroad right-of-way line on a 2834.79' radius curve, the chord of which bears North 76 degrees, 24 minutes 30 seconds West a distance of 589.35', an arc distance of 590.42', to a concrete monument of the easterly right-of-way line of the northbound lane of U.S. Rt. #13, thence turning and running with the said right-of-way line of U.S. Rt. #13 North, 16 degrees 15 minutes 52 seconds East a distance of 843.02', to a point of curvature; thence continuing with the aforementioned right-of-way line of U.S. Rt. #13 along a 5673.58 foot radius curve, the chord of which bears North 19 degrees 25 minutes 22 seconds East a distance of 625.98', an arc distance of 626.30' to a point, thence turning and crossing the northbound and southbound lanes of U.S. Rt. #13 North 73 degrees 25 minutes 57 seconds West to a point on the westerly right-of-way line of the southbound lane of U.S. Rt. #13, thence turning and following the westerly right-of-way line of the southbound lane of U.S. Rt. #13, in a southerly direction, a distance of 600', more or less, to the point of beginning.

The above boundaries are acknowledged by: The Kent

County Mapping Division as shown on the official maps

of Harrington made by Kent County and the State Dept.

of Transportation.

The Council may, at any time hereafter, cause a survey and plot to be made of said City, and the said plot, or any supplement thereto, when made and approved by said Council, signed by the Mayor, and attested to by the Clerk of Council, with the municipal seal affixed, upon being recorded in the Office of the Recorder of Deeds in and for Kent County, State of Delaware, 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.

3. Annexation of Territory. The City shall have power to annex any additional contiguous territory adjoining the then-existing corporate limits of the City as hereinbefore set forth or as hereafter extended pursuant to the procedures set forth in this section, and to apply to all such additional territory all laws, ordinances, resolutions, and policies in force in the City so far as they may be locally applicable.

3.1 Initiation of Annexation Proceedings.

3.1.1 As Authorized By General Statute. In addition to any other procedures authorized in this municipal Charter, the City may extend its municipal limits so as to include any portion of territory contiguous to the then-existing corporate limits of the City in accordance with the provisions of 22 Del.C. §101, as it may from time to time hereafter be amended, or in accordance with any future corresponding provision of law.

3.1.2 By Petition of the Property Owners. Any property owner(s) holding record fee title to real property in territory contiguous to the then existing corporate limits of the City may petition the City 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 City Council may, within 90 days following the filing of such petition in the City Office, vote to accept such petition and proceed as hereinafter provided, or to reject such petition. Any petition not so accepted within said 90 days shall be null and void. For purposes of this §3.1.1, 3.1.2, and 3.1.3 "territory contiguous to the then existing corporate limits of the City" shall include both real property which, though itself not contiguous to the City's then existing corporate limits, is contiguous to other real property which is proposed to be included in the annexation, and real property which would be contiguous under §3.2.8(b).

3.1.3 By Resolution of the City Council. The City Council may, at any time, adopt a resolution proposing the annexation of any territory contiguous to the City. Such resolution shall describe, with reasonable certainty, the territory proposed to be annexed, state the reasons for the proposed annexation, and establish the date, time and place for the holding of an election as hereinafter provided. If more than one territory is involved in any resolution, elections may be held in more than one of them on the same day, but the elections shall be separate; only the qualified voters and real property owners of a territory shall be counted in the election to determine whether that territory shall be annexed. Upon adoption of such resolution, the City 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 City Council, the following procedure shall be complied with:

3.2.1 Notice. Notice of the election for annexation shall be published in a newspaper of general circulation in the area to be annexed at least ten (10) days prior to the day of the election. The notice shall contain a description of the area to be annexed, the time, place, and date of the election, and the eligibility of those who are entitled to vote.

In addition to publication as herein provided, the City Council shall, not less than 10 days prior to the date of such election: (1) cause a public notice, containing the full text of the Resolution, to be posted in at least 3 different public places in the City and in at least one 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 address as shown on the public tax records. Written notice to one co-owner shall be notice to all.

3.2.2 Those Entitled to Vote.

(a) At such annexation election, any natural person who is a "qualified voter" or an owner of real property in the territory to be annexed shall be entitled to one vote; and each legal entity other than a natural person, (e.g. a corporation, partnership, trust, or association) owning property in its own name in the territory proposed to be annexed, shall be entitled to one vote.

For purposes hereof, a "qualified voter" shall mean a *bona fide* domiciliary of the territory proposed to be annexed who is registered and qualified to vote according to the voter registration lists of the State Department of Elections.

(b) These provisions shall be construed in accordance with the principle of "one-man, one vote". Where a voter is entitled to vote by virtue of being both a "qualified voter" and an owner of real property, that voter shall be entitled to only one vote; where a voter is entitled to vote by ownership of two or more parcels of real property, that voter shall be entitled to only one vote. Where real property is held in a life estate, the holders of the life estate shall be deemed to be the sole owners and entitled to vote accordingly. Persons in joint ownership of real property shall be entitled to only one vote.

(c) Any legal entity (other than a natural person) entitled to vote must cast its vote by a duly executed and notarized power of attorney from the legal entity granting the authority to cast its vote to its designated attorney-in-fact. Such Power of Attorney shall be surrendered to the Election Officials who shall file same in the Office of the City Manager. Such Power of Attorney so filed shall constitute conclusive evidence of the

right of said person to vote in the Annexation Election on behalf of the legal entity granting the power.

3.2.3 Conduct of Annexation Election: Election Officials.

(a) Ballots. The City Council may cause voting machines, electronic voting systems, or paper ballots to be used in the Annexation Election, as permitted or required by law, the form of ballot to be printed as follows:

_____ For the proposed annexation.

_____ Against the proposed annexation.

Any person (including a person acting pursuant to a valid Power of Attorney from a legal entity other than a natural person) who is entitled to vote in the election, but who shall be unable to appear in person, may vote by absentee ballot in accordance with such standards and procedures as established by city ordinance.

(b) Election Officials. The Mayor shall appoint three (3) persons to act as a Board of Special Election for the Annexation 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 Annexation Election. It shall keep a true and accurate list of all natural persons and other legal entities voting.

(c) Polling Place. Voting shall be conducted in a public place as designated by the Resolution setting the Annexation Election. The polling place shall be open for not less than two (2) consecutive hours as set by the City Council, on the date set for the Annexation 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.

3.2.4 Results of Annexation Election. 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 Presiding Officer of the Board of Special Elections. After public announcement of the votes cast, the total votes cast "For" and the total votes cast "Against" shall be certified to by the Board of Special Elections and presented to the City Council at its next regular meeting. The City Council at this regular meeting shall approve the votes as certified.

3.2.5 Resolution of Annexation.

(a) 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 shall thereupon adopt a resolution annexing the said territory and including same within the limits of the City of Harrington. Upon adoption of a resolution of annexation, a copy thereof signed by the Mayor and certified by the Clerk of Council with municipal seal affixed, together with a plot of the area annexed, shall forthwith be filed for record with the Recorder of Deeds of Kent County. The territory so annexed shall be considered to be a part of the City from the moment the last mentioned resolution is adopted by the City Council. Failure to record said resolution, or the plot accompanying same, shall not invalidate the annexation, but such recording may be enforced by writ of mandamus.

3.2.6 Annexing City-Owned Property. Notwithstanding any provisions herein to the contrary, the City 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 City.

3.2.7 Annexation Agreements. Notwithstanding any provision herein to the contrary, where, pursuant to §3.1.2 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 City, such petition may be made contingent upon an annexation agreement with the City 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 City Council approves such an agreement and votes to accept a petition under §3.1.2 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; that is: (1) the resolution and notices adopted by the City Council pursuant to §3.1.3 shall recite that the proposed annexation includes and is subject to annexation agreement, shall briefly summarize its terms, and shall state that copies of the Agreement are available for inspection upon request at the City Hall; (2) if the results of the election are favorable to the proposed annexation, the resolution annexing the territory (as provided by §3.2.5) shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference; and the City shall be bound to honor the provisions of such agreement unless released therefrom by the petitioner(s).

Provided further, that no agreement made at the time of annexation under this §3.2.7 shall extend beyond seven years from the date the property is annexed into the City; and such agreements shall be null, void, and unenforceable after the expiration of said seven years.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution ordering the Annexation Election pursuant to §3.1.3 of this Charter, but any material modification or amendment thereafter shall be deemed to be the withdrawal of the original petition and the filing of a new petition under §3.1.2.

3.2.8 Property Owned by the State of Delaware: Property Owned by the City: Highways, Streets, Roads and Alleys; Ponds, Canals, Streams and Other Waters.

(a) Real Property Owned by the State of Delaware. Real property owned by the State of Delaware may be annexed into the City without the State's casting a vote in the Annexation Election, provided the state agency having control and supervision thereof does not notify the City, in writing, of its objection to such annexation within ten (10) days after receiving written notice of the resolution proposing the annexation as provided in §3.2.1.

(b) Real Property Owned by the City. Real property owned by the City of Harrington may be annexed into the City by ordinance without the necessity of an election.

(c) Highways, Streets, Roads, and Alleys; Ponds, Canals, Streams, and Other Waters. Territory which would otherwise be contiguous with the City's then-existing corporate limits, or with other territory which is itself contiguous with the City's then-existing corporate limits, shall not be deemed non-contiguous merely by the existence of any highway, street, road, alley, pond, canal, stream, or other body of water which passes between or separates them.

3.3 Limitations. No action contesting the annexation of any territory under this section shall be brought after the expiration of 60 days from the publication of a notice in a newspaper of general circulation in the City and in the territory annexed, which notice shall contain the following information:

(a) Notice that the City 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 60 days from the date of publication of such notice or forever be barred from doing so.

(c) In addition to publication as herein provided, the City 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 three public places in the City and in at least one place, viewable to the public, in the territory proposed to be annexed.

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

right of said person to vote in the Annexation Election on behalf of the legal entity granting the power.

3.2.3 Conduct of Annexation Election: Election Officials.

(a) Ballots. The City Council may cause voting machines, electronic voting systems, or paper ballots to be used in the Annexation Election, as permitted or required by law, the form of ballot to be printed as follows:

_____ For the proposed annexation.

_____ Against the proposed annexation.

Any person (including a person acting pursuant to a valid Power of Attorney from a legal entity other than a natural person) who is entitled to vote in the election, but who shall be unable to appear in person, may vote by absentee ballot in accordance with such standards and procedures as established by city ordinance.

(b) Election Officials. The Mayor shall appoint three (3) persons to act as a Board of Special Election for the Annexation 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 Annexation Election. It shall keep a true and accurate list of all natural persons and other legal entities voting.

(c) Polling Place. Voting shall be conducted in a public place as designated by the Resolution setting the Annexation Election. The polling place shall be open for not less than two (2) consecutive hours as set by the City Council, on the date set for the Annexation 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.

3.2.4 Results of Annexation Election. 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 Presiding Officer of the Board of Special Elections. After public announcement of the votes cast, the total votes cast "For" and the total votes cast "Against" shall be certified to by the Board of Special Elections and presented to the City Council at its next regular meeting. The City Council at this regular meeting shall approve the votes as certified.

3.2.5 Resolution of Annexation.

(a) 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 shall thereupon adopt a resolution annexing the said territory and including same within the limits of the City of Harrington. Upon adoption of a resolution of annexation, a copy thereof signed by the Mayor and certified by the Clerk of Council with municipal seal affixed, together with a plot of the area annexed, shall forthwith be filed for record with the Recorder of Deeds of Kent County. The territory so annexed shall be considered to be a part of the City from the moment the last mentioned resolution is adopted by the City Council. Failure to record said resolution, or the plot accompanying same, shall not invalidate the annexation, but such recording may be enforced by writ of mandamus.

3.2.6 Annexing City-Owned Property. Notwithstanding any provisions herein to the contrary, the City 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 City.

3.2.7 Annexation Agreements. Notwithstanding any provision herein to the contrary, where, pursuant to §3.1.2 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 City, such petition may be made contingent upon an annexation agreement with the City 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 City Council approves such an agreement and votes to accept a petition under §3.1.2 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; that is: (1) the resolution and notices adopted by the City Council pursuant to §3.1.3 shall recite that the proposed annexation includes and is subject to annexation agreement, shall briefly summarize its terms, and shall state that copies of the Agreement are available for inspection upon request at the City Hall; (2) if the results of the election are favorable to the proposed annexation, the resolution annexing the territory (as provided by §3.2.5) shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference; and the City shall be bound to honor the provisions of such agreement unless released therefrom by the petitioner(s).

Provided further, that no agreement made at the time of annexation under this §3.2.7 shall extend beyond seven years from the date the property is annexed into the City; and such agreements shall be null, void, and unenforceable after the expiration of said seven years.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution ordering the Annexation Election pursuant to §3.1.3 of this Charter, but any material modification or amendment thereafter shall be deemed to be the withdrawal of the original petition and the filing of a new petition under §3.1.2.

3.2.8 Property Owned by the State of Delaware: Property Owned by the City: Highways, Streets, Roads and Alleys: Ponds, Canals, Streams and Other Waters.

(a) Real Property Owned by the State of Delaware. Real property owned by the State of Delaware may be annexed into the City without the State's casting a vote in the Annexation Election, provided the state agency having control and supervision thereof does not notify the City, in writing, of its objection to such annexation within ten (10) days after receiving written notice of the resolution proposing the annexation as provided in §3.2.1.

(b) Real Property Owned by the City. Real property owned by the City of Harrington may be annexed into the City by ordinance without the necessity of an election.

(c) Highways, Streets, Roads, and Alleys: Ponds, Canals, Streams, and Other Waters. Territory which would otherwise be contiguous with the City's then-existing corporate limits, or with other territory which is itself contiguous with the City's then-existing corporate limits, shall not be deemed non-contiguous merely by the existence of any highway, street, road, alley, pond, canal, stream, or other body of water which passes between or separates them.

3.3 Limitations. No action contesting the annexation of any territory under this section shall be brought after the expiration of 60 days from the publication of a notice in a newspaper of general circulation in the City and in the territory annexed, which notice shall contain the following information:

(a) Notice that the City 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 60 days from the date of publication of such notice or forever be barred from doing so.

(c) In addition to publication as herein provided, the City 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 three public places in the City and in at least one place, viewable to the public, in the territory proposed to be annexed.

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

4. Powers of the City.

4.1 General. The City 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 City Council to exercise all powers delegated by this Charter or general law to the City (except as may expressly appear herein to the contrary), but rather by way of enumeration and example, the City Council is vested by this Charter with (among others) the following powers, that is to say, the City Council:

4.2.1 May have and use a corporate seal which may be altered, changed, or renewed at pleasure.

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 City, in fee or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing, improving, extending, altering, or demolishing:

- (a) public buildings;
- (b) parks;
- (c) streets, squares, lanes, alleys, and sidewalks;
- (d) sewer systems, including but not limited to sewage lines, conduits, lift stations, sewage disposal or treatment plants, and all appurtenances thereto;
- (e) water systems, including but not limited to, water treatment plants, water storage facilities, wells, lines, conduits and all appurtenances thereto;
- (f) electric systems, including but not limited to, electric plants, substations, transmission and/or distribution systems, lines, conduits and all appurtenances thereto;
- (g) gas systems, including but not limited to, storage tanks, distribution systems, conduits and all appurtenances thereto;
- (h) recreational facilities, including but not limited to, public bathing beaches, gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddleball courts and all appurtenances thereto;
- (i) for slum clearance and redevelopment, urban renewal, revitalization, or rehabilitation of blighted areas, or removal of dangerous buildings;
- (j) for the protection of the health of the citizens of the City;
- (k) for the proper furnishing of adequate municipal services to the citizens of the City and those persons residing in such proximity to, but beyond, the corporate limits of the City who can be furnished with such municipal services, in the discretion of the City Council to the mutual benefit and advantage of the City and such non-residents thereto, upon such terms, charges, and conditions as the City Council may determine and approve.

4.2.3 May sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the City may require except as prohibited by the Constitution 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 municipal or public property, real, personal, or mixed, from the general fund of the City, 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 City 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 City.

4.2.6 May purchase, take and hold real and/or personal property when sold for collection of any delinquent tax, assessment, water or sewer rent, electric bill, gas bill, license fee, tapping fee, impact fee, or for any charge growing out of abatement of nuisances and the like, laying out and repairing sidewalks, or other charges due the City, and to later re-sell the same.

4.2.7 May ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair and replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, wharf, dock, sewer, drain, gutter, aqueduct, or pipeline, or portion thereof, or any new or present sidewalk, curb, or gutter, or portion thereof, in the City; may specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; may enter into contracts or agreements for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the City.

4.2.8 May enforce the removal of ice, snow, dirt, or other foreign substance from sidewalks and gutters by owners or abutting owners;

4.2.9 May prohibit, remove, or regulate the erection of any stoop, step, platform, bay window, cellar door, gate, descent, sign, post or any other erection or projection in, over, upon or under any street, highway, alley, lane, water course, park, lake, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline of the City;

4.2.10 May direct, regulate and control the planting, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and grounds of the City and to authorize or prohibit the removal or destruction of said trees.

4.2.11 May fully control within the City the drainage of all water and to that end may alter or change the course and direction of any natural water course, runs or rivulet within the City, may regulate, maintain, clean and keep the same open, clean and unobstructed, and may provide, construct, extend and maintain, manage and control a storm water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the City.

4.2.12 May provide an ample supply of potable water for the City and its inhabitants and to this end may 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, distribution or sale of water; may regulate and prescribe for what public or private purposes the water furnished by the City may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any wilful or negligent injury, or damage to or interference with the water system or the equipment of the City; to furnish, refuse to furnish, or impose additional fees, charges, or conditions for furnishing water from the City water system to places and properties outside the City limits; and may contract for and purchase water and distribute the same to users within or without the City with the same full powers as though such water had been initially reduced to usefulness by the City itself.

4.2.13 May provide, construct, extend, maintain, manage and control a sanitary sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of

the City; may regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any wilful or negligent injury or damage to, or interference with the said system, plant or facilities; may furnish, refuse to furnish, or impose additional fees, charges or conditions for the furnishing of sanitary sewer service from the City system to places and properties outside the City limits; in the interest of the public's health, may compel any and all properties in the City to be connected to the City's sanitary sewer system; and may enter into contracts or joint agreements for sanitary sewage disposal services for users within or without the City with the same full powers as though such services had been initially provided by the facilities therefor owned and operated by the City itself.

4.2.14 May provide, construct, extend, maintain, manage and control the plant and system, or plants and systems, for the generation, manufacture and/or distribution of electric power and energy or gas, or both, to the inhabitants of the City and/or for lighting the streets, highways, lanes, alleys, parks, sidewalks, crosswalks, public buildings or other public places in the City; and to this end may acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and/or distribution facilities, for any such electric power and energy and/or gas as may be necessary or proper to light the City, to furnish proper connections for electric power and energy and/or gas to the properties of the inhabitants of the City who may desire the same; may regulate and prescribe for what private or public purpose the electric power and energy and/or gas furnished by the City may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any wilful or negligent injury or damage to or interference with the electric and/or gas system(s) of the City; may furnish, refuse to furnish, or impose additional fees, charges, or conditions for furnishing electric power and energy and/or gas from the City's system(s), to places and properties outside the City limits; and may contract for and purchase electric power and energy and/or gas and distribute the same to users within or without the City with the same full powers as though such electric power and energy and/or gas had been initially produced by the City itself.

4.2.15 May regulate, control or prevent the use or storage of gasoline, naphtha, gun powder, fireworks, tar, pitch, resin, and any other combustible or dangerous materials within the City, the use of candles, lamps, and other lights in stores, shops, and other public places; and may regulate, suppress, remove or secure any bonfire, outdoor burning, or any fireplace, stove chimney, oven broiler, or other apparatus which may pose a danger of causing fires;

4.2.16 May provide for the organization of a fire department and the control and government thereof; may establish fire limits and do all things necessary for the prevention or extinguishment of fires; and at the discretion of the City Council, may contribute, donate or give an amount or amounts to any volunteer fire company or companies existing under the laws of the State of Delaware providing fire service(s) to or within the City, provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the City Council shall deem advisable;

4.2.17 May provide for the organization of ambulance, rescue or paramedic service(s) and the control and government thereof, may establish territories within the City for such services; may, at the discretion of the City Council, contribute, donate or give an amount or amounts to any such service existing under the laws of the State of Delaware, maintaining and operating ambulance, rescue or paramedic equipment and services for the inhabitants of the City, provided that any such contribution, donation or gift may be made subject to such conditions and stipulations to the use thereof as the City Council may deem advisable.

4.2.18 May prevent vice, drunkenness and immorality;

4.2.19 May prohibit gaming and fraudulent devices;

4.2.20 May prevent and quell riots, disturbances, and disorderly assemblages;

4.2.21 May adopt and enforce such ordinances regulating traffic, on all streets, alleys, avenues, and public ways within the City as are not inconsistent with the motor vehicle laws of the State of Delaware.

4.2.22 May regulate or prohibit the use of public streets, alleys, sidewalks, parks, right-of-ways, public places and City-owned lands for commercial uses or activities not otherwise protected from such regulation or prohibition by the Constitutions of either the United States or the State of Delaware, or by any controlling federal statute.

4.2.23 May regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, or any other device for discharging missiles which may cause bodily injury or harm to persons or property; and may regulate or prevent the use of fireworks, bombs and detonating works of all kinds;

4.2.24 May provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the City and its inhabitants;

4.2.25 May prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games within the City;

4.2.26 May direct the digging up, draining, filling up, cleaning, cutting, clearing or fencing of lots, tracts, pieces or parcels of ground in the City which may be deemed dangerous or unwholesome or when necessary to carry out any improvements authorized by this Charter, and to assess the cost thereof against the owner thereof.

4.2.27 May define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and may cause the cost of such abatement or removal to be paid by the legal entity causing or permitting the same to exist.

4.2.28 May adopt ordinances providing for the condemnation, upon inspection, of any building or structure, or portion thereof, in the City which is determined, on the basis of standards set forth in such ordinance(s) to be a fire hazard or otherwise unsanitary, uninhabitable, or unsafe, and cause the same to be torn down or removed.

4.2.29 May establish and regulate pounds; may restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large and authorize the destruction of the same; may regulate the keeping of dogs within the City, and may provide for registration and fees thereof.

4.2.30 May provide for the punishment of a violation of any ordinance of the City by civil fine not exceeding \$1,000.00.

4.2.31 May acquire, build, erect and maintain a suitable place as a lock-up or jail for the City which may be used as a temporary place of detention of persons taken into custody for violations of State or Federal laws or City ordinances, or for detention of persons accused of violations of law or ordinances, for a reasonable time in cases of necessity prior to hearing; provided that any correctional institution located in Kent County may be used for any such purpose, in which event the City shall pay for the board of persons detained therein when taken into custody for violations of ordinances which are not violations of any general law of the State.

4.2.32 May provide as an option for payment of any fine, penalty, forfeiture, assessment, fee, charge, or other amount due the City, the performance of labor or service for the City by any person owing the same.

4.2.33 May regulate and control the manner of construction, alteration, repair, demolition or removal of dwellings or other structures and provide for granting permits for same; and may appoint a suitable Building Inspector and prescribe his powers and duties in accordance herewith.

4.2.34 May prohibit and prevent the carrying on of construction at such times and seasons of the year and at such hours of the day as the City Council may determine necessary and appropriate for the public health and welfare.

4.2.35 May provide for or regulate the numbering of houses and lots on the streets and the naming of the streets and avenues, subject to approval by Kent County Emergency Services (911).

4.2.36 May, for the prevention of fire and the preservation of the beauty of the City, establish a building setback line for buildings to be erected; may prohibit any building or construction except those for which a building permit has been issued as prescribed by the City Council; and generally may exercise all zoning powers and authority vested in municipal corporations by virtue of 22 Del.C. Chapter 3, as it may hereafter from time to time be amended, or by any future corresponding provision of law.

4.2.37 May license, tax, and collect fees for any and all municipal purposes of such various amounts as the City Council from time to time shall fix from any person, firm, association or corporation carrying on or practicing any business, profession or occupation within the limits of the City;

4.2.38 May impose, upon new development or construction, upon first-time occupancy of new construction, or upon newly-annexed territory, 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 development, new construction, occupancy, or newly annexed territory;

4.2.39 May grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions, and for such consideration, as the City Council shall deem in the best interest of the municipality, for the use of the present and future streets, highways, lanes, alleys, water courses, parks, lakes, sidewalks, crosswalks, wharfs, docks, and other public places of the City for the purpose of furnishing heat, light, electric power and energy, gas, water, sanitary sewer, drainage, telephone, telegraph, television, railroad (excepting the railroads or railways engaged in Interstate Commerce), bus, taxi or other transportation carrier or public service to the City, and/or for the purpose of transmitting the same from or through the City to points outside the limits thereof; provided, however, that whenever any state or federal law grants exclusive jurisdiction over any such activity to a state or federal agency, the City shall have no authority inconsistent herewith.

4.2.40 May regulate and control the exercise of any license or franchise mentioned in Section 4.2.39 of this Charter.

4.2.41 May appropriate money to pay the debts, liabilities and expenditures of the City, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily, money from one fund to another fund of the City in case of emergency.

4.2.42 May inquire into and investigate the conduct of any officer, agent or employee of the City or any municipal affair and for such purpose or purpose(s) may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena.

4.2.43 May establish a Pension Plan or a Health and Welfare Plan, or both, for the employees of the City under such terms and conditions as the City Council, in its discretion, may deem most appropriate. The method of funding may, if deemed desirable by the City Council, be accomplished through an insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of the elected members of the City Council.

4.2.44 May determine what purposes are deemed to be public purposes or municipal purposes.

4.2.45 May make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this State and the United States as the City Council may deem necessary to carry into effect any of the provisions of this Charter or of any other law of the State relating generally to municipal corporations, or which they may deem proper and necessary for the order, protection and good government of the

City, the protection and preservation of persons and property, and of the public health and welfare of the City and its inhabitants; provided, however that any Ordinance relating to the public health of the City 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 City but as well to all areas and persons outside the City within one (1) mile from said limits.

4.3 Liberal Construction; Manner of Exercise. The powers of the City under this Charter shall be liberally construed in favor of the City, 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 City shall have and may exercise any and all powers which, under the Constitution of the State of Delaware, it would be competent for this Charter to specifically enumerate.

All powers of the City, 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 City Council.

4.4 Intergovernmental Cooperation. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more States or civil divisions or agencies thereof, or the United States or any agency thereof, except as prohibited or restricted by the Constitution or laws of the State of Delaware or by this Charter.

5. Governing Body.

5.1 City Council. The government of the City and the exercise of all powers conferred by this Charter (except as otherwise provided herein) shall be vested in and exercised by a Mayor and Council as hereinafter provided.

5.2 Qualifications for Office.

5.2.1 Basic Qualifications. Candidates for the City Council or for the office of Mayor must be at least 20 years of age, have filed a nominating petition in accordance with §5.4 of this Charter, shall be in good standing with Harrington taxes and utility fees, and be otherwise qualified to vote at the annual City election as provided in §6.2.

5.2.2 Conviction of Felony or Crime of Moral Turpitude. No person having been convicted of a felony or crime of moral turpitude shall be qualified to be a candidate for office on the City Council or for the office of Mayor. For this reason, complete criminal history shall be researched by proper authorities.

5.2.3 Limitation on Terms. No person shall hold the office of Mayor for more than four (4) consecutive terms, or portion of terms, of office under this Charter. No person shall hold the office of Councilman for more than three (3) successive terms, or portion of terms, of office under this Charter.

5.2.4 Commitment to Mental Institution. No person having been committed to a mental institution shall be qualified to be a candidate for office of Mayor or Councilperson.

5.3 Election Districts. The Council shall be the legislative body of the City composed of at least six (6) members nominated and elected as herein provided.

In order that the members of Council shall be distributed over the City, the City is presently divided into six (6) representative districts and one of said members of Council shall be a resident of each district.

The six election districts shall be as follows:

5.3.1 First Election District. All the territory within the City Limits contained within the following boundaries: Starting at a point at the centerline of East Street to the centerline of Thorpe Street, then West along the centerline of Thorpe Street to the centerline of Ward Street, then North along the centerline of Ward Street to the centerline of Clark Street, then East along the centerline of Clark Street to the centerline of Thomas Street,

then North along the centerline of Thomas Street to the centerline of Liberty Street, then East along the centerline of Liberty Street to the centerline of Dixon Street, then North along the centerline of Dixon Street to the centerline of Shaw Avenue, then East along the centerline of Shaw Avenue to the Easterly City Limits, then South along the Easterly City Limits of Liberty Street, then East following the City Limits to the West side of the northbound lane of U.S. #13, then south along the City Limits to State Route #14, then East following the meanderings of the City Limits to its juncture with the Easterly City Limits, then South along the Easterly City Limits to its juncture with the Southerly City Limits, then West following the meanderings of the Southerly City Limits, then West following the meanderings of the Southerly City Limits, to its juncture with the centerline of East Street, which is the point of beginning.

5.3.2 Second Election District. All the territory within the City Limits contained within the following boundaries: Starting at a point at the centerline of Harrington Avenue and the centerline of Liberty Street, North along the centerline of Harrington Avenue to the centerline of Carrow Street, then East along the centerline of Carrow Street to the centerline of Second Avenue, then North along the centerline of Second Avenue to the Northerly City Limits, then East along the Northerly City Limits to its juncture with the Easterly City Limits, then South along the Easterly City Limits to the centerline of Shaw Avenue, then west along the centerline of Shaw Avenue to the centerline of Dixon Street then South along the centerline of Dixon Street to the centerline of Liberty Street, then West along the centerline of Liberty Street to the centerline of Harrington Avenue, which is the point of beginning.

5.3.3 Third Election District. All the territory within the City Limits contained within the following boundaries: Starting at a point at the juncture of the Westerly City Limits and the Southerly City Limits, North along the Westerly City Limits to the centerline of County Road #275, then Southeast along the centerline of County Road #275, then Southeast along the centerline of County Road #275 to include Clark's Corner, to the centerline of Center Street and West Street, then South along the centerline of West Street to the centerline of High Street, then East along the centerline of High Street to the centerline of Short Street, then South along the centerline of Short Street to the centerline of Mispillion Street, then East along the centerline of Mispillion Street to the centerline of Commerce Street. Then South along the centerline of Commerce Street to the centerline of Reese Avenue and County Road #314. Then South along the centerline of County Road #314 to the Southerly City Limits, then West along the Southerly City Limits to its juncture with the Westerly City Limits, which is the point of beginning.

5.3.4 Fourth Election District. All the territory within the City Limits contained within the following boundaries: Starting at a point at the centerline of Liberty Street and West Street, North along the centerline of West Street to the centerline of Center Street and County Road #275, then Northwest along the centerline of County Road #275 to the Westerly City Limits, then North along the Westerly City Limits, then East along the Northerly City Limits to the centerline of Second Avenue, then South along the centerline of Second Avenue to the centerline of Carrow Street, then West along the centerline of Carrow Street to the centerline of Harrington Avenue, then South along the centerline of Harrington Avenue to the centerline of Liberty Street, then West along the centerline of Liberty Street to the centerline of West Street, which is the point of beginning.

5.3.5 Fifth Election District. All the territory within the City Limits contained within the following boundaries: Starting at a point at the centerline of Mechanic Street and the centerline of West Street, then North along the centerline of West Street to the centerline of Liberty Street, then East along the centerline of Liberty Street to the centerline of Thomas Street, then South along the centerline of Thomas Street to the centerline of Clark Street, then West along the centerline of Clark Street to the centerline of Commerce Street and Fleming Street, then West and North along the centerline of Fleming Street to the centerline of Mechanic Street, then West along the centerline of Mechanic Street to the centerline of West Street, which is the point of beginning.

5.3.6 Sixth Election District. All the territory within the City Limits contained within the following boundaries: Starting at a point at the centerline of East Street and the Southerly City Limits, West along the Southerly City Limits to the centerline of County Road #314, then North along

the centerline of County Road #314 to the juncture of the centerline of West Street, Reese Avenue, County Road #314 and Commerce Street, then North along the centerline of Commerce Street to the centerline of Mispillion Street, then West along the centerline of Mispillion Street to the centerline of Short Street, then North along the centerline of Short Street to the centerline of High Street, then West along the centerline of High Street to the centerline of West Street, then North along the centerline of West Street to the centerline of Mechanic Street to the centerline of Fleming Street, then South and East along the centerline of Fleming Street to the centerline of Commerce Street and Clark Street, then East along the centerline of Clark Street to the centerline of Ward Street, then South along the centerline of Ward Street to the centerline of Thorpe Street, then East along the centerline of Thorpe Street to the centerline of East Street, then South along the centerline of East Street to the Southerly City Limits, which is the point of beginning.

5.3.7 Re-Appportionment: Additional Districts.

(a) The City Council may provide for additional districts and/or rearrange the boundaries of the existing districts as provided herein in the event of annexation or reapportionment, but in no event shall there be less than six districts.

In the event additional district(s) are created, there shall be created a vacancy in the office of Councilman for the additional district(s) and Council shall fill such vacancies as herein provided.

(b) For the 1994 regular municipal election and for each election thereafter, the City shall be divided into six (6) election districts, the boundaries of which shall be established by City Council so that the districts are nearly equal in population as shown on the 1990 federal decennial census. The district boundaries so established shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware, at which time the City Council shall redistrict the City so that the districts shall be nearly equal in population in accordance with said census, which redistricting shall be used for the next regular municipal election. Thereafter this procedure shall be followed by the Council after each succeeding federal decennial census in this manner so that the districts shall be maintained as nearly equal in population as possible at all times.

(c) In the event that any action is required hereunder to create new election districts and/or reapportion existing election districts, the City Council shall hold at least one public hearing on not less than 10 days public notice stating the date, time, place and purpose of the hearing which public notice shall be: (1) published in a newspaper of general circulation in the City and (2) posted in at least five (5) public places in the City.

The City Council shall conduct its review and any proceedings or actions resulting therefrom, so that the boundaries of the new or re-apportioned election districts are finalized and incorporated into this Charter by July 1st of the year in which the review was performed. Notice of such new or re-apportioned election districts shall be published in a newspaper of general circulation and posted in five (5) public places in the City by August 1st of that year.

5.4 Nominations to Be By Petition. The mode of nomination of candidates for the Council and for the office of Mayor shall be by petition signed by not less than ten nor more than twenty-five electors of the City, and filed with the Clerk of Council, in the City Hall on or before 4:00 p.m. local time of the first Tuesday of October preceding the next municipal election. Should the first Tuesday of October fall on a legal holiday, the filing date shall be 4:00 p.m. local time on the next working day thereafter.

Whenever a petition nominating a person for the office of Mayor or Councilman shall have been filed as above described, the name of such person shall be printed on the ballot for the regular municipal election as a candidate for the office for which the person was nominated, provided, the person possesses the qualifications prescribed by this Charter for a candidate of such office.

No nominating petition shall designate more than one person to be voted as a member for Council or Mayor.

The signers of a nominating petition for a member of the Council must be electors of the City residing in the same election district in which the nominee resides; but the signers to the nominating petition for the Mayor may be electors residing in the City at large.

There must be attached to each nominating petition an affidavit of the Nominee thereof, stating the number of signers and that each signature appended thereto was made in his presence, and is the genuine signature of the person whose name it purports to be, and that all of the said signers are entitled to vote at the regular municipal election referred to.

And, in the case of petition nominating a candidate for Councilman, that the Nominee of the petition verily believes that each signer of said petition is a resident of the same election district in which the nominee resides.

With each signature there shall be stated the place of residence of the signer, giving street and number or other description sufficient to identify the same. The form of the nominating petition shall be substantially as follows:

"We, the undersigned, electors of the City of
Harrington, nominate (name of Nominee) who resides
in the (number) Election District of the said City
of Harrington, for the office of (Councilman, or for
the office of Mayor as the case may be) to be voted
for at the regular municipal election to be held in
the City, on the _____ day of _____ in the year
_____; and we individually certify that we are
qualified to vote for the candidate for the office
named, and that we have not signed any other
nominating petition for that office, and that our
places of residence are truly stated after our
signatures.

Name

Street and Number

(space for signatures)

State of Delaware:

: ss

County of Kent :

(Nominee name) being duly sworn (or affirmed)

deposes and says that his and the signatures

appended thereto were made in his presence, and are

the signatures of the person whose names they purport to be, and he verily believes the residences of each signer thereof to be truly stated, and that all of said signers are entitled to vote at the regular municipal election referred to in said paper.

(SIGNED)

Subscribed and sworn to (or affirmed) before me this ____ day of ____ . Justice of the Peace (or Notary Public)."

5.5 Council to Act as Final Judge. The City 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.

If the City Clerk preliminarily determines that any candidate may not meet the qualifications for office, he shall notify the Mayor who shall call a special meeting of the City Council to be held not less than ten (10) days prior to the date set for the election, at which the disinterested members of the City Council shall decide the matter. The candidate whose qualifications are at issue shall be notified, in writing by registered mail or personal delivery, of the date, time and place of the hearing, at which he or she may appear and testify. If the City Council determines that the candidate does not meet the qualifications for office, it shall reject his/her nominating petition and his or her name shall not appear on the ballot. In making the determination, only those members of the City Council who are not up for re-election shall be entitled to vote on the question.

5.6 Terms of Office.

5.6.1 Mayor. The Mayor shall be elected by the qualified voters of the City, as defined in §6.2 of this Charter, of the several election districts, to serve a term of two (2) years.

5.6.2 Members of Council. The members of Council shall be elected for their respective election district by the qualified voters of the City (as defined in §6.2 of this Charter) residing in the respective election district, to serve a term of three (3) years.

5.7 Continuity in Office. For the purpose of carrying into effect the provisions of this Charter, the Mayor and members of Council now serving shall continue to serve as herein provided until the completion of the terms for which they were elected and/or until their successors are duly elected or appointed.

6. Municipal Elections.

6.1 Date of Regular Municipal Election.

An annual municipal election shall be held on the first Tuesday of November of each year which shall be known as the Regular Municipal Election for the purpose of electing members of Council or the Mayor or both as the case may be to fill expired terms. All other elections that may be held shall be known as Special Municipal Elections.

6.2 Voter Qualifications. Any natural person shall be qualified to vote who, on the date of the election, is a resident of the City of Harrington, a United States citizen, has attained eighteen (18) years of age, and is registered under the City's Voter Registration ordinances. A "resident" shall

mean any person who has been residing in the City for at least six (6) months prior to the date of the election.

6.3 Voter Registration. The City Council may enact such ordinances concerning the registration of qualified voters for municipal elections in the City as it deems reasonable or necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinances shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinances unduly impair the right to vote. Nothing herein shall be construed to prohibit the City from using the voter registration lists of the Department of Elections for Kent County in lieu of establishing its own registration procedures.

6.4 Uncontested Elections. Where there is only one official candidate for each office, if none of the official candidates has a formal opponent on the day of election, the official candidates may assume office without the holding of a formal election.

6.5 Date, Time, Place, Notice and Manner of Conducting.

6.5.1 Date, Time, and Place. The regular municipal election shall be held on the first Tuesday of November at such time and place, within the City, as shall be determined by the City Council. The polls shall remain open for at least a seven hour period to be determined by the City Council.

6.5.2 Notice of Elections. Notice of the regular municipal election shall be given by posting notice thereof in at least three public places in the City not less than ten (10) days before the day of such election and by publishing notice in a newspaper of general circulation in the City at least ten (10) days before the day for the election. Such notices shall state the date, time, and place of the election as well as a description of the positions to be filled.

6.6 Manner of Conducting Elections.

6.6.1 Voting Machines, Paper Ballots, Electronic Voting System. Elections shall be by voting machine, electronic voting system, or by paper ballot as the City Council shall determine; provided however that voting machines or electronic voting systems shall be used if required for municipal elections by general statute.

6.6.2 Absentee Voting. The City Council may, (but shall not be required to), by ordinance, provide for a qualified voter (duly registered if required by ordinance) who shall be unable to appear in person, to cast his or her ballot at any municipal election by absentee ballot.

6.6.3 Rules Governing Conduct of Elections. The City Council may, by resolution, adopt such rules and regulations, not inconsistent with the provisions of this Charter or with applicable state or federal law, governing the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt.

6.6.4 Election Board. Every election shall be held under the supervision of an Election Board. The Election Board shall consist of one member of the City Council who is not up for election (who shall serve as the chairman) and two other qualified voters of the City, to be chosen by the Council at the last regular Council meeting of the month prior to the election. At such time, the Council may also designate such other persons it shall deem necessary to assist the members of the Election Board in the conduct of the election and the counting of ballots.

In the event Council is unable to choose one member of Council to serve on the Election Board, Council shall appoint some other qualified voter of the City who shall serve as Chairman of the Election Board.

If, at the opening of the polls, or at any time thereafter, there shall not be present all the members of the Election Board, or in the event they shall fail or neglect to act in the conduct of the election during the times the polls are open until the ballots are counted and the results are certified, then in such case the ranking City officer available shall appoint a qualified voter or voters to act as a member or members of the Election Board to fill such vacancies caused by the absence of one or more members of the Election

Board; provided however that no candidate for election nor any member of his/her immediate family shall sit on the Election Board. Members of the Election Board shall be the sole and final judges of the conduct of the election and of the legality of the votes offered. The Election Board shall have the power to subpoena persons, and officers of the City, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered.

6.6.5 Election Results. When the polls are closed, the Election Board shall publicly count the votes and shall certify the results of the election to each of the persons elected and to the Council. The candidate for the office of Mayor who receives the highest number of votes cast for that office shall be declared to be elected Mayor, and the candidate for the office of Councilmember from each district who receives the highest number of votes cast for that office shall be declared to be elected to that office and they shall continue in office during the terms for which they are chosen, or until their successors are duly elected and/or appointed and qualified.

6.6.6 Ties, Challenges. In the event of a tie vote for any office, the Election Board shall determine such tie by lot.

6.6.7 Preservation of Ballots and Records. All ballots cast and all records of the election kept by the Election Board shall be preserved in the custody of the Election Board for a period of fifteen (15) days, unless an appeal is filed in a court of appropriate jurisdiction.

7. Organization of City Council.

7.1 Organizational Meeting. An organizational meeting of the City Council shall be held at the first regular City Council meeting held in January of the year following the annual City election. Such meeting shall be held at the usual place for holding regular meetings. The newly elected Council members shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, a Justice of the Peace, or by one of the holdover Council members.

7.2 Officers. The Mayor and members of the City Council shall be elected by the qualified voters of the City. All other officers shall be appointed offices, such appointments to be made by the City Council, as provided in §11 of this Charter. At the organizational meeting, the City Council members shall elect from among their own members a Vice Mayor who shall serve in that position for a term of one year or until the organizational meeting the January following the next succeeding election.

7.2.1 Mayor. It shall be the duty of the Mayor to preside at all meetings of the City Council, to serve as the head of the City government for all ceremonial purposes or for purposes of military law; to appoint such standing or ad hoc committees as he deems necessary or appropriate, such appointments to be subject to council confirmation, and to perform such other duties as may be prescribed by any ordinance or resolution adopted by the City Council. The Mayor shall have no vote on any matter except in case of a tie. For purposes of establishing a quorum, the Mayor shall not be counted, but only members of the Council.

The Mayor shall be authorized to act on behalf of the City, without prior Council approval, in the event of some sudden emergency requiring immediate action in order to protect the public health, safety, and welfare of the City, its residents 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 and dangerous flooding or serious storm threatening significant damage, a major civil 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 City where the scope of the emergency so declared includes the City of Harrington and it is not reasonably possible to convene a special meeting of the Council. If reasonably possible, the Mayor shall notify each Council member, in writing, of the action so taken by him within 24 hours. Notice shall be complete upon depositing such notice in the U.S. Mail, proper postage affixed, to each Council member at his or her last known address or upon personal delivery.

Any action taken by the Mayor under the powers vested in him under this section shall be as good as the act of the entire Council, provided that the Council may at any regular or special meeting held within 15 days of the Mayor's action, cancel the further implementation of any such action not yet completed and notify any persons or legal entities thereby affected.

7.2.2 Vice Mayor. The Vice Mayor shall act as Mayor during the absence or disability of the Mayor, and shall perform such other duties as may be assigned to him by the Mayor or by ordinance or resolution adopted by the City Council.

7.2.3 Treasurer. The City Council shall appoint a City Treasurer who shall be custodian of all City Funds and shall authorize deposit into federally-insured banking institutions located in the City as necessary.

He shall pay no money except upon warrant or check countersigned by the Mayor, or, in the Mayor's absence, by the City Manager.

The Mayor and City Treasurer shall sign no warrant or check on the City Treasury unless authorized by City Council pursuant to appropriation made by Council.

The Treasurer shall be responsible for seeing that a true and detailed account of all monies received by the City is maintained on a current basis. The books and accounts of the City shall at all times be open to inspection by the Council, Mayor or City Manager.

The City Treasurer shall make such reports and at such times as the Council may direct.

The City Treasurer shall be required to give bond in such amount and in such form with such surety as the Council shall determine and approve, the cost of said Bond to be paid by the City.

7.3 Succession of Authority. In the event that the Mayor is unavailable or incapable of assuming his responsibilities in a sudden emergency (as defined in §7.2.1) the emergency powers therein vested in the Mayor shall devolve upon the following officers and officials of the City in the following order of sequence: (1) Vice Mayor, (2) Each of the remaining Council members in order of their total number of years served on Council, (3) the City Manager, (4) the Chief of Police, (5) the Clerk of the Council.

7.4 Prohibitions.

7.4.1 Holding Other Office. Except where authorized by law, no member of the City Council, nor the Mayor, shall hold any other City Office or City employment during the term for which he was elected to Council. No councilmember or Mayor may apply for any compensated position with the City of Harrington unless he/she has resigned from the elected position prior to submitting application.

7.4.2 Contracts with the City. It shall be unlawful for the Council or the City's officers, agents, or employees, to make or enter into any contract for materials, supplies, work or labor for the use and benefit of the City with any member of Council or the Mayor, or with any partnership in which any member of Council, or the Mayor, is a partner, or with any corporation in which any member of Council, or the Mayor, is a director or has a controlling interest, except with the unanimous consent of the disinterested Council members, and any such contract shall be absolutely null and void without such unanimous consent.

7.5 Vacancies. Forfeiture of Office.

7.5.1 Vacancies. The office of Mayor or City Councilmember shall become vacant upon death, resignation, lawful removal from, or forfeiture of office.

7.5.2 Forfeiture Proceedings. A forfeiture of his office shall occur when the Mayor or any Councilmember:

(a) lacks, at any time during his or her term of office, any qualification for the office prescribed by this Charter or by law.

(b) willfully violates any express and substantive prohibition in this Charter.

(c) is convicted of a felony or any crime involving moral turpitude anywhere in the United States.

(d) fails to attend three consecutive regular council meetings without being excused by Council.

7.5.3 Determination Concerning Forfeiture.

Where the conditions set forth in 7.5.2 (c) or (d) occur, forfeiture shall be automatic. Where the conditions set forth in 7.5.2 (a) or (b) are alleged to have occurred, a determination concerning such alleged forfeiture shall be made by the Council, but the affected party shall not have a vote in any such decision. Such deliberations may be held in executive session and if the Council determines by a unanimous vote of the Council members entitled to vote on the question, that a forfeiture has occurred, it shall, within forty-eight hours of that determination, provide written notice thereof to the affected Council member, stating specific reasons. The affected party shall then have ten days in which to make a written demand for a public hearing before the Council, to be held within twenty days of the written demand, at which hearing he or she may appear with the assistance of counsel and present evidence to the relevant issues. Thereafter, the Council shall hear any other relevant evidence and vote again on the question of forfeiture; and if a determination of forfeiture is again made by a unanimous vote by secret ballot of the Council members entitled to vote on the question, that decision, with a statement of the reasons therefor, shall be placed in the minutes and shall be final. Written notice of the decision shall be sent by certified mail, return receipt requested, within 48 hours of the decision.

7.5.4 Failure to Request Hearing as a Bar. Failure of the affected person to make written demand for a public hearing as hereinabove stated shall be an absolute bar to his right to challenge the Council's decision. Public hearing may be waived by the affected Council member. During, or in connection with, any such proceedings, the 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.

7.6 Filling Vacancies on Council. In case of a vacancy in the office of Mayor or on the Council, the remaining Council members shall elect another qualified person to serve for the remainder of that vacant seat's term; provided, however, that if a vacancy shall occur in the office of Council member, the unexpired term of which shall be for more than one (1) year, the Council shall elect another qualified person to serve only until the next annual election, at which time there shall be elected a suitable person to fill the remainder of the term of said office.

7.7 Compensation. The Mayor and Council members shall receive no salary for their services, but each shall be paid the sum of \$25.00 for each regular or special meeting of the City Council they attend, effective January 1, 1995.

7.8 Reimbursement of Expenses. The Mayor and members of Council shall be reimbursed for their actual and necessary expenses while on City business which has been duly authorized by motion, resolution or order of Council.

8. Annual Report to the Electors of the City. At the organizational meeting of the City Council held in January of each year, the City Council shall present an annual report concerning the business of the City for the past year, as well as plans for improvements contemplated to be made during the succeeding year. Due notice of the time and place of the presentation of the annual report shall be published in a newspaper of general circulation within the City at least ten (10) days prior thereto.

The meeting shall be organized and conducted by the Mayor or his appointee and the Clerk of Council.

No action taken at this meeting shall be binding on the Mayor and Council, the intent of this meeting being that it be a means of informing the electors of the business affairs of the City.

9. Meetings.

9.1 Regular Meetings. The City Council shall meet regularly not less than once each month, during the year. The time and place of each regular meeting shall be set by Council each year at their organizational meeting, but Council shall not hereby be prohibited from rescheduling such meetings from time to time during the year as need arises.

9.2 Special Meeting; Waiver of Notice. Special meetings shall be called by the Council Clerk upon the written request of the Mayor, or upon the written request of any four members of Council, stating the day, hour and place of the special meeting requested and the subject or subjects proposed to be considered thereat. Such notice to Council must be deposited in the U.S. mail in the main post office in the City at least 24 hours prior to the time set for such special meeting; provided, however, that a waiver of such notice, (written, telegraphic, facsimile, or recorded telephonic message) by all members of Council prior to or immediately upon the convening of such special meeting shall make the 24 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, if the waiver so states. Subject to the scope of the notice, the City Council shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at a regular meeting.

9.3 Adjourned Meetings. The City Council may adjourn its meetings from time to time, stating the date, place, and time to which such meeting shall be adjourned

9.4 Place of Meetings. In the absence of emergency or other compelling circumstances, no action may be taken by the City Council except at a duly convened regular or special meeting, held in the City of Harrington, Delaware.

10. Manner of Acting.

10.1 Rules of Procedure. Record of Proceedings. The City Council may determine its own rules of procedure and order of business. It shall keep a record of its proceedings. The yeas and nays shall be taken upon the passage of every ordinance and resolution and entered, together with the text of the ordinance or resolution upon the Journal of the proceedings of the Council. Any member of the Council who is present at a meeting and who does not vote or who abstains from voting on any ordinance, resolution, or order shall state his reasons for not voting or for abstaining. The Journal shall be deemed conclusive evidence of the facts stated herein.

10.2 Ordinances. The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

- (a) Adopt, repeal or amend an administrative code, or establish or abolish any City department, office, or agency;
- (b) Provide for a fine or other penalty or establish a rule of regulation for violation of which a fine or other penalty may be imposed;
- (c) Grant, renew or extend a franchise;
- (d) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution. Every ordinance shall be introduced in writing.

Vote on any ordinance may be by voice vote or written vote and the vote of each Council member on any ordinance shall be entered on the record.

10.3 Quorum. A majority of the members elected to the City Council shall be physically present in order to constitute a quorum to conduct business, but if a lesser number be present at any regular or properly called special meeting, they may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by the majority of the entire Council.

10.4 Vote Necessary to Carry Action. In the performance of their duties, the acts, doings, and determinations of a majority of the City Council members present at any duly called meeting at which a quorum is present shall be as good as the acts, doings, and determinations of all the members of the Council.

11. Appointed Officers.

11.1 City Manager.

11.1.1 Appointment, Term. The Council shall appoint a City Manager who shall be the chief administrative officer of the City. He/she shall be appointed solely on the basis of his/her professional, executive, and administrative qualifications. He/she need not, when appointed, be a resident of the City or of the State of Delaware, but shall, within three (3) months of his/her employment, become domiciled within such radius of the City Hall as reasonably determined by Council at the time of his/her appointment. No member of Council shall, during the term for which elected, be appointed to act as City Manager. The City Manager shall be appointed for an indefinite term, but shall be removable at the pleasure of the Council. Before the City Manager may be removed he/she shall be given a written statement of the reasons alleged for his/her removal and shall be granted, if he/she demands in writing filed with Clerk of Council within five (5) days after receiving the written notice of his removal, the right to be heard publicly thereon at a meeting of council, but pending and during such hearing the Council may suspend him/her from office under such terms and/or conditions as specified by Council. The action of the Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. In case of the absence, disability, or suspension of the City Manager, the Council may designate some other competent person to perform the duties of the office during such absence, disability or suspension.

11.1.2 Vacancy from Office. In the event of a vacancy in the office of City Manager, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges and powers theretofore reposed in his predecessor or predecessors in office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

11.1.3 Responsibilities Relating to City Employees. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his/her charge, and to that end, except as otherwise provided herein: He/she shall seek applications, interview applicants, select and recommend the applicant he/she feels most qualified for a position in the administrative services of the affairs of the City under his/her charge and present such application along with his/her recommendations on all applicants to the City Council or its designated Committee for their review and action. All such appointments shall be without definite term.

11.1.4 Removal of City Employees. Employees under the authority of the City Manager may be removed by him/her at any time. The employees shall have the right to appeal such dismissal to the City Council or its Personnel Committee.

11.1.5 Council Not To Interfere. Except for the purposes of inquiry, the Council and its members shall deal with that portion of the administrative service for which the City Manager is responsible solely through the City Manager, and neither Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately; provided, however, in the event of any emergency, (i.e. storms,

water leaks, sewer blockages, etc.), wherein the City Manager is not available or he/she requests assistance, the Mayor or any Council member may take charge and in so doing may give direct orders to any employee of the City until such time that the emergency situation is abated and whatever clean-up work necessitated completed.

11.1.6 Responsibility to Council. It shall be the duty of the City Manager to supervise the administration of the affairs of the City under his charge; to make such recommendations to the Council concerning the affairs of the City as may seem to him desirable, to keep Council advised of the financial conditions and future needs of the City, with the Budget Committee to prepare and submit to the Council the annual budget estimate, to prepare and submit to Council such reports as may be required by that body, and to perform such other duties as may be prescribed by this Charter or required of him/her by ordinances or resolution of Council.

11.1.7 Duties of City Manager. The City Manager shall have charge of the water and sewer systems of the City. He/she shall have charge of the supervision of the streets, gutters, curbs, and sidewalks of the City and of all work relating thereto. He/she shall have charge of the administration of all provisions of this Charter and ordinances and regulations of the Council relating to affairs of the City, when not otherwise provided for by this Charter or by ordinance or resolution of Council. He/she shall be ex-officio Collector of Taxes for the City. It shall be his/her duty to collect all water rents and fees for the tapping of water mains and sewers and all City revenues from any source whatsoever.

He/she shall keep a full and strict account of all monies received and all disbursements made by him/her and such accounts shall be at all times open to inspection by the Council. He/she shall make such reports and at such times as the Council shall direct.

11.1.8 Bond. The Council may require the City Manager to give bond in such amount and such form and with such surety as the Council shall approve, said Bond to be paid by the City.

11.2 Clerk of Council. The Council Clerk shall keep a record of the proceedings of the Council and perform such other duties and have such powers as may be prescribed by ordinance or by this Charter. The City Manager shall not serve as Clerk of Council.

11.3 City Solicitor. At the annual meeting, the Council shall appoint a City Solicitor for the term of one year or until his successor has been duly chosen and qualified.

The City Solicitor may be removed during his term by a vote of three-fourths of the members elected to Council.

The City Solicitor shall be a member in good standing of the Bar of the State of Delaware who shall have offices in Kent County and shall have practiced in the State of Delaware for at least three (3) years. He shall be the Chief Legal Advisor of and Attorney for the City. It shall be his duty, either personally (or by such assistants as he may designate), to attend meetings of Council as prescribed by Council, to give advice in writing and to perform other legal services as may be required of him by Council, the City Manager, or other designated officers of the City.

11.4 Alderman. (position deleted)

11.4.1 Jurisdiction. Jurisdiction over civil misdemeanors and fines is hereby remanded to J.P. Court.

11.5 Police Force.

11.5.1 Chief of Police; Police Officers. The Chief of Police shall be hired by the Personnel Committee and the Council, in the same procedure as the City Manager and shall have authority over the Police Department. The subordinate members of the police force shall each be appointed by the City Council upon the recommendation of the Personnel Committee and Chief of Police for an indefinite term and may be removed for just cause by a majority vote of all the elected members of the City Council. The police force shall preserve peace and order and shall compel obedience within the City limits to the

ordinances of the City and the laws of the State of Delaware. The police force shall have such other duties as the City Council shall from time to time prescribe. Operational control of the daily routine and responsibilities of the Police Force shall be the responsibility of the Chief of Police. The authority of the Chief of Police shall be subordinate and answerable to the Mayor and the City Council. The Council may, from time to time, make rules and regulations as may be necessary for the organization, government and control of the Police Force.

11.5.2 Power and Duties. Within the City limits of the City of Harrington and one mile beyond said limits, each member of the police force shall have all the police powers and authority of a State Peace Officer and shall be conservators of the peace; they shall suppress all acts of violence and enforce all laws relating to the safety of persons and property; they shall compel the enforcement of all ordinances enacted by the City Council, and of all criminal laws and motor vehicle laws enacted by the State of Delaware; and they shall suppress riotous, disorderly or turbulent assemblages of persons in all public ways and places of the City, and upon view of the above or upon view of any violation of any ordinance of the City relating to the peace and good order thereof, the police force shall have the right and power to arrest without warrant. In the case of a pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of the City of Harrington to any part of the State of Delaware.

11.6 Other Officers, Employees, and Agents. The City Council may provide for the appointment or hiring of such other officers, employees and agents of the City, which it may deem proper and necessary, for the proper conduct and management of the City. Unless governed by the terms of a written contract, a written personnel policy, a written personnel classification or merit system, or a written grievance or disciplinary procedure duly adopted by the City Council, any such officers, employees and agents of the City, may be removed at any time, with or without cause, by the City Council at the pleasure of the City Council.

11.7 Compensation. The City Council shall, by ordinance, budget or resolution, fix the amount of any salaries or compensation for the employees, officers and agents of the City, provided that the Mayor and City Council members shall not be included under this subsection. No officer, employee or agent of the City shall in any form have, take, or receive from the City any compensation, in addition to the salary or compensation fixed by the City Council, except for reimbursement for actual and necessary expenses incurred by them in the performance of their duties, if such reimbursement be authorized and approved by motion, resolution or order of Council.

11.8 Personnel Records. The City Council shall cause to be kept a full and complete record of all officers appointed, and employees and agents hired by the City, containing the names of such officers, employees and agents, the dates of their employment, any salary or compensation to be by them received, the date of the termination of their services, and any other relevant personnel employment information.

12. Assessment for Taxes.

12.1 Adoption of Kent County Assessments. The City Council may adopt the assessments of Kent County for any or all property located within the corporate limits of the City of Harrington, in lieu of making its own independent assessment and valuation, anything herein to the contrary notwithstanding. In such event, the assessed values established by Kent County for the then-current tax year shall be conclusive for purposes of levying City taxes, and the City Council shall have no authority to hear appeals (under §12.5) regarding same. If the City Council elects to adopt the Kent County Assessments, only this section and §12.4.2 (Additions to Tax Bills) shall have effect for that tax year; but the City Council shall have authority to consider appeals concerning any additions to tax bills under §12.4.2 at any regular or special meeting. Council shall elect to adopt the Kent County Assessments no later than May 1 of each year.

12.2 Local Assessment: Board of Assessment.

12.2.1 Appointment, Indefinite Term. The Mayor may with the advice and consent of the City Council, appoint a Board of Assessment composed of

three (3) members, each of whom shall be domiciled within the corporate limits of the City, and who shall serve for a one year term.

12.2.2 Oath, Duties, Compensation. The Board of Assessment shall be sworn or affirmed by the Mayor 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 City of Harrington and to perform such other duties with reference thereto as shall be prescribed from time to time by the City Council. The compensation to be by them received for the performance of their duties and/or the hiring of employees to assist them in the performance of their duties, shall be fixed by and subject to the approval of the City Council.

12.2.3 Professional Assessors to Assist. In addition to the appointed Board of Assessment, it shall be within the discretion of the Council to retain the services of a professional assessor to assist the Board of Assessment in performing the duties of the office to which they were appointed.

12.3 Assessment Procedure.

12.3.1 General Assessment. In the year 1992 and every tenth year thereafter, if the Kent County assessment has not been adopted, there shall be made a true, just and impartial valuation and assessment of all the real property within the limits of the City, locating each parcel of real property by street and number or other description with sufficient particularity to be identified. Real estate shall be assessed to the owner or owners if he or they be known. If the owner or owners of real estate cannot be found or ascertained, it may be assessed to "Owner Unknown". A mistake in the name of the owner or owners or a wrong name on an assessment to "Owner Unknown" shall not affect the validity of the assessment of any municipal tax or assessment based thereon; provided, however, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds, in and for Kent County.

12.3.2 Scrap Assessment. The assessment made in the year 1992 and every tenth year thereafter, shall be known as the general assessment. In other years, there may be a scrap assessment as hereinafter provided.

The scrap assessment shall value and assess all taxable real property in the City not already valued and assessed by the general assessment then in force, and all improvements made upon real property since said general assessment.

The general assessment then in force, as supplemented or modified by the scrap assessment aforesaid, shall constitute the assessment for the then-current tax year, (unless, in that tax year, the City Council elects to adopt the Kent County Assessment as provided in §12.1).

12.3.3 Assessment of Members of Board of Assessment. The real property of the members of the Board of Assessment shall be assessed by the City Council of the City of Harrington.

12.4 Delivery of Assessment List: Additions to Tax Bill.

12.4.1 Delivery of Assessment List. In any year that the City Council does not elect to use the Kent County Assessments under §12.1, the Board of Assessment, after making such assessment, shall deliver to the City Council a list containing the names of owners of all properties assessed and the amount of assessment against each. The Board of Assessment shall also deliver at such time as many copies of said list as the City Council shall direct.

12.4.2 Additions to Tax Bills. Whether utilizing the Kent County assessments or those prepared by the City's own Board of Assessment, the City Council may annually, prior to the posting of the assessment list, by resolution, provide for the City Manager a list of any and all charges, costs or other assessment owed to the City, which list of charges incurred shall include, but not limited to, the following: water bond sinking fund assessments, sidewalk assessments, curb and gutter assessments, water assessments, weed and grass cutting bills, trash collection bills, past due

water rents and/or past due charges for sanitary sewer service. Said amounts, when adopted and set forth by resolution of Council, shall be shown on the copies of the assessments posted pursuant to the provisions of §12.5.1 of this Charter.

12.5 Assessment Appeals.

12.5.1 Posting of Assessment List: Notice. Immediately upon receiving the assessment list from the Board of Assessment, the City Council shall cause a full and complete copy of the same, containing the amount assessed to each taxable, to be made available for public inspection at the City Office, and there it shall remain for a period of at least fifteen (15) days for the information of and examination by all concerned. Appended thereto, and also in three or more public places in the City, shall be posted notice advertising to all concerned the date and place where the assessment list has been made available, and that, upon a certain day, place and time mentioned therein (not earlier than 15 days after the availability of the true and correct copy of the assessment list), the City Council will sit as a Board of Revision and Appeal to hear appeals from the said assessment and to make such corrections and revisions as it deems appropriate.

Such notice shall also be published at least once in a newspaper of general circulation in the City of Harrington not less than 10 days prior to the date set for such appeals.

12.5.2 Appeals Day. "Appeals Day" shall be on or before the first day of April. On the day set for such appeals, the City Council shall sit as a Board of Revision and Appeal to hear appeals from the said assessment and to correct and revise the assessment list as they deem appropriate. The City Council shall have full power and authority to correct, alter, revise, add to, and take from the said assessment. The decision of the Council shall be final and conclusive, unless an appeal is taken to the Superior Court of the State of Delaware in and for Kent County within ten (10) days from the date of the City Council's decision.

No member of the City Council shall sit on his own appeal, but the same shall be heard and determined by the other members of the City Council.

The Board of Assessment shall be present on the day fixed for hearing appeals and shall furnish to the City Council such information and answer such questions as the City Council may require in respect to any assessment for which an appeal has been taken. The City Council shall have the authority to enforce the attendance of the Board of Assessment by appropriate process. The assessment as approved, revised, or adjusted by the Council as aforesaid shall be the basis for the levy of taxes of the City (unless the City Council has elected to use the Kent County Assessments for that tax year).

12.5.3 Assessment and Taxation of Gas Mains, Telephone, Telegraph, and Power Poles and Appurtenances. The Council shall have the right to levy and collect on gas mains, telephone, telegraph and power poles or other erections of like character within the limits of the City, together with wires and appliances thereto or thereon attached, and to this end may at anytime direct the same to be included in or added to the city assessment.

13. Annual Budget: Determination of Revenue Needs and Sources.

13.1 Annual Budget. On or before the first day of March each year, the Budget Committee and the City Manager shall prepare and submit to the Council a budget, presenting a financial plan for conducting the affairs of the City for the ensuing fiscal year.

The budget shall include the following information:

(a) A detailed statement showing the expenses of conducting each department and office of the City for the current year and last preceding year.

(b) A detailed estimate of the expenses of conducting each department and office of the City for the ensuing fiscal year with reasons for the increases and decreases recommended.

(c) The amount of the debt of the City together with a schedule of maturities of bond-issues.

(d) A statement showing the amount required for interest on the City debt and for paying off any bonds maturing during the year and the amount required for the sinking fund.

(e) An itemized statement of all anticipated income of the City with a comparative statement of the amounts received by the City from each of the same or similar sources for the past preceding and current fiscal year.

(f) Such other information as the City Manager may think desirable or as may be required by Council. The Council shall, on or before the first day of June in each year, adopt a budget for the succeeding fiscal year. The Council shall, so far as possible, adhere to the budget so adopted in the making of appropriations.

13.2 Determination of Revenue Needs. On or before the first day of June of each year and after the valuation and assessment shall have been examined, revised, and completed and after the annual budget has been adopted, the City Council shall determine, in its best judgment and knowledge, the total amount necessary to be raised by the City to meet the fixed and anticipated expenses and obligations of the City, including reasonable and appropriate reserves, for the then current fiscal year as set forth in the City Budget for such year plus a reasonable amount to cover unanticipated expenses and emergencies.

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

13.3.1 Real Property Taxes. The rate of tax on real estate including improvements thereon per One Hundred Dollars (\$100) of the assessed value; and/or

13.3.2 Utility Fixtures. The rate of tax upon all gas mains, poles, construction, erections, wires and appurtenances thereto; and/or

13.3.3 License Fees. The several license fees to be charged for carrying on or conducting any trade, businesses, professions or occupations carried on in the City; and/or

13.3.4 Municipal Services. The several rates to be charged for furnishing water service, sanitary sewer, trash collection; and/or other city services.

13.3.5 Other Services. The fees or rates to be charged in respect to any other authorized source or revenue sufficient in their judgment and estimation to realize the amount to be raised from each such source determined by them to be used as aforesaid, provided, however, that sources 13.3.3, 13.3.4, and 13.3.5 aforementioned may be determined, fixed assessed, levied and/or altered or changed upon other than a fiscal year basis at any regular or special meeting of the City Council as the City Council, in its discretion, shall determine.

14. Tax Levy: Tax Limit: Savings Clause.

14.1 Tax Levy. The setting of the tax rate pursuant to §§13.3.1 and 13.3.2: (a) 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) and (b) shall constitute the Council's direction and authorization to the City Manager to make collection, when due, of such taxes and charges. The City Council shall obtain a bond for the City Treasurer, City Manager and/or Bookkeeper as necessary, in form suitable to the City Council with sufficient surety, in favor of the City of Harrington, in a sum to be determined by the City Council conditioned upon the faithful discharge of the trust imposed in them and for the collection of all taxes committed to them, and for the payment of the amount of all such taxes, excepting only as far as the City Council shall make allowances for. The City Manager shall proceed to collect the same as hereinafter provided.

14.2 Tax Limit. The total amount of money to be raised by real property taxes (§13.3.1) and utility fixture taxes (§13.3.2) shall in no year exceed ten percent (10%) of the total assessed valuation of all taxable real estate (and improvements thereon) in the City; 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. A reasonable sum for delinquencies, discounts and cost of collection may be added by Council to the amounts aforesaid, together with any additional sum or sums authorized to be levied and collected as in this Section, shall be levied and collected by the Council on the property and persons assessed as aforesaid and in accordance with such assessment and according to rates established by the Council.

14.3 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 City of Harrington made prior to the approval of this Charter and the same are hereby declared to be valid, binding and vested in the City of Harrington created hereby.

15. Collection of Taxes.

15.1 Collection by City Manager. The City Manager shall be responsible for the collection of taxes hereunder.

15.2 Lien. All taxes (and municipal charges) so laid or imposed by the City 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 taxes are laid and imposed. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so levied. Subject to the provisions of Chapter 29 of Title 25 of the Delaware Code, as it may from time to time hereafter be amended, or in accordance with the provisions of any future corresponding provisions of law, such lien shall have preference and priority to all other liens on such real estate as aforesaid, created or suffered by the said taxable, although such lien or liens be of a time and date prior to the time of the attaching of such lien for taxes.

15.3 Due Date; Discount for Early Payment. All taxes shall be due and payable at and from the time the real property tax rate is set under §13.3.1.

All taxes shall be paid to the City of Harrington. Taxes paid during the month of July in the calendar year they were assessed shall be allowed a three percent (3%) discount.

All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City of Harrington, in federally-insured banking institutions approved by the City Council.

15.4 Place of Payment. All taxes shall be payable at the City Office of the City of Harrington during the regular business hours of that office.

15.5 Penalty for Late Payment; Collection Fee. On all taxes paid on or after October 1st of each year, there shall be added and collected a penalty of two percent (2%) every month or fraction thereof such taxes shall remain unpaid, said penalty to be effective on the first day of October, and said penalty shall be collected in the same manner as the original amount of the tax. The City Council shall have the power to make just allowances for delinquencies in the collection of taxes. All taxes unpaid a year and a day after due shall be considered delinquent. In effecting a collection of any delinquent tax, the City Council may impose a collection charge reasonably calculated to recover the costs of collection.

15.6 Collection of Delinquent Taxes. It shall be the duty of the City Manager to proceed forthwith to collect all taxes together with penalties and costs (all hereinafter "delinquent taxes") unpaid a year and a day after due. In the collection of said delinquent taxes, the City Manager of the City of Harrington shall have all of the powers and authority conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County as set forth in 9 Del.C. Chapter 87 as it may, from time to time hereafter, be amended, (or in accordance with any future corresponding provision of law).

Except as otherwise expressly stated herein, the provisions of Chapter 29 of Title 25 of the Delaware Code, as it may from time to time hereafter be amended, (or in accordance with any future corresponding provision of law) shall be deemed and held to apply to all taxes levied and imposed under the provisions of this Charter.

16. Borrowing Powers.

16.1 Short-Term Borrowings by City Council Without Voter Approval. Revenue Anticipation Loans. The City Council shall have the power to borrow money on the full faith and credit of the City, without approval of the voters and without regard to the provisions of Section 16.2 of this Charter, such sum or sums not exceeding in the aggregate five hundred thousand dollars (\$500,000.00) for general purposes when, in the opinion of a majority of the entire City Council, the needs of the City require it; provided, however, that any new borrowings under this Section 16.1 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 City Council duly authorized by Resolution of the City Council and signed by the Mayor and attested by the Clerk of the City Council with the municipal seal affixed. No Council member nor the Mayor shall be personally liable for the payment of any such note or any other evidence of indebtedness because it is signed by him as a Council member or as Mayor, provided that he is so authorized by Resolution of City 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 (including any county or municipal government). Any sum(s) of money borrowed on the full faith and credit of the City shall be paid from the general funds of the City. The aggregate amount of outstanding principal from any such borrowing or borrowings under this §16.1 shall at no time exceed five hundred thousand dollars (\$500,000.00).

16.2 Long-Term Borrowings. Voter Approval Required. In addition to other borrowing powers granted to the City under this Charter or by special act, the City Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or certificates of indebtedness to secure the repayment thereof, on the full faith and credit of the City, or such other security or securities as the City Council shall elect, for the payment of principal thereof and interest due thereon.

16.2.1 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 City 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 handling, production, manufacture, supply, treatment or distribution of gas, water, electricity, sanitary sewer, or storm water drainage system, or any of them, and the condemning or purchasing of any lands, easements, and right-of-ways which may be required therefore.

(c) constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, sidewalks, curbing and/or gutters, including storm water sewers, along the same, and the condemning or purchasing of lands, easements or rights of ways which may be required therefor

(d) defraying the costs to the City of any other municipal improvement provided for or authorized or implied by the provisions of this Charter

(e) paying all expenses deemed necessary by the City Council for the issuance of said bonds or certificates of indebtedness, including bond discount and legal expenses of bond counsel.

16.2.2 Exempt From Taxation. All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City pursuant to the provisions of this section, and the interest thereon, shall be exempt from all

taxation by the State of Delaware, its agencies, and political subdivisions (including any County or municipal government).

16.2.3 Limit of Aggregate Long-Term Indebtedness. The aggregate of the amount so borrowed together with all other bonded indebtedness for which the full faith and credit of the City of Harrington has been pledged shall not at any time exceed a sum equal to fifteen percent (15%) of the total assessed value of all non-tax-exempt real property situated within the bounds of the City of Harrington as such boundaries shall from time to time appear.

16.2.4 Procedure: Notice, Hearing, Election. In order to proceed under the power granted in this section, the City Council shall authorize such borrowing in the following manner:

(a) The City Council shall by resolution, give notice to the residents and property owners of the City that the City 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 City 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.

Where the City Council is proposing to borrow money for several distinct purposes, the resolution shall identify each such purpose and the amount desired to be borrowed as to each.

(b)(1) Notice of the time, date, and place of the hearing on the resolution authorizing said borrowing shall be published in a newspaper of general circulation in the City not less than ten (10) days, nor more than twenty (20) days, prior to the date set for the public hearing. In addition to the time, date, and place of the public hearing such notices shall contain the same information as required under §16.2.4(a) above.

(b)(2) In addition to publication as herein provided, the City Council shall, not less than ten (10) days nor more than twenty (20) 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 (5) public places in the City. In the event the publications and/or postings do not appear on the same date, the date of the last publication shall control.

(c) If, at any time following the public hearing, the City 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 twenty-one (21) nor more than sixty (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 City Council to proceed with the matter in issue; provided however, that the City Council may, at any time subsequent thereto, and based upon a significant change in the relevant circumstances, act by resolution passed by a majority of the entire Council to cancel the Special Election and abandon the proposed borrowing.

(d)(1) The notice of the time, date, and place of holding the said Special Election shall be printed in a newspaper of general circulation in the City, once a week for three successive weeks 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 §16.2.4(a).

(d)(2) In addition to such publication as herein provided, the City Council shall, not less than twenty-one (21) days nor more than sixty (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 three (3) public places in the City. 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.

(e) At such special election, any person who is entitled to vote in the regular municipal election if it were held on that day, shall be entitled to one vote. (For purposes of this section, "entitled to vote" shall include

"registered to vote" if voter registration is required for the regular municipal election).

(f) 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:

- (1) For the proposed borrowing
- (2) Against the proposed borrowing

In the event the City is proposing to borrow monies for several projects, the foregoing designation shall be set opposite each such project so as to allow the voter to cast his vote for or against each.

The voter shall be instructed to mark the box for which he casts his vote.

(g) The Mayor, by and with the advice and consent of the majority of the City Council, shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened for a minimum of seven hours. Persons in the polling place at the time appointed for closing of the polls shall be entitled to vote.

(h) The Board of Special Election shall be the sole and final judges 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(s) and shall announce the result thereof. The Board of Special Election shall make a certificate under their hands of the number of votes cast for and against the proposed borrowing(s) and the number of void votes and shall deliver the same to the City Council which said certificate shall be retained by the City Council with the other papers of the City.

(i) If a majority of the votes cast at such special election shall be in favor of any such borrowing(s), the City Council shall proceed with the issuance of the said bonds or certificates of indebtedness; provided, however, that based upon a significant change in the relevant circumstances, the City 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, by resolution passed by a majority of the entire Council, abandon the proposed borrowing.

16.2.5 Form of Bonds. The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the interest rate, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the City Council after said Special Election.

16.2.6 Public or Private Sale. The 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) therefore after advertisement in a manner to be prescribed by the City Council, for at least one (1) month before offering the same for sale.

16.2.7 Provision for Payment; Special Tax, Sinking Fund. The City Council shall provide for the payment of interest on and principal of the said bonds or certificates of indebtedness at the maturity or maturities thereof. The said City Council is authorized and empowered, at its discretion, to levy a special tax upon all the real estate within the City or only upon such real estate as is directly benefited by the improvements paid for by the proceeds of such borrowing to pay interest on said bonds and/or principal; and at the Council's discretion, to establish a sinking fund adequate to the redemption, at or before maturity, of all bonds or certificates 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 year exceed a sum equal to five per centum of the total bonded indebtedness. The special tax provided for in this Section 16.2.7 shall be collected from the owners of real estate in the same manner as the other real property taxes levied by the said City Council are collected. Said City Council may also appropriate and set aside for such sinking fund so much of the general funds of the City as it may from time to time think advisable. The sinking fund

provided for by this Section 16.2.7 shall be deposited in federally insured deposits in a bank, trust company, or other banking institution until such time as it may be needed for the redemption of the bonds.

16.2.8 Full Faith and Credit Unless Otherwise Stated. Unless any such bond(s) or certificate(s) of indebtedness shall provide otherwise, the full faith and credit of the City of Harrington shall be deemed to be pledged for the due payment of the bonds 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 provision of this Charter.

16.2.9 Statute of Limitations. 60 Days. No action contesting any proceedings conducted, or action taken, by the City Council hereunder regarding the authorization of any bonds or certificates of indebtedness issued under this Section 16.2 shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two newspapers, one of which shall be of general circulation in the City of Harrington and one which shall be of general circulation in the State of Delaware, which notice shall announce the following information:

(a) That the City Council has determined to borrow a certain sum or sums of money and to issue bonds or certificates of indebtedness therefor

(b) That the proposal(s) has/have been approved by a majority of those casting votes at a special election in the City called for the purpose of voting for or against the borrowing

(c) The amount(s) of money to be borrowed

(d) The purpose(s) for which each amount is to be borrowed

(e) That any person desiring to challenge the authorization of such bond(s) or certificate(s) of indebtedness must bring legal action within sixty (60) days from the date of publication of such notice or forever be barred from doing so.

(f) In addition to publication as herein provided, the City 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 three (3) public places in the City. 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.

17. Financial Matters Generally.

17.1 Use of City Monies. The City Council shall have full power and authority to use the money in the Treasury of the City, or any portion thereof, from time to time, for the improvement, benefit, protection, ornamentation and best interests of the City, as Council may deem proper, and to use City 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 Act and all lawful ordinances and resolutions of Council.

17.2 Designation of Fiscal Year. The fiscal year of the City shall begin the first day of July and shall end with the next succeeding thirtieth day of June.

17.3 Cash Disbursements and Report of Same to Council. No claim against the City shall be paid except on a warrant or check approved by the City Manager and approved and countersigned by the Mayor and/or Treasurer. The City Manager shall examine all payroll, bills and other claims and demands against the City and shall issue no warrant or check for payment, unless he finds that the claim is proper and in proper form and correctly computed. The City Manager shall, at one monthly meeting of Council, present a report showing in detail all bills and other claims for which warrants or checks were drawn the preceding month, with exception of payroll and payroll-related expenses.

17.4 Annual Audit. The City Council shall retain a certified public accountant to be the auditor of accounts of the City of Harrington. Annually in the month of August, it shall be the duty of the auditor to audit the books and accounts of the City and all its officers whose duty involves the

collection, custody and payment of moneys to the City. The auditor shall, on or before expiration of one hundred twenty (120) days from the end of the fiscal year, annually make and deliver a detailed report of any and all accounts, records, and books by them examined and audited which report under his hand and seal shall be 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 City of Harrington within thirty (30) days of its receipt by the City Council. The auditor, in the performance of his duties, shall have access to all records and accounts of the offices of the City.

18. Planning: Subdivision and Land Development.

18.1 Planning. The City Council may appoint a City Planning and Zoning Commission in accordance with Chapter 7 of Title 22 of the Delaware Code (as it may hereafter be amended, or in accordance with any future corresponding provision of the law) for the development and beautification of the City, and prescribe its powers and duties, which may include administration of a Zoning Ordinance and a land subdivision ordinance and providing advice to City Council with regard to any proposed amendments or revisions to the City's Comprehensive Plan, Zoning Map, or Zoning Ordinance.

18.2 Power to Regulate. In order to provide for the orderly growth and development of the City, to promote the health, safety, prosperity, and general welfare of the present and future inhabitants of the City, to insure the conservation of property values and natural resources, including the protection of the City's open lands, water resources, and recreational potential, and to afford adequate provision for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the City may regulate the subdivision of all land in the City. Such regulation may, through ordinance, include:

(a) Varying 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 improvements 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 or 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 evolving principles of site planning and development.

(d) Requiring, through dedication of land, money in lieu of land, "impact fees" or otherwise, that those subject to such regulation 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, combining, or partitioning, including, by way of example and not in limitation, the paving of streets, installation of sidewalks, curbs, storm sewers; water lines, storage or treatment facilities; sanitary sewer lines, lift stations, or treatment plants; electric distribution lines; street signs; access roads; playgrounds, parks, and open areas. In imposing such requirements, the City 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 City

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 years) beyond the actual completion of such improvements by the developer or acceptance of such improvements by the City.

18.3 Recording Unapproved Plans: No Legal Force or Effect. In the event an ordinance of the City so provides, no plat, plot, or plan of land for the subdivision, partition, or combining of land within the City shall be received for filing or recording by the Recorder of Deeds in and for Kent County unless and until such plat, plot, or plan shall have been approved by the City body so authorized to grant such approvals and the fact of such approvals shall have been endorsed in writing on such plan. Any such plat, plot, or plan recorded in violation of this section shall be of no legal force or effect.

19. Streets and Alleys: Power to Lay Out, Locate, Open, Widen, Alter, Close, Vacate or Abandon. The City Council shall have the power and authority to lay out, locate, and open new streets or alleys, or to widen or alter existing streets or alleys, or parts thereof, and to close, vacate, or abandon existing or proposed streets or alleys or parts thereof, whenever the City Council shall deem it in the best interest of the City.

19.1 Initiation of Proceedings. The procedures set forth in this Charter to lay out, locate, open, widen, alter, close, vacate, or abandon a street or alley in the City of Harrington may be commenced by resolution of the City Council.

19.2 Resolution Proposing Change: Notice: Hearing. Any such resolution shall contain a description of the proposed change and shall fix a time, date, and place when the City Council shall sit to hear comments and objections concerning the proposal. At least twenty-one (21) days before the date set for such hearing, the resolution adopted by the City Council shall be printed in a newspaper having a general circulation in the City of Harrington and shall be posted in three (3) public places in the City.

19.3 Notice to Effected Property Owners. The City Council shall also cause Notice to be sent, certified mail, return receipt requested, to the owner(s) of record of the real estate through, over, or abutting which such street or alley may run. 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 effected property owners under this §19.4 shall be provided at least twenty-one (21) days before the date set for the hearing. Notice to one joint owner shall constitute notice to all.

19.4 Hearing. At the time and place in the resolution, the City Council shall hear such residents or taxables of the City or owners of the property affected thereby, as shall attend the hearing. After hearing all comments, the City Council shall, at said meeting, or at a subsequent date, as it may deem proper, by motion proceed with, or abandon, the proposed locating, laying out, widening, altering, closing, vacating, or abandoning of any street(s) or alley(s) or parts thereof contemplated in its aforementioned prior resolution.

19.5 Payment of Compensation. In every case where the City Council shall resolve to proceed with the plan contemplated, or a portion thereof, the City Council shall award just and reasonable compensation after two professional appraisals are averaged 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 City, on a warrant drawn upon him by authority of the City Council aforesaid upon delivery of a good and sufficient deed conveying a fee simple title unto "The City of Harrington"; which title shall be clear and free of all liens and encumbrances. Notice of compensation shall be given to effected property owners as provided in §19.4.

19.6 Property Owner's Right of Appeal. If the owner be dissatisfied with the amount of compensation or damages allowed by the City, as aforesaid,

said property owner may, within thirty (30) days after such notice, as aforesaid, was mailed, delivered, or posted on the property, appeal from the written notice of award of compensation or damages by depositing in the United States mail, written notice, by certified mail with return receipt requested and postage prepaid, to the Mayor of the City to the effect that he or she is dissatisfied with the amount of such compensation or damages. Upon receipt of such notice of appeal, the City Council may abandon the proposed opening, improvements, closing, vacation, or abandonment or proceed under Chapter 61 of Title 10 of the Delaware Code (as it may from time to time hereafter be amended, or in accordance with any future corresponding provision of law) to condemn such property or interest therein and pay just compensation therefor.

19.7 Disposal of Abandoned or Vacated Street Lands. Whenever the land comprehended or included in any street or part thereof vacated or abandoned under this section be owned by the City, the City Council may, in its discretion, sell such land at public or private sale and for such consideration as the City Council shall deem proper. The City Council shall have the right and power to convey to the purchaser or purchasers thereof, good and sufficient title thereto for whatever estate the City may have therein.

19.8 "Street" Defined. For all purposes of this §19, the word "street" shall be deemed and held to comprehend and include sidewalks, lanes, alleys, roadways, streets, or other highways.

20. Constructing, Paving, and Repairing of Streets, Curbs and/or Gutters. The City Council shall have full power and authority to regrade, redress and otherwise repair and rebuild all existing streets, lanes, alleys, other public thoroughfares, and/or curbs and gutters, in the City and to construct, built, pave, and in any manner improve all new and existing streets, lanes, alleys, other public thoroughfares and/or curbs and gutters now open, or to be hereafter opened, for public use in the City, and in so doing, may employ such contractors, engineers, inspectors and others as the Council shall deem expedient. To this end the City 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, repair and up-keep of any street, lane, alley, roadway or other highway within the City limits.

The City Council shall also have full power and authority to expend such part or parts of the money of the City, in the general fund of the City not otherwise budgeted, towards the carrying out of any powers and authorities granted unto the City Council under and by virtue of this Section of the Charter.

21. Sidewalks. In the event that it becomes necessary or desirable for the City to level, grade, flag, reflag, curb or recurb, gutter or regutter, pave or repave, the sidewalks, of the City of Harrington or to repair or improve any sidewalk, the following procedure shall be followed:

21.1 Resolution. The City Council shall adopt a resolution stating that on a named day and at a named hour and place, the City Council will meet to consider the question of laying, installing or constructing new sidewalks, or the repair or replacement of particular sidewalks on a named street adjoining, along, or in front of the property of a named owner or owners and the assessment of the costs thereof against such owner or owners. The resolution shall be delivered personally or mailed, certified mail, return receipt requested, to the owner(s) of such property(s) as shown on the City's tax records at least fifteen (15) days prior to the meeting. In the event the property is assessed to "unknown owner", such notice shall be posted on the property. The City Council shall hold a public hearing pursuant to said resolution and thereat shall hear the aforesaid owner or owners of property and other residents of the City appearing on the question referred to in said resolution.

21.2 Determination to Proceed. After such public hearing, the City Council, either at said public hearing, or at a subsequent regular or special meeting, shall decide whether or not to proceed with the improvements referred to in said resolution, and if it shall determine to proceed, the City Council shall determine whether the whole or some specified portion of the cost of the improvement adjoining, along or in front of the property of the said owner or owners named in the aforesaid resolution shall be borne by said owner or owners. If said determination shall be that the whole or a specified

proportion of said cost shall be borne by the said owner or owners, then and in that event, the said owner or owners shall be compelled to pay the whole or a specified proportion of costs, as the case may be. The amount to be paid by the owner of each parcel for their property affected shall be determined according to the lineal footage of their parcel(s) adjoining, along or in front of which the improvement or improvements were made.

21.3 Assessment and Collection of Costs: Lien. Whenever the laying, installing or constructing of new sidewalks or replacement or repair of existing sidewalks or all of them have been made, and the cost thereof ascertained, the City Council shall ascertain the amount that the owner or owners of each parcel of property shall pay as hereinbefore stated, and shall give written notice thereof to said owner or owners. If such owner or owners shall fail to pay the specified amount within sixty (60) days after the mailing of such notice, the same, together with interest and costs, may be collected by the same procedures as are set forth herein for the collection of taxes. The amount so assessed shall be and constitute a lien upon all the property adjoining, along or in front of which the said work was accomplished, and such liens shall have preference and priority over any other liens or encumbrances against said property for a period of ten years from the date of mailing of the notice, although such other lien or encumbrance be of a date prior to the time of the attaching of such liens for the improvements as provided hereunder.

21.4 Notice. Whenever written notice is required to be given to any "owner" by this section 21, notice to one co-owner shall be notice to all. Notice shall be given by personal delivery or by mailing same, certified mail, return receipt requested, proper postage affixed, to said owner at his or her last known address as shown on the City's tax records; provided however, that the failure of any owner to actually receive such notice, (being returned as, among other reasons, "unclaimed", "refused to accept", "moved, no forwarding address") shall not invalidate any action taken under this §21.

21.5 Change in Ownership. The word "owner" as used in this section shall be deemed to mean the freeholders or leaseholders of the property at the time of the resolution adopted under §21.1, and any change in ownership thereafter shall not be deemed or held to affect any of the proceedings described in this section.

21.6 Construction Supervision. Standards. The City 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 others as the City Council may deem expedient.

22. Other Special Assessments. The City Council shall have the authority to levy and collect special assessments upon property in a limited and determinable area for the special benefits accruing to such property as a consequence of any municipal public work or improvements, and to provide for the payment of all, or any part, of the costs of the work, service or improvements out of the proceeds of such assessments.

22.1 Owner Defined. Change in Ownership. When the term "owner" or "owners" is used with respect to special assessments, it shall be deemed to mean the person or persons who owned the property in question at the time of the enactment of the assessment ordinance, and any change in ownership thereafter shall not be deemed to affect any of the steps or proceedings described in this Section with respect to special assessment.

22.2 Ordinances for Levy and Collection of Special Assessments. The Council shall also have the authority to enact ordinances which provide for the levy and collection of assessments, against property owners, for the cost of installation of sanitary sewers, storm sewers, water mains, streets, sidewalks, street lights, curbs, gutters, and other public improvements.

Such ordinances shall prescribe the following:

A. The basis to determine the amount which shall be assessed upon the properties abutting the public work or improvements.

B. What portion of corner properties shall be considered frontage and what portion side frontage.

C. Payment provisions providing for payment in installments, except that assessment for current services or service connections shall be payable within one year; and

D. Rules under which individual appeals shall be heard.

All special assessments and all water and sewer service charges shall be liens and shall be entered in the Municipal Lien Docket as liens.

The Council may provide for the payment of special assessments for whatever purpose levied by installments, but assessments for permanent improvements shall be paid in annual or more frequent installments, and assessments for current services shall be payable within one (1) years.

22.3 Municipal Lien Docket. A docket known as the "City of Harrington Municipal Lien Docket" shall be prepared and maintained by the City Manager. The docket shall be in substantially the same form as the judgment docket for Kent County, shall contain all liens for municipal improvements for which special assessments are levied, and shall contain an index according to the name of the owner against whom such lien has been assessed. No municipal lien shall be valid after January 1, 1992 unless it is duly recorded in said docket. All liens so recorded shall continue in full force and effect until said assessment and accrued costs have been paid in full. Upon payment in full of the amount of the assessment and accrued costs, it shall be the duty of the City Manager to enter forth upon the docket, the date of final payment and the words "satisfied in full".

23. Drainage. The City shall have the full jurisdiction and control, within the limits of the City, of the drainage of all water thereof, together with the right to alter and change the course and direction of any of the natural water courses, runs and rivulets within the limits of the City and may pass ordinances for the opening of gutters, storm sewers and underground drains within the limits of the City. The City shall also have full power to regulate, maintain, clean and keep the natural water courses, runs and rivulets within the City limits open and clean and unobstructed and for that purpose may authorize the entry upon private lands and take, condemn and occupy the same in accordance with the procedures set forth in Chapter 61 of Title 10 of the Delaware Code. by like proceedings the City shall also have the power and authority to enter upon private lands and take, condemn and occupy the same for the purpose of laying-down gutters, storm sewers and underground water drains, or any of them, within the City limits.

24. Water System. The City shall have full power and authority to provide an ample supply of potable water for the City and the inhabitants thereof. To this end, it shall have full power and authority to purchase, acquire by grant or gift, lease, erect, construct, maintain, operate, extend, enlarge, re-new, 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 controlled by the City or belonging to any private individual(s).

The City Council shall have power to enact ordinances, rules and regulations in regard to the use for public or private purposes of water furnished by the City; the 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 wilful or negligent injury or damage to or interference with the water system or equipment of the City.

The City Council may, at its option, furnish water from the City system to places and properties outside the City limits and upon special terms, charges and conditions as it shall deem beneficial to the City.

The City Council shall have the power to make contracts for the purchase of water and to distribute the same to users within or without the said City with the same full powers as if such water had been initially produced or reduced to usefulness by the City itself.

The City Council shall have the power to enter contracts for the sale of water outside the limits of the City upon such terms and conditions as the City Council shall, in the exercise of its sound discretion deem to be advantageous to the City; and also to enter into mutual aid agreements with

other water suppliers conducting operations near the limits of the City upon such terms and conditions as City Council shall deem best.

The City Council shall have power to enact ordinances granting franchises for such term or terms of years as shall seem wise to the City Council to use the present or future streets, squares, alleys, and lanes of the City for the purpose of furnishing water to the City and to the persons, firms or corporations residing therein, and for the purpose of transmitting the same, or any, or all of them, through, over, across or under said streets, squares, alleys, and lanes to points outside the City limits, any such franchise or franchises, to contain such restrictions, conditions, and stipulations as the said City Council shall deem advantageous to the City.

The City may, by condemnation proceedings, take private land and property, or the right to use private land and property, under, over, or on the surface thereof, for the proper furnishing of an ample supply of potable water or the creation, construction, extension, maintenance of a proper water system, or the distribution thereof as above provided. The proceedings by condemnation under this Section shall be the same as prescribed by Section Chapter 61 of Title 10 of the Code of Delaware as it may from time to time hereafter be amended or in accordance with any future corresponding provision of law.

25. Sewer System. The Council shall have superintendence and supervision of the sewers and the sewage system of the City. They shall have power to install any or additional sewers in the City. The Council may take condemnation proceedings for sewer purposes, private land or the right to use private land under the surface thereof, for the laying of sewer mains. The proceedings by condemnation under this Section shall be in accordance with Chapter 61 of Title 10 of the Code of Delaware as it may from time to time hereafter be amended or in accordance with any future corresponding provision of law.

The Council shall have power to make all ordinances, rules and regulations regarding the sewers and sewer systems of the City and the use thereof, and may fix fines and penalties for the violation of the provisions of such ordinances. The Council may require any property to be connected with the water and sewer mains and to compel the owner of such property to pay the cost of such connection and the tapping thereof shall be under the regulation and control of Council.

The Council may extend the sewer system of the City to places outside of the City limits upon such terms, charges and conditions as it shall determine.

The Council is hereby authorized to impose a charge or rent for the use of that sewer system of the City, both within and without the limits of the City and in addition to the connection or tapping charge.

26. Solid Waste and Sewage Disposal. The Council shall have power to provide for the incineration and other sanitary disposal of litter, debris, refuse, garbage and sewage.

The Council shall have power to adopt ordinances, rules and regulations in regard to solid waste and sewage disposal and set the amount to be paid by the users thereof.

27. Contracts. The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or for purchases for the City, provided, however that:

A. No contract shall be made by Council for any purpose, the contract price of which is in excess of \$20,000.00 without public competitive bidding;

B. The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any reason it deems advantageous to the City.

C. All formal contracts shall be signed by the Mayor with the seal of the City affixed and attested by the Clerk of the Council.

D. Anything herein to the contrary notwithstanding, all contracts for "professional services" (as that term is defined in the Delaware "Professional Services Act", being Subchapter II of Chapter 69 of Title 29 of the Delaware Code) shall be let only in compliance with said act as it may from time to

time hereinafter be amended, or in accordance with any future corresponding provision of law.

E. No contract shall exceed two years' duration.

28. Non-binding Referendum. The City Council may, on its own initiative, by resolution, determine to hold an election (either a Special Election or in conjunction with the Regular Municipal election) to obtain the opinion of the qualified voters (as defined herein) of the City on any subject which the City Council has under consideration.

Any such election shall be conducted in such manner and with such public notice, as the City Council shall determine by resolution; provided however that any such resolutions, and any public notices regarding such non-binding referendum election, shall clearly specify that such referendum election is "non-binding". The results of any "non-binding" referendum election conducted under this section shall have no legal effect whatsoever and shall not bind or obligate the City Council to take any action or refrain from taking any action on the subject referred, but shall merely be informational in nature regarding the opinion of those qualified voters who expressed a preference at such non-binding referendum election.

29. Actions or Suits: Notice of Claim. No action, suit, or proceeding shall be brought or maintained against the City of Harrington, its officers (including the members of any board, commission, or agency), employees, or agents, whether now, hereafter, or previously serving as such, and no judgment, damages, penalties, costs, or other money entitlement shall be awarded or assessed against the City, its officers, (including the members of any board, commission, or agency) employees or agents, whether now, hereafter or previously serving as such, in any civil suit or proceeding at law or in equity, or before any administrative tribunal, arising out of, connected with, or on account of any physical injury or injuries, death, or any other type of personal injury, (including libel or slander), or injury to property (whether real or personal) unless the person by or on behalf of whom such claim or demand is asserted, within one year from the happening of the incident giving rise to such injury shall notify the City of Harrington in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of the City of Harrington by certified mail with return receipt requested and postage prepaid.

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

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

32. Survival of Powers and Validating Section.

32.1 All powers conferred upon or vested in the City Council of the City of Harrington by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the City of Harrington and/or the City Council of Harrington precisely as if each of said powers was expressly set forth in this Charter.

32.2 All ordinances, resolutions, orders, policies, and regulations adopted by the City Council of The City of Harrington and in force at the time of approval and effective date of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the City Council of Harrington under the provisions of this Charter.

32.3 All of the acts and doings of the City Council of Harrington or of any official, or of the Mayor, or the City which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the City of Harrington or under any provision of any prior Charter of the City of Harrington, prior to the approval and effective date of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

32.4 All taxes, debts, assessments, license fees, penalties, fines, forfeitures, and other charges due to the City of Harrington shall be and remain due to the City of Harrington and all debts due from the City of Harrington shall be deemed to be debts of the City of Harrington, and the same shall remain unimpaired until paid.

32.5 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 City of Harrington.

32.6 The bonds given by or on account of any official of the City of Harrington shall not be impaired or affected by the provisions of this Charter.

32.7 The Mayor and each member of the City Council, and any other appointed City official who holds office at the time of approval of this Act shall continue to serve until the expiration of his term of office.

32.8 All rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office, or agency appropriate under this Charter.

33. Separability. If any provision, section, sub-section, paragraph, sentence, or clause 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 or clauses of this Charter.

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

35. Effective Date. This Act shall take effect upon its enactment into law.

Approved July 8, 1993.

CHAPTER 116

FORMERLY

SENATE BILL NO. 26

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

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKMEN'S COMPENSATION INSURERS' SUBROGATION RIGHTS AND TITLE 21 OF THE DELAWARE CODE RELATING TO INSURANCE BENEFITS.

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

Section 1. Amend §2363 of Chapter 23, Title 19 of the Delaware Code by deleting the last sentence of subsection (e) and substituting in lieu thereof the following new sentence:

"Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the employer or its workmen's compensation insurance carrier for any amounts paid or payable under the Workmen's Compensation Act to date of recovery, and the balance shall forthwith be paid to the employee or his dependents or personal representative and shall be treated as an advance payment by the employer on account of any future payment of compensation benefits, except that for items of expense which are precluded from being introduced into evidence at trial by 21 Del. C. §2118, reimbursement shall be had only from the third party liability insurer and shall be limited to the maximum amounts of the third party's liability insurance coverage available for the injured party, after the injured party's claim has been settled or otherwise resolved."

Section 2. Amend Chapter 21, Title 21 of the Delaware Code by adding a new §2118B as follows:

"§2118B. Processing and Payment of Insurance Benefits.

(a) The purpose of this Section is to ensure reasonably prompt processing and payment of sums owed by insurers to their policyholders and other persons covered by their policies pursuant to §2118 of this Chapter, and to prevent the financial hardship and damage to personal credit ratings that can result from the unjustifiable delays of such payments.

(b) When an insurer is notified by the claimant that he or she desires to file an initial claim for benefits pursuant to §2118(a)(2), the insurer shall, no later than ten (10) days following the insurer's receipt of said notification, provide that claimant with a form for filing such a claim. For purposes of this subsection an insurer shall be deemed to have provided a claimant with a form for filing a claim when the insurer deposits such a form in an envelope addressed to such claimant with the United States Postal Service and with postage affixed for first class (or better) delivery. If an insurer fails to comply with the provisions of this subsection, the insurer shall pay the claimant a sum equal to one percent (1%) of the amount due as of the date on which the claim was required to be provided for each day beyond the prescribed period for compliance, not to exceed five thousand dollars.

(c) When an insurer receives a written request for payment of a claim for benefits pursuant to §2118(a)(2), the insurer shall promptly process the claim and shall, no later than thirty (30) days following the insurer's receipt of said written request for first-party insurance benefits and documentation that the treatment or expense is compensable pursuant to §2118(a), make payment of the amount of claimed benefits that are due to the claimant or, if said claim is wholly or partly denied, provide the claimant with a written explanation of the reasons for such denial. If an insurer fails to comply with the provisions of this subsection, then the amount of unpaid benefits due from the insurer to the claimant shall be increased at the monthly rate of:

- (1) 1.5 percent from the 31st day through the 60th day; and
- (2) 2 percent from the 61st day through the 120th day; and

(3) 2.5 percent after the 121st day.

(d) If an insurer fails to comply with subsection (b) or (c) of this Section, the claimant may recover the amount due through a civil action in any court of competent jurisdiction or through a Delaware Insurance Commissioner's Arbitration Proceeding, consistent with §2118(j)(1)-(9) of Title 21, at the option of the claimant. Any judgment entered for a claimant in a civil action or arbitration proceeding brought under this section shall include, in addition to the amount due and any additional amount provided for by subsections (b) and (c) of this section, an award for the costs of the action and the prosecution of the action, including reasonable attorney's fees; provided, however, that the costs of the action and the prosecution of the action, including reasonable attorney's fees shall only be awarded if it is found that the insurer acted in bad faith. The burden of proving that the insurer acted in bad faith shall be on the claimant. Any sums other than the original claim paid under this subsection shall not reduce the amount of coverage available under the insurance policy that is the basis for the claim.

(e) If an action pursuant to subsection (d) is not filed within 90 days of the date of denial or the date when benefits are due as provided for in subsection (c) of this Section, the penalties prescribed in that subsection shall begin to run from the date of the filing of said action.

(f) The remedies provided by this section are in addition to all other remedies available to the claimant under state and federal statutory or common law."

Section 3. Amend Section 2118, Chapter 21 of the Delaware Code by deleting from subsection (j) the following language:

"within 90 days from the date an offer of settlement or denial of coverage or liability has been made by an insurer".

Section 4. This legislation shall become effective 90 days after enactment.

Approved July 8, 1993.

CHAPTER 117

FORMERLY

SENATE BILL NO. 225

AN ACT TO AMEND CHAPTER 5, TITLE 10 OF THE DELAWARE CODE RELATING TO THE SUPERIOR COURT.

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

Section 1. Amend §509, Chapter 5, Title 10 of the Delaware Code by striking the figure "10" and substituting in lieu thereof the figure "12".

Section 2. This Act shall become effective July 1, 1993.

Approved July 8, 1993.

CHAPTER 118

FORMERLY

SENATE BILL NO. 66

AN ACT TO AMEND 65 DELAWARE LAWS CHAPTER 455 RELATING TO UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING.

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

Section 1. Amend 65 Delaware laws Chapter 455 by deleting the following which appears as the second "Section 7" of the Act:

"Section 7. The provisions of the Overseas Citizens Voting Rights Act of 1975 are hereby incorporated as a part of this Title."

Section 2. Amend 65 Delaware Laws Chapter 455 by adding the following at the end of Section 9:

"Section 10. The provisions of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 are hereby incorporated as part of this Title."

Approved July 8, 1993.

CHAPTER 119

FORMERLY

SENATE BILL NO. 94
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, TITLE 7, DELAWARE CODE, RELATING TO VESSELS USED BY CRAB DREDGERS WHILE DREDGING FOR CRABS IN 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 Chapter 23, Title 7, Delaware Code, by adding thereto a new Section to be designated as §2312 to read as follows:

"§2312. Vessels Used by Commercial Crab Dredgers in Delaware Waters.

(a) It shall be unlawful for a crab dredge licensee to dredge crabs from the waters of this State from any vessel other than one vessel owned and operated by said crab dredge licensee. The vessel shall be listed on the crab dredger's license.

(b) It shall be unlawful for a resident crab dredge licensee to list a vessel on his or her crab dredger's license if said vessel has been exclusively used in commercial fishing operation in waters outside the jurisdiction of this State during the previous two years. However, for a vessel acquired by a crab dredger licensee to replace a vessel listed on his or her crab dredger's license, the provision for that vessel not having been exclusively used in commercial fishing operations in waters outside the jurisdiction of this State during the previous two years shall not be in effect."

Approved July 7, 1993.

CHAPTER 120

FORMERLY

HOUSE BILL NO. 85
 AS AMENDED BY HOUSE AMENDMENT NO. 1,
 HOUSE AMENDMENT NO. 2 AS AMENDED BY HOUSE AMENDMENT NO. 1
 TO HOUSE AMENDMENT NO. 2 AND HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 41, TITLE 14 OF THE DELAWARE CODE RELATING TO GENERAL REGULATORY PROVISIONS.

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 14, Chapter 41, §4112 by striking the headnote as it currently appears and substitute in lieu thereof a new headnote to read as follows: "Discipline Powers, Reporting Requirements and Responsibilities of Superintendents, Principals and Teachers."

Section 2. Amend Title 14, Chapter 41, §4112 of the Delaware Code by striking the existing subsections (b) and (c) in their entirety and substituting in lieu thereof the following new subsections (b) and (c) to read as follows:

"(b) Student Criminal Violations; Mandatory Complaints.

In any instance where a pupil or parent or guardian of any pupil is found to have committed an assault or an extortion against a pupil or found to have committed an assault, offensive touching, terroristic threatening or an extortion against a school employee as prohibited by Title 11 on school property, after verifying the identity of the pupil or parent or guardian involved and that probable cause exists to believe a criminal charge is appropriate, the principal shall immediately report such incident to the appropriate local police agency and to the superintendent. Thereafter, the superintendent shall immediately file a written report of such incident with the State Department of Public Instruction and the Youth Division of the Delaware State Police. In any instance where a pupil, parent or guardian is found to have committed an assault, offensive touching, terroristic threatening or an extortion under this subsection against a school employee, the superintendent or his designee shall, without unreasonable delay, file the appropriate charge against the pupil, parent or guardian. The obligations of the superintendent and principal, as set forth in this subsection, are mandatory and are not discretionary. However, the reporting requirements set forth in this section shall not apply to offenses committed between students enrolled in grades kindergarten through third grade.

(c) Student possession of weapons and unlawful drugs; mandatory complaints.

In any instance where a pupil is found to have on his person, or concealed among his possessions, or placed elsewhere on the school premises, any controlled substance (as prohibited by Title 16), or any dangerous instrument or deadly weapon (as prohibited by Title 11), after verifying the identity of the pupil involved and that probable cause exists to believe a criminal charge is appropriate, the principal shall immediately report such incident to the appropriate local police agency and to the superintendent. Thereafter, the superintendent shall immediately file a written report of such incident with the State Department of Public Instruction and the Youth Division of the Delaware State Police. The obligations of the superintendent and principal, as set forth in this subsection, are mandatory and are not discretionary."

Section 3. Further amend, Title 14, Chapter 41, §4112 by redesignating the current subsection (d) as a new subsection (g) and by inserting new subsections (d), (e) and (f) to read as follows:

"(d) Teacher's Duty to Report.

In any instance where a teacher witnesses an act of violence as set forth in subsection (b) or finds a pupil in possession of a weapon or unlawful

drugs as set forth in subsection (c), it shall be the duty of the teacher to immediately report such incident to the principal."

(e) Immediate Suspension.

Any pupil determined to have committed an offense under subsection (b) or (c) shall be immediately suspended by the school district until such time as a parent conference is held as provided for in subsection (a). Furthermore, any pupil determined to have committed an offense under subsection (b) or (c) shall also be referred to the school district's alternative program for counseling of an appropriate nature and duration prior to being returned to the general student body. Nothing in this section shall preclude the school district from imposing a longer suspension or expulsion where otherwise appropriate.

(f) Failure to Report a Violation.

Any superintendent, principal, or teacher who fails to report an incident as required by subsection (b), (c), or (d), shall be guilty of a violation and be fined not more than \$250.00 for a first offense and not more than \$500.00 for a subsequent offense. However, it shall be an affirmative defense to a prosecution under this section if the superintendent, principal or teacher decided not to report an incident where, after conducting a thorough investigation, he or she makes a good-faith determination that no probable cause exists to believe a criminal charge is appropriate."

Section 4. Further amend Chapter 41, Title 14 of the Delaware Code by adding a new §4118 to read as follows:

"§4118. Metal Detectors.

The school board of each school district shall have authority to employ the use of metal detectors, or any other similar security devices, to prevent pupils from bringing dangerous instruments, deadly weapons or any other contraband into the schools. Any school board exercising its authority under this Section shall promulgate rules and regulations governing the implementation and use of such security devices."

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.

Approved July 9, 1993.

CHAPTER 121

FORMERLY

SENATE BILL NO. 195
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 7, CHAPTER 60, DELAWARE CODE RELATING TO THE CREATION AND FUNDING OF THE CLEAN AIR ACT TITLE V OPERATING PERMIT PROGRAM TO COMPLY WITH THE FEDERAL CLEAN AIR ACT AMENDMENTS OF 1990.

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, Chapter 60 of the Delaware Code by adding a new subchapter to read as follows:

"SUBCHAPTER VII. CLEAN AIR ACT TITLE V OPERATING PERMIT PROGRAM.

§6095. Applicability.

This subchapter shall apply to all sources required to obtain a Title V Operating permit pursuant to the Federal Clean Air Act Amendments of 1990. Such sources shall include, but not be limited to, the following:

(1) sulfuric acid plants; municipal incinerators; fossil-fuel burners; petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels; petroleum refineries; sulfur recovery plants; chemical process plants; or

(2) for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control or common ownership consistent with the requirements of 40 C.F.R. Part 70, that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Title I, §112(b) of the Clean Air Act Amendments of 1990, Public Law 101 - 549, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Department may establish by regulation; or

(3) a source that directly emits or has the potential to emit, 100 tpy or more of any air pollutant, including any major source of fugitive emissions of any such pollutant, as the Department may establish by regulation; or

(4) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as 'marginal' or 'moderate', 50 tpy or more in areas classified as 'serious', 25 tpy or more in areas classified as 'severe', and sources subject to the requirements for preconstruction review; except that the references in this paragraph to 100, 50, and 25 tpy of nitrogen oxides shall not apply with respect to any source for which the Department has made a finding, pursuant to regulations, that requirements under this section do not apply; or

(5) For areas within the northeast transport region, sources with the potential to emit 50 tpy or more of volatile organic compounds; or

(6) any other sources designated by the Department or mandated for designation by the United States Environmental Protection Agency.

§6096. Title V Account.

The Secretary shall establish a separate account entitled the 'Clean Air Act Title V Operating Permit Program Account', hereinafter the 'Account'. All fees collected under this subchapter shall be deposited into this account and utilized solely to cover all direct and indirect costs required to support the Title V Operating Permit Program, hereinafter 'Program'. Any civil or administrative penalties or costs recovered as a result of a violation of a Title V permit shall be used to further the

goals and purposes of the Department to promote clean air for the citizens of Delaware.

§6097. Fees.

(a) The Department shall collect an annual fee from permittees of sources that are required to obtain a permit pursuant to the Title V Program. The annual fee shall be utilized solely to pay for all direct and indirect costs required to develop, administer and implement the Program.

(b) The fee schedule must result in the collection and retention of revenues sufficient to cover the permit program costs. These costs include, but are not limited to, the costs of the following activities as they relate to the operating permit program for stationary sources: preparing generally applicable regulations or guidance documents regarding the permit program or its implementation or enforcement; reviewing and acting on any application for a permit, permit revision or permit renewal, including the development of an applicable requirement as part of the processing of a permit or permit revision, or renewal; general administrative costs of implementing the permit program, including the supporting and tracking of data; implementing and enforcing the terms of any Title V operating permit (not including any court costs or other costs associated with an enforcement action), including adequate resources to determine which sources are subject to the program; emissions and ambient monitoring; modeling; preparing inventories and tracking emissions; and supporting the Ombudsman established pursuant to the Small Business Stationary Source Technical and Environmental Compliance Program ('SBTCP') to assist sources covered by the SBTCP, in determining and meeting their obligations under the Title V Operating Permit Program.

(c) The Department shall adopt fee regulations that will establish the amounts and methods of collection of any permit fees which will result in the collection, in the aggregate, from the sources listed in paragraph (a), of a fee in dollars per ton of actual emissions of each regulated air pollutant, except carbon monoxide, in an amount as follows:

- (1) for calendar year 1993, \$15.00 per ton, effective 7/1/93;
- (2) for calendar year 1994, \$19.00 per ton;
- (3) for calendar years 1995 and 1996, the actual dollar amount equal to 25 constant 1989 dollars, as established by the federal Consumer Price Index for all-urban consumers published by the United States Department of Labor.

(d) In determining the amount of tons of actual emissions, the Department shall not be required to include any amount of regulated air pollutant emitted by any source in excess of 4,000 tons per year of that regulated air pollutant or \$150,000 per source whichever is the lesser amount. The determination of common control or common ownership shall be consistent with the requirements of 40 C.F.R. Part 70.

(e) Any funds collected under this section shall be deposited in the Account as described in §6096 of this Chapter and shall be used solely for administering the Program.

(f) Except for sources required to have a permit before construction or modification under the applicable requirements of this Act, if an applicant has submitted a timely and complete application for a permit required by this title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant to timely submit information required or requested to process the application.

§6098. Title V Operating Permit Program Advisory Committee.

There shall be established a 'Title V Operating Permit Program Advisory Committee', hereinafter referred to as 'Committee'. The Committee members shall be appointed by the Governor and shall include, but not be limited to, the Secretary of the Department of Natural Resources and Environmental Control, or his duly appointed designee; the Director of Air and Waste

Management, or his duly appointed designee; two members who will represent stationary sources; one to be a member of the Chemical Industry Council; a member of the Delaware State Chamber of Commerce; a member representing a public utility; two members of a nationally affiliated or State environmental advocacy group; and the Chairpersons of the House and the Senate Natural Resource Committees. The Secretary of the Department of Natural Resources and Environmental Control shall serve as the Chair of this Committee. The Committee shall advise and assist the Department in developing a streamlined permit application process, conduct a pilot program to determine the real costs for implementation of Title V utilizing the streamlined permit application process and project the appropriate fees necessary to be established in subsequent years by this subchapter to support the Title V Program. The Committee shall report its findings to the General Assembly by April 1, 1994 as to whether the existing fee is adequate to support the Title V Program. The Committee shall report to the General Assembly each year thereafter through December 1996."

Approved July 13, 1993.

CHAPTER 122

FORMERLY

SENATE BILL NO. 227
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO COMMISSIONERS OF THE FAMILY COURT.

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

Section 1. Amend §915(a) of Title 10 of the Delaware Code by striking the present subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) The Governor shall appoint, with the consent of a majority of all members elected to the Senate, suitable persons to act as Commissioners of the Family Court, all of whom shall hold office for a term of 4 years and shall be residents of the State for at least 5 years immediately preceding their appointment. An incumbent Commissioner and/or Master of the Family Court may be appointed as a Commissioner, so long as he or she is duly admitted to practice before the highest court of any State of the United States. Other appointees shall be duly admitted to practice law before the Supreme Court of this State.

The number of Commissioners appointed shall not be less than five, with at least one Commissioner assigned to each county.

The salaries of such Commissioners shall be part of the annual budget of the Family Court and shall reflect the educational background and experience of the appointees."

Section 2. Amend §915(b) of Title 10 of the Delaware Code by striking the present subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) Individuals appointed as Commissioners under this section shall take the oath of office or affirmation prescribed in Article XIV §1 of the Delaware Constitution before they enter upon the duties of their office."

Section 3. Amend §915(c) of Title 10 of the Delaware Code by striking the portion of said section as appears before the first colon (':') and substituting in lieu thereof the following:

"The Chief Judge shall assign Commissioners to the several courts and shall establish a procedure for the assignment of cases to the Commissioners. Each Commissioner serving under this chapter shall have:"

Section 4. Amend §915(c) of Title 10 of the Delaware Code by adding a new subsection (2) as follows and renumbering the remaining subsections:

"(2) The power to hear any civil case within the jurisdiction of the Family Court, as designated by the Chief Judge;"

Section 5. Amend subsection §915(c)(5) of Title 10 of the Delaware Code by striking the words "pending adjudication" from the first sentence.

Section 6. Amend subsection §915(c)(6) of Title 10 of the Delaware Code by adding after the word "persons" and before the word "charged", the following: "who have failed to appear for a prior court hearing, either civil or criminal, or who are".

Section 7. Amend subsection §915(c)(10) of Title 10 of the Delaware Code by striking the words "with the consent of the parties" and adding after the word "sentence" and before the word "for" the following: ", including incarceration,".

Section 8. Amend §915(c) of Title 10 of the Delaware Code by adding a new subsection to read as follows:

"(11) The power to impose sanctions, including incarceration, for civil contempt."

Section 9. Amend §915(d) of Title 10 of the Delaware Code by striking the present subsection (d) in its entirety and substituting in lieu thereof the following:

"(d) A Commissioner's order, including emergency ex parte orders, shall be an enforceable order of the Court.

(1) Any party, except a party in default of appearance before a Commissioner, may appeal a final order of a Commissioner to a judge of the Court by filing and serving written objections to such order, as provided by rules of the Court, within 10 days from the date of a Commissioner's order. A judge of the Court shall make a *de novo* determination of those portions of the Commissioner's order to which objection is made. A judge of the Court may accept, reject or modify in whole or in part the order of the Commissioner. The judge may also receive further evidence or recommit the matter to the Commissioner with instruction.

(2) Any party, except a party in default of appearance before a Commissioner, may appeal an interim order of a Commissioner to a judge of the Court by filing and serving written objections to such order, as provided by rules of the Court, within 10 days from the date of a Commissioner's order. A judge of the Court may reconsider any interim order of a Commissioner, where it is shown that the Commissioner's order is based upon findings of fact that are clearly erroneous, contrary to law, or an abuse of discretion."

Section 10. Amend §915(e) of Title 10 of the Delaware Code by striking the present subsection (e) in its entirety and substituting in lieu thereof the following:

"(e) No appeal of a Commissioner's order shall stay execution of the order unless such stay shall be specifically ordered by a judge of the Court."

Section 11. Amend §915, Chapter 9, Title 10, Delaware Code by adding thereto a new subsection (f) to read as follows:

"(f) A Commissioner may be assigned such additional duties by the Chief Judge as are not inconsistent with the Constitution and laws of the State of Delaware."

Approved July 12, 1993.

CHAPTER 123

FORMERLY

SENATE BILL NO. 239

AN ACT TO AMEND CHAPTER 43, TITLE 29, DELAWARE CODE RELATING TO RESIDENCY REQUIREMENTS FOR NOTARIES PUBLIC.

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

Section 1. Amend 4301, Chapter 43, Title 29 of the Delaware Code by redesignating subsection (b)(3) to read as follows:

"(3) Legal residence within the State."

Section 2. Amend §4301, Chapter 43, Title 29 of the Delaware Code by redesignating subsection (c) as subsection (d) and adding a new subsection (c) to read as follows:

"(c) The Governor may also appoint non-residents who otherwise meet the requirements of subsection (b) as notaries public provided that such individuals maintain an office or regular place of employment in Delaware. Non-residents seeking appointment as notaries public shall include with their application an affidavit containing a residential and a Delaware employment address. Those appointed as notaries shall also file an affidavit for each change of address. Service of process, subpoenas and other documents upon non-resident notaries may be made personally or by leaving them with any person of suitable age and discretion at the Delaware place of employment. Substituted service shall be effectual if served upon the Secretary of State, under the guideline of 8 Del. C. §376(b), in the event that the office has been closed or such individual ceases to be regularly employed at the filed Delaware employment address. The Secretary of State shall then forward such documents to the filed residential address."

Section 3. Amend 4301, Chapter 43, Title 29 of the Delaware Code by adding a new subsection (e) to read as follows:

"(e) The Secretary of State may promulgate regulations governing applications and guidelines for all notaries public.

Approved July 12, 1993.

CHAPTER 124

FORMERLY

SENATE BILL NO. 247

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF §107(a), TITLE 13 OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF ANDREA JOY BARRETT AND JEREMY H. VORAS.

WHEREAS, Andrea Joy Barrett of Kent County and Jeremy H. Voras of Sussex County are scheduled to be married on November 20, 1993; and

WHEREAS, Jeremy H. Voras is stationed in the U. S. Army and will not be able to comply with the 96 hour provision of the law prior to the ceremony.

NOW, THEREFORE:

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

Section 1. Andrea Joy Barrett and Jeremy H. Voras are hereby exempted from the provisions of 13 Delaware Code, §107(a) and are specifically authorized to marry on November 20, 1993, or within 30 days thereafter; the Clerk of the Peace of Sussex County shall issue to Jeremy H. Voras and Andrea Joy Barrett one official marriage license pursuant to this Act, the provisions of 13 Delaware Code, §107(a) to the contrary notwithstanding.

Approved July 12, 1993.

CHAPTER 125

FORMERLY

HOUSE BILL NO. 338

ACT TO AMEND TITLE 21, CHAPTER 27 AND CHAPTER 41 OF THE DELAWARE CODE, RELATING TO DRIVER'S LICENSES AND VIOLATIONS OF RULES OF THE ROAD AND TITLE 18 OF THE DELAWARE CODE RELATING TO THE CONSEQUENCES OF LICENSE SUSPENSION FOR NON-DRIVING-RELATED DRUG OFFENDERS.

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

Section 1. Amend Subsection 2707(b), Title 21, Delaware Code by adding a new paragraph (11) to read as follows:

"(11) Person, other than those persons covered by paragraphs (9) and (10) of this subsection, who has been convicted of or pleads guilty to any of the offenses listed in subparagraphs a., b., c. or d. of paragraph (10) of this subsection, including a conviction or guilty plea pursuant to Section 4764 of Title 16 and qualifying for First Offender election under Section 4177B of this Title, or who has been adjudicated delinquent as a result of acts which would constitute such an offense if committed by an adult, for a period of six months after the individual otherwise would have been eligible to have a driver's license issued if the individual does not have a driver's license or reinstated if the driver's license of the person has been suspended at the time the person is so convicted."

Section 2. Amend Subsection 4177A(a), Chapter 41, Title 21, Delaware Code by inserting the following language between the word "title" and the period at the end of the first sentence of said subsection: "or any offense under the laws of any state or of the United States which substantially conforms to the charge of driving under the influence of drugs".

Section 3. Amend Subsection 4177H(a), Chapter 41, Title 21, Delaware Code by striking the words "section 4753 or section 4754 of Title 16" and substituting in lieu thereof the following language: "section 4752, section 4753, section 4754, section 4754A of Title 16, or any drug offense under Chapter 5, Title 11 or under any law of the United States, any state of the United States or any local jurisdiction or the District of Columbia which substantially conforms to the provisions of the foregoing Code sections,".

Section 4. Amend Section 4177H, Chapter 41, Title 21, Delaware Code by striking the word "certain" as the same appears in the Title of that Section and substituting in lieu thereof the word "all".

Section 5. Amend Section 3904(a)(7)(a), Chapter 39, Title 18 of the Delaware Code by adding thereto after "Title 10" the following: "or had his/her driver's license under suspension or revocation for a non-driving-related drug offense pursuant to §2707(b)(11) or §4177H(a), Title 21, Delaware Code."

Section 6. Amend Section 3912, Chapter 39, Title 18 by adding a new sentence at the end thereof as follows:

"No premium may be increased on any contract of casualty insurance based on a license revocation or suspension imposed on the named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy for a non-driving-related drug offense pursuant to §2707(b)(11) or §4177H(a), Title 21, Delaware Code."

Approved July 12, 1993.

CHAPTER 126

FORMERLY

HOUSE BILL NO. 323

AN ACT TO AMEND CHAPTER 69, TITLE 29 OF THE DELAWARE CODE RELATING TO THE AWARDING OF COMPETITIVE SEALED PROPOSALS.

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

Section 1. Amend §6922, Chapter 69, Title 29 of the Delaware Code by adding a new subsection thereto as follows:

"(d) Notwithstanding §6907 of this title, the award of a competitive sealed proposal pursuant to this section may be made for a period of up to ninety (90) days from the public bid opening, if the invitation to bid and/or contract specifications provides for the same."

Approved July 12, 1993.

CHAPTER 127

FORMERLY

HOUSE BILL NO. 291

AN ACT TO AMEND TITLE 6 RELATING TO CONTRACTS.

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

Section 1. Amend Chapter 27, Title 6, Delaware Code by adding thereto a new section to read as follows:

"§2708. Choice of Law.

(a) The parties to any contract, agreement or other undertaking, contingent or otherwise, may agree in writing that the contract, agreement or other undertaking shall be governed by or construed under the laws of this State, without regard to principles of conflict of laws, or that the laws of this State shall govern, in whole or in part, any or all of their rights, remedies, liabilities, powers and duties if the parties, either as provided by law or in the manner specified in such writing are, (i) subject to the jurisdiction of the courts of, or arbitration in, Delaware and, (ii) may be served with legal process. The foregoing shall conclusively be presumed to be a significant, material and reasonable relationship with this State and shall be enforced whether or not there are other relationships with this State.

(b) Any person may maintain an action in a court of competent jurisdiction in this State where the action or proceeding arises out of or relates to any contract, agreement or other undertaking for which a choice of Delaware law has been made in whole or in part and which contains the provision permitted by subsection (a) of this section.

(c) The provisions of this section shall not apply to any contract, agreement or other undertaking, (i) to the extent provided to the contrary in Section 1-105(2) of Title 6 of the Code or, (ii) involving less than \$100,000.

(d) In the event that any provision hereof shall be held to be invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof. Any provision hereof which is held to be invalid or unenforceable only in part or degree or under specific facts, shall remain in full force and effect to the extent, and with respect to facts in connection with which, it has not been held to be invalid or unenforceable.

(e) The provisions of this section shall not limit any jurisdiction otherwise existing in a court sitting in the State of Delaware and shall not affect the validity of any other choice of law provisions in any contract, agreement or other undertaking."

Approved July 12, 1993.

CHAPTER 128

FORMERLY

HOUSE BILL NO. 280
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 40, TITLE 31 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF HOUSING.

WHEREAS, Delaware State Housing Authority (DSHA) has identified two areas in which its list of allowable investments could be expanded in order to allow wider investment options and increased earnings; and

WHEREAS, the additional investment alternatives will not increase risk above a level which is recognized to be acceptable for a municipal agency; and

WHEREAS, DSHA's bond rating agency, Moody's Investors Service, has provided its approval of the proposed expansion of allowable investments; and

WHEREAS, the additional investment alternatives will help to increase the supply of affordable housing.

NOW, THEREFORE:

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

Section 1. Amend Chapter 40, §4053(17), Title 31 of the Delaware Code by deleting subparagraph l. and inserting in lieu thereof the following:

"l. Shares of any investment company that; (i) is registered under the Investment Company Act of 1940, as amended; (ii) invests substantially all of its assets in short-term, high-quality money market instruments; (iii) maintains a constant net asset value per share; and, (iv) maintains a rating at least as high as DSHA's bonds."

Section 2. Amend Chapter 40, §4053(17), Title 31 of the Delaware Code by adding a new subparagraph n. to read as follows:

"n. Corporate debt obligations, rated at least as high as DSHA's bonds, which have a fixed par value and/or whose terms promise a fixed dollar amount at maturity or call date."

Section 3. This Act shall be effective July 1, 1993.

Approved July 12, 1993.

CHAPTER 129

FORMERLY

HOUSE BILL NO. 278

AN ACT TO AMEND CHAPTER 17, TITLE 24, SECTION 1768 OF THE DELAWARE CODE RELATING TO DISCLOSURE OF RECORD OF THE BOARD OF MEDICAL PRACTICE.

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

Section 1. Amend Subsection (b), Section 1768, Title 24 of the Delaware Code by adding at the end of said Subsection a new sentence to read as follows:

"Nothing in this Subsection (b) shall prevent the Board from providing information in its possession regarding any physician licensed under this Chapter, or who has been licensed under this Chapter, or who has attempted to be licensed under this Chapter to a medical or osteopathic licensing board of any other State or territory of the United States. The Board, its members and employees shall not be held liable in any cause of action arising out of the providing of such information, provided that such person has acted in good faith and without malice."

Approved July 12, 1993.

CHAPTER 130

FORMERLY

HOUSE BILL NO. 255

AN ACT TO AMEND CHAPTER 70, TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY PROCEDURE.

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

AMEND §7002(k)(1), Title 9 of the Delaware Code by deleting the first sentence of said subsection and replacing said sentence with the following:

"The County government shall meet regularly."

Approved July 12, 1993.

CHAPTER 131

FORMERLY

HOUSE BILL NO. 251

AN ACT TO AMEND CHAPTER 48A, TITLE 16, DELAWARE CODE RELATING TO THE SUBSTANCE ABUSE REHABILITATION, TREATMENT, EDUCATION AND PREVENTION FUND.

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

Section 1. Amend Title 16, Chapter 48A, Section 4802A(a) by inserting the words "or juvenile adjudicated delinquent," between the words "defendant," and "for any violations" as they appear in line 2 of said Section.

Approved July 12, 1993.

CHAPTER 132

FORMERLY

HOUSE BILL NO. 240

AN ACT TO AMEND CHAPTER 50, TITLE 18, DELAWARE CODE REGARDING THE PAYMENT OF DIVIDENDS BY INSURERS.

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

Section 1. Amend Title 18, Del. C., Chapter 50, Section 5004 by deleting the present subsection (e) and substituting the following in lieu thereof:

"(e) Reporting of Dividends to Shareholders.

(1) Subject to Section 5005(b) of this Title, each registered insurer shall provide notice to the Commissioner of all dividends and other distributions to shareholders within five (5) business days following the declaration thereof and at least 10 days prior to the payment thereof.

(2) The Commissioner shall promptly consider the information set forth in the notice under paragraph (1). In the Commissioner's consideration of the information, the Commissioner shall apply the factors set forth in Section 5005(c) of this Title."

Section 2. Amend Title 18, Del. C., Chapter 50, Section 5005, subsections (b) and (c) by deleting these subsections in their entirety and substituting the following in lieu thereof:

"(b) Dividends and Other Distributions.

Except as otherwise provided by law, a domestic insurer may not declare or pay a dividend or other distribution from any source other than earned surplus without the Commissioner's prior approval. For purposes of this section, "earned surplus" means an amount equal to the unassigned funds of an insurer as set forth in the most recent annual statement of the insurer submitted to the Commissioner including all or part of the surplus arising from unrealized capital gains or revaluation of assets.

No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(1) Thirty days after the Commissioner has received notice of the declaration thereof and has not within such period disapproved such payment; or

(2) The Commissioner shall have approved such payment within such 30-day period.

For purposes of this Section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the greater of:

(1) Ten percent of such insurer's surplus as regards policyholders as of the 31st day of December next preceding; or

(2) The net gain from operations of such insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the Commissioner's approval thereof, and such declaration shall confer no rights upon shareholders until:

(1) The Commissioner has approved the payment of such a dividend or distribution; or

(2) The Commissioner has not disapproved such payment within the 30-day period referred to above.

(c) Adequacy of Surplus.

For purposes of this Chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) The extent to which the insurer's business is diversified among the several lines of insurance;

(3) The number and size of risks insured in each line of business;

(4) The extent of the geographical dispersion of the insurer's insured risks;

(5) The nature and extent of the insurer's reinsurance program;

(6) The quality, diversification and liquidity of the insurer's investment portfolio;

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(8) The surplus as regards policyholders maintained by other comparable insurers in respect to the factors enumerated above;

(9) The adequacy of the insurer's reserves;

(10) The quality and liquidity of investments in affiliates. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his judgement such investment so warrants; and

(11) The quality of the insurer's earnings and the extent to which the reported earnings of the insurer include extraordinary items."

Section 3. Further Amend Title 18, Del. C., Chapter 50, Section 5005 by adding a new subsection (d) as follows:

"(d) Departmental Practices.

The Commissioner shall review, at least one time each year, the dividends paid by each domestic insurer to determine whether dividends paid by the insurer are reasonable in relation to the following:

(1) The adequacy of the level of surplus as regards policyholders of the insurer remaining after the payment of dividends; and

(2) The quality of the earnings of the insurer and the extent to which the reported earnings of the insurer include extraordinary items, such as surplus relief, reinsurance transactions, and reserve destrengthening.

The Commissioner may issue an order to limit or disallow the payment of ordinary dividends by a domestic insurer if the Commissioner finds the insurer to be presently or potentially financially distressed or troubled."

Section 4. This Act shall become effective thirty days after adoption.

Approved July 12, 1993.

CHAPTER 133

FORMERLY

HOUSE BILL NO. 41

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

AN ACT TO AMEND CHAPTER 51 AND 53 OF TITLE 31, DELAWARE CODE RELATING TO THE POWERS AND DUTIES OF THE DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES OVER THE FERRIS SCHOOL FOR BOYS AND THE WOODS HAVEN SCHOOL FOR GIRLS.

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

Section 1. Amend §5106 (8) of Chapter 51, Title 31, Delaware Code by striking the semicolon ";" immediately following the word "juvenile" and inserting in lieu thereof a period "." and further inserting the following language before the word "and" "Powers inconsistent with this chapter shall include without limitation the power to sue and be sued or to implead or be impleaded in all courts of law and equity;"

Section 2. Amend §5106, Chapter 51, Title 31, Delaware Code by adding a new subsection (10) to read as follows:

"(10) Notwithstanding prior enactments accepting the Ferris School for Boys as a State operated facility, nothing contained therein or in any other law was intended by the General Assembly to constitute a waiver of sovereign immunity for the Ferris School for Boys."

Section 3. Amend §5302(b), Chapter 53, Title 31, Delaware Code by striking paragraphs (1) and (2) in their entirety and renumbering paragraphs (3), (4), (5) and (6) as paragraphs (1), (2), (3) and (4).

Section 4. Amend §5302(b), Chapter 53, Title 31, Delaware Code by adding thereto a new paragraph 5 to read as follows:

"(5) Notwithstanding prior enactments accepting the Woods Haven School for Girls as a State operated facility, nothing contained therein or in any other law was intended by the General Assembly to constitute a waiver of sovereign immunity for the Woods Haven School for Girls."

Approved July 12, 1993.

CHAPTER 134

FORMERLY

HOUSE BILL NO. 38

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 4177B, TITLE 21, DELAWARE CODE REQUIRING PARTICIPANTS IN THE FIRST OFFENDER PROGRAM TO PAY THE COSTS OF PROSECUTION.

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

Section 1. Amend Subsection (a) of Section 4177B, Title 21 of the Delaware Code, by adding a new sentence at the end thereof which shall read as follows:

"If a person applies for or accepts first offender treatment under this Section, such act shall constitute agreement to pay the costs of prosecution for the case, and the court shall assess such costs and impose them as a condition of probation under this Section. For the purposes of this Section, costs of prosecution are court costs as established by the appropriate court schedules."

Approved July 12, 1993.

CHAPTER 135

FORMERLY

HOUSE BILL NO. 235

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NOS. 1 AND 3

AN ACT TO AMEND TITLES 7 AND 30 OF THE DELAWARE CODE RELATING TO FEES AND TAXES IMPOSED TO FUND THE CLEANUP OF HAZARDOUS SUBSTANCES.

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 §9114 (a), Title 7 of the Delaware Code, by

striking the phrase "January 1, 2001" as it appears therein, substituting in lieu thereof the phrase "July 1, 1993" and by adding a new sentence

after the end of the first sentence and before the beginning of the existing second sentence of said subsection to read as follows: "With regard to gross receipts received after June 30, 1993 and before January 1, 2001, the rate of additional tax under this subsection shall be increased to .9%."

Section 2. Amend §9114(d), Title 7 of the Delaware Code by striking the date "April 1, 1993" as it appears in said subsection and substitute in lieu thereof the date "April 1, 1994."

Section 3. Section 1 of this Act shall be effective for use of Delaware Solid Waste Authority facilities on or after July 1, 1994. Section 2 of this Act shall be effective for gross receipts received after June 30, 1993. Section 3 shall be effective for gross receipts received after March 31, 1993.

Section 4. It is declared to be the legislative intent that if any section, subsection, sentence, clause or provision of this Act is held invalid, the remainder of the Act shall also be held invalid.

Section 6. The Secretary of Finance shall convene a committee consisting of the Chairman of the Senate Natural Resources and Environmental Control Committee, Chairman of the House of Representatives Hazardous Waste Management Committee and representatives from industry, Delaware Solid Waste Authority, municipalities and the general public to recommend solutions to provide sufficient monies to operate the State's Superfund program to the General Assembly by January 1, 1994.

Approved July 12, 1993.

CHAPTER 136

FORMERLY

SENATE BILL NO. 194

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

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO STATE VEHICLES.

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

Section 1. AMEND Title 29, §6902 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§6902. Rental and purchase of motor vehicles; exceptions.

(a) Notwithstanding §6903 of this title, all passenger vehicles, including sedans, station wagons, passenger and utility vans, off-road vehicles, police-type cars and station wagons, and trucks rated 10,000 GVW or less purchased for State use by any agency/school district must be approved by the Secretary of Administrative Services and purchased by contracts administered by the Division of Purchasing. All other vehicles purchased for State use by any agency/school district must be purchased from contracts administered by the Division of Purchasing.

(b) Notwithstanding §6903 of this title, the purchase of special purpose vehicles by any agency/school district in excess of the restrictions set forth in Subsection (a) of this section, without the written approval of the Budget Director, the Controller General, and the Secretary of Administrative Services, is prohibited.

(c) Used vehicles employed by any agency for undercover operations may be purchased by negotiation rather than by competitive bidding as provided in this section, provided that the negotiated prices are approved by the Budget Director, the Controller General, and the Secretary of Administrative Services.

(d) Except for the Governor's car, cars rented while on out-of-state business and those cars leased by the Division of Support Operations, no agency/school district may lease passenger vehicles except from the Division of Support Operations.

(e) Passenger vehicles may not be transferred from one agency/school district to another agency/school district without the approval of the Secretary of Administrative Services.

(f) The procurement of vehicles by the New Castle County Police shall be exempt from the provisions of this section."

Section 2. AMEND Title 29, Chapter 71 of the Delaware Code by striking the title of said Chapter in its entirety and substituting in lieu thereof the following:

"CHAPTER 71. TRANSPORTATION OF STATE EMPLOYEES."

Section 3. AMEND Title 29, §7101 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§7101. Definition of agency.

As used in this chapter, the term "agency" shall have the same meaning as defined in §6301 of this title; provided, however, that the judiciary and the courts of the State shall be included in the meaning of the term 'agency' when used in this chapter."

Section 4. AMEND Title 29, §7105 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§7105. Establishment and use of a statewide fleet management system.

(a) The Department of Administrative Services, Division of Support Operations shall establish and operate a Statewide Fleet Management System

("Fleet System"). This Fleet System shall be composed of all passenger vehicles used by every agency, except for those vehicles exempted by the Secretary of Administrative Services. Passenger vehicle as used in this section includes sedans, station wagons, passenger and utility vans, off-road vehicles, and trucks rated 10,000 GVW or less.

(b) Each agency shall, within 30 days of a request from the Secretary of Administrative Services, deliver to the Division of Support Operations any passenger vehicle and its title for inclusion in the Fleet System. If such vehicles were purchased with non-appropriated special funds that require the proceeds of the disposition of the vehicle to be returned to the agency or non-appropriated special funds source, the Secretary of Administrative Services shall provide the agency with credits in the amount of the then current value of the vehicle to be used toward the agency's vehicle lease expenses.

(c) No agency shall lease passenger vehicles except from the Division of Support Operations. Exempt from this subsection are the Governor's car, agency employees traveling on out-of-state business, and the Division of Support Operations.

(d) The Division of Support Operations, in cooperation with the Office of Information Systems and the Division of Accounting, shall implement the systems and procedures to enable the direct, electronic transfer of funds from customers of the Fleet System to an account designated by the Division of Support Operations. Customers shall be required to furnish the Division of Support Operations with a Purchase Order by August 1 of each year that encumbers funds for the rental of vehicles for that entire fiscal year. The Secretary of Administrative Services may exempt agencies from this subsection.

(e) Each agency shall appoint one individual to serve as the agency's vehicle representative. It is the responsibility of the head of each agency to ensure that the vehicle representative completes and submits all vehicle reports as required by the Secretary of Administrative Services. It is also the responsibility of each agency head to ensure that the employees of his or her respective agency follow the policies concerning the Fleet System.

(f) Law enforcement vehicles and vessels of State agency law enforcement personnel covered under the provisions of the Delaware Council on Police Training, owned by school districts shall be exempt from Subsection (a) and (b) of this section."

Section 5. AMEND Title 29, §7106 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§7106. Use of state owned vehicles; penalty; exemptions.

(a) No motor vehicle owned by any agency/school district, except as otherwise indicated herein, shall be driven by an employee before or after the prescribed working hours of that employee.

(b) When not on official State business, every motor vehicle owned by any agency/school district, with the exception of those vehicles exempted under Subsection (c) of this section, shall be parked at the agency or motor pool location to which the vehicle is assigned.

(c) Specifically exempted from Subsections (a) and (b) are the Governor's car, law enforcement vehicles and vessels of State agency law enforcement personnel covered under the provisions of the Delaware Council on Police Training, and those vehicles exempted by the Secretary of Administrative Services. The Secretary of Administrative Services shall promulgate a policy concerning these exemptions. This policy shall include rules which allow certain vehicles to be parked at locations other than a motor pool or agency site if warranted by emergency or business activities of certain employees and/or security requirements of certain vehicles.

(d) Those vehicles designated by the Governor or his designee for the transportation of State employees commuting to and from their prescribed places of employment, provided that the vehicles are part of a specific pooling program, shall also be exempt from Subsection (b). Each such

vehicle pooling program and costs thereof shall be approved by the Secretary of Transportation prior to starting operations and shall provide that the State be reimbursed for the entire cost of the vehicle and all operating costs thereof by its users. After the initial year of operation, and on each successive August 1, the Secretary of Finance shall determine an appropriate cost factor for each approved pooling program.

(e) Whoever violates this section, for the first offense, shall be fined not less than \$10 nor more than \$25. For each subsequent like offense, he shall be fined not less than \$25 nor more than \$50. Justice of the Peace Courts shall have jurisdiction over offenses under this section."

Section 6. AMEND Title 29, §7107 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§7107. Identification of state-owned vehicles and boats.

All state-owned motor vehicles shall bear on the rear license plates issued by the Division of Motor Vehicles the notation "STATE OWNED". All state-owned boats shall bear prominent identification on the rear thereof identifying such boats as state-owned. The automobile used by the Governor, and law enforcement vehicles and vessels of State agency law enforcement personnel covered under the provisions of the Delaware Council on Police Training, are exempted from the requirements of this section. Other exemptions from this section must be approved by the Secretary of Administrative Services."

Section 7. AMEND Title 29, §8813 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§8813. Office of Fleet Management.

The Office Fleet Management is established, having the following powers, duties, and functions. The Office of Fleet Management shall:

(1) Have the administrative, ministerial, budgetary and clerical functions of the Office;

(2) Establish and operate a Statewide Fleet Management System, as established by §7105 of this Title;

(3) Investigate and resolve all citizens' complaints relating to abuse or misuse of all agency/school district owned vehicles;

(4) Recommend to the Budget Office appropriate funding levels to all agency/school districts for in-state travel requirements;

(5) Be the sole agency to receive the proceeds from the disposal of vehicles and vehicle parts, including all non-general funds except those funds that as a basis for their authorization require the proceeds of such disposal to be returned to the original source of the funds;

(6) Establish an appropriated special fund account to sustain the total cost and operation of the Office of Fleet Management and its function, including staff salaries and the Statewide Fleet Management System; and

(7) Have such other powers, duties, and functions as the Secretary may assign which are not inconsistent with the laws of the State."

Section 8. The Secretary of Administrative Services shall, no later than December 31, 1993, deliver to each member of the General Assembly a copy of the take-home vehicle policy referred to in §7106(c) of Title 29."

Section 9. This bill shall become effective upon enactment.

Approved July 12, 1993.

CHAPTER 137

FORMERLY

HOUSE BILL NO. 301

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF DELMAR", BEING CHAPTER 137, VOLUME 61, LAWS OF DELAWARE, AS AMENDED, TO INCREASE THE AMOUNT WHICH MAY BE RAISED BY THE TAXATION OF REAL ESTATE, TO PROVIDE FOR ABSENTEE VOTING AT THE MUNICIPAL ELECTION TO PROVIDE FOR A DEPUTY MAYOR AND TO INCREASE THE AMOUNT WHICH MAY BE EXPENDED BY THE TOWN COUNCIL 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. Paragraph 30, Subsection (a), Section 4, Chapter 137, Volume 61, Laws of Delaware, as amended, is hereby further amended by striking out the words and figures "Five Hundred Thousand Dollars (\$500, 000.00)" and substituting in lieu thereof the words and figures "One Million Dollars (\$1,000,000.00)."

Section 2. Subsection (c), Section 7, Chapter 137, Volume 61, Laws of Delaware, as amended, is hereby further amended by adding at the end of Subsection (c) the following sentence:

The Town Council of the Town of Delmar may, by ordinance, provide for any qualified voter to cast an absentee ballot at the municipal election.

Section 3. Section 8, Chapter 137, Volume 61, Laws of Delaware, as amended, is hereby further amended by inserting the letter "a" before the word "On" at the beginning of said Section and by adding at the end thereof a new Subsection to be designated as Subsection (b) to read as follows:

(b) At this biennial meeting, the Town Council shall organize and elect, by ballot, from among their own number, a Deputy Mayor who shall hold office for a term of two (2) years or until his successor shall be duly elected. The Town Council shall likewise elect such other officers and employees as may be determined to be necessary.

Section 4. Subsection 1, Section 26, Chapter 137, Volume 61, Laws of Delaware, as amended, is hereby further amended by striking out the words and figures "Three Thousand Five Hundred Dollars (\$3,500.00)" and substituting in lieu thereof the words and figures "Ten Thousand Dollars (\$10,000.00)."

Approved July 12, 1993.

CHAPTER 138

FORMERLY

SENATE BILL NO. 162
AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE DISPOSITION OF
SURPLUS PROPERTY.

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

Section 1. Amend Title 17 §137(b) of the Delaware Code by striking paragraph (b) in its entirety and substituting in lieu thereof the following:

"(b) When any property heretofore or hereafter acquired either by gift, purchase, or condemnation is no longer needed for transportation purposes, because the project is either completed or abandoned, the Department may dispose of the property using the following mechanisms:

(1) Except as provided in other subsections of this Section, the Department shall, in writing, notify the owner from which the real property was acquired or his/her successor in interest that the subject real property has been declared no longer needed for transportation purposes. Such notice is not required if the owner waived such interest at the time of initial Departmental purchase.

(2) The previous owner or successor in interest may elect to reacquire the property by providing written notice to the Department within 30 days of the Department's written notification of availability. The cost to the previous owner shall be based upon the Department's approved appraised value of the property as determined by a qualified appraiser(s). The previous owner or successor in interest must accept or reject the Department's resale offer within 30 days of written notice of approved appraised value and shall be prepared to settle for such reacquisition of property within 120 days of the Department's written notice of fair-market value. Should settlement not occur on this schedule through no fault of the Department, the Department may elect to invalidate the sale and proceed with public disposition.

(3) The Department shall determine if its disposable property has independent utility and in such cases shall sell the real property by public sale at a price not less than the approved appraised value as determined by a qualified appraiser.

(4) The Department shall notify the public of the sale by posting a notice of sale on the property at least two weeks before the sale and publishing a notice of the sale for two consecutive weeks in a newspaper having general circulation in the county in which the property is located.

(5) The notice of sale shall describe the property to be sold; state the date, time, terms, conditions, and place a sale which should, when possible, be held on site.

(6) The public sale may be conducted by Departmental personnel.

(7) At the conclusion of the sale, the Department's representative shall announce the name of the highest bidder and the amount of the bid. If the highest bid is not equal to or greater than the approved appraised value, the Department's representative shall reject all bids and cancel public sale. The Department's representative shall record the results of the sale including the name and amount of the next-highest bid.

(8) The Department shall have the authority to accept or reject the highest bid, except that to be accepted the highest bid must be in an amount equal to or greater than the approved appraised value. The Department shall reject a bid only for due cause.

(9) In the event the Department confirms the sale and the highest bidder defaults, the Department may convey the property to the next highest bidder, provided that this bid was recorded at the public sale and was not less than the approved appraised value.

(10) In the event the Department rejects the purchase offer, the public sale will be deemed cancelled.

(11) If there is no bidder for the property or all the bids are rejected for cause, the Department may then proceed to market the property for direct private sale at a price not less than the property's approved appraised value.

(12) The provisions of subsection (3) of this Section do not apply to previous owner conveyances set forth in paragraph (2).

(13) Notwithstanding other provisions of this Section, the Department may determine the disposable property has minimal individual public utility for reasons such as but not limited to lack of access, irregular shape, or small size, and in such cases may negotiate the direct sale of such real property to an adjoining owner at a price not less than the property's approved appraised value. In cases where more than one adjoining owner indicates an interest in purchasing such a property of minimal public utility, the Department may elect to offer the property for sale via sealed bid to the highest bidder, or to divide the property to accommodate the interests of interested owners provided the total value received is not less than the approved appraised value of the property in its entirety.

(14) Notwithstanding other provisions of this Section, the Department may convey its surplus real property by direct sale to adjoining property owners as consideration in a right-of-way acquisition transaction provided the provisions of subsection (1) hereof are not abridged and the Department's trade of lands occurs on a dollar-for-dollar value exchange in accordance with an approved appraised value.

(15) Notwithstanding other provisions of this Section, the Department may dispose of its surplus real property to other governmental agencies or entities, for public purposes, on terms acceptable to the Department and the other agency or entity.

(16) Notwithstanding other provisions of this Section, the Department may convey its surplus real property or an interest in such property by direct sale to a public utility company when such property is needed for public utility purposes, provided the Department receives in return the approved appraisal value.

(c) As used in this Section, the term "approved appraised value" shall be interpreted as:

(1) When the estimated value of the property is less than \$5,000, an appraisal performed by a qualified Department employee, reviewed and approved by a qualified Department review appraiser.

(2) When the estimated value of the property is in excess of \$5,000, an appraisal performed by a qualified independent appraiser, reviewed and approved by a qualified Department review appraiser."

Section 2. The effective date of this Act shall be January 1, 1994.

Approved July 14, 1993.

CHAPTER 139

FORMERLY

HOUSE BILL NO. 203
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 272, 66 LAWS OF DELAWARE, RELATING TO THE BEVERAGE CONTAINER ACT.

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

Section 1. Amend Section 1 of Chapter 272, 66 Laws of Delaware by striking the date "January 1, 1994" as the same appears therein and substituting in lieu thereof the date of "January 1, 1998".

Approved July 14, 1993.

CHAPTER 140

FORMERLY

HOUSE BILL NO. 232
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 7, TITLE 13, OF THE DELAWARE CODE RELATING TO PARENTS AND CHILDREN.

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

Section 1. Amend Chapter 7, Subchapter II, §728, Title 13 of the Delaware Code by adding a new subsection (d) to read as follows:

"(d) If a child is conceived and subsequently born as the result of an act of Unlawful Sexual Intercourse, in either the first or second degree with the mother, the biological father of said child shall not be permitted visitation privileges under this section. This subsection shall apply only where the father pleads guilty or nolo contendere, or is convicted of Unlawful Sexual Intercourse, in either the first or second degree."

Approved July 14, 1993.

CHAPTER 141

FORMERLY

SENATE BILL NO. 169

AN ACT TO AMEND CHAPTER 1, TITLE 26 OF THE DELAWARE CODE RELATING TO THE AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO ENACT REGULATIONS CONCERNING CABLE TELEVISION SYSTEMS.

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

Section 1. AMEND Section 605, Subchapter VI, Chapter 1, Title 26 by adding thereto an additional subsection reading as follows: "(6) Adopt such regulations as the Commission may find are necessary or appropriate to implement any federal regulations or legislation governing the provision of cable television service. Regulations adopted pursuant to this authority shall supersede any inconsistent (a) franchise provisions, or (b) sections of this subchapter."

Approved July 14, 1993.

CHAPTER 142

FORMERLY

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

AN ACT TO AMEND CHAPTER 21, TITLE 19 OF THE DELAWARE CODE, RELATING TO THE COMPOSITION AND COMPENSATION OF MEMBERS OF THE INDUSTRIAL ACCIDENT BOARD.

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

Section 1. Amend §2101, Chapter 21, Title 19 of the Delaware Code by striking the number "7" as the same appears in the second sentence and substituting the number "10" in lieu thereof.

Section 2. Amend §2101, Chapter 21, Title 19 of the Delaware Code by striking the third sentence in its entirety and substituting, in lieu thereof, the following: "The appointments shall be made so that there shall always be on the Board 2 residents of New Castle County outside of the City of Wilmington, 1 resident of the City of Wilmington, 2 residents of Kent County, 2 residents of Sussex County and 3 members-at-large residents of any of the subdivisions of the State, and not more than 6 of said members shall be of the same political party."

Approved July 14, 1993.

CHAPTER 143

FORMERLY

SENATE BILL NO. 71

AN ACT TO AMEND CHAPTER 66, TITLE 18, DELAWARE CODE, RELATING TO LINE-OF-DUTY DEATH BENEFITS; PROVIDING FOR THE ADDITION TO "COVERED PERSONS" OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL ENVIRONMENTAL RESPONSE TEAM.

Section 1. Amend §6601(1), Chapter 66, Title 18, Delaware Code, by adding thereto a new subsection (t) to read as follows:

"(t) Employees of the Department of Natural Resources and Environmental Control Environmental Response Team while traveling to, returning from, or while performing official duties associated with natural, man-made, technological or other emergencies, including all normal and special assignments."

Approved July 14, 1993.

CHAPTER 144

FORMERLY

SENATE BILL NO. 210
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 85, TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMINAL BACKGROUND CHECKS FOR PUBLIC SCHOOL RELATED EMPLOYMENT.

WHEREAS, child sexual abuse is a large and underreported problem; and

WHEREAS, child sex offenders are often serial offenders who seek legitimate access to children; and

WHEREAS, public school related employment can provide such access to children; and

WHEREAS, it is essential that public school officials have a reliable procedure for screening persons seeking school related employment for convictions of child sex abuse or other serious offenses which should disqualify such persons from school employment.

NOW, THEREFORE:

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

Section 1. Amend §8560, Subchapter V, Chapter 85, Title 11 of the Delaware Code by striking §8560(2) in its entirety and substituting in lieu thereof the following:

"(2) 'Child care provider' means any child care facility which by law is required to be licensed or any facility registered and eligible for Federal Child Care Development Block Grant funds."

Section 2. Amend §8560(5), Subchapter V, Chapter 85, Title 11 of the Delaware Code by striking the phrase ", including substitute teachers" where said phrase appears at the end of §8560(5).

Section 3. Amend §8561(b), Subchapter V, Chapter 85, Title 11 of the Delaware Code by striking the phrase "; and/or" where said phrase appears at the end of §8561(b)(3) and substituting in lieu thereof a period ".", and by striking §8561(b)(4) in its entirety.

Section 4. Amend Chapter 85, Title 11 of the Delaware Code by adding a new Subchapter VI to read as follows:

"SUBCHAPTER VI. CRIMINAL BACKGROUND CHECK FOR PUBLIC SCHOOL RELATED EMPLOYMENT.

§8570. Definitions.

The following words, terms and phrases, when used in this subchapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) 'Children' means persons who are enrolled in public schools in the State of Delaware.

(2) 'Child sex abuse' shall have the meaning prescribed by §8550(2) of this Title.

(3) 'Person seeking employment with a public school' means any person seeking employment for compensation with a public school or agency that supplies contracted services directly to students of a public school or any person who for any reason has regular direct access to children at any facility referred to in subsection (4) of this section, including substitute teachers; provided, however, that any person who has been continuously employed in a public school district or by an agency that supplies contracted services directly to students in Delaware shall be exempt from the screening provisions of §8571 of this subchapter while employed in the same district.

(4) 'Public school' means any public school and includes any board of education, school district, reorganized school district, special school district, and any person acting as an agent thereof.

§8571. Screening procedure required.

(a) Any person seeking employment with a public school shall be required to submit his or her fingerprints and other necessary information in order to obtain the following:

(1) Report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification 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 State Bureau of Identification shall be the intermediary for the purposes of this section and the public school shall be the screening point for the receipt of said federal criminal history records.

(b) All information obtained pursuant to subsection (a) of this section shall be forwarded to the public school which will assess the information and make a determination of suitability for employment. The person seeking employment shall be provided with a copy of all information forwarded to the public school pursuant to this subsection. Information obtained under this subsection is confidential and may only be disclosed to the chief school officer and the chief personnel officer of the public school. The State Bureau of Identification may release any subsequent criminal history to the public school.

(c) Costs associated with obtaining criminal history information and child sex abuse repository information shall be paid by the person seeking employment; provided, however, that subject to a specific annual appropriation in the Annual Appropriations Act, costs associated with obtaining criminal history information and child sex abuse repository information may be paid by the State.

(d) A person seeking employment shall have an opportunity to respond to the public school regarding any information obtained pursuant to subsection (b) of this section prior to a determination of suitability for employment being made. The determination of suitability for employment shall be based upon the type of offenses, if any; the length of time since any offenses; record since any offenses; and responsibilities of the position which the person is seeking; provided that a person seeking employment with a public school may be disqualified from employment for any of the following reasons:

(1) Conviction of manufacture, delivery or possession, or possession with intent to deliver a controlled substance, or a counterfeit controlled substance classified in Chapter 47 of Title 16 of the Delaware Code or in similar laws of any other jurisdiction;

(2) Conviction of any felony in this State or any other jurisdiction in the last five years; or

(3) Conviction of any crime against a child in this State or any other jurisdiction.

(e) Upon making its determination of suitability, the public school shall forward the determination to the person seeking employment. If a determination is made to deny the person from employment based upon the criminal history of the person, the person shall have an opportunity to appeal to the chief school officer or designee for reconsideration.

(f) A public school may conditionally hire a person seeking employment, pending the determination of suitability for employment. If the

information obtained from the criminal background check reveals that the person is disqualified from employment pursuant to subsection (d) of this section, the person may not continue in employment and is subject to termination.

(g) Any person seeking employment with a public school who has submitted to a criminal background check in this or any other state within the previous twelve (12) months shall not be required to submit to another criminal background check, provided, however, that the person submits (1) the results of such previous background check, including any previous federal criminal background check, and (2) a reference from the most recent employer, if any, covering the previous twelve (12) months.

(h) The State Board of Education shall, in the manner provided by law, promulgate regulations necessary to implement this subchapter. These regulations shall include:

(1) Establishment, in conjunction with the State Bureau of Identification, of a procedure for fingerprinting persons seeking employment with a public school and providing the reports and certificate obtained pursuant to subsection (a) of this section;

(2) Establishment of a procedure for reconsideration of a determination to deny employment based upon a person's criminal history; and

(3) Establishment of a procedure to provide confidentiality of information obtained pursuant to subsection (a) and of the determination of suitability from employment.

§8572. Penalties.

Any person seeking employment with a public school who knowingly provides false, incomplete or inaccurate criminal history information or who otherwise knowingly violates the provisions of §8571 of this subchapter shall be guilty of a Class G felony and shall be punished according to Chapter 42 of this title."

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 provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 6. This Act shall become effective upon its enactment into law; provided, however, that the application of the provisions of this Act to any person or circumstance shall be permissive until July 1, 1994; further provided, however, that on and after July 1, 1994, the application of the provisions of this Act to any person or circumstance shall be mandatory.

Approved July 14, 1993.

CHAPTER 145

FORMERLY

SENATE BILL NO. 76

AN ACT TO AMEND TITLES 9, 20, AND 29 OF THE DELAWARE CODE RELATING TO MERCHANT MARINES.

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

Section 1. Amend §9605(a), Title 9, Delaware Code by deleting the phrase "by the United States Army, Air Force, Navy, Coast Guard or Marine Corps" as it appears therein and by inserting in lieu thereof the phrase "to veterans".

Section 2. Amend §§901 and 902, Title 20, Delaware Code by adding thereto the following:

"This section shall also apply to Merchant Marines who qualify as veterans under §8720 of Title 29."

Section 3. Amend §1204, Title 20, Delaware Code by adding thereto a new subsection as follows:

"(d) This section shall also apply to Merchant Marines who qualify as veterans under §8720 of Title 29."

Section 4. Amend §8720(b), Title 29, Delaware Code by inserting after the phrase "or the Coast Guard" the phrase "or served as a Merchant Marine between December 7, 1941 and August 15, 1945".

Approved July 14, 1993.

CHAPTER 146

FORMERLY

SENATE BILL NO. 147

AN ACT TO AMEND CHAPTER 31, PART III, TITLE 16, DELAWARE CODE, RELATING TO VITAL STATISTICS.

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

Section 1. Amend §3123(b), Chapter 31, Title 16, Delaware Code, by striking the first sentence thereof and substituting in lieu thereof the following:

"(b) The funeral director who assumes custody of the dead body shall file the certificate of death."

Approved July 14, 1993.

CHAPTER 147

FORMERLY

SENATE BILL NO. 148

AN ACT TO AMEND CHAPTER 31, TITLE 24, DELAWARE CODE, RELATING TO THE BOARD OF FUNERAL SERVICES.

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

Section 1. Amend §3101(2), Chapter 31, Title 24, Delaware Code, by striking the period "." at the end of said subsection and adding thereto the following:

" , and who shall file all death certificates or permits as required by Chapter 31, Title 16, Delaware Code."

Approved July 14, 1993.

CHAPTER 148

FORMERLY

SENATE BILL NO. 235

AN ACT TO AMEND CHAPTER 78, VOLUME 67, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF SOUTH BETHANY", TO CORRECT AND CLARIFY THE PROCEDURES FOR THE NOTICE OF CANDIDACY FOR ANNUAL MUNICIPAL ELECTION PROCEDURES, AND TO INCREASE THE AGGREGATE AMOUNT INVOLVED IN CONTRACTS FOR PURCHASE OR LEASE OF MATERIALS OR SERVICE 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. Amend Subsection (a), Section 7.75 Competitive Bidding, Chapter 78, Volume 67, Laws of Delaware by deleting therefrom the figure "\$1,000.00" as it appears therein and substituting in lieu thereof the figure "\$2,500.00".

Section 2. Amend Subsection (a) Notice of Candidacy, Section 6.4, Annual Municipal Election Procedures, Chapter 78, Volume 67, Laws of Delaware, by striking the words "the Council Secretary" as they appear in the first sentence thereof and substituting in lieu thereof the words "Town Hall during normal business hours".

Approved July 14, 1993.

CHAPTER 149

FORMERLY

SENATE BILL NO. 226

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE SALE OF STATE-OWNED MATERIEL.

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

Section 1. Amend Title 29, §7002 of the Delaware Code by striking the title of said section in its entirety and substituting in lieu thereof the following:

"§7002. Public Auction and/or Disposal of State-Owned Property."

Section 2. Amend Title 29, §7002(c) of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(c) In the event that no State agencies or volunteer fire departments request such materiel within the 2-week period, the Division of Purchasing shall transfer the materiel to an appropriate storage area. The materiel can then be made available to other political subdivisions, non-profit organizations, or the general public at reasonable cost as determined by the Division. The Division may arrange for public auction of such materiel when the quantity or size of the materiel makes removal from the site of the disposing agency unwarranted, or when it is in the best interest of the State."

Section 3. Amend Title 29, §7002(d) of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(d) Notice of auctions shall be advertised at least once a week for 2 consecutive weeks in a Delaware newspaper circulated in each county of the State; provided, however, that if the anticipated proceeds of such auction are equal to or less than the cost of handling and advertising, the advertising requirement may be waived at the discretion of the Secretary of Administrative Services. The materiel shall be sold to the highest bidder at such auction. Any materiel remaining after being offered at such auction shall be disposed of by the Department of Administrative Services in the best interests of the State. All proceeds from such auctions shall be deposited with the State Treasurer."

Section 4. Amend Title 29, §7002(e) of the Delaware Code by striking the third sentence in its entirety.

Section 5. Amend Title 29, §7002(e) of the Delaware Code by striking the words "approved applicants as defined in §8807(a)(1)c of this title" as they appear therein and substituting in lieu thereof the following:

"the groups as provided for in §7002(c) herein."

Approved July 14, 1993.

CHAPTER 150

FORMERLY

SENATE BILL NO. 224

AN ACT TO REINCORPORATE THE TOWN OF SLAUGHTER BEACH.

WHEREAS, it is deemed advisable that the Charter of the Town of Slaughter Beach, set forth in Chapter 167, Volume 37, Laws of Delaware, with subsequent amendments, be consolidated into one complete Act and in certain respects be further amended and revised.

NOW THEREFORE:

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

"§1. Body Corporate. The inhabitants of the Town of Slaughter Beach, Sussex County, Delaware, are hereby constituted a municipal corporation and body politic. The name and style of said corporation shall be 'The Town of Slaughter Beach' by which name the said corporation may sue and be sued, plead and be pleaded, complain, answer and defend in all courts of this State.

§2. Boundaries and Town Plot. The present boundaries of the Town of Slaughter Beach were established by three separate Acts, as follows:

2.1 'Original' boundaries (37 Delaware Law Chapter 167). BEGINNING at the center of the road now leading into the Town of Slaughter Beach over the bridge to the west of said Town, where it intersects the road called Bay Avenue that has been built just back of, and to the west, of the principal row of cottages in said Town of Slaughter Beach, thence from said point one mile to the north. A line drawn through this terminal point between the Bay and the Canal to the west of the Town, shall constitute the Northern boundary of the said Town. The Southern boundary of the said Town shall be a line drawn through a point one mile south from the point of beginning, between the Bay and the Canal to the west of the Town, both of said boundary lines to be parallel to the main road now leading into the Town from the west over the Canal. The Eastern boundary line of the Town shall be the Delaware Bay and the Western boundary line shall be the Canal to the west of the Town.

2.2 'Cedar Beach Annexation' (52 Delaware Laws Chapter 224). The boundaries of the Town of Slaughter Beach are extended to include the lands or territory formerly known as Cedar Beach, bounded and described as follows, to wit: BEGINNING at a stone on the shore of Delaware Bay, a corner for lands of William V. Benson and Clessen E. Bridgham; thence with said lands, south seventy-two (72) degrees four (4) minutes west six hundred thirty-four (634) feet crossing the Slaughter Beach to Cedar Beach State Highway to a stone in old Cedar Creek; thence with the said old Creek, westerly about twelve hundred (1200) feet to a corner for lands formerly belonging to the heirs of Henry May, deceased; thence with said lands and a survey of the year 1885 north fifty-five (55) degrees west fifty (50) perches to a stone on Cedar Island (as represented by a plot of the Dorsey lands as recorded in Orphans Court of Sustain County, Book No. 36 at Page 491); thence north thirteen and one-half (13 1/2) degrees east two hundred forth-eight (248) perches to a point in the center of the old dirt road leading to the former location of the Cedar Beach Hotel (said line passes twenty-two and one-half (22 1/2) feet to the west of a dwelling on the King land); thence with the center of said dirt road south seventy-six (76) degrees eight (8) minutes west two hundred fifty-nine and one-third (259 1/3) feet; thence leaving said road and with lands of Laura Roberts and J. Cecil Watson, passing seven and one-half (7 1/2) feet north of the northeast corner of a dwelling on the Roberts lot, north seventy-two (72) degrees twenty-five (25) minutes west, eight hundred sixty-seven (867) feet to the canal connecting Cedar Creek with Mispillion River near the Light House; thence with said canal, north thirty-five (35) degrees twenty-five (25) minutes east thirteen hundred fifty (1350) feet to a ditch and a stone; thence with said ditch, north sixty-seven (67) degrees east seven hundred eighty-three (783) feet to a stone; thence two other courses with what was formerly a ditch south sixty-two (62) degrees east one hundred eighty-six (186) feet to a stone; north eighty-three and

one-quarter (83 1/4) degrees east four hundred forty (440) feet to a stone at Delaware Bay; thence along Delaware Bay southerly to the place of beginning.

2.3 'Marvel Lands' Annexation (61 Delaware Law Chapter 100). ALL that certain tract, piece and parcel of land, lying and being in Cedar Creek Hundred, Sussex County and State of Delaware, fronting on the Southwesterly side of the 60 foot right-of-way of County Route 204, adjoining other lands of grantees and other lands of grantors, and more particularly described as follows, to-wit: BEGINNING at a concrete monument set on the Southwesterly right-of-way line of County Route 204, at the northwesterly corner of other lands of grantees; thence proceeding with said other lands of grantees; South 14 degrees 35 minutes 24 seconds West 978.27 feet to an iron pipe set at the northeasterly corner of lands of the heirs of Frank Davis Watson; thence running with said lands of the Watson heirs North 75 degrees 35 minutes 36 seconds West 421.40 feet to an iron pipe in line of other lands of grantors; thence following said line of other lands of grantors North 14 degrees 35 minutes 24 seconds East 1078.91 feet to an iron pipe set on aforementioned southwesterly right-of-way line of County Route 204; thence running with said right-of-way line South 62 degrees 18 minutes 16 seconds East 390.37 feet; thence finally continuing with said right-of-way line and deflecting right along a 718.95 foot radius curve, the chord of which bears South 60 degrees 26 minutes 22 seconds East 42.62 feet an arc distance of 42.62 feet to the place of BEGINNING, containing 9.956 acres of land, more or less.

The Town Council may cause an appropriate plot or plots of the Town's territory(s) to be recorded at the Office of the Recorder of Deeds in and for Sussex County.

§3 Town Council. The government of the Town and the exercise of all powers conferred by this Charter except as otherwise provided herein shall be vested in and exercised by a Town Council composed of five members. They shall elect a Mayor, a Vice-Mayor, a Secretary, and a Treasurer from among their own number.

3.1 Qualifications. No person shall be eligible to serve as a member of the Town Council unless he or she:

3.1.1 is at least 21 years of age;

3.1.2 has not been convicted of a felony or any crime involving moral turpitude;

3.1.3 has, for a period of not less than six consecutive months prior to the date of the election, been either:

(a) a freeholder or

(b) domiciled in the Town

as those terms are defined in §3.5 hereof.

3.1.4 is otherwise qualified to vote in the Annual Town Election in accordance with §3.5.

3.2 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.

3.3 Term of Office. The term of office for each member of the Town Council shall be two years from the first Monday following the election, or until his or her successor has been duly elected and qualified. The present members of the Town Council of Slaughter Beach, and other officers appointed to serve, in office under Chapter 37 volume 167, Laws of Delaware, as amended, shall continue to serve in office from and after the effective date of this Charter, until their successors are duly elected or appointed. At the Annual Town Election in 1994, three (3) persons shall be elected to the Town Council to replace those outgoing members of the Council whose terms expire in 1994; and, at the Annual Town Election in 1995, two (2) persons shall be elected to replace those outgoing members

whose terms expire in 1995. Thereafter, two (2) members of the Town Council will be elected in odd years, and three (3) members shall be elected in even years.

3.4 Notice of Elections: Nomination: Annual Election.

3.4.1 Notice: Nomination. The Town Council shall be nominated as follows: The Town Council shall cause notice of the date of the annual election and the requirements and qualifications for election to the Town Council to be posted in at least three (3) public places in the Town and published in a newspaper of general circulation at least once not less than 30 days before the Annual Town Meeting. Any person qualified to hold the office of Councilmember may register as a candidate for election to Town Council in that election. To register as a candidate for Councilmember, a person shall file a Certificate of Intent with the Mayor or Secretary, which certificate shall be in writing, signed by the candidate, and shall state his or her intention to be a candidate for election to Town Council in the next succeeding election. In addition, each certificate shall be endorsed by five persons qualified to vote in that election. Certificates of Intent shall be filed not sooner than sixty (60) days before, nor later than the adjournment of the Annual Town Meeting which shall be held on the second Saturday in June. No person shall be eligible to be elected unless duly registered and qualified according to this section.

3.4.2 Date. The Annual Election shall be held on the first Saturday in July of each year at such time

and place within the Town as shall be determined by the Town Council.

3.5 Voter Qualifications. Any person shall be qualified to vote who, on the date of the election, is a United States citizen, has attained eighteen (18) years of age, and, for a period of not less than four (4) consecutive months immediately preceding the date of the election has been either: (a) a freeholder in the Town or (b) has been domiciled in the Town. 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 to a life estate, in and to real property located within the Town boundaries; (ii) 'Domiciled' shall mean physically residing in that place where a person has his/her true, fixed, and permanent home and principal establishment, and to which, whenever he or she is absent, that person has the intention of returning; provided however, that absence from one's place of domicile for some temporary purpose shall not terminate that domicile so long as the intention to return to that place remains fixed, certain, and constant during the period of physical absence. These rules shall be construed in accordance with the principle of 'one-person-one vote'. When a voter is entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one vote; where a voter is entitled to vote by virtue of ownership of two or more properties in the Town, that voter shall be entitled to only one vote.

3.6 Notice of Elections. At least ten (10) days prior to the day of the election, the Town Council shall cause to be posted notice thereof in at least three public places within the Town, which notice shall state the day, hours, and place of election, the number of Councilmembers to be elected, the names of the candidates, and the terms for which they are to be elected. In addition, notice containing the same information shall be published at least once in a newspaper of general circulation within the Town at least ten (10) days prior to the day of the election.

3.7 Election Board. Every election shall be held under the supervision of an Election Board. The Election Board shall consist of one (1) Inspector of the Election and two (2) Judges of the Election. The Inspector and Judges constituting the Election Board shall be qualified voters of the Town and shall be appointed for that purpose by the Town Council at least twenty (20) days before such election. If, at the opening of the polls, there shall not be present the members 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 such vacancies caused by the absence

of members of the Election Board. Members of the Election Board shall be the sole and final judges of the conduct of the election and of the legality of the votes offered. The Election Board shall have the power to subpoena persons, and officers of the Town, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered.

3.8 Election Results. Upon the close of the election, the votes shall be read and counted and the persons having the highest number of votes shall be declared, by the Election board, to be duly elected to such vacant offices as then exist, and such persons shall continue in office during the terms for which they were chosen, or until their successors are duly elected or appointed and qualified.

3.9 Ties. In the event of a tie vote for any office, the Election Board shall determine such tie by lot.

3.10 Preservation of Ballots and Records. All ballots cast and all records of the election kept by the Election Board shall be preserved in the custody of the Election Board for a period of ten (10) days, unless an appeal is filed in a court of appropriate jurisdiction.

3.11 Election Record Book. The Election Board shall enter in a book, to be provided for that purpose, the results of the election, containing the names of the persons elected. The members of the Election Board shall subscribe the same. The book, containing such matters, shall be preserved by the Town Council.

3.12 Uncontested Elections. Where there is only one official candidate for each office, if none of the official candidates has a formal opponent on the day of election, the official candidates may assume office without the holding of a formal election.

3.13 Voter Registration: Absentee Ballots. The Town Council may, but shall not be required to, enact ordinances providing for the registration of qualified voters and/or the casting of absentee ballots.

§4. Organization of Town Council. On the first Monday following the annual election, the Town Council shall meet and organize by the election of a Mayor, a Vice-Mayor, a Secretary, and a Treasurer, all of whom shall be Town Councilmembers. Before entering upon the duties of the offices, the newly elected Councilmembers shall be sworn in by a Notary Public or by a holdover member of the Town Council, to faithfully and impartially perform their duties.

4.1 Mayor.

4.1.1 General Duties and Powers. The duties of the Mayor shall be to preside at all meetings of the Town Council, to serve as the head of Town Government for all ceremonial purposes or for purposes of military law, and to have general superintendence of all Town affairs; provided, however, that such general superintendence shall in all cases be subordinate to the authority of all committees and appointees as selected by the Town Council.

The Mayor shall countersign checks of the Treasurer, and shall perform such other duties as may be prescribed by resolution or ordinance of the Town Council. If the Mayor be incapacitated from acting by reason of absence, or for any other reason whatsoever, then all powers and duties conferred and imposed upon the Mayor by this Act, or any other law, or any resolution or ordinance now or hereafter adopted or enacted by the Town Council, shall be exercised and performed by the Vice-Mayor for the period of such incapacity.

The Mayor shall have the same right as other Councilmembers to vote on all matters that come before the Town Council and may at any time appoint Councilmembers to preside if he or she desires to make a motion, move the adoption of a resolution, second either, or debate any question from the floor, and may thereafter immediately resume his or her duties as presiding officer.

4.1.2 Emergency Powers. The Mayor shall be authorized to act on behalf of the Town, without prior Council approval, in the event of some sudden emergency requiring prompt action in order to protect the public

health, safety, and welfare of the Town, its residents 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 a serious storm threatening significant damage, a civil 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. If reasonably possible, the Mayor shall notify such Councilmembers of the action so taken within 48 hours.

Any action taken by the Mayor under the powers vested in him under this subsection shall be as good as the act of the entire Council; provided that the Council may at a regular or special meeting held within fifteen (15) days of the Mayor's action, cancel the further implementation of any such action not yet completed and notify any persons or legal entities affected.

4.2 Vice-Mayor. The Vice-Mayor shall act as Mayor during the absence or disability of the Mayor, and shall perform such other duties as may be assigned to him or her by the Mayor or by ordinance or resolution adopted by the Town Council.

4.3 Secretary. The duties of the Secretary shall be to keep a true and faithful record of all the proceedings of the Town Council at all meetings and to do and perform such other matters and things as may be prescribed by this Act or law, or which the Town Council may from time to time prescribe by resolution or ordinance.

4.4 Treasurer.

4.4.1 Election, Removal, Oath, Bond.

(a) At its organizational meeting following the Annual Election, the Town Council shall elect a Treasurer from among themselves. The Treasurer shall hold office for a term of one year and until his/her successor has been duly elected and qualified; provided however, that the Treasurer may be removed from office at any time by a majority vote of the entire Town Council.

(b) Before entering upon the duties of the office, the Treasurer shall be duly sworn or affirmed to faithfully and honestly perform the duties of his/her office which oath may be administered by any Notary Public or by the Mayor or Vice Mayor of the Town Council.

(c) Before entering upon the duties of his/her office, the Treasurer shall give bond in such penal sum as determined by the Town Council, with sufficient surety as determined by the Town Council, conditioned for the faithful discharge of the duties of his/her office and for the payment to his/her successor in office of all sums of money and all property belonging to the Town which may remain in his/her hands upon the settlement of his accounts, to which bond shall be annexed a warrant of attorney for the confession of judgment of said penalty.

4.4.2 Duties.

(a) General. The Treasurer shall have custody and supervision of all monies and financial records belonging to the Town. The Treasurer shall pay all bills owed by the Town as ordered or approved by the Town Council out of Town monies. All checks shall be co-signed by the Mayor. The Treasurer shall settle his/her accounts with the Town Council annually on the first Monday following the annual Town election each year, and oftener at such other times as the Town Council may require.

(b) Tax Collection. The Town Treasurer shall act as Town Tax Collector, provided that if the Town Treasurer declines, in writing, to accept that responsibility, the Town Council shall appoint some other qualified person to serve as Town Tax Collector and in such event, all provisions hereof regarding collection of Town Taxes by the Treasurer shall be construed and applied to such other appointee. The

compensation to be paid to the Town Treasurer for collection of the Town taxes shall be set by the Town Council.

The Treasurer shall be responsible for the collection of all Town taxes, fees, assessments and charges owed to the Town. During the month of May in each year, the Treasurer shall obtain from the records of the County Board of Assessment at Georgetown, Delaware, a list of the taxable real estate within the limits of the Town, together with names of the owners thereof, and of the assessment of such property by the Sussex County Board of Assessment. This list shall be the official assessment list of said Town. The Treasurer shall be authorized to add to such list any taxable real estate within the Town which may have been omitted from the County list and to assess such added property to the proper owners thereof. The Treasurer shall add to the assessment list any charges or amounts owed to the Town for municipal services including by way of example and not in limitation, trash collection charges and beach clean-up assessments.

After preparing his assessment list as aforesaid, the Treasurer shall submit the same to the Town Council for their approval. After their approval he shall post said assessment list in one (1) or more public places in the Town during the last half of the month of May for the inspection of the taxables of the said Town.

On said list there shall be a statement to the effect that the Town Council will sit at their regular meeting in June of each year to hear appeals from said assessment. At such meeting, the Town Council shall have power to add or to decrease only the assessments made by the Treasurer and any additional charges owed to the Town. No Councilmember shall sit on his own appeal. When the appeal day is past, the Town Council shall without delay cause the assessment list to be transcribed, and the transcript to be delivered to the Treasurer who shall thereupon collect from each taxable his proportion of taxes, and pay the whole amount to the Town Council at least once during each month after said transcript has been delivered to him for the collection of taxes as aforesaid. All taxes shall be due the Town as soon as the assessment list approved by the Town Council has been delivered to the Treasurer. After September 30th in each year, a penalty of two (2%) percent per month shall be added to all uncollected taxes. The Treasurer shall have all of the same powers for the collection of said taxes, penalties and costs of collection as are conferred by law upon the Collector of Sussex County taxes.

In the collection of any Town taxes, penalties, and/or interest thereon, the Town shall be entitled to collect an additional sum from the taxable for the Town's actual costs and attorneys fees incurred to make such collection. Any such taxes, together with their associated penalties and costs of collection shall be and constitute a lien upon the property for a period of ten (10) years from the date such taxes become due.

4.5 Manner of Acting.

4.5.1 Rules of Procedure, Record of Proceedings. The Town Council may determine its own rules of procedure and order of business. It shall keep a record of its proceedings.

4.5.2 Ordinances. The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the Town, or relating to the government of the Town, its peace and order, its 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 or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the Town Council shall be by ordinance which:

- (a) Adopt or amend any code or comprehensive set of rules or regulations;
- (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 or extend a franchise;
- (d) Amend or repeal any ordinances previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution. Every ordinance shall be introduced in writing. Vote on any ordinance may be by voice vote or written vote and the vote of each Council member on any ordinance shall be entered on the record. No ordinance shall be passed unless it shall have the affirmative vote of a majority of the entire Town Council.

4.5.3 Public Notice Regarding Certain Actions. In addition to such other notice as may be required by this charter or by general statute, the Town Council shall give at least 30 days public notice to the taxpayers, property owners, and voters of the Town prior to taking any of the following actions:

- (a) approving any proposed amendment to the Town Charter;
- (b) approving any change in the Town's real property tax rate;
- (c) instituting any new tax on the citizens of the Town and/or their property;
- (d) borrowing any money under §6.5 hereof;
- (e) conducting the Annual Town meeting and Town Election;
- (f) adopting, amending or repealing any ordinance.

Notice under this section shall be provided by public posting in at least one public place in the Town and by mailing copies of such notices by regular mail, (postage prepaid) to the taxpayers and property owners at their addresses as shown on the Town's tax records; and to non-property-owning residents at their last known address as provided to the Town. Nothing herein shall prohibit the Town Council from taking any action without such advance public notice where such action is required by emergency or other exigency; but in such event, notice as herein provided shall be given as soon as conveniently possible and in no event later than 15 days following the taking of such action.

The Town Council may combine notice of any number of such proposed and/or previously taken actions in one notice which may be included in the Town's Annual Newsletter if one exists.

4.5.4 Quorum. Three members of the Town Council shall be physically present in order to constitute a quorum to conduct business, but if a lesser number be present at any regular or properly called special meeting, they may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by the majority of the entire Council.

4.5.5 Vote Necessary to Carry Action. All powers of the Town Council, whether express or implied, shall be exercised in the manner provided herein, or if not prescribed herein, then by ordinance or resolution. A majority vote of the entire Town Council shall be necessary to carry any action.

4.6 Disqualification. If any Councilmember shall, during his or her term of office, cease to meet the qualifications to be a Councilmember, or be found guilty of any felony or crime of moral turpitude or fail to attend three consecutive regular meetings of the Town Council without being excused by a majority of the remaining members of the Town Council, he or she shall forthwith be disqualified to act as a Town Councilmember, and his

or her office shall be vacant and shall be filled by some other qualified person for the remainder of the term by the remaining Councilmembers.

4.7 Filling Vacancies. In case of a vacancy on the Council by reason of death, resignation, or disqualification from office, the remaining Council members shall elect some other qualified person to serve for the remainder of that vacant seat's term.

4.8 Regular Meetings of Town Council. Following the annual organization meeting, the Town Council shall thereafter hold meetings at such times as may be prescribed by ordinance, but not less frequently than once each month.

4.9 Special Meetings. Special meetings of the Town Council may be called by the Mayor, and shall be called by the Mayor upon written request of three Councilmembers. All meetings, regular and special, shall be open to the public, except where executive sessions are permitted under the Delaware Freedom of Information Act (29 Del. C. 1001 et seq.) as it may be amended from time to time hereafter.

§5. Officers of the Town. At their first organizational meeting of the Town Council following the annual election, the Town Council may appoint a Town Building Inspector and such other officers or officials as the Town Council deems appropriate. Each of the said officers shall serve at the pleasure of the Town Council.

§6. Powers of the Town.

6.1 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.

6.2 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:

6.2.1 May have and use a corporate seal which may be altered, changed, or renewed at pleasure.

6.2.2 May hold and acquire by gift, negotiation and purchase, devise or lease, property both real (improved or unimproved) and personal, or mixed, within the boundaries of the Town, in fee or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing, improving, extending, altering, or demolishing:

(a) public buildings;

(b) parks;

(c) streets, squares, lanes and alleys;

(d) recreational facilities, including but not limited to, public bathing beaches, gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddleball courts, and all appurtenances thereto;

(e) for revitalization, or rehabilitation of blighted areas, or removal of dangerous buildings;

(f) for the protection of the health of the citizens of the town;

(g) for the proper furnishing of adequate municipal services to the citizens of the Town.

6.2.3 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 of the State of Delaware or as restricted by this Charter.

6.2.4 May pay for the acquisition, construction, improvement, repair, extension, alteration, or demolition of any municipal or public 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.

6.2.5 May purchase, take and hold real and personal property when sold for any delinquent tax, assessment, license fee, or charge growing out of abatement of nuisances and the like, or other charge due the Town, and to sell the same.

6.2.6 May, subject to applicable laws and regulations of the State of Delaware and/or United States Government, ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair and replace any new or present street, highway, lane, alley, water course, park, crosswalk, wharf, dock, drain, gutter, aqueduct, or pipeline or portion thereof, in the Town and the beach or beach strand in or contiguous to the Town; to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done; to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the Town.

6.2.7 May, subject to applicable laws and regulations of the State of Delaware and/or United States Government, provide, construct, extend, maintain, manage and control jetties, bulkheads, embankments, flood gates, piers, or fills for the preservation of any strand or high land within the limits of the Town and contiguous thereto to the end that the same may be preserved and properly protected that the general public might enjoy the use thereof.

6.2.8 May, subject to applicable laws and regulations of the State of Delaware and/or the United States government, control within the Town the drainage of all water and to that end may alter or change the course and direction of any natural water course, runs or rivulet within the Town, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town.

6.2.9 May, by ordinance and subject to applicable laws and regulations of the State of Delaware, 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; to regulate, suppress, remove or secure any fireplace, stove chimney, oven broiler, or other apparatus which may pose a danger of causing fires;

6.2.10 May establish fire limits and do all things necessary for the prevention or extinguishment of fires; and at the discretion of the Town Council, to contribute, donate or give an amount or amounts to any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town, provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable;

6.2.11 May prevent vice, drunkenness and immorality;

6.2.12 May prohibit gaming and fraudulent devices;

6.2.13 May prevent and quell riots, disturbances, and disorderly assemblages;

6.2.14 May adopt and enforce such ordinances regulating traffic and/or parking, on all streets, alleys, avenues, and public ways within the Town as are not inconsistent with the motor vehicle laws of the State of Delaware.

6.2.15 May, by ordinance and subject to applicable laws and regulations of the State of Delaware, regulate or prohibit the use of public streets, alleys, beaches, parks right-of-ways, public places and Town-owned lands for commercial uses or activities not otherwise protected from such regulation or prohibition by the Constitutions of either the United States or the State of Delaware, or by any controlling federal statute.

6.2.16 May, by ordinance, regulate or prevent the use of guns, air guns, spring guns, pistols, sling shots, and any other device for discharging missiles which may cause bodily injury or injuries or harm to persons or property; and may by ordinance regulate or prevent the use of bonfires, fireworks, bombs and detonating works of all kinds;

6.2.17 May provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants;

6.2.18 May prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

6.2.19 May direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome, and to assess the cost thereof against the owner thereof.

6.2.20 May by ordinance define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the cost of such abatement or removal to be paid by the legal entity causing or permitting same to exist.

6.2.21 May adopt ordinances providing for the condemnation, upon inspection, of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinance(s), to be a fire hazard or otherwise dangerous or unsafe, and cause the same to be torn down or removed.

6.2.22 May, pursuant to any duly adopted ordinance restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large and authorize the destruction of the same; and regulate the keeping of dogs within the Town, and provide for registration thereof, with appropriate fees.

6.2.23 May by ordinance provide for the punishment of a violation of any ordinance of the Town by fine or not exceeding \$100.00 for each offense.

6.2.24 May by ordinance regulate and control the manner of building or removal of dwellings or other structures and to provide for granting permits for same.

6.2.25 May by ordinance prohibit and prevent the carrying on of construction by private persons or companies at such times and seasons of the year and at such hours of the day as the Town Council may determine necessary and appropriate for the public health and welfare.

6.2.26 May by ordinance provide for or regulate the numbering of houses and lots on the streets and the naming of the streets and avenues.

6.2.27 May, for the prevention of fire and the preservation of the beauty of the Town, establish a building line for buildings to be erected; to zone or district the town and make particular provision for particular zones or districts with regard to building or building materials; and may prohibit any building or construction except those for which a building permit has been issued as prescribed by the Town Council; and generally to exercise all powers and authorities vested by virtue of 22 Del.C. Chapter 3, as it may hereafter from time to time be amended, or any future corresponding provision of law; all such powers under this subsection to be exercised by ordinance.

6.2.28 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;

6.2.29 May by ordinance 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.

6.2.30 May grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such consideration as the Town Council shall deem in the best interests of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, strands, crosswalks, wharfs, docks, beaches and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, and for the purpose of erecting wharfs and piers; provided, however, that whenever any state or federal law grants exclusive jurisdiction over any such activity to a state or federal agency, the Town shall have no authority inconsistent therewith.

6.2.31 May regulate and control the exercise of any license or franchise mentioned in Section 6.2.30 of this Charter, or intended so to be.

6.2.32 May appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town in case of emergency.

6.2.33 May inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena.

6.2.34 May make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules, and By-Laws not contrary to the laws of this State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants.

6.3 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 of the

State of Delaware, it would be competent for this Charter to specifically enumerate.

6.4 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 the State of Delaware or any civil division or agency 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.

§6.5 Borrowing Powers. The Town Council shall have full power and authority to borrow, upon the full faith and credit of the Town, a sum or sums of money not exceeding one and one-half percent (1½%) of the total taxable assessed value of all real property within the Town in any one fiscal year, and in no event to exceed an aggregate outstanding total indebtedness exceeding three (3%) percent of the total taxable assessed value of all real property in the Town, when, in the opinion of a majority of the Town Council elected the needs of the Town require it. The Town Council may secure said sum or sums of money by promissory note or notes or certificates of indebtedness of the Town, duly authorized by resolution of the Town Council and signed by the Mayor, or the Vice-Mayor of the Town Council, and by the Secretary, and either with or without the corporate seal of the Town affixed as is requested by legal entity advancing the money on said notes or certificates. Such notes or certificates of indebtedness and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions. No officer nor member of the Town Council shall be personally liable for the payment of such note or notes, because of his signature as an officer of the Town Council, his membership on the Town Council, or his approval of the authorizing resolution; provided, further, however, that any sum of money borrowed by the Town Council on the full faith and credit of the Town as aforesaid in any fiscal year, shall be repaid out of the general funds of the Town at the minimum rate of Twenty-five (25%) percent of the amount so borrowed, in each of the four consecutive years immediately following the fiscal year in which said money was borrowed, together with the interest thereon.

§7. Taxing Powers.

7.1 Real Property Tax. The Town Council of the Town is hereby authorized and empowered to levy and collect from the taxables of said Town, according to the terms and provisions of this Act, such sum of money as may be deemed by the Town Council as necessary and proper for the general municipal needs of the Town, which sum, excluding all interest, penalties, and costs of collection, shall in no year exceed a sum of money equal to two (2%) percent of the total assessed value of all taxable real estate in the Town. The amount to be raised annually by taxation and the rate of taxation shall be fixed annually by the Town Council at its regular June meeting.

7.2 Real Estate Transfer Tax. 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, Title 30, Del. C. of 1974, and all amendments heretofore or hereafter adopted, or any future corresponding law.

§8. Use of Town Monies; Fiscal Year; Annual Statement.

§8.1 The Town Council shall have full power and authority to use the money in the Treasury of said Town, or any portion thereof, from time to time for the improvement, benefit, protection, ornament and best interest of the said Town as the Town 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 Act and all lawful ordinances and resolutions of the Town Council.

8.2 Fiscal Year. The fiscal year of the said Town shall begin the first day of July in each year and shall end with the next succeeding thirtieth (30th) day of June.

8.3 Annual Statement. The Town Council shall cause a full and correct annual statement of the receipts and disbursements of all Town moneys for the fiscal year just preceding, to be posted in one (1) or more public places in the Town, during the latter half of September in each year, and during the same period have copies of such statement mailed to the taxpayers, property owners, and residents of the Town in the same manner as provided in §4.5.3.

§9. Auditor. It shall be the duty of the Town Council to appoint annually in the month of June a competent and suitable person, who shall serve as auditor of the accounts of the Town Council, whose duty it shall be to examine all the accounts of the Treasurer for the preceding fiscal year, and to audit the same. The said auditor shall on or before the regular September Town Council meeting next ensuing his or her appointment, make a report of said accounts so examined and audited and post the same on the first Monday of October. This shall be posted in one (1) or more public places in the Town, said places to be designated by the Town Council. For the purposes of said audit the Auditor shall have access to all records belonging to the Town Council, and to all records of the officers of said Town. The said Auditor shall also convey to any taxable of said Town the result of said audit, upon request.

§10. Subdivision and Land Development: 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 of the town, to insure the conservation of property values and natural resources, including the protection of the Town's open lands, water resources, and recreational potential, and to afford adequate provision for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the Town may regulate the subdivision of all land in the Town. Such regulation may, through ordinance, include:

10.1 Varying procedures for insuring the orderly 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 improvements required;

10.2 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 or 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;

10.3 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 evolving principles of site planning and development;

10.4 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, combining, or partitioning, including by way of example and not in limitation, the paving of streets, installation of sidewalks, curbs, storm sewers, water lines, sanitary sewer lines, electric distribution lines, street signs, access roads, playgrounds, parks, and open areas. In imposing such requirements, the Town 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;

10.5 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;

10.6 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 years) beyond the actual completion of such improvements by the Town.

10.7 Recording Unapproved 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. Any such plot recorded in violation of this provision shall be voidable by action of the Town Council of the Town of Slaughter Beach.

§11 Action or Suits. No action, suit, or proceeding shall be brought or maintained against the Town of Slaughter Beach, its officers (including the members of any board, commission, or agency), employees, or agents, whether now, hereafter, or previously serving as such, and no judgment, damages, penalties, costs, or other money entitlement shall be awarded or assessed against the Town, its officers, (including the members of any board, commission, or agency) employees or agents, whether now, hereafter or previously serving as such, in any civil suit or proceeding at law or in equity, or before any administrative tribunal, arising out of, connected with, or on account of any physical injury or injuries, death, or any other type of personal injury (including libel or slander), or injury to property (whether real or personal) unless the person by or on behalf of whom such claim or demand is asserted, within one year from the happening of the incident giving rise to such injury shall notify the Town of Slaughter Beach in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Mayor of the Town of Slaughter Beach by certified mail and return receipt requested and postage prepaid.

§12. Indemnification.

12.1 Subject to the limitations and conditions hereinafter set forth, the Town shall indemnify, from the general funds of the Town's Treasury, any person who is a party to, or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Town of Slaughter Beach itself) by reason of the fact that he or she is or was a Councilmember, Mayor, or other duly elected or appointed Town Official of the Town of Slaughter Beach, 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 interests 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 interests of the Town of Slaughter Beach, and with respect to any criminal action or proceeding had reasonable cause to believe that his 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.

12.2 Indemnification as provided in this ordinance shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the Councilmember, Mayor, and/or Town Officer is proper in the circumstances because he or she met the applicable standards of conduct set forth above. Such determination shall be made:

12.2.1 By a majority vote of a quorum of the Town Council consisting of council members who were not parties to such action, suit or proceeding, or

12.2.2 If such a quorum is not obtainable, by independent legal counsel in a written opinion.

12.3 The right to indemnification hereunder shall be secondary to the coverages provided by any applicable policy of insurance and such policy(s) shall be construed and enforced as if no right of indemnification existed under this Charter. Nothing in this section shall eliminate or reduce the scope or amount of coverage that would otherwise be in effect under any applicable policy of insurance but for this section, and the right to indemnification shall be limited only to those amounts not covered by applicable policies of insurance.

12.4 Anything herein to the contrary notwithstanding, the right to indemnification shall be limited, per incident, to a sum not exceeding the Town's total tax revenues for the two fiscal years immediately preceding the incident giving rise to the claim.

§13. Survival of Powers and Validating Section.

13.1 All powers conferred upon or vested in the Town Council of Slaughter Beach by any act or law of the State of Delaware not in conflict with the provisions of this Act are hereby expressly conferred upon and vested in the Town of Slaughter Beach precisely as if each of said powers was expressly set forth in the Act.

13.2 All ordinances adopted by the Town Council of Slaughter Beach and in force at the time of approval, acceptance and going into effect of this Act are continued in force until the same or any of them shall be repealed, modified, or altered by the Town Council of Slaughter Beach under the provision of this Act.

13.3 All of the acts and doings of the Town Council of Slaughter Beach or of any official, or of the Mayor, or the Town which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town of Slaughter Beach or under any provision of any prior Act of the Town of Slaughter Beach, prior to the approval, acceptance and going into effect of this Act, are hereby ratified and confirmed, unless otherwise provided herein.

13.4 All taxes, assessments, license fees, penalties, fines, forfeitures, and other charges due to the Town of Slaughter Beach and all debts due from the Town of Slaughter Beach shall remain unimpaired until paid to or by the Town of Slaughter Beach.

13.5 All powers granted by this Act 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 Slaughter Beach.

13.6 All bonds given by or on account of any official of Slaughter Beach shall not be impaired or affected by the provisions of this Act.

13.7 Each member of the Town Council who holds office at the time of approval of this Act shall continue to serve until the expiration of his or her term of office.

13.8 All acts or parts inconsistent with or in conflict with the provisions of the Act shall be and the same are hereby repealed to the extent of any such inconsistency.

§14 Separability. If any provision, section, subsection, paragraph, sentence, or clause of this Act 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, subsections, paragraphs, sentences or clauses of this Act.

§15 Effective Date. This Act shall take effect July 31, 1993."

Approved July 14, 1993.

CHAPTER 151

FORMERLY

SENATE BILL NO. 222

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE ELDERLY AND DISABLED.

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

Section 1. Amend Chapter 25, Title 6, Delaware Code by adding thereto a new Subchapter as follows:

"Subchapter VII. ENHANCED PENALTIES WHEN ELDER OR DISABLED PERSONS ARE TARGETED.

§2570. Definitions.

(a) 'Elder person' means a person who is sixty-five years of age or older.

(b) 'Disabled person' means a person who has a handicap or disability as defined in §4602 of this Title.

(c) 'Substantially limits' means substantially interferes with or affects over an extended period of time. Minor temporary ailments or injuries shall not be considered physical or mental impairments which substantially limit a person's major life activities. Examples of minor temporary ailments are colds, influenza, or sprains or minor injuries.

(d) 'Major life activities' includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

§2571. Civil penalty; Disposition of Funds.

(a) If any person is found to have violated any provision of this chapter, and said violation is committed against elder or disabled persons, in addition to any criminal or civil penalty otherwise set forth or imposed, the court may impose an additional civil penalty not to exceed ten thousand dollars (\$10,000) for each violation.

(b) The civil penalties imposed pursuant to subsection (a) of this section shall be deposited with the State Treasurer and placed into the Consumer Protection Fund as created by §2527 of this Chapter, shall be subject to appropriation by the General Assembly, and shall be used for the investigation and prosecution of deceptive acts against elder and disabled persons and for consumer education initiatives.

§2572. Determination of civil penalty.

In determining whether to impose an enhanced civil penalty under this subchapter and the amount thereof, the court shall consider the extent to which one or more of the following factors are present:

(a) Whether the defendant's conduct was in disregard of the rights of the elder or disabled person;

(b) Whether the defendant knew or should have known that the defendant's conduct was directed to an elder person or disabled person;

(c) Whether the elder or disabled person was more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility or disability than other persons and whether the elder or disabled person actually suffered substantial physical, emotional or economic damage resulting from the defendant's conduct;

(d) Whether the defendant's conduct caused an elder or disabled person to suffer any of the following:

(1) Mental or emotional anguish;

(2) Loss of or encumbrance upon a primary residence of the elder or disabled person;

(3) Loss of or encumbrance upon the elder or disabled person's principal employment or principal source of income;

(4) Loss of funds received under a pension or retirement plan or a government benefits program;

(5) Loss of property set aside for retirement or for personal or family care and maintenance; or

(6) Loss of assets essential to the health and welfare of the elder or disabled person.

(e) Any other factors the court deems appropriate.

§2573. Cause of action.

An elder or disabled person who suffers damage or injury as a result of an offense or violation described in this Chapter has a cause of action to recover actual damages, court costs and reasonable attorney's fees. Restitution ordered pursuant to this section has priority over a civil penalty imposed pursuant to this Subchapter.

§2574. Referrals for abuse, neglect and exploitation.

The Attorney General shall establish and maintain referral procedures with the Division of Aging and Adult Protective Services within the Department of Health and Social Services in order to provide any necessary intervention and assistance to elder or disabled persons who may have been victimized by violations of this Chapter."

Section 2. Amend §2527(f), Title 29, Delaware Code by inserting before the period therein the following:

"except for funds collected pursuant to Subchapter VII of this Chapter".

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 this end the provisions of this Act are declared to be severable.

Approved July 14, 1993.

CHAPTER 152

FORMERLY

SENATE BILL NO. 172

AN ACT TO AMEND VOLUME 27, CHAPTER 216, LAWS OF DELAWARE, AS AMENDED, RELATING TO THE CHARTER OF THE CITY OF NEW CASTLE AND THE POWER OF THE COUNCIL OF THE CITY OF NEW CASTLE TO REMIT ALL OR ANY PART OF CITY TAXES WHICH MAY BE LEVIED OR IMPOSED UPON ANY REAL ESTATE IN THE CITY OF NEW CASTLE.

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

Section 1. Amend Volume 27, Chapter 216, Laws of Delaware as amended by Volume 37, Chapter 163, Laws of Delaware, by denominating the first paragraph of Section 28 thereof as "(a)" and adding thereto the following paragraph (b):

"(b) The Council of the City of New Castle shall have power to remit all or any part of the City taxes which may be levied or imposed upon any real estate (and improvements thereon) in the City of New Castle for a period not exceeding ten years, upon which real estate any new improvements (buildings) wherein labor (personnel) shall be employed shall be erected and operated after the enactment of this Act, or upon which any improvements already erected are so used after the enactment of this Act for the employment of labor (personnel), but such remission of taxes as aforesaid shall only be made in the sound discretion of the Council and only for the purpose of assisting businesses which will furnish continuous employment for a sufficient number of persons to materially benefit the City of New Castle generally."

Approved July 14, 1993.

CHAPTER 153

FORMERLY

HOUSE BILL NO. 125
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 7, TITLE 18, DELAWARE CODE, REGARDING FEES AND TAXES.

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

Section 1. Amend Title 18, Delaware Code, Chapter 7, Section 703(c) by adding a paragraph to the end thereof:

"(11) Notwithstanding the above, any insurer which writes 50 percent or more of its total premium on property or persons residing within the State of Delaware shall be exempt from application and payment of the privilege tax."

Section 2. This Amendment shall be effective as of January 1, 1993.

Approved July 14, 1993.

CHAPTER 154

FORMERLY

HOUSE BILL NO. 131

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

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

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

Section 1. Amend §8325, Chapter 83, Title 11 of the Delaware Code by striking the words "Such pension to such widow shall be discontinued in the event that such widow shall remarry; and" and by capitalizing the first letter of the word "such" as it appears immediately following the deleted portion of said sentence.

Section 2. Amend §8372, Chapter 83, Title 11 of the Delaware Code by striking therefrom the words "or marries".

Section 3. Amend Chapter 83, Title 11 of the Delaware Code by striking the word "widow" wherever the same appears in said Chapter, and substituting the words "surviving spouse" in lieu thereof.

Section 4. Amend §8326, Title 11, Delaware Code by deleting the phrase "to such widow shall be discontinued in the event that such widow shall remarry; and such pension".

Approved July 14, 1993.

CHAPTER 155

FORMERLY

HOUSE BILL NO. 245

AS AMENDED BY HOUSE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLES.

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

Section 1. Amend §2118(n)(1), Chapter 21, Title 21 of the Delaware Code by inserting the following phrase at the beginning of paragraph: "Except as provided in subsection (p).",

Section 2. Amend §2118(p), Chapter 21, Title 21 of the Delaware Code by inserting the following language immediately after "involved in an accident with the insured" as it currently appears in said subsection:

"If the operator of a motor vehicle is unable to produce an insurance identification card or other sufficient proof of insurance upon request of a police officer, justice of the peace or anyone involved in an accident with the operator, the operator shall be issued a summons to appear in court with the vehicle's license plate. If the operator is convicted under this subsection, and has not provided sufficient proof of insurance in effect as of the date of conviction, the court shall, in addition to any other penalties imposed, take custody of the vehicle's license plate, which shall be delivered to the Department of Motor Vehicles. The Department of Motor Vehicles shall promptly suspend the vehicle's registration, pursuant to the provisions of subsection (m) of this Section."

Section 4. This act shall become effective six months after enactment.

Section 5. In the event that any provision hereof shall be held to be invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof. Any provision hereof which is held to be invalid or unenforceable only in part or degree or under specific facts shall remain in full force and effect to the extent, and with respect to facts in connection with which, it has not been held to be invalid or unenforceable.

Approved July 14, 1993.

CHAPTER 156

FORMERLY

HOUSE BILL NO. 257

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 90, TITLE 11 OF THE 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 Section 9002, Chapter 90, Title 11 of the Delaware Code
by striking existing paragraph (8) in its entirety and in lieu thereof
substituting the following:

"(8) 'Pecuniary loss' in instances of personal injury shall include
medical expenses, including psychiatric care and mental health counseling of
the victim or secondary victims; nonmedical remedial care and treatment
rendered in accordance with a religious method of healing; hospital expenses;
loss of past earnings; and loss of future earnings because of a disability
resulting from such personal injury. 'Pecuniary loss' in instances of death
of the victim shall include funeral and burial expenses, loss of support to
the dependents of the victim and mental health counseling to secondary
victims. 'Pecuniary loss' includes any other expenses actually and
necessarily incurred as a result of the personal injury or death, but it does
not include property damage."

Section 2. Amend Section 9002, Chapter 90, Title 11 of the Delaware Code
by adding thereto a new paragraph to read as follows:

"(10) 'Secondary victims' shall mean any parent, son, daughter, spouse,
brother, or sister of the victim."

Section 3. The provisions of this Act shall be applicable to pecuniary
losses which result from crimes occurring on or after January 1, 1992.

Approved July 14, 1993.

CHAPTER 157

FORMERLY

SENATE BILL NO. 153
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 10, CHAPTER 9 OF THE DELAWARE CODE RELATING TO A DOMESTIC VIOLENCE DIVERSION PROGRAM IN THE FAMILY COURT.

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

Section 1. Amend Chapter 9, Subchapter III, Part B, Title 10 of the Delaware Code, by adding a new section, designated as §943, which new section shall read as follows:

"§943. First Offenders Domestic Violence Diversion Program

(a) For the purposes of this Section, Domestic Violence shall be considered as any act or acts committed by an adult member of a family against one or more members of his or her family, as that term is defined in 10 Del. C. §901(9), which constitute any of the following criminal offenses under Title 11 of the Delaware Code: offensive touching (§601); menacing (§602); reckless endangering in the second degree (§603); assault in the third degree (§611); terroristic threatening (§621); vehicular assault in the second degree (§62B); sexual harassment (§763); unlawful sexual contact in the third degree (§767); unlawful imprisonment in the second degree (§781); coercion (§791); reckless burning or exploding (§804); criminal mischief classified as a misdemeanor (§811); criminal trespass in the first, second, or third degrees (§§821, 822, 823); harassment (§1311); or aggravated harassment (§1312).

(b) Those acts of Domestic Violence for which an offender may elect to apply for first offender status under this rule shall be limited to the following criminal offenses under Title 11 of the Delaware Code: offensive touching (§601); menacing (§602); sexual harassment (§763); criminal mischief classified as a misdemeanor (§811); criminal trespass in the first, second, or third degrees (§§821, 822, 823); harassment (§1311); or aggravated harassment (§1312).

(c) Any adult who:

(1) Has not been convicted of a violent felony or any domestic violence offense under Title 11 of the Delaware Code listed in subsection (a), or under any statute of the United States or of any state thereof including the District of Columbia relating to a violent felony or acts of Domestic Violence substantially similar to those criminal offenses listed in subsection (a); and

(2) Has not previously been afforded first offender treatment or other diversion programs for Domestic Violence;

(3) Has been charged with a domestic violence offense listed in subsection (b); and

(4) Has appeared at Family Court for a Bail Review/Domestic Violence Interview,

may qualify for the first offense election at the time of arraignment.

(d) At the time of arraignment any person qualifying under subsection (c) of this section as a first offender and who elects to apply under this section shall admit to the offense by entering a plea of guilty, as a first offender. The court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and shall place the offender on probation for a period of 1 year upon terms and conditions of which shall include but not be limited to:

(1) Enrollment with a counseling service for the purposes of evaluation and such counseling services as the evaluation counselor deems necessary,

(2) Satisfactory completion of the counseling program,

(3) Evaluation for alcohol and other drug abuse, and successful completion of a course of treatment as may be indicated by the evaluation,

(4) Restitution, where appropriate, to the victim,

(5) No unlawful contact with the victim during the period of probation,

(6) Other such terms and conditions as the court may impose.

(e) If a term or condition of probation is violated, including failure to appear for evaluation at an assigned evaluating agency, the offender shall be brought before the court, or if the offender fails to appear before the court, in either case, upon a determination by the court that the terms have been violated, the court shall enter an adjudication of guilty and proceed as otherwise provided under Title 11 of the Delaware Code.

(f) Upon fulfillment of the terms and conditions of probation, including, but not limited to, satisfactory completion of courses of instruction and/or programs of counseling/rehabilitation, and payment of all costs and fees, the court shall discharge the person and dismiss the proceedings against the offender and shall simultaneously therewith submit to the Attorney General a report thereof which shall be retained by the Attorney General for use in future proceedings, if required.

(g) 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 disqualification or disabilities imposed by law upon conviction of a crime, except the additional penalties imposed for second or subsequent offenses under Title 11 of the Delaware Code.

(h) Any person who elects to apply for first offender status shall by said application be deemed to have waived the right to a speedy trial and further agrees to pay the cost of prosecution as a condition. If a person elects not to apply for first offender status or if the application is not accepted, the matter shall be promptly scheduled for trial.

(i) There may be only 1 discharge and dismissal under this section with respect to any person."

Section 2. Effective Date. This Act takes effect thirty (30) days after its enactment.

Approved July 16, 1993.

CHAPTER 158

FORMERLY

SENATE BILL NO. 155
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 25, TITLE 29 OF THE DELAWARE CODE RELATING TO MANDATORY TRAINING OF DEPUTY ATTORNEYS GENERAL.

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

Section 1. Chapter 25, Title 29 of the Delaware Code, by adding the following paragraphs to §2511(a) of said Chapter:

"As a condition of attaining tenure, every Deputy Attorney General within the Criminal Division shall be required to attend and complete, within the first three years of his or her service, seminars conducted by the National College of District Attorneys or any other appropriate organization approved by the Attorney General on the subjects of child sexual and physical abuse, exploitation, and domestic violence.

Any Deputy Attorney General in the Criminal Division who has received tenure prior to the effective date of this educational requirement shall be required to attend and complete said seminars within three years from the date hereof."

Approved July 16, 1993.

CHAPTER 159

FORMERLY

SENATE BILL NO. 156
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE CREATING A DOMESTIC VIOLENCE COORDINATING COUNCIL.

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

Section 1. Amend Title 13 of the Delaware Code, by adding a new Chapter, designated as Chapter 21, which new Chapter shall read as follows:

"CHAPTER 21. DOMESTIC VIOLENCE COORDINATING COUNCIL.

§2101. Creation.

The General Assembly hereby creates a permanent Domestic Violence Coordinating Council.

§2102. Composition.

The Council shall consist of 11 members as follows:

- (1) The Chief Judge of the Family Court;
- (2) One member of the House of Representatives appointed by the Speaker of the House of Representatives;
- (3) One member of the Senate appointed by the President Pro Tempore of the Senate;
- (4) The Attorney General;
- (5) The Public Defender;
- (6) A Cabinet level official designated by the Governor;
- (7) A representative of the Law Enforcement Community appointed by the Secretary of the Department of Public Safety;
- (8) The Chairperson of the Domestic Violence Task Force of the Delaware Commission for Women;
- (9) A board certified family-practice physician licensed to practice in this State, appointed by the Board of Medical Practice;
- (10) An at-large member representing the advocacy community appointed by the Commission on Family Law; and
- (11) An at-large member elected by the Council members at the first meeting of each calendar year;

§2103. Purpose; powers; duties.

The Council shall:

- (1) Continuously study Court services and procedures, Law Enforcement procedures and protocol, and criminal justice data collection and analysis as it relates to domestic violence;
- (2) Effectuate coordination between agencies, departments and the courts with victims of domestic violence and abuse;
- (3) Promote effective prevention, intervention and treatment techniques which will be developed based upon research and data collection;
- (4) Recommend standards for treatment programs for perpetrators of domestic violence to the Department of Health and Social Services,

Department of Services for Children, Youth and Their Families,
Department of Correction;

(5) Review and comment upon legislation relating to domestic violence introduced in the General Assembly at the request of any member of the General Assembly or on its own initiative; and

(6) Improve the response to domestic violence and abuse so as to reduce the incidents thereof.

§2104. Meetings; quorum; officers; committees; procedure.

(a) The Council shall meet at least 4 times per year. Six members shall constitute a quorum.

(b) The Chairperson shall have the duty to convene and preside over meetings of the Council and prepare an agenda for meetings.

(c) The Chief Judge of the Family Court shall convene the initial meeting of the Council.

(d) At the initial meeting of the Council a Chairperson and Vice-Chairperson shall be elected by the Council members. Thereafter, in December of each year, the Council shall elect a Chairperson and Vice-Chairperson. The Vice-Chairperson's duty shall be to act as chairperson in the absence of the Chairperson.

(e) The Council shall establish committees composed of Council members and other knowledgeable individuals, as it deems advisable, to assist in planning, policy, goal and priority recommendations, and developing implementation plans to achieve the purposes of the Council.

(f) The Council shall promulgate rules of procedure governing its operations, provided that they are in accordance with Chapters 100 and 101 of Title 29, and provided that no rule shall permit proxy voting.

(g) The Council shall submit a written report of its activities and recommendations to the Governor, General Assembly, and the Chief Justice of the Supreme Court at least once every year on or before March 15."

Section 2. Effective date. This Act shall take effect upon its enactment.

Approved July 16, 1993.

CHAPTER 160

FORMERLY

SENATE BILL NO. 184

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

AN ACT TO AMEND TITLE 10 AND TITLE 11 OF THE DELAWARE CODE RELATING TO DOMESTIC VIOLENCE AND PROTECTION FROM ABUSE PROCEEDINGS.

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 10 Del. C. §950, by renumbering said section as §944.

Section 2. Amend Title 10, Delaware Code by adding a new Part D entitled "Protection from Abuse Proceedings" as follows:

"§945. Definitions.

The following terms shall have the following meanings:

(a) 'Abuse' means conduct which constitutes the following:

(1) Intentionally or recklessly causing or attempting to cause physical injury, or a sexual offense, as defined in 11 Del. C. §761;

(2) Intentionally or recklessly placing or attempting to place another person in reasonable apprehension of physical injury or sexual offense to himself, herself or another;

(3) Intentionally or recklessly damaging, destroying or taking the tangible property of another person;

(4) Insulting, taunting or challenging another person or engaging in a course of alarming or distressing conduct in a manner which is likely to provoke a violent or disorderly response or which is likely to cause humiliation, degradation or fear in another person;

(5) Trespassing on or in property of another person, or on or in property from which the trespasser has been excluded by court order;

(6) Child abuse, as defined in Chapter 9 of Title 16;

(7) Unlawful imprisonment, kidnapping, interference with custody, and coercion, as defined in Title 11;

(8) Any other conduct which a reasonable person under the circumstances would find threatening or harmful.

(b) 'Domestic violence' means abuse perpetrated by one member against another member of the following protected classes:

(1) Family, as that term is defined in 10 Del. C. §901(9), regardless, however, of state of residence of the parties;

(2) Former spouses, a man and a woman co-habiting together with or without a child of either or both, or a man and a woman living separate and apart with a child in common.

(c) 'Petitioner' means:

(1) A person who is a member of a protected class and files a petition alleging domestic violence against himself or herself or against his or her minor child or an infirm adult or

(2) The Division of Child Protective Services acting in the interest of a minor child and files a petition alleging domestic violence or

(3) The Division of Adult Protective Services acting in the interest of an infirm adult and files a petition alleging domestic violence.

(d) 'Protective order' means an order issued by the Court to a respondent restraining said respondent from committing domestic violence against the petitioner, or a person in whose interest a petition is brought, and may include such measures as are necessary in order to prevent domestic violence.

(e) 'Respondent' means the person alleged in the petition to have committed the domestic violence.

§946. Commencement of Action; Procedure.

(a) A request for relief from domestic violence is initiated by the filing of a verified petition by the petitioner, or by the Division of Child Protective Services or the Division of Adult Protective Services, asking the Court to issue a protective order against the respondent.

(b) The petitioner need not reveal his or her address, place of residence, school, or employment, or the address or place where his or her child or children receive child care or attend school, if it is alleged that disclosure of this information would endanger the petitioner. However, the Court may require the petitioner to reveal in confidence his or her current address or place of residence for the purpose of determining jurisdiction or venue.

(c) A petition for a protective order may be filed in any county where the petitioner resides, the respondent resides, the alleged domestic violence occurred, or where the petitioner is temporarily located away from his or her residence to avoid domestic violence.

(d) Forms and instructions for initiating a proceeding under this part shall be available from the Clerk of the Court. Assistance from Court staff or Court volunteers shall be available during business hours to assist the parties with all papers which may be filed in connection with a proceeding under this part. Any assistance or information provided by Court staff or Court volunteers under this part does not constitute the practice of law.

(e) All forms and instructions developed for use by the parties to a proceeding under this part shall contain simple, understandable language.

§947. Ex Parte Orders and Emergency Hearings.

(a) A petitioner may request an emergency protective order by filing an affidavit or verified pleading alleging that there is an immediate and present danger of domestic violence to the petitioner or to a minor child of the petitioner or to an infirm adult.

(b) An emergency protective order may be issued on an ex parte basis, that is, without notice to the respondent, where the petitioner certifies in writing the efforts, if any, which have been made to give notice to the respondent or the reasons supporting the claim that notice should not be required.

(c) An emergency hearing held on an ex parte basis shall be held the same day that the petition is filed or the next day that the Court is in session. All other emergency hearings shall be scheduled for an expedited hearing within 10 calendar days after the petition is filed.

(d) In any case in which an ex parte protective order has been issued, a full hearing shall be held within 10 days. The Court may extend an ex parte order as needed, but not to exceed 30 days, to effectuate service of the order where necessary to provide protection.

(e) If the Court finds by a preponderance of the evidence that the alleged domestic violence has occurred, or if the respondent consents to entry of a protective order, the Court shall grant any appropriate relief, including, but not limited to, the relief set forth in §949.

(f) In those cases where the respondent is not present for the hearing, or where the hearing is held ex parte, any protective order issued shall be served immediately upon the respondent, in accordance with 10 Del. C. §974. A certified copy of the order shall also be given to the petitioner after the hearing, before leaving the courthouse. If the order recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of the order is not necessary; in those cases, the respondent shall be given a copy of the order before leaving the courthouse.

§948. Non-Emergency Hearings.

(a) Upon receipt of a petition for a protective order, the Court shall order a hearing within 30 days.

(b) If the Court finds by a preponderance of the evidence that the alleged domestic violence has occurred, or if the respondent consents to entry of a protective order, the Court shall grant any appropriate relief, including, but not limited to, the relief set forth in §949.

(c) Service of the protective order, as well as provision of copies to the parties, shall take place in accordance with §947(f).

§949. Relief Available; Duration of Orders. Modification and Termination.

(a) After consideration of a petition for a protective order, the Court may grant relief as follows:

(1) Restrain the respondent from committing acts of domestic violence, as defined in §945;

(2) Restrain the respondent from contacting or attempting to contact the petitioner;

(3) Grant exclusive possession of the residence or household to the petitioner or other resident, regardless of in whose name the residence is titled or leased. Such relief shall not affect title to any real property;

(4) Order that the petitioner be given temporary possession of specified personal property solely or jointly owned by respondent or petitioner, including but not limited to, motor vehicles, checkbooks, keys and other personal effects;

(5) Grant temporary custody of the children of the parties to the petitioner or to another family member, and provide for visitation with the respondent, if appropriate, including third party supervision of any visitation, if necessary, in accordance with Chapters 7 and 19 of Title 13;

(6) Order the respondent to pay support for the petitioner and/or for the parties' children, in accordance with Chapter 5 of Title 13, including temporary housing costs;

(7) Order the respondent to pay to the petitioner or any other family member monetary compensation for losses suffered as a direct result of domestic violence committed by the respondent, including medical, dental and counseling expenses, loss of earnings or other support, cost of repair or replacement of real or personal property damaged or taken, moving or other travel expenses, and litigation costs, including attorney's fees;

(8) Order the respondent to temporarily relinquish to the sheriff, constable or to a police officer the respondent's firearms and to refrain from purchasing or receiving additional firearms for the duration of the order;

(9) Prohibit the respondent from transferring, encumbering, concealing or in any way disposing of specified property owned or leased by parties;

(10) Order the respondent, petitioner and other protected class members, individually and/or as a group, to participate in treatment or counseling programs;

(11) Grant any other reasonable relief necessary or appropriate to prevent or reduce the likelihood of future domestic violence.

(b) Relief granted under this section shall be effective for a fixed period of time, not to exceed one year, except that such order may be extended or modified by a further order of the Court as described in (c) and (d).

(c) An order issued under this part may be extended, for up to six months, or terms of the order modified, upon motion of either party. Hearings on such motions shall be scheduled within thirty days after proof of service on the respondent is filed. Such motions may be heard on an emergency basis if filed in accordance with §947.

(d) Only the Court shall modify an order issued under this part and the reconciliation of the parties shall have no effect on the validity of any of the provisions of such an order. The protective order may be modified or rescinded during the term of the order upon motion, after notice to all parties affected and a hearing.

§950. Enforcement; Sanctions for Violation of Order.

(a) The Court may direct that pleadings and orders filed or issued under this part be served upon the respondent by the Sheriff or his deputy or by any person authorized by statute or court rule to serve process.

(b) A copy of a protective order granted under this part shall be entered into the Delaware Justice Information System by the Court on or before the next business day. A copy of the protective order shall be sent immediately to the Delaware law enforcement agency in whose jurisdiction the petitioner resides and/or where the abuse occurred. Entry into the Delaware Justice Information System constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county of the state.

(c) It shall be the duty of any law enforcement officer to arrest with or without a warrant any person whom the officer has probable cause to believe has violated a protective order issued by the Court and of which the person arrested has notice or knowledge. The person arrested shall be immediately taken before the court issuing the order. If the court is not in session, then the arrested person shall be taken before the nearest Justice of the Peace until bail is fixed. If bail is to be fixed, the justice of the peace or the judge shall take into consideration in determining the amount of bail whether the defendant has previously violated an existing protective order.

(d) All protective orders issued under this part shall state that violations may result in:

- (1) a finding of contempt;
- (2) criminal prosecution; and
- (3) imprisonment or fine or both.

(e) It shall be unlawful for a respondent to knowingly violate a protective order. Violations shall be punishable as a Class A misdemeanor. Nothing in this subsection shall preclude the filing of a civil contempt petition by the petitioner for violations of a protective order issued under this part.

§951. Nonpreclusion of Remedies.

Nothing in this Act shall preclude a petitioner or law enforcement officer from filing criminal charges when probable cause exists.

§952. Jurisdiction.

The Family Court shall have jurisdiction of proceedings under this Part."

Section 3. Amend 10 Del. C. §922(a) by adding a new subparagraph as follows:

"(22) Violation of a protective order under 11 Del. C. §1271A."

Section 4. Amend Title 11, Subchapter VI, Delaware Code, by adding a new section §1271A as follows:

"§1271A. Criminal Contempt of Family Court Protective Order: Class A Misdemeanor

A person is guilty of criminal contempt of a Family Court protective order when he knowingly violates or fails to obey any provision of a protective order issued by Family Court.

Criminal contempt of a Family Court protective order is a Class A misdemeanor."

Section 5. Amend §1904(a) of Title 11 to add the following subparagraph:

"(5) Out of his presence and within the State for a violation of a protective order issued by Family Court."

Section 6. Reletter existing Parts D and E of Chapter 9 of Title 10 as Parts E and F of Chapter 9 of Title 10.

Section 7. This Act shall become effective six months after the day on which it is entered into law.

Section 8. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not effect 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 16, 1993.

CHAPTER 161

FORMERLY

HOUSE BILL NO. 252
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 2 OF THE DELAWARE CODE RELATING TO EMPLOYEE COMMUTE OPTIONS AND A PROVISION OF TITLE 30 OF THE DELAWARE CODE RELATING THERETO.

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

Section 1. Amend Title 2, Delaware Code by adding a new Chapter 19 to read as follows:

"CHAPTER 19. EMPLOYEE COMMUTE OPTIONS

Section 901. This chapter shall be known as the "Employee Commute Options Act."

Section 902. Legislative Findings and Determinations.

(a) The General Assembly hereby finds that the 1990 Clean Air Act Amendments (CAAA) identify Kent and New Castle Counties as "severe" for ozone, making them part of one of the ten worst areas in the country for ozone levels and that the CAAA rate Sussex county as "marginal" for ozone level.

(b) The General Assembly hereby finds that the United States Environmental Protection Agency (EPA) rates areas based on the degree to which they fail to meet air quality standards and that the ozone non-attainment classifications are extreme, severe, serious, moderate and marginal. Delaware is within the standard for all air pollutants except ozone.

(c) The General Assembly hereby finds that the CAAA include specific measures for reducing or increasing the efficiency of our use of automobiles, and that the intended result of this Act includes reduction of the emission of ground level ozone into the atmosphere, reduction of congestion, reduction of work related trips and reduction of vehicle-miles-of-travel (VMT).

(d) The General Assembly finds that Section 182 (d)(1)(B) of the 1990 CAAA requires states to require employers in severe and extreme ozone non-attainment areas to implement Employee Commute Options plans, and that at a minimum, these states must target employers with 100 or more employees at a work site in an effort to increase the occupant/vehicle ratio of commuter vehicles traveling to that site by at least 25% over the area average during peak travel periods.

Section 903. Definitions.

(a) "Authority" means the Delaware Transportation Authority of the State of Delaware.

(b) "Commute Options" means modes of commuting other than single-occupant vehicles including car-pools, van-pools, transit buses, commuter buses, commuter rail, high speed rail, bicycling, walking, telecommuting, compressed work weeks, and subscription buses.

(c) "Employee" means an individual employed by a firm, business, partnership, association, educational institution, non-profit agency, corporation, governmental agency or other employer. All persons who are on the employer's payroll as full-time, part-time, permanent or temporary, contract or directly-employed workers, excluding volunteers, who either report to work or are assigned primarily to a work site on a regular schedule 80 or more hours per 28-day period for at least 12 consecutive weeks are included in this definition. Individuals who are not on the employers' payroll, and whose function is ancillary to the primary business of the employer (e.g., tradesmen, service people, etc.), are excluded from this definition at the discretion of the Authority.

(d) "Employer" means any person, firm, business, partnership, association, educational institution, governmental agency, non-profit agency or corporation, or other entity for which employees are working. Several

subsidiaries or units that occupy the same work site and report to one common governing board or governing entity shall be considered one employer.

(e) "Employer Commute Option (ECO) Plan" means the plan devised by the employer using traffic mitigation methods to attain the target Average Passenger Occupancy, including any Authority-approved amendments.

(f) "Secretary" means the Secretary of the Department of Transportation.

(g) "Vehicle" means a highway vehicle powered by either a gasoline or diesel internal combustion engine. Alternatively fueled vehicles (as defined by the EPA) and vehicles certified to have substantially lower emission levels will be counted as a fraction of a vehicle.

(h) "Work site" means the place of employment, base of operation or predominant location of an employee. All the separate buildings or other work areas owned, leased, or otherwise used by an employer on a parcel or contiguous parcels of land, or an adjacent parcel of land, shall generally be considered a single work site. Separate buildings which may or may not be located on adjacent parcels of land, each serving as the place of employment for 100 or more employees, may be considered separate work sites or one work site at the discretion of the Authority.

(i) "Regulations(s)" means the rules and regulations enacted by the Secretary pursuant to Sections 1904(1), (2) or (3) of this chapter.

(j) "Initial Registration" means the registration required within 30 days of May 15, 1993, of every employer employing 100 or more employees in New Castle and Kent counties. The initial registration(s) for an employer's work site(s), which become subject to the regulations after May 15, 1993, will have different deadlines set in Department regulations.

(k) "Interim Report" means the report submitted for the reporting year ending April 14, 1996. The interim report contains the same information as required in the status reports. The interim report(s) for an employer's work site(s) which become subject to the regulations after May 15, 1993, will have different deadlines set in Department regulations.

(l) "Status Report" means annual or biennial status reports submitted for each work site. A reporting year shall begin on April 15th and end April 14th of the following year. The annual or biennial report must be submitted within 45 days from the completion of the reporting year. The first status report shall be submitted for the reporting year ending on April 14, 1997. The status report(s) for an employer's work site(s) which become subject to the regulations after the effective date will have different deadlines. Any Authority-approved steps by which an employer proposes to eliminate any deficits or deficiencies in attaining the Target Average Passenger Occupancy (APO) for the work site shall become an amendment to that work site's ECO Plan.

(m) "Department" means the Department of Transportation and its divisions, agencies, authorities and administrations.

(n) "Good Faith Effort" means a course of conduct evidencing an intent to comply with the requirements of this Chapter.

Section 1904. Rules and Regulations.

(a) The Secretary shall prescribe such rules and regulations as may be deemed necessary to carry out the purposes of this chapter including, but not limited to, the following:

(1) Procedures requiring employers to provide to the Authority information of the actions taken and plans made to comply with the revised State Implementation Plan required by 42 U.S.C. Section 7511a(d)(1)(B). The procedures may establish a process of plan submission, approval, and/or periodic reporting on target achievement and plan revision to achieve compliance in conformity with 42 U.S.C., Section 7511a(d)(1)(B) and any applicable guidelines of the Clean Air Act, as amended in 1990.

(2) Procedures, including conciliation, to assist in the enforcement of the regulations if there is a determination that the employer has not submitted the required information or reports when due, or if as a result of the

submitted reports or monitoring by the Authority, there is a determination that the employer has not implemented the terms of the ECO Plan or the employer failed to make a good faith effort to reasonably comply with the requirements of the act or the federal CAAA.

(3) Procedures for the review of any determination or penalty imposed by the Authority.

Section 1905. Enforcement, Administrative Penalties.

(a) The Authority shall enforce this chapter.

(b) The Authority may impose an administrative penalty on an employer for the failure of an employer to comply with the regulations promulgated pursuant to Section 1904 of this chapter in the following amounts:

(1) For a failure to file an Initial Registration when due, the penalty will be \$1 a day for all employees at the work site requiring the registration;

(2) For a failure to declare when due either that the employer is subject to the regulations or to provide the required employee count calculation information, the penalty will be \$1 a day for all employees at the work site requiring the declaration or information;

(3) For a failure to file an ECO Plan within the time frames listed in the regulations, the penalty will be \$3 a day for all employees at the work site covered by the Plan;

(4) For a failure by the employer to correct the deficiencies in an ECO Plan when required, and submit an acceptable ECO Plan within 30 days of receiving notification to file a corrected ECO Plan, the penalty will be \$3 a day for all employees at the work site covered by the Plan;

(5) For a failure to file the Interim Status Report, the penalty will be \$3 a day for all employees at the work site covered by the Report;

(6) For a failure to file a Status Report, the penalty will be \$6 a day for all employees at the work site covered by the Report.

(7) For a failure to fulfill the terms and/or time frames of the employer's ECO Plan, the penalty will be \$6 a day per vehicle in the employer's deficit vehicle count as defined in the Regulation, at the work site covered by the ECO Plan, provided that in making the determination of whether an employer has failed to fulfill the terms and/or time frames of the employer's ECO Plan, the Authority will not consider the attainment of projected participation rates or APO target.

(c) The administrative penalties specified in this section shall accrue one at a time, and although the employer remains liable for the amount accrued for one violation when the penalty for a second violation begins to accrue, penalties shall not be cumulative.

(d) In the event that the Authority finds that an employer has failed to comply with the regulations and has imposed an administrative penalty, the employer may request a review by the Secretary of the Authority's findings. The request for a review by the Secretary of the Authority's findings will not stay the accrual of the administrative penalty. In the event of nonpayment of the administrative penalty after all legal appeals have been exhausted, as set forth in Sections 1906 and 1907 of this Chapter a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorney's fee and costs, and the validity, amount and appropriateness of such administrative penalty shall not be subject to review.

(e) The Authority shall have the discretion to conciliate any penalty imposed upon a showing by the employer of good cause including a good faith compliance effort.

(f) Any penalties, cost and attorney's fees collected by the Department under this section are hereby appropriated to the Transportation Trust Fund.

Section 1906. Hearings.

Hearings held by the Secretary or the Secretary's designee concerning any Regulation or at the employer's request pursuant to Section 1905(d) shall generally conform to the requirements of the Administrative Procedures Act, 29 Del. C., Chapter 101.

Section 1907. Appeal from the Secretary's Decision.

(a) Any employer aggrieved by any decision of the Secretary may appeal to the Superior Court in and for the county in which the work site in question is located by filing a petition, duly verified, setting forth the basis for the appeal. Any such appeal shall be perfected within 30 days of the employer's receipt of the written opinion of the Secretary.

(b) The Court will determine the matter on the record and may affirm, reverse, or modify the Secretary's decision. The Secretary's findings of fact shall not be set aside unless the Court determines that the administrative record contains no substantial evidence that reasonably supports the findings, including whether there was a good faith effort to comply. If the Court finds that additional evidence should be taken, the Court may remand the case to the Secretary for completion of the record.

(c) An appeal shall not operate to stay the accrual of the administrative penalty imposed by the Secretary.

Section 1908. Confidentiality.

Written or recorded information, provided by employers participating in the Employee Commute Options program shall be treated as confidential, and shall not be considered as a public record under the provisions of Chapter 100 of Title 29."

Section 2. Amend Title 30, Chapter 20 of the Delaware Code by repealing subsection 2034(3) effective December 31, 1993.

Approved July 16, 1993.

CHAPTER 162

FORMERLY

HOUSE BILL NO. 231
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, TITLE 12, DELAWARE CODE, RELATING TO THE EFFECT OF MANSLAUGHTER OR MURDER ON ESTATE DISTRIBUTION.

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

Section 1. Amend Chapter 23, Title 12 of the Delaware Code by adding thereto Section 2322 to read as follows:

"§2322. EFFECT OF MANSLAUGHTER OR MURDER ON INTESTATE SUCCESSION, WILLS, JOINT ASSETS, LIFE INSURANCE AND BENEFICIARY DESIGNATIONS

A. Definitions.

(1) 'Slayer' shall mean any person who pleads guilty or nolo contendere to, or is convicted of, the offenses defined in 11 Del. C. §§632, 635, or 636, excluding, however, in the discretion of the Court, those persons convicted of manslaughter under §632 as a result of the mitigating circumstance of extreme emotional distress as defined in 11 Del. C. §641.

(2) 'Decedent' shall mean any person whose life is taken by a slayer.

(3) 'Property' shall include any real or personal property, tangible or intangible, and any right or interest therein.

B. Statutory descent and rights.

The slayer shall be deemed to have predeceased the decedent as to property which would have passed from the estate of the decedent to the slayer under the statutes of descent and distribution or have been acquired by statutory right as surviving spouse.

C. Wills.

The slayer shall be deemed to have predeceased the decedent as to property which would have passed to the slayer by devise or legacy from the decedent.

D. Tenancy by entirety.

Any property held by the slayer and the decedent as tenants by the entirety shall, upon the death of the decedent, be converted to property held as tenants in common, and one-half (1/2) of the property shall pass to the decedent's estate, and the other half shall be held by the slayer during his life subject to pass upon his death to the estate of the slayer, unless the slayer or the decedent's estate effects a partition of the property.

E. Joint tenancy with rights of survivorship.

(a) Any property held solely by the slayer and the decedent as joint tenants, joint owners, or joint obligees shall, upon the death of the decedent, be converted to property held as tenants in common, and one-half (1/2) of the property shall pass to the decedent's estate, and the other half shall pass to the slayer, unless the slayer or the decedent's estate effects a partition of the property.

(b) As to property held jointly by three (3) or more persons, including the slayer and the decedent, the property shall be distributed as follows:

(1) Any enrichment which would have accrued to the slayer as a result of the death of the decedent shall pass to the estate of the decedent during the life or lives of the joint tenant or tenants (excluding the slayer).

(2) If the slayer does not become the final survivor, then, upon the death of the slayer, such enrichment shall pass to the other surviving joint tenant or tenants.

(3) If the slayer becomes the final survivor, the property shall be converted to property held as tenants in common, and one-half (1/2) of the property shall immediately pass to the estate of the decedent, and the other half shall pass to the slayer unless the slayer or the decedent's estate effects a partition of the property.

(c) The provisions of this section shall not affect any enforceable agreement between the parties or any trust arising because a greater proportion of the property has been contributed by one party than by the other.

F. Vested remainder.

Property in which the slayer holds a reversion or vested remainder and would have obtained the right of present possession upon the death of the decedent shall pass to the estate of the decedent, and be redistributed in accordance with the decedent's will or the laws of intestate distribution, excluding the slayer, during the period of the life expectancy of the decedent if the decedent held the particular estate. If the particular estate is held by a third person, it shall remain in his or her hands for such period.

G. Contingent remainder.

As to any contingent remainder or executory or other future interest held by the slayer, subject to become vested in the slayer or increased in any way for the slayer upon the condition of the death of the decedent:

(1) If the interest would not have become vested or increased if the slayer had predeceased the decedent, the slayer shall be deemed to have so predeceased the decedent.

(2) In any case, the interest shall not be vested or increased during the period of the life expectancy of the decedent.

H. Proceeds passing by designation.

(1) Any proceeds payable to the slayer as the beneficiary or assignee of any policy or certificate of insurance on the life of the decedent, or as the survivor of a joint life policy, or as the designee of any other property, shall be paid instead to the estate of the decedent, unless the policy or certificate designates some person other than the slayer or his estate as secondary beneficiary to the slayer, in which case such proceeds shall be paid to such secondary beneficiary in accordance with the applicable terms of the policy or property.

(2) If the decedent is beneficiary or assignee of any policy or certificate of insurance on the life of the slayer, or the designee of any other property, the proceeds shall be paid to the estate of the decedent upon the death of the slayer, unless the policy or certificate names some person other than the slayer or the slayer's estate as secondary beneficiary, or unless the slayer, by naming a new beneficiary or assigning the policy, performs an act which would have deprived the decedent of his interest in the policy if he had been living.

(3) Any insurance or other company making payment according to the terms of its policy or any bank or other person performing an obligation for the slayer as one of several joint obligees shall not be subjected to additional liability by the terms of this section if such payment or performance is made without written notice of the conviction of the slayer.

I. Purchasers for value without notice.

The provisions of this section shall not affect the rights of any person who, before the slayer has been convicted, purchases or has agreed to purchase, from the slayer for value and without notice, property which the slayer would have acquired except for the terms of this section, but all proceeds received by the slayer from such sale shall be held by the slayer in trust for the persons entitled to the property under the provisions of this section, and the slayer shall also be liable both for any portion of such proceeds which the slayer may have dissipated and for any difference between the actual value of the property and the amount of such proceeds.

J. Record of conviction admissible in civil actions.

The record of the slayer's conviction for participating in or causing the death of the decedent shall be admissible in evidence against a claimant of property in any civil action arising as a consequence of this section.

K. Construction.

This section shall not be considered penal in nature, but shall be construed broadly in order to effect the policy of this state that a person shall not be permitted to profit by his own wrong."

Approved July 16, 1993.

CHAPTER 163

FORMERLY

HOUSE BILL NO. 241

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

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKMEN'S COMPENSATION LOSS COSTS RATING.

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

Section 1. Amended Title 19 of the Delaware Code by adding thereto a new chapter, designated as Chapter 26, which new chapter shall read as follows:

"Chapter 26. Workmen's Compensation Rating

- §2601 Scope of Chapter
- §2602 Definitions
- §2603 Competitive market; hearing
- §2604 Rate-making standards
- §2605 Review by Commissioner
- §2606 Rules not to affect dividends
- §2607 Membership in Advisory Organization
- §2608 Interchange of rating plan date; consultation; cooperative action in rate making
- §2609 Rate filings
- §2610 Review of insurance filing
- §2611 Improper rates; hearing
- §2612 Restrictions on certain insurers; waiting period
- §2613 Delay of rates in noncompetitive market
- §2614 Challenge and review of application of rating system
- §2615 Consent to rate
- §2616 Acts reducing competition prohibited
- §2617 Advisory Organization: Permitted Activity
- §2618 Residual Market Mechanisms
- §2619 Penalties
- §2620 Appeals from Commissioner
- §2621 Transition
- §2622 Severability
- §2623 Effective Date

§2601. Scope of Chapter.

This chapter applies to workmen's compensation and related employer's liability insurance but shall not apply to reinsurance.

§2602. Definitions.

(a) "Accepted actuarial standards" shall mean the standards adopted by the Casualty Actuarial Society in its Statement of Principles Regarding Property and Casualty Insurance Ratemaking, and the Standards of Practice adopted by the Actuarial Standards Board.

(b) "Advisory organization" shall mean any organization or person which either has two or more member insurers or is controlled either directly or indirectly by two or more insurers and which assists insurers in rate making related activities. Two or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition. Advisory organization does not include a joint underwriting association, any actuarial or legal consultant, any employee of an insurer or insurers under common control or management or their employees or manager.

(c) "Classification system" shall mean the plan, system, or arrangement for recognizing differences in exposure to hazards among industries, occupations or operations of insurance policyholders.

(d) "Developed losses" shall mean adjusted losses, (including loss adjustment expenses) using accepted actuarial standards, to eliminate the effect of differences between current payment or reserve estimates and

those needed to provide actual ultimate loss (including loss adjustment expense) payments.

(e) "Expenses" shall mean that portion of any rate attributable to acquisition, filed supervision, and collection expenses, general expenses, and taxes, licenses, and fees.

(f) "Experience rating" shall mean a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit or unity modification.

(g) "Insurer" shall mean any person licensed to write workmen's compensation insurance under the laws of the State of Delaware.

(h) "Loss trending" shall mean any procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective, including loss ratio trending.

(i) "Market" shall mean the interaction in this State between buyers and sellers of workmen's compensation and employer's liability insurance pursuant to the provisions of this chapter.

(j) "Prospective loss costs" shall mean historical aggregate losses and loss adjustment expenses, including all assessments that are loss-based, projected through development to their ultimate value and through trending to a future point in time, ascertained by accepted actuarial standards. Prospective loss costs do not include provisions for profit or expenses other than loss adjustment expenses and assessments that are loss-based.

(k) "Pure premium rate" shall mean that portion of the rate which represents the loss cost per unit of exposure including loss adjustment expense.

(l) "Rate" or "rates" shall mean rate of premium, policy and membership fee, or any other charge made by an insurer for or in connection with a contract or policy of workmen's compensation and employer's liability insurance, prior to application of individual risk variations based on loss or expense considerations, and does not include minimum premiums.

(m) "Statistical plan" shall mean the plan, system or arrangement used in collecting data.

(n) "Supplementary rate information" shall mean any manual or plan of rates, statistical plan, classification system, minimum premium, policy fee, rating rule, rate-related underwriting rule, and any other information needed to determine the applicable premium for an individual insured and not otherwise inconsistent with the purposes of this chapter, as prescribed by rule of the Commissioner.

(o) "Supporting information" shall mean the experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied on by the filer, the interpretation of any statistical data relied on by the filer, descriptions of methods used in making the rates, and any other similar information required to be filed by the Commissioner.

(p) "Reserve estimates" shall mean provisions for insurer obligations for future payments of loss and/or loss adjustment expenses.

(q) "Contingencies" shall mean provisions in rates to recognize the uncertainty of the estimates of losses, loss adjustment expenses, other operating expenses, investment income and profit which comprise those rates. Such provisions may be explicit (i.e., a specific charge to reflect systematic variations of estimated costs from expected costs), implicit (i.e., a consideration in selecting a single estimate from a reasonable range of estimates) or both.

§2603. Competitive market: hearing.

(a) A competitive market is presumed to exist unless the Commissioner, after a hearing, issues an order stating that a reasonable degree of competition does not exist in the market. Such order shall expire no later than one year after issue.

(b) (1) In determining whether a reasonable degree of competition exists, the Commissioner shall consider the following factors:

(i) The number of insurers actively engaged in providing coverage;

(ii) Market shares and changes in market shares;

(iii) Ease of entry;

(iv) Market concentration as measured by the Herfindahl-Hirschman Index;

(v) Whether long-term profitability for insurers in the market is unreasonably high in relation to the risks being insured;

(vi) Whether long-term profitability for insurers in the market is reasonable in relation to industries of comparable business risk; and

(v) Generally accepted and relevant tests relating to competitive market structure, market performance, and market conduct.

(2) The workmen's compensation insurance market shall not be deemed noncompetitive if the market concentration of the 50 largest insurers satisfies the United States Department of Justice merger guidelines for an unconcentrated market.

(c) All determinations by the Commissioner shall be made on the basis of findings of fact and conclusions of law.

§2604. Rate-making standards.

(a) Rates shall not be excessive, inadequate, or unfairly discriminatory.

(1) Rates in a competitive market are not excessive. Rates in a noncompetitive market are excessive if they are likely to produce a long-run profit that is unreasonably high in relation to services rendered.

(2) A rate shall not be deemed inadequate unless:

(i)(a) It is clearly insufficient to sustain projected losses and expenses; and

(b) The rate is unreasonably low, and the use of the rate by the insurer has had or, if continued, will tend to create a monopoly in the market; or

(ii) Funds equal to the full, ultimate cost of anticipated losses and loss adjustment expenses are not produced when prospective loss costs are applied to anticipated payrolls.

(3) Unfair discrimination exists if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate is not unfairly discriminatory because different premiums result for policyholders with different loss exposures or expense levels.

(b) In determining whether rates comply with standards under subsection (a) of this section, due consideration shall be given to:

(1) Past and prospective loss experiences within and outside this State, in accordance with accepted actuarial principles;

(2) Catastrophe hazards and contingencies;

(3) Past and prospective expenses, within and outside Delaware;

(4) Loadings for leveling premium rates overtime for dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

(5) A reasonable margin for underwriting profit; and

(6) All other relevant factors within and outside Delaware.

(c) The systems of expense provisions included in the rates for use by an insurer or group of insurers may differ from those of any other insurers or groups of insurers to reflect the requirements of the operating methods of the insurer or group of insurers.

(d) The rates may contain provisions for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of a profit, consideration should be given to all investment income attributable to premiums and the reserves associated with those premiums.

§2605. Review by Commissioner.

The Commissioner may investigate and determine whether or not rates in this State are excessive, inadequate, or unfairly discriminatory. In any such investigation and determination, the Commissioner shall give due consideration to those factors specified in §2604 of this chapter.

§2606. Rules not to affect dividends.

No advisory organization shall adopt any rule that would prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers. A plan for the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders is not considered a rating plan or system. It is an unfair trade practice to make the payment of a dividend or any portion thereof conditioned upon renewal of the policy or contract.

§2607. Membership in Advisory Organization.

(a) The Commissioner shall designate an advisory organization to assist him in gathering, compiling, and reporting relevant statistical information. Every workmen's compensation insurer shall record and report its workmen's compensation experience to the designated advisory organization as set forth in the uniform statistical plan approved by the Commissioner.

(b) Each workmen's compensation insurer shall be a member of the workmen's compensation advisory organization. Each workmen's compensation insurer may adhere to the policy forms filed by the advisory organization.

(c) Every workmen's compensation insurer shall adhere to a uniform classification system and uniform experience rating plan that has been filed with the Commissioner by the advisory organization and approved by the Commissioner.

(d) Subject to the approval of the Commissioner, the advisory organization shall develop and file rules reasonably related to the recording and reporting of data pursuant to the uniform statistical plan, uniform experience rating plan, and the uniform classification system.

(e) The methodology of the experience rating plan required under subsection (b) shall have as a basis:

(1) Reasonable eligibility standards;

(2) Incentives for loss prevention; and

(3) A premium differential so as to encourage safety.

(f) The uniform experience rating plan shall be the exclusive means of providing prospective premium adjustment based upon measurement of the loss producing characteristics of an individual insured. An insurer may file a rating plan that provides for retrospective premium adjustments based upon an insured's past experience.

§2608. Interchange of rating plan data; consultation; cooperative action in rate making.

(a) Reasonable rules and plans may be promulgated by the Commissioner for the interchange of data necessary for the application of rating plans.

(b) In order to further conform administration of rate regulatory laws, the Commissioner and every insurer and the advisory organization designated by the Commissioner may exchange information and experience data with insurance supervisory officials, insurers and advisory organizations in other states and may consult with them with respect to rate making and the application of rating systems.

(c) Cooperation among advisory organizations or among advisory organizations and insurers in rate making or in other matters within the scope of this chapter is authorized, but the filings resulting from such cooperation are subject to all provisions of this chapter. The Commissioner may review such cooperative activities and practices, and if after a hearing any such activity or practice is found to violate the provisions of this chapter, a written order may be issued specifying that such activity or practice violates the provisions of this chapter, and requiring the discontinuance of such activity.

§2609. Rate filings.

(a) Each authorized insurer shall file with the Commissioner all rates, supplementary rate information, and any changes and amendments made by it for use in this State as required in §2610. An insurer may establish rates and supplementary rate information based upon the factors in §2604. An insurer may adopt by reference, with or without deviation, the prospective loss costs filed by the advisory organization or the rates and supplementary rate information filed by another insurer.

(b) An insurer may not make or issue a contract or policy of insurance under this chapter, except in accordance with the filings which are in effect for the insurer as provided in this chapter.

(c) In addition to other prohibitions in this Act, no advisory organization shall file rates, supplementary rate information, or supporting information on behalf of an insurer.

§2610. Review of insurance filings.

(a) The Commissioner shall investigate and review each insurance filing under the following guidelines:

(1) The effective date of each workmen's compensation insurance filing shall be the date specified in the filing. The effective date of the filing may not be earlier than 30 days after the date the filing is received by the Commissioner, or the date of receipt of the information furnished in support of the filing if such supporting information is required by the Commissioner.

(2) Upon written application of the insurer or advisory organization, the Commissioner may authorize a filing, which the Commissioner has reviewed, to become effective before the expiration of the period described in paragraph (a)(1) of this section.

(3) A filing shall be deemed to meet the requirements of this chapter unless disapproved by the Commissioner within the period described in paragraph (a)(1) or any extension thereof.

(b) Subject to subsection (a) of this section, a workmen's compensation advisory organization shall file with the Commissioner:

(1) Workmen's compensation rates and rating plans that are limited to prospective loss costs;

(2) Each workmen's compensation policy form to be used by its members;

(3) The uniform classification plan and rules;

(4) The uniform experience rating plan and rules; and

(5) Any other information that the Commissioner requests and is otherwise entitled to receive under this chapter.

(c) Whenever a filing is not accompanied by the information required under this section, the Commissioner shall so inform the filer within ten days of the initial filing. The filing shall be deemed to be made when the required information is furnished or when the filer certifies to the Commissioner that the additional information requested by the Commissioner is not maintained or cannot be provided.

(d) If each rate in a schedule of workmen's compensation rates for specific classifications of risks filed by an insurer is not lower than the prospective loss costs contained in the schedule of workmen's compensation rates for those classifications filed by an advisory organization under subsection (b) of this section, and approved by the Commissioner, then the schedule of rates filed by the insurer shall not be subject to subsection (a) of this section but shall become effective upon filing for the purposes of §2609 of this chapter.

§2611. Improper rates: hearing.

(a) If the Commissioner finds that a rate is not in compliance with §2604, or that a rate had been set in violation of §2616 of this chapter, the Commissioner shall order that its use be discontinued for any policy issued or renewed after the date of the order, and the order may prospectively provide for premium adjustment of any such policy then in force. The order shall be issued within 30 days after the close of a hearing, if one is requested by the insurer, or within a reasonable time as fixed by the Commissioner. The order shall expire one year after its effective date unless rescinded earlier by the Commissioner.

(b) If the Commissioner disapproves a rate under subsection (a), disapproval shall take effect not less than 15 days after its order, and the last previous rate in effect for the insurer shall be reimposed for a period of one year unless the Commissioner approves a rate under subsection (d) or subsection (e) of this section.

(c) All determinations made by the Commissioner under this section shall be in accordance with accepted actuarial standards on the basis of findings of fact and conclusions of law.

(d) For a period of one year after the effective date of a disapproval order under subsection (a), no rate adopted to replace one disapproved under such order may be used until it has been filed with the Commissioner and approved within 30 days thereafter.

(e) Whenever an insurer has no legally effective rates pursuant to subsection (a), the Commissioner shall, on the insurer's request, specify interim rates for the insurer that are adequate to protect the interests of all parties. The Commissioner may order that a specified portion of the premiums be placed in a special reserve established by the insurer. When new rates become legally effective, the Commissioner shall order the reserved funds or any overcharge in the interim rates to be distributed appropriately, except that minimal adjustments may not be required.

§2612. Restrictions on certain insurers: waiting period.

(a) The Commissioner may require that a particular insurer file any or all of its rates and supplementary rate information 30 days prior to their

effective date, if the Commissioner finds after a hearing that the protection of the interests of the insurer's insureds and the public in this State requires closer supervision of its rates.

(b) Upon written application by an insurer, the Commissioner may authorize a filing, which the Commissioner has reviewed, to become effective before the expiration of the period described in subsection (a).

(c) The filing shall be approved or disapproved during the waiting period and if not disapproved before the expiration of the waiting period shall be deemed to meet the requirements of this section.

(d) Any insurer affected by the Commissioner's actions under this section may request a rehearing by the Commissioner after the expiration of 12 months from the date of the Commissioner's former order.

§2613. Delay of rates in noncompetitive market.

(a) A thirty-day waiting period may be implemented or extended under the following circumstances:

(1) After finding that the market is not competitive, under §2603, The Commissioner may adopt a rule requiring that any subsequent changes in rates or supplementary information be filed with the Commissioner at least 30 days before they become effective.

(2) The Commissioner may extend the waiting period under this section for a period not exceeding 30 additional days by written notice to the filer before the first 30-day period expires.

(3) Upon written application by an insurer or advisory organization, the Commissioner may authorize a filing, which the Commissioner has reviewed, to become effective before the expiration of the period described in paragraphs (1) or (2).

(4) The filing shall be approved or disapproved during the waiting period and if not disapproved before the expiration of the waiting period shall be deemed to meet the requirements of this section.

(b) If a rule is adopted under subsection (a), the Commissioner may require the filing of supporting data as to classes of risks or combinations thereof as the Commissioner deems necessary for the proper functioning of the rate monitoring and regulating process. The supporting data shall include:

(1) The experience and judgment of the filer, and to the extent the filer wishes or the Commissioner requires, the experience and judgment of other insurers or the advisory organization;

(2) The filer's interpretation of any statistical data relied upon;

(3) A description of the actuarial and statistical methods employed in setting the rate; and

(4) Any other relevant matters required by the Commissioner.

(c) A rule adopted under this section shall expire not more than one year after issue. The Commissioner may renew it after hearings and appropriate findings under this section.

(d) Whenever a filing is not accompanied by the information as the Commissioner has required under subsection (b) of this section, the Commissioner shall so inform the insurer within 10 days of the initial filing. The filing shall be deemed to be made when the required information is furnished.

§2614. Challenge and review of application of rating system.

(a) Each advisory organization, and every insurer subject to this chapter which makes its own rates, shall provide within this State reasonable means whereby any person aggrieved by the application of its rating system may upon that person's written request be heard in person or

by the person's authorized representative to review the manner in which such rating system has been applied in connection with the insurance afforded the aggrieved person.

(b) Any party affected by the action of the advisory organization or the insurer may, within 30 days after written notice of that action, make application, in writing, for an appeal to the Commissioner, setting forth the basis for the appeal and the grounds to be relied upon by the applicant.

(c) The Commissioner shall review the application, and if the Commissioner finds that the application is made in good faith, and that it sets forth on its face grounds which reasonably justify holding a hearing, the Commissioner shall conduct a hearing held not less than 10 days after written notice to the applicant and to the advisory organization or insurer. The Commissioner, after hearing, shall affirm or reverse the action of the advisory organization or insurer.

§2615. Consent to rate.

Notwithstanding any other provision of this chapter, upon the written consent of the insured, filed with and approved by the Insurance Commissioner, a rate in excess of that determined in accordance with the other provisions of this chapter may be used on any specific risk.

§2616. Acts reducing competition prohibited.

(a) In this section, the word "insurer" includes 2 or more affiliated insurers (i) under common management, or (ii) under common controlling ownership or under other common effective legal control and in fact engaged in joint or cooperative underwriting, investment management, marketing, servicing, or administration of their business and affairs as insurers.

(b) An insurer or advisory organization may not:

(1) Monopolize or attempt to monopolize, or combine or conspire with any other person or persons, or monopolize the business of insurance of any kind, subdivision, or class thereof;

(2) Agree with any other insurer or advisory organization to charge or adhere to any rate or rating plan other than the uniform experience rating plan or rating rule except as needed to comply with the requirements of §2606;

(3) Make an agreement with any other insurer, advisory organization, or other person to unreasonably restrain trade, or substantially lessen competition in the business of insurance of any kind, subdivision, or class; or

(4) Make any agreement with any other insurer or advisory organization to refuse to deal with any person in connection with the sale of insurance.

(c) The fact that two or more insurers, whether or not members or subscribers of a common advisory organization, use consistently or intermittently, the same rules, rating plans, rating schedules, rating rules, policy forms, rate classifications, underwriting rules, surveys or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.

(d) An advisory organization, or member or subscriber thereof may not interfere with the right of any insurer to make its rates independently of that advisory organization or to charge rates different from the rates made by that advisory organization.

(e) Except as required under §2607, an advisory organization may not have or adopt any rule or exact any agreement, or formulate or engage in any program which would require any member, subscriber, or other insurer to:

(1) Utilize some or all of its services;

(2) Adhere to its rates, rating plan, rating systems, underwriting rules; or

- (3) Prevent any insurer from acting independently.

§2617. Advisory Organization: Permitted Activity.

Any advisory organization in addition to other activities not prohibited, is authorized to:

- (1) Develop statistical plans including class definitions.
- (2) Collect statistical data from members, subscribers or any other source.
- (3) Prepare and distribute pure premium rate data, adjusted for loss development and loss trending, in accordance with its statistical plan. Such data and adjustments should be in sufficient detail so as to permit insurers to modify such pure premiums based upon their own rating methods or interpretations of underlying data.
- (4) Prepare and distribute manuals of rating rules and rating schedules that do not contain any rules or schedules including final rates without information outside the manuals.
- (5) Distribute information that is filed with the Commissioner and open to public inspection.
- (6) Conduct research and collect statistics in order to discover, identify and classify information relating to causes or prevention of losses.
- (7) Prepare and file policy forms and endorsements and consult with members, subscribers and others relative to their use and application.
- (8) Collect, compile and distribute past and current prices of individual insurers if such information is made available to the general public.
- (9) Conduct research and collect information to determine the impact of benefit level changes on pure premium rates.
- (10) Prepare and distribute rules and rating values for the uniform experience rating plan. Calculate and disseminate individual risk premium modification factors.

§2618. Residual Market Mechanisms.

(a) All insurers authorized to write workmen's compensation and employers' liability insurance shall participate in a plan providing for the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods. A residual market plan shall be submitted for the Commissioner's approval within 60 days of the effective date of this chapter. Rates for the residual market shall be filed by the advisory organization.

(b) The Commissioner may adopt retrospective rating plans for any risks insured through residual market.

(c) The Commissioner may adopt a schedule debit plan for any risks insured through the plan that do not comply with loss-control recommendations, have frequency or severity problems, or have any exposure that is greater than average for the class.

(d) The Commissioner shall disapprove any filing that does not meet the requirements of §2605. A filing shall be deemed to meet such requirements unless disapproved by the Commissioner within 30 days after the filing is made. In reviewing a filing made pursuant to this section, the Commissioner shall have the same authority and follow the same procedures prescribed by §§2611, 2612, and 2613. The advisory organization shall make and file the plan of operation, rates, rating plans, rules, and policy forms under this section.

(e) The limitation in §2610(b)(1) shall not apply to the residual market plan filed under this section.

§2619. Penalties.

(a) The Commissioner may, upon finding that any person or organization has violated this chapter, impose a penalty of not more than \$500 for each such violation. Upon finding such violation to be willful, the Commissioner may impose a penalty of not more than \$1,000 for each such violation in addition to any other penalty provided by law.

(b) The Commissioner may suspend the license of any advisory organization or insurer which fails to comply with an order within the time set by the order or any extension thereof granted by the Commissioner. The Commissioner shall not so suspend a license for failure to comply with an order until time prescribed for appeal therefrom has expired or, if appealed, until such order has been affirmed. The Commissioner may determine the period of a suspension, and it shall remain in effect for such period unless modified or rescinded or until the order upon which the suspension is based is modified, rescinded, or reversed.

(c) Absent a consent decree, no penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the Commissioner stating his or her findings, made after a hearing held after at least 10 days written notice to such person or organization specifying the alleged violation.

(d) Any party aggrieved by an order or decision of the Commissioner may, within 30 days after receiving the Commissioner's notice, make written request for a hearing.

§2620. Appeals from Commissioner.

Any order, decision, or act of the Commissioner under this chapter is subject to judicial review upon petition of any person aggrieved. The appeal shall be to the Court of Chancery in any county of this state. A petition for review shall be filed within 60 days from notice of the order, decision, or act. The commencement of the proceeding shall not affect enforcement or validity of the Commissioner's action unless the Court determines, after notice to the Commissioner, that a stay of enforcement until further direction of the Court will not unduly injure the interests of the public. Subsections (d) through (i) of §333 (appeal from the Commissioner) of this title shall apply to such appeals.

§2621. Transition.

Insurers and the advisory organization are not required to immediately refile rates previously implemented. Any member or subscriber of an advisory organization is authorized to continue to use all rates and deviations filed or approved for its use until the insurer makes its own filing to change its rates, either by making an independent filing or by filing and adopting the advisory organization's prospective loss costs, or modification thereof.

§2622. Severability.

If any provisions of this chapter, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this chapter, and the application of such provision to a person or circumstances other than those as to which it is held invalid, shall not be affected.

§2623. Effective Date.

This Act shall become effective three months after enactment.

Approved July 16, 1993.

CHAPTER 164

FORMERLY

SENATE BILL NO. 81

AS AMENDED BY

SENATE AMENDMENT NO. 3 AND HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 26, TITLE 24 OF THE DELAWARE CODE RELATING TO PHYSICAL THERAPY.

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

Section 1. Amend §2612, Title 24, Delaware Code by deleting subsection (a) in its entirety and by substituting in lieu thereof the following:

"§2612. Practice, Referral, and Consultation

(a) A licensed physical therapist may enter a case for the purpose of consultation, evaluation or treatment of an individual as it relates to the individual's need for physical therapy services, with or without a referral by a licensed medical or osteopathic physician; provided, however, that a physical therapist shall refer the individual to another health practitioner if symptoms are present for which treatment is outside the scope of his knowledge. A physical therapist may treat an individual without a referral up to 30 days after which time a physician must be consulted. Physical therapy treatment of any individual shall be administered only by a licensed physical therapist. This chapter shall not prohibit physicians licensed to practice medicine and surgery, chiropractic physicians, podiatrists, dentists and nurses licensed under Title 24 of the Delaware Code from performing any physical or therapeutic modalities within the scope of their respective practices. Treatment by a physical therapist may also occur based on a referral from, or in consultation with, a licensed dentist, podiatrist or chiropractor for a condition within the scope of their respective practices."

Section 2.. This Act shall become effective January 1, 1994.

Approved July 16, 1993.

CHAPTER 165

FORMERLY

SENATE BILL NO. 95
AS AMENDED BY SENATE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND CHAPTERS 1, 3, 7, 8, 9, 21, AND 27 OF TITLE 5, DELAWARE CODE, AND CHAPTER 303 OF 68 DEL. LAWS RELATING TO BANKS, BUILDING AND LOANS AND OTHER FINANCIAL INSTITUTIONS.

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 (15) of Section 101 of Title 5, Delaware Code, by deleting the number "50" immediately preceding the word "percent" and inserting in lieu thereof the number "25".

Section 2. Amend Section 101 of Title 5, Delaware Code, by adding a new subsection (17) to read as follows:

"(17) 'Affiliate' means a person that directly, or indirectly through 1 or more intermediaries, controls or is controlled by, or is under common control with, the person specified."

Section 3. Amend Section 101 of Title 5, Delaware Code, by adding a new subsection (18) to read as follows:

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

Section 4. Amend Section 101 of Title 5, Delaware Code, by adding a new subsection (19) to read as follows:

" (19) 'Control' means the power, directly or indirectly, to direct the management or policies of a banking organization or other financial institution or to vote 25 percent or more of any class of voting securities of such banking organization or other financial institution."

Section 5. Amend Section 108 of Title 5, Delaware Code, by adding the following new sentence after the first sentence:

"To the extent that a licensee subject to the provisions of Chapter 22 or 29 of this title is examined solely for purposes of determining compliance with state law and consumer protection statutes, the above shall not apply unless the Commissioner finds that an actual conflict may arise." and by deleting the words "This prohibition, however," and inserting in lieu thereof "The prohibition contained above".

Section 6. Amend subsection (a) of Section 124 of Title 5, Delaware Code, by adding the following sentence to the end thereof:

"In order to protect the confidentiality of the contents of the examination report or other related documents, the Commissioner may prescribe regulations to prevent the disclosure of confidential information relating to the examination of any institution under his supervision."

Section 7. Amend subsection (a) of Section 127 of Title 5, Delaware Code, by deleting the words "May 1, 1978, and May 1st each year thereafter" immediately following the words "to the Council on Banking by" as they appear in the third sentence and inserting in lieu thereof "July 1 each year". Further amend subsection (a) of Section 127 of Title 5, Delaware Code, by deleting the phrase ",as approved by the Council," immediately following the words "The rates for examinations" as they appear in the fourth sentence.

Section 8. Amend subsection (b) of Section 127 of Title 5, Delaware Code, by deleting the words "May 1, 1978, and June 1 each year thereafter" immediately following the words "to the Council on Banking by" as they appear

in the fifth sentence and inserting in lieu thereof "July 1 each year". Further amend subsection (b) of Section 127 of Title 5, Delaware Code, by deleting the sixth sentence beginning with the words "The rates as approved" in its entirety, and inserting in lieu thereof "The rates shall be invoiced to the institutions on July 15 each year, and are due and payable on August 1 each year."

Section 9. Amend subsection (d) of Section 127 of Title 5, Delaware Code, by deleting existing subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

"(d) The Chairman of the Council on Banking may appeal to the Secretary of Finance any rates specified in subsections (a) and (b) of this section which the Council on Banking believes have been computed incorrectly, and the Secretary of Finance shall make the final determination and revise the rates if necessary."

Section 10. Amend subsection (1) of Section 167 of Title 5, Delaware Code, by deleting the word "deemed" immediately preceding the words "to constitute control" and inserting in lieu thereof the word "presumed". Further amend subsection (1) of Section 167 of Title 5, Delaware Code, by deleting the words "or a Delaware bank holding company" as they appear in the second sentence.

Section 11. Amend Section 167 of Title 5, Delaware Code, by deleting subparagraph (3) in its entirety.

Section 12. Amend subsection (a) of Section 302 of Title 5, Delaware Code, by deleting the words "a bank or trust company or invest said payments in a savings and loan association" immediately following the words "shall deposit all payments in a trust account with" and inserting in lieu thereof "an insured institution".

Section 13. Amend subsection (b) of Section 302 of Title 5, Delaware Code, by deleting the words ", except where payment is made pursuant to §303 of this title" immediately following the words "contract or plan".

Section 14. Amend Section 305 of Title 5, Delaware Code, by deleting the words "a bank or trust company or invested in a savings and loan association" immediately following the words "after receipt thereof, with" and inserting in lieu thereof "an insured institution".

Section 15. Amend subsection (a) of Section 770 of Title 5, Delaware Code, by adding the following new sentence after the first sentence:

For the purposes of this section, a branch office or place of business shall include any location, except as provided by Sections 771 and 772, at which deposits are received, or checks paid, or money lent."

Section 16. Amend Section 772 of Title 5, Delaware Code, by deleting the second sentence beginning with the words "No certificate of authority" in its entirety. Further amend Section 772 of Title 5, Delaware Code, by deleting the word "bank" immediately preceding the words "installing and operating it" as they appear in the third paragraph and inserting in lieu thereof the word "institution".

Section 17. Amend Chapter 7 of Title 5, Delaware Code, by adding a new section 794 to read as follows:

"§794. Conversion of a building and loan association.

(a) Notwithstanding any other provision of this title, a building and loan association with voting stock regulated pursuant to Chapter 17 of this title may become a bank which shall be deemed as having been formed under and which shall be governed by the provisions of Chapter 7 of this title. The application for conversion filed with the Commissioner shall be in such form as the Commissioner shall from time to time prescribe, submitted and sworn to by the directors of the building and loan association. A 45-day comment period shall commence upon the date of the first notice required under subsection (b) herein.

(b) The Commissioner shall, at least once during each of the first 2 weeks following the filing of an application under this section, cause to be filed in a newspaper having statewide circulation, at the expense of the applicants, a notice of the filing of such application, which notice shall invite public inspection and comment hereon 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 a certificate of public convenience and advantage would not be issued to the applicants, the Commissioner shall, not later than 45 days after the close of the comment period, advise applicants of such objection, together with support therefor. At the request of the applicants, the Commissioner shall forthwith proceed to give notice and conduct a hearing in accordance with the Administrative Procedures Act, Chapter 101, Title 29, Delaware Code.

(d) Upon a determination that the applicants have met the requirements of this section, the Commissioner shall issue a certificate certifying such compliance and ordering and approving a conversion of the building and loan association, which certificate shall be duly filed with the Secretary of State. From and after such filing, the resulting bank shall be governed by the provisions of Chapter 7 of this title and any other law of this State regulating banks generally.

(e) If an application is made for conversion of a building and loan pursuant to this section in connection with an application for acquisition of an existing bank pursuant to Subchapter IV of Chapter 8 of this title, the Commissioner may consider and approve or reject both applications concurrently.

(f) The resulting bank shall pay to the Office of the State Bank Commissioner a fee of \$5,000 for the use of the State if there is an 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 for conversion."

Section 18. Amend subsection (3) of Section 842 of Title 5, Delaware Code, by inserting the following words immediately preceding the semi-colon: ", or a building and loan association which has become a bank pursuant to §794 of this title whose initial Delaware charter or authorization to conduct a building and loan business in Delaware bears an effective date not less than 5 years prior to the effective date of the acquisition of such building and loan association".

Section 19. Amend subsection (b) of Section 907 of Title 5, Delaware Code, by deleting the phrase "banking association, trust company, savings bank or savings society" immediately following the words "Every bank," and inserting in lieu thereof "trust company or savings bank".

Section 20. Amend subsection (a) of Section 909 of Title 5, Delaware Code, by deleting the words "or trust company including mutual savings banks and savings societies" immediately following the words "No bank" and inserting in lieu thereof ", trust company or savings bank". Further amend subsection (a) of Section 909 of Title 5, Delaware Code, by deleting the words "or savings society" immediately following the words "in the case of a mutual savings bank".

Section 21. Amend subsection (b) of Section 909 of Title 5, Delaware Code, by renumbering existing subparagraphs (3) through (9) as subparagraphs (4) through (10). Further amend subsection (b) of Section 909 of Title 5, Delaware Code, by deleting the word "and" at the end of newly redesignated subparagraph (9). Further amend subsection (b) of Section 909 of Title 5, Delaware Code, by deleting the period at the end of newly redesignated subparagraph (10) and inserting in lieu thereof "; and". Further Amend subsection (b) of Section 909 of Title 5, Delaware Code, by adding a new subparagraph (3) to read as follows:

"(3) Any loan, discount or extension of credit to an affiliate or subsidiary to the extent that any such loan, discount or extension of credit is to, or is secured or covered by, guarantees, reinsurance, or by commitments or agreements to take over or to purchase any such loan,

discount or extension of credit made or issued by the United States or this State (both as defined in subparagraph (b)(1) above)."

Further Amend subsection (b) of Section 909 of Title 5, Delaware Code, by adding thereto a new subparagraph (11) to read as follows:

"(11) Any provisional debit, loan or extension of credit made by the lending bank or trust company to the demand deposit account of a customer of the lending bank or trust company in the course of settling overlimit checks drawn on such demand deposit account, provided that any such debit, loan or extension of credit is revocable at will by the lending bank or trust company as of the close of business the banking day next following the settlement of such checks, and provided further that any such debit, loan or extension of credit is funded by the customer within such time period."

Section 22. Amend subsection (d) of Section 909 of Title 5, Delaware Code, by deleting the words "or trust company, including mutual savings banks and savings societies" and inserting in lieu thereof ", trust company or savings bank". Amend subparagraph (1) of subsection (d) of Section 909 of Title 5, Delaware Code, by deleting the words "two thirds" immediately preceding the words "of the whole board of directors" and inserting in lieu thereof the words "a majority". Further amend subparagraph (1) of subsection (d) of Section 909 of Title 5, Delaware Code, by deleting the words "two thirds" immediately preceding the words "of the whole committee" and inserting in lieu thereof "a majority".

Section 23. Amend Section 910 of Title 5, Delaware Code, by deleting the word "individual" immediately following the words "(11) in any event, any amount in excess of 25 percent of its then current total capital, surplus and" and inserting in lieu thereof the word "undivided".

Section 24. Amend Section 933 of Title 5, Delaware Code, by deleting existing Section 933 in its entirety and inserting in lieu thereof a new Section 933 to read as follows:

"§933. Branch office requirements; automated service branch.

(a) Any savings bank, if authorized by its charter, may open a branch office or place of business, or branch offices or places of business, in this State, upon application submitted to and approved by the Commissioner and upon the issuance of a certificate of authority of the Commissioner. For the purposes of this section, a branch office or place of business shall include any location, except as provided by §933(c), at which deposits are received, or checks paid, or money lent. The application shall state the exact location of the intended branch office and the necessity for its opening and the Commissioner shall inquire into the matter, and if the Commissioner deems that the public convenience will be served thereby and that there is good and sufficient reason that the savings bank should have the branch office, the Commissioner shall issue written permission for the opening of the branch office. No certificate of authority shall be issued by the Commissioner unless the Commissioner shall be satisfied that the applicant has a paid-in-capital stock of at least \$25,000 for each office or place of business then established by the applicant in this State and for each branch sought to be established and a surplus of at least \$25,000 for each office or place of business then established by the applicant in this State and for each branch sought to be established. Any certificate of authority issued by the Commissioner shall be void and of no effect if after the expiration of a reasonable period of time, as determined by the Commissioner, such branch is not actually opened for business. The Commissioner shall by regulation prescribe the criteria to be applied in determining what constitutes a reasonable period of time.

A fee of \$575 for every such certificate shall be required by the Commissioner before issuing the same. In addition, the applicant shall pay an investigation fee of \$575 which shall not be refundable and shall be submitted with the application.

(b) Nothing in this section shall deny any savings bank the right to continue a branch office or offices if such branch office or offices shall have been actually established prior to June 2, 1959.

(c) Any savings bank, with prior approval of the Commissioner, may install or operate one or more automated service branches in this State. The Commissioner's approval need only be conditioned upon the determination that the automated service branch will be an effective and efficient service consistent with sound banking practices. The Commissioner shall promulgate regulations which prescribe the form and content of the application and related procedures for approval in such a manner as to expedite the approval process for automated service branches. An automated service branch shall be deemed to be a branch of the savings bank installing and operating it.

Without the approval of the Commissioner, an automated service branch may be shared among banks, savings banks, national banks, savings and loan associations and credit unions having their main offices within or without the State, and shall not be deemed to be a branch office of any bank, savings bank, national bank, savings and loan association or credit union other than the institution installing and operating it. In addition, the Commissioner shall be authorized to exempt certain types of electronic devices, as the Commissioner shall find inappropriate to include within the coverage of this section in order to effectuate the purposes of this chapter.

A fee of \$375 for every such certificate shall be required by the Commissioner before issuing the same. In addition, the applicant shall pay an investigation fee of \$375, which shall not be refundable and shall be submitted with the application."

Section 25. Amend Section 2106 of Title 5, Delaware Code, by deleting the last sentence beginning with the words "No licensee" in its entirety and inserting in lieu thereof the following new sentence: "The Commissioner may issue more than 1 license to the same applicant upon payment of the required fees and compliance with all applicable provisions of law."

Section 26. Amend Section 2108 of Title 5, Delaware Code, by deleting the word "corporate" immediately following the words "file with the Commissioner a".

Section 27. Amend Section 2742 of Title 5, Delaware Code, by deleting the number "1" following the phrase "sum to exceed" and inserting the number "2" in lieu thereof.

Section 28. Amend Section 47 of 68 Del. Laws c. 303 by inserting "1," between the word "Sections" and the number "25" in such Section 47.

Section 29. If any provision of this act or the application of any section or part thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this act which

can be given effect without the invalid provision or application.

Section 30. This act shall take effect immediately upon its adoption.

Approved July 16, 1993.

CHAPTER 166

FORMERLY

SENATE BILL NO. 142

AN ACT TO AMEND CHAPTER 35, TITLE 18 OF THE DELAWARE CODE RELATING TO GROUP AND BLANKET HEALTH INSURANCE.

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

Section 1. Amend Title 18, Chapter 35, §3552 of the Delaware Code by adding a new subsection (c) to read as follows:

"(c) All group and blanket health insurance policies which are delivered or issued for delivery in this State by any health insurer or health service corporation and which provide benefits for outpatient services shall provide to covered persons residing or having their principal place of employment in this State a benefit for:

(1) Periodic mammographic examinations on the following schedule:

a. A base line mammogram for asymptomatic women at least age 35, or as otherwise declared appropriate by the State Board of Health from time to time.

b. A mammogram every 2 years for asymptomatic women age 40 to 50 but no sooner than 2 years after a woman's base line mammogram, or as otherwise declared appropriate by the State Board of Health from time to time.

c. A mammogram every year for asymptomatic women age 50 and over, or as otherwise declared appropriate by the State Board of Health from time to time.

(2) A mammographic examination prescribed by a physician for any woman based on such physician's evaluation of the woman's physical conditions, symptoms or risk factors indicating a probability of breast cancer higher than the general population.

Such screening shall be deemed a covered service, notwithstanding policy exclusions for services which are part of or related to annual or routine examinations.

The benefit paid for a mammogram as a covered service under this subsection (c) shall not exceed the least expensive cost of a mammogram at a qualified imaging facility located at a fixed location in the county in this State in which the woman resides or in the county in this State where the principal place of employment of the woman, or the employee under whose group or blanket health insurance the woman is covered, is located, or the county in this State in which the woman actually has the mammogram. The cost of the benefit shall include both the facility and radiologist's fees. The least expensive cost for a mammogram determining the maximum benefit under this subsection during each calendar year shall be the least expensive cost as of the first day of such calendar year in each county of the State.

For the purposes of this subsection (c), 'qualified imaging facility' shall mean a diagnostic facility having a certificate or provisional certificate issued by the any state agency (of this State or any other state) approved by the Secretary of the Department of Health and Human Services to accredit facilities and issue certificates and provisional certificates for the purposes of the Mammography Quality Standards Act of 1992, 42 U.S.C., §202, or having an application for certification filed and pending with such state agency; provided, however, that in the event no such state agency certification program or procedure is in effect under the Mammography Quality Standards Act of 1992 in the state in which the woman has the mammogram performed, 'qualified imaging facility' shall mean a diagnostic facility having equipment certified by the American College of Radiology, and being certified by the American College of Radiology or having an application for certification filed and pending with the American College of Radiology."

Section 2. Amend Title 18, Chapter 35, §3552 of the Delaware Code by redesignating the present subsection (c) of §3552 as subsection (d) of §3552.

Section 3. This Act shall apply to group and blanket health insurance policies issued or renewed one hundred twenty (120) days after the effective date of this Act.

Approved July 16, 1993.

CHAPTER 167

FORMERLY

SENATE BILL NO. 176
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 94, TITLE 11 OF THE DELAWARE CODE TO PROVIDE CONFORMITY WITH THE UNIFORM VICTIM OF CRIMES ACT.

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

Section 1. Amend Chapter 94 of Title 11 of the Delaware Code by striking the Chapter in its entirety and enacting in lieu thereof the following:

CHAPTER 94. VICTIMS' BILL OF RIGHTS

§9401. Definitions.

As used in this Chapter, unless the context otherwise requires:

(1) "Crime" means an act or omission committed by a person, whether or not competent or an adult, which, if committed by a competent adult, is punishable by incarceration and which violates one or more of the following sections of Title 11:

OFFENSES AGAINST THE PERSON

- 601. Offensive touching; unclassified misdemeanor.
- 602. Menacing; unclassified misdemeanor.
- 603. Reckless endangering in the second degree; class A misdemeanor.
- 604. Reckless endangering in the first degree; class E felony.
- 611. Assault in the third degree; class A misdemeanor.
- 612. Assault in the second degree; class D felony.
- 613. Assault in the first degree; class C felony.
- 621. Terroristic threatening; Class A misdemeanor.
- 628. Vehicular assault in the second degree; class B misdemeanor.
- 629. Vehicular assault in the first degree; class A misdemeanor.
- 630. Vehicular homicide in the second degree; class F felony; minimum sentence; juvenile offenders.
- 631A. Vehicular homicide in the first degree; class E felony; minimum sentence; juvenile offenders.
- 631. Criminally negligent homicide; class E felony.
- 632. Manslaughter; class C felony.
- 635. Murder in the second degree; class B felony.
- 636. Murder in the first degree; class A. felony.
- 645. Promoting suicide; class F felony.
- 764. Indecent exposure in the second degree; unclassified misdemeanor.
- 765. Indecent exposure in the first degree; class A misdemeanor.

- 766. Incest; class A misdemeanor
- 767. Unlawful sexual contact in the third degree; class A misdemeanor.
- 768. Unlawful sexual contact in the second degree; class G felony.
- 769. Unlawful sexual contact in the first degree; class F felony.
- 770. Unlawful sexual penetration in the third degree; class E felony.
- 771. Unlawful sexual penetration in the second degree; class D felony.
- 772. Unlawful sexual penetration in the first degree; separate charges; class C felony.
- 773. Unlawful sexual intercourse in the third degree; class C felony.
- 774. Unlawful sexual intercourse in the second degree; class B felony.
- 775. Unlawful sexual intercourse in the first degree; class A felony.
- 781. Unlawful imprisonment in the second degree; class A misdemeanor.
- 782. Unlawful imprisonment in the first degree; class G felony.
- 783. Kidnapping in the second degree; class C felony.
- 783A. Kidnapping in the first degree; class B felony.
- 785. Interference with custody; class G felony; class A misdemeanor.

OFFENSES INVOLVING PROPERTY

- 801. Arson in the third degree; affirmative defense; class G felony.
- 802. Arson in the second degree; affirmative defense; class D felony.
- 803. Arson in the first degree; class C felony.
- 811. Criminal mischief; felony.
- 823. Criminal trespass in the first degree; class A misdemeanor.
- 824. Burglary in the third degree; class F felony.
- 825. Burglary in the second degree; class D felony.
- 826. Burglary in the first degree; class C felony.
- 831. Robbery in the second degree; class E felony.
- 832. Robbery in the first degree.
- 840. Shoplifting; class G felony; class A misdemeanor.
- 841. Theft; class G felony; class misdemeanor.
- 846. Extortion; class E felony.
- 848. Misapplication of property; class G felony; class A misdemeanor.

- 851. Receiving stolen property; class G felony; class A misdemeanor.
- 861. Forgery; class F felony; class G felony; class A misdemeanor; restitution required.
- 900. Issuing a bad check; class A misdemeanor; class G felony.
- 903. Unlawful use of credit card; class G felony; class A misdemeanor.

OFFENSES RELATING TO CHILDREN AND INCOMPETENTS

- 1101. Abandonment of child; class A misdemeanor.
- 1102. Endangering the welfare of a child; class A misdemeanor.
- 1105. Endangering the welfare of an incompetent person; class A misdemeanor.
- 1108. Sexual exploitation of a child; class B felony.

OFFENSES RELATING TO JUDICIAL AND SIMILAR PROCEEDING

- 1261. Bribing a witness; class E felony.
- 1263. Tampering with a witness; class E felony.
- 1263A. Interfering with child witness.
- 1264. Bribing a juror; class E felony.
- 1312. Aggravated harassment; class B misdemeanor.
- 1312A. Stalking; class F felony.

OFFENSES AGAINST PUBLIC HEALTH

- 1339. Adulteration; class G felony; class E felony; class A felony.

RELEASE OF PERSONS ACCUSED OF CRIMES

- 2113. Penalties for noncompliance with conditions of recognizance; bond or conditions.

WITNESS AND EVIDENCE

- 3532. Act of intimidation; class E felony.
- 3533. Aggravated act of intimidation; class D felony.

(2) "Member of the victim's family" means the spouse, a child by birth or adoption, a stepchild, a parent, a stepparent, a sibling, or an individual designated by the victim or by a court in which the crime is being or could be prosecuted, but does not include an individual who is accountable for the crime or a crime arising from the same conduct, criminal episode, or plan.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(4) "Representative of the victim" means a member of the victim's family or an individual designated by the victim or by a court in which the crime is being or could be prosecuted.

(5) "Victim" means the person, organization, partnership, business, corporation, agency or governmental entity identified as the victim of a crime in a police report, a criminal complaint or warrant, an indictment or information, or other charging instrument. "Victim" includes a parent,

guardian or custodian of a victim who is unable to meaningfully understand or participate in the legal process due to physical, psychological or mental impairment. "Victim" includes the following relations of a deceased victim if the relation is not the defendant, co-defendant or conspirator:

- a. The spouse;
- b. An adult child or stepchild;
- c. A parent; or
- d. A sibling.

(6) "Prosecutor" means a representative of the Office of the Attorney General.

(7) "Court" means the Superior Court, Family Court, Court of Common Pleas, Municipal Court for the City of Wilmington, and the Justice of the Peace Court.

§9402. Compliance with Chapter.

(a) This Chapter shall apply to the victims of the crimes defined in section 9401(1). Consistent with the duty to represent the interests of the public as a whole, the Attorney General shall enforce compliance with this Chapter on behalf of victims and members of victims' families.

(b) Failure to comply with this Chapter does not create a claim for damages against a government employee, official, or entity.

(c) Failure to provide a right, privilege or notice to a victim under this Chapter shall not be grounds for the defendant to seek to have a conviction or sentence set aside.

§9403. Nondisclosure of Information About Victim.

(a) Unless a victim waives confidentiality in writing, neither a law enforcement agency, the prosecutor, nor the corrections department may disclose, except among themselves or as authorized by law, the residential address, telephone number, or place of employment of the victim or a member of the victim's family, except to the extent that disclosure is of the site of the crime, is required by law or the Rules of Criminal Procedure, is necessary for law enforcement purposes, or is permitted by the court for good cause.

(b) A court may not compel a victim or a member of the victim's family testifying in a criminal justice proceeding to disclose a residential address or place of employment on the record unless the court finds that disclosure of the information is necessary.

(c) The victim's address, place of employment, and telephone number maintained by a court, prosecutor or law enforcement agency pursuant to this Chapter is exempt from disclosure under the Freedom of Information Act.

§9404. Victim's Interest in Speedy Prosecution; Child Victim; or Witness.

(a) The court shall consider the interest of the victim in a speedy prosecution.

(b) Proceedings shall be expedited in cases involving a child victim or witness particularly in child abuse and sexual abuse cases.

§9405. Prosecutor to Confer with Victim.

Consistent with the duty to represent the interests of the public as a whole, the prosecutor, to the extent practicable, shall confer with a victim before amending or dismissing a charge or agreeing to a negotiated plea or pretrial diversion. Failure of the Attorney General to confer with the victim does not affect the validity of an agreement between the State and the defendant or of an amendment, dismissal, plea, pretrial diversion, or other disposition of the case.

§9406. Safety of Victim.

(a) The court shall provide a waiting area for victims separate from the defendant, defendant's relatives and defense witnesses if such an area is available and the use of the area is practicable. If a separate waiting area is not available or practical, the court shall provide other available safeguards to minimize the victim's contact with the defendant, defendant's relatives and defense witnesses during court proceedings.

(b) At the initial contact, the victim shall be provided written information by the investigating law enforcement agency to whom the victim can contact to ascertain if the defendant is released from custody, and the procedures that the victim may follow if threatened, intimidated, or if conditions of bail or custody are not complied with.

§9407. Presence at Court Proceedings; Notice.

(a) A victim or an individual designated by the victim may be present whenever a defendant has a right to be present during a court proceeding concerning the crime charged other than a grand jury proceeding, unless good cause can be shown by the defendant to exclude the victim. If the victim is present, the court, at the victim's request, shall permit the presence of an individual to provide support to the victim, unless the court determines that exclusion of the individual is necessary to protect the defendant's right to a fair trial.

(b) If a victim requests notice of proceedings upon a form provided under this Chapter, the victim shall promptly be informed of the date, time, and place of each court proceeding relative to the disposition of the case at which the victim has a right to be present.

§9408. Prompt Return of Property.

The agency holding the property shall promptly return the property to the victim when it is no longer needed for evidentiary purposes unless it is contraband or subject to forfeiture.

§9409. Limitations on Employer.

An employer may not discharge or discipline a victim or a representative of the victim for:

- (1) participation at the prosecutor's request in preparation for a criminal justice proceeding; or
- (2) attendance at a criminal justice proceeding if the attendance is reasonably necessary to protect the interests of the victim.
- (3) attendance at a criminal justice proceeding in response to a subpoena.

§9410. Information from Law Enforcement Agency.

At the initial contact between the victim of a reported crime and the law enforcement agency having responsibility for investigating that crime, that agency, to the extent practicable, shall promptly give in writing to the victim:

- (1) An explanation of the victim's rights under this Chapter;
- (2) Information concerning the availability of social service and other assistance to victims;
- (3) A copy of the initial incident report which shall state whether the victim requests notice of future proceedings upon the arrest of a defendant;
- (4) Notice of the availability of a victim service unit within the Department or, in the absence of a unit within that law enforcement agency, the availability of the Statewide Victim Center;
- (5) Notice of the Violent Crimes Compensation Program;

(6) Notice of availability of information concerning pretrial release;
and

(7) Source of information at the investigating law enforcement agency where the victim may check the status of any arrest.

§9411. Information Concerning Pretrial and Trial Matters.

(a) After a prosecution is commenced by the Attorney General in the Superior Court, the Attorney General, to the extent practicable, shall promptly inform a victim who has requested notification of:

(1) A statement of the procedural steps in the processing of a criminal case;

(2) Rights under this Chapter;

(3) Procedures if the victim is threatened or harassed;

(4) Victim compensation information when appropriate;

(5) The right of the victim to confer with the prosecutor prior to trial;

(6) The right of the victim to consult with the prosecutor about the disposition of the case, including the victim's views on dismissal, plea negotiations or diversion programs;

(7) The right of the victim to be present at trial and sentencing;

(8) Notice of the scheduling of court proceedings and changes including trial date, case review and sentencing hearings;

(9) Notice of the crime(s) of which the defendant is convicted;

(10) Notice of the specifics of any sentencing order;

(11) Notice of sentence reduction or modification order; and

(12) Notice of a reversal upon appeal of a conviction.

(b) In all other courts, the court shall, to the extent practicable, give the victim who has requested notification:

(1) Notice of the scheduling of court proceedings and changes including trial date, case review and sentencing hearings;

(2) Notice of the crime(s) of which the defendant is convicted;

(3) Notice of the specifics of any sentencing order; and

(4) Notice of sentence reduction or modification order.

(c) The court shall also inform victims that, should they have questions concerning their rights, they should contact the victim services office of the Attorney General's Office.

§9412. Information Concerning Appeal or Post-Conviction Remedies.

(a) If the defendant appeals or pursues a post-conviction remedy in a case prosecuted by the Attorney General, the prosecutor shall promptly inform any victim who has requested notice of the date, time, and place of any hearing, and of the decision.

(b) In cases where there is no prosecutor, the court shall, to the extent practicable, notify those victims who have requested notification of the matters contained in section 9412(a).

§9413. Information Concerning Confinement.

(a) The Department of Correction and the Department of Services for Children, Youth and Their Families, to the extent practicable, shall notify in

writing those victims who have requested such notice of the following regarding defendants in their custody:

- (1) Projected release date;
- (2) Release or release to a community-based program;
- (3) Parole Board hearing date.

(b) In the event of an escape of the defendant, the Department of Correction and the Department of Services for Children, Youth and Their Families, shall notify immediately, by telephone or in person, any victim who has requested such notice of the escape of the defendant.

§9414. General Requirements for Information.

(a) Unless the form of notice is expressly set forth by this Chapter, information required to be furnished under this Chapter may be furnished orally or in written form.

(b) A person responsible for furnishing information may rely upon the most recent name, address, and telephone number furnished by the victim.

§9415. Presentence Report.

In preparing a presentence report, the presentence officer shall make a reasonable effort to confer with the victim. If the victim is not available or declines to confer, the presentence officer shall record that information in the report. The victim shall have the right to present a victim-impact statement pursuant to Title 11 section 4331.

§9416. Consideration of Victim-Impact Statement at Parole Hearing or Pardon Board Hearing

(a) The Board of Parole shall, to the extent practicable, inform the victim in writing of:

- (1) The right of the victim to address the Parole Board in writing or in person; and
- (2) The decision of the Parole Board.

(b) The Board of Pardons shall, to the extent practicable, inform the victim in writing of:

- (1) The right of the victim to address the Board of Pardons in writing or in person;
- (2) Any commutation of sentence that is recommended by the Board; and
- (3) Any pardon or commutation that is granted.

§9417. Requirement of State Agencies to File Annual Reports.

All agencies given duties by this Chapter shall submit an annual report with related statistics outlining compliance with this Chapter. The annual report shall be submitted at the end of each calendar year to the Governor and to the Criminal Justice Council. If the requirements stated in this Chapter cannot be achieved by an agency for any reason, the agency shall so state in the annual report and shall explain in detail the nature of the obstacles to comply with this Chapter or other causes for the inability to achieve the objectives. The Governor shall advise state agencies of any statutory changes that require an amendment to this Chapter."

Section 2. It is the intent of the General Assembly that the agencies affected by this statute shall request adequate funding to meet the requirements under this Act; and that they shall as soon as practicable comply with its requirements.

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

Approved July 16, 1993.

CHAPTER 168

FORMERLY

HOUSE BILL NO. 124
AS AMENDED BY HOUSE AMENDMENT NO. 1

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

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

Section 1. Amend Chapter 7, §717, Title 24, Delaware Code by striking everything after the word "accident" in the first line, and substituting the following in lieu thereof:

"sickness, and all other such insurance plans, whether or not they be considered insurance policies, and contracts issued by health service corporations and health maintenance organizations, if the chiropractor is authorized by law to perform a particular service, he shall be entitled to compensation for his services under such plans and contracts."

Section 2. Effective Date.

"The provisions of this Act shall apply to all plans, policies, and contracts which are issued or renewed on or after November 1, 1993."

Approved July 16, 1993.

CHAPTER 169

FORMERLY

SENATE BILL NO. 101

AN ACT TO AMEND TITLES 11 AND 21, DELAWARE CODE, RELATING TO THE PROCEEDS FROM VIOLATIONS OF CHAPTER 48 OF TITLE 21 AND CREATING THE "VICTIMS' RIGHTS FUND".

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

Section 1. Amend §4802 (g), Chapter 48, Title 21, Delaware Code by striking therefrom the words: "Victim Compensation Fund" and by substituting in lieu thereof the words: "Victims' Rights Fund".

Section 2. Amend Title 11, Chapter 94, Delaware Code, by adding a new section §9410 as follows:

"§9410 Victims' Rights Fund

All fines collected under Title 21, Chapter 48, Delaware Code shall be deposited into a Victims' Rights Fund established within the State Treasurer's Office. Proceeds of this fund are to be used for the establishment of necessary infrastructure and systems development in support of victim notification initiatives."

Section 3. The Victims' Rights Fund shall be appropriated and expended in conformity with the annual appropriation act of the State. Nothing in this subchapter shall preclude the appropriation of general funds to the Victims' Rights Fund.

Approved July 19, 1993.

CHAPTER 170

FORMERLY

SENATE BILL NO. 250

AN ACT TO AMEND CHAPTER 66, TITLE 16 OF THE DELAWARE CODE RELATING TO SMOKE DETECTORS.

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 66, Title 16 of the Delaware Code by re-designating all of said present Chapter 66 as new subchapter I of said Chapter; which new subchapter shall be entitled as follows:

"SUBCHAPTER I. STATE FIRE MARSHAL AND

STATE FIRE PREVENTION COMMISSION"

Section 2. Amend Chapter 66, Title 16 of the Delaware Code by striking §6622, §6623 and §6624, each in its entirety; and substituting in lieu thereof the following:

"SUBCHAPTER II. SMOKE DETECTORS

§6631. Smoke Detectors Required

(a) Each owner of a residential occupancy, used wholly or in part as a home, residence, dwelling or sleeping place for one or more persons, either permanent or transient, including but not limited to any one-family and two-family dwelling, mobile home, modular home, townhouse; lodging, rooming or boarding house; hotel, motel, bed and breakfast facility; dormitory, apartment or multi-family dwelling; board and care facility; or a residential occupancy by any other name, be it rented, leased or owned, shall install, within such occupancy, smoke detection devices and/or smoke detection systems, either photo-electric or ionization types, capable of automatically sensing visible or invisible particles or products of combustion, and which activate an alarm sufficiently audible to warn the occupants of the building of an impending danger of fire or hazard to life.

(b) The requirement for the installation of smoke detecting devices and/or smoke detection systems as provided for in this section shall apply to all new and existing occupancies, buildings and/or structures listed in subsection (a), regardless of when any such occupancy, building or structure was built.

(c) It shall be the responsibility of the owner of a residential occupancy listed in subsection (a) to install and maintain smoke detection devices as required by this Chapter, with the following exception:

(1) Where there is a tenant of a rented or leased occupancy, structure or building required to have smoke detection devices and/or smoke detection systems, as required in this subchapter, and the rental, lease agreement or contract is for a period of one month or more, such tenant shall be responsible for the maintenance of any smoke detection devices, with respect to maintaining an operable battery in the smoke detection device, within the individual rented or leased unit.

(d) All smoke detection devices and/or smoke detection systems which are required to be installed under this subchapter shall be installed in accordance with the applicable provisions of the State Fire Prevention Regulations.

(e) It shall not be the duty of a real estate salesperson or broker, licensed under the provisions of Chapter 24, Title 29 of the Delaware Code, to verify the compliance of any person or residential occupancy with the provisions of this subchapter.

§6632. Smoke Detector Installation in One-and-Two Family Dwellings; Mobile Homes; Modular Homes; Townhouses

(a) Each one-family and two-family dwelling, mobile home, modular home, and townhouse shall have smoke detection devices and/or smoke detection systems installed according to the following requirements:

(1) For each new building or occupancy built after the effective date of this subchapter, smoke detection devices shall be installed outside each separate sleeping area in the immediate vicinity of the bedrooms; and shall be installed on each additional story of the family living unit, including basements, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such areas.

(2) For each building or occupancy listed in §6632 (a)(1), the smoke detection devices shall be inter-connected, so that operation of any smoke detection device shall cause the alarm-sounding devices in all smoke detectors within the dwelling or building to sound; and all such smoke detection devices shall be hard-wired into the building or occupancy's electric system in accordance with the provisions of the National Electric Code. In addition, each hard-wired, inter-connected smoke detection device in the immediate vicinity of each bedroom area shall be equipped with a built-in battery back-up power supply; or one, single-station, battery-powered smoke detection device in the immediate vicinity of each bedroom area, in addition to the required hard-wired smoke detection device.

(3) For all buildings or occupancies erected or built prior to the effective date of this legislation, each required smoke detection device shall be installed with respect to location as set forth in §6632 (a)(1); but the smoke detection devices in existing buildings or occupancies may be single-station, individual smoke detection devices, approved by Underwriters Laboratories or the Factory Mutual Association, and powered by a monitored battery power supply in accordance with Delaware Fire Prevention Regulations.

(b) Nothing contained in this section shall prohibit the owner of any one-family or two-family dwelling, mobile home, modular home or townhouse from installing an inter-connected smoke detection system, hard-wired to the building's electrical system.

§6633. Smoke Detector Installation: Other Residential Occupancies

(a) Each lodging, rooming, or boarding house; hotel, motel, bed and breakfast facility; dormitory; apartment or multi-family dwelling; board and care facility; or a residential occupancy by any other name shall have smoke detection devices and/or smoke detection systems installed in accordance with the following requirements:

(1) For each new and existing building or occupancy listed above, smoke detection devices and/or systems shall be installed outside each separate sleeping area in the immediate vicinity of the bedrooms; and in each additional story of the occupancy including the basement, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such areas; or

(2) Smoke detectors shall be installed in conformance with those provisions of the State Fire Prevention Regulations for each particular occupancy which conforms to the National Fire Protection Association's Life Safety Code.

(b) Where there is a conflict between installation requirements, this section shall be interpreted to require the more strict of the installation specifications, for a particular occupancy.

(c) All required smoke detection devices and/or smoke detection systems listed in subsection (a), except as otherwise specified herein, shall be inter-connected, so that operation of any smoke detection device shall cause the alarm-sounding devices in all smoke detection devices within the building, occupancy or within a separate zoned area to sound; or that will initiate the building fire alarm system to provide an audible warning to all occupants of the building, and all such smoke detection devices and/or systems shall be hard-wired into the electric system of the building, in accordance with the National Electric Code.

(d) With approval of the Fire Marshal, smoke detection devices in individual sleeping rooms may be excepted from the requirement that smoke detection devices be interconnected if such building or occupancy is provided with an automatic smoke detection system in the hallways, corridors or stairwells, or is connected to a building fire alarm system which will activate an alarm which is sufficiently audible to warn the occupants of the building of the impending danger of fire or hazard to life.

(e) For all buildings or occupancies which under subsection (a) are required to install smoke detection devices and/or smoke detection systems, and for such buildings or occupancies that do not have an auxiliary, emergency or back-up power system in accordance State Fire Prevention Regulations, each smoke detection device or smoke detection system shall utilize the type of smoke detection device that has a built-in battery back-up power supply.

(f) The plans and specifications for all smoke detection devices and/or systems required by this subsection shall be submitted to the State Fire Marshal's Office, prior to installation, for review and approval in accordance with the provisions of §6607, Title 16 of the Delaware Code.

§6634. Smoke Detectors: Compliance Dates

(a) For each newly erected or constructed one-family and two-family dwelling, mobile home, modular home or townhouse listed in §6631 of this subchapter, the compliance date shall be the effective date of this Act.

(b) For all existing one-family and two-family dwellings, mobile homes, modular homes or townhouses listed in §6631 of this subchapter, erected or constructed prior to the effective date of this Act, the compliance date shall be July 1, 1994.

(c) For all other residential occupancies listed in §6633 of this subchapter, constructed after the effective date of this subchapter, the required smoke detection devices and/or smoke detection systems shall be installed at time of construction.

(d) For all other existing residential occupancies listed in §6633 of this subchapter, newly erected or constructed prior to the effective date of this subchapter, the compliance date shall be July, 1, 1996.

§6635. Smoke Detectors. Penalties for Non-Compliance

(a) Each owner and/or tenant of every building or occupancy required to have smoke detection devices and/or smoke detection systems in accordance with the provisions of this subchapter, whether an individual or a body corporate, who fails to comply with the provisions of this subchapter regarding smoke detection devices and/or smoke detection systems, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense. The Justice of the Peace Courts shall have jurisdiction over any violation of this subchapter.

(b) Anyone who tampers with, damages, destroys or renders inoperative any smoke detection device and/or smoke detection system, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense. The Justice of the Peace Courts shall have jurisdiction over these violations.

(c) Where a fire department responds to an alarm of any type at a building or occupancy required to have smoke detection devices and/or smoke detection systems as required by this subchapter or by the State Fire Prevention Regulations, and such building does not have a functional, working smoke detection device and/or the smoke detection system is not operable, is not in service, or is not installed or maintained as required by this Chapter or by the State Fire Prevention Regulations; or the Fire Marshal's Office becomes aware of such building or occupancy, the State Fire Marshal's Office shall have authority to investigate. The State Fire Marshal may issue a summons, where necessary, to the owner and/or occupant of such building or occupancy, for an appearance in the nearest Justice of the Peace Court.

(d) Each fine specified in §6636 of this Chapter shall be remitted to the State Fire Marshal's Office in accordance with provisions of §6607(g)(6) of this Chapter, which provisions shall be complied with in implementing the requirements of this Chapter. All receipts shall be used to subsidize the costs of providing a greater public awareness of the ramifications of not having smoke detectors; and to provide smoke detection devices, where possible and/or permissible, for one-family and two-family dwellings, mobile homes, modular homes or townhouses, where enforcement action takes place with respect to the owner and/or occupant of the one-family and two-family dwelling, mobile home, modular home or townhouse.

(e) In the enforcement of the provisions of this subchapter with respect to smoke detection devices and/or smoke detection systems, where the fines are collected within the jurisdictions of the cities of Wilmington, Newark, Dover, or New Castle, such fines shall be remitted to the appropriate political subdivision, and shall be utilized for the purposes stated in subsection (d) of this section.

(f) The State Fire Marshal's Office shall be the state-wide manager and agency for all public awareness programs generated by the proceeds of the fines collected under this section.

(g) With the exception of the provisions of subsection (f) of this section, where any reference is made to the State Fire Marshal or the State Fire Marshal's Office, such reference shall be interpreted to also apply to the Assistant State Fire Marshals of the cities of Wilmington, Newark, Dover and New Castle for the enforcement actions of these provisions.

(h) The State Fire Marshal or the Attorney General may, in addition to other remedies provided by this section, institute injunction, mandamus, abatement or any other appropriate action or actions or proceedings to prevent any continued violations of this Chapter.

§6636. Exceptions: Claims of negligence

Failure to comply with the provisions of this subchapter shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication arising out of any injury or death arising from a fire or the direct consequences of a fire; nor shall failure to comply with the provisions of this subchapter be admissible as evidence in any trial of any civil action or insurance claim adjudication.

Approved July 8, 1993.

CHAPTER 171

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 51
AS AMENDED BY SENATE AMENDMENT NO. 1

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

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

Section 1. Amend §5131(4), Title 30, Delaware Code, by deleting the period therein and by adding the following:

"and except that it does not include combustible gases and liquids used prior to January 1, 1996, in a program to determine commercial feasibility of alternatively-fueled vehicles."

Section 2. Amend §5131, Title 30, Delaware Code by adding a new paragraph (11) as follows:

"'A program to demonstrate commercial feasibility of alternatively-fueled vehicles' means testing programs, pilot programs, demonstration programs and other programs in which data is being collected on fuel economy, performance and air emissions of vehicles primarily propelled by fuels other than gasoline, reformulated gasoline, diesel fuel, reformulated diesel fuel, fuel oil, or kerosene and, for any taxpayer, the number of vehicles involved in such programs does not exceed the greater of 10 vehicles or 10 percent of the taxpayer's vehicles propelled primarily by a fuel subject to tax under this Chapter."

Section 3. The Department of Transportation's administrative powers set forth in §5138 extend to the amendments made to Chapter 51 herein.

Section 4. This Act shall go into effect three months following the date of enactment.

Approved July 29, 1993.

CHAPTER 172

FORMERLY

HOUSE BILL NO. 360

AN ACT TO AMEND TITLE 29, DELAWARE CODE, RELATING TO DEDICATION OF A PORTION OF COSTS ASSESSED BY THE JUSTICE OF THE PEACE COURTS TO AN "I&M FUND" TO BE USED TO OPERATE THE MOTOR VEHICLE ENHANCED INSPECTION AND MAINTENANCE PROGRAM.

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

Section 1. Amend § 6102, Title 29, Delaware Code, by adding to said Section a new subsection (o) to read as follows:

"(o)(1) Notwithstanding other provisions of this Chapter, there shall be established a special fund of the State to be known as the 'I & M Fund' (referred to in this subsection as 'the Fund').

(2) The Secretary of Finance shall, commencing at the beginning of each fiscal year, cause to be deposited into the Fund amounts received as payments of costs assessed by the Justice of the Peace Courts relating to traffic and criminal cases under § 9801 (2), Title 10, until the amount deposited in said fiscal year shall equal two million and eight hundred thousand dollars.

(3) The purpose of the Fund is to provide operating expenses associated with the Delaware Motor Vehicle Enhanced Inspection and Maintenance Program. Any balance in the Fund as of the last day of the fiscal year in excess of \$250,000 shall be deposited to the General Fund.

(4) The Secretary of Finance shall make deposits to the Fund as required under this Section commencing after June 30, 1995."

Section 2. The Secretary of Public Safety and the Secretary of Finance shall, prior to March 1, 1995, provide a report to the General Assembly addressing the estimated costs of the Delaware Motor Vehicle Enhanced Inspection and Maintenance Program and recommending options for alternative sources of funding for this program.

Section 3. Section 1 of this Act shall be effective July 1, 1995. Section 2 shall be effective upon enactment of this Act into law.

Approved November 9, 1993.

CHAPTER 173

FORMERLY

SENATE BILL NO. 164

AN ACT TO AMEND CHAPTER 9, SUBCHAPTER III, TITLE 10, DELAWARE CODE, RELATING TO GRANDPARENTS VISITATION RIGHTS.

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

Section 1. AMEND §950 (7) of subchapter III, Chapter 9, Title 10, Delaware Code, by striking the word "shall" as the same appears on line 6 of said paragraph (7) and substituting in lieu thereof the word "may", and further adding at the end of said paragraph (7) the following: "The trier of fact shall make the ultimate decision based upon the best interest of the children."

Approved January 24, 1994.

CHAPTER 174

FORMERLY

SENATE BILL NO. 254

AN ACT TO AMEND CHAPTER 55, TITLE 29, DELAWARE CODE RELATING TO POST-RETIREMENT INCREASES TO BE GRANTED JANUARY 1, 1994.

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

Section 1. Amend §5532, Chapter 55, Title 29, Delaware Code by striking the date "January 1, 1990" as the same appears in said section and inserting in lieu thereof the date of "January 1, 1991".

Approved January 24, 1994.

CHAPTER 175

FORMERLY

HOUSE BILL NO. 37

AN ACT CONCURRING IN A PROPOSED AMENDMENT TO ARTICLE 4, SECTIONS 12, 13, AND 38 OF THE CONSTITUTION OF THE STATE OF DELAWARE TO HARMONIZE THOSE SECTIONS REGARDING THE AUTHORITY OF A JUSTICE UNDER SECTIONS 12, 13, AND 38 TO DESIGNATE STATE JUDGES TO SIT IN VARIOUS COURTS OF THE STATE OR TO DESIGNATE RETIRED STATE JUDGES OR JUSTICES TO TEMPORARILY PERFORM JUDICIAL SERVICE IN THE ABSENCE, DISQUALIFICATION OR INCAPACITY OF THE CHIEF JUSTICE OR A VACANCY IN THAT OFFICE, AND TO HARMONIZE SECTION 13 WITH SECTIONS 2, 3, AND 12 TO MAKE UNIFORM THE REFERENCES THEREIN TO MEMBERS OF THE SUPREME COURT, TO ELIMINATE OBSOLETE REFERENCES IN SECTION 13 TO THE ORPHANS' COURT, WHICH NO LONGER EXISTS, AND TO PROVIDE FOR THE DESIGNATION OF A STATE JUDGE FROM VARIOUS COURTS OF THE STATE TO SIT IN THE COURT OF CHANCERY AND SUPERIOR COURT TO TEMPORARILY PERFORM JUDICIAL SERVICE.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 136th General Assembly, being Chapter 265, Volume 68, Laws of Delaware as follows:

"AN ACT TO AMEND ARTICLE 4, SECTIONS 12, 13 AND 38 OF THE CONSTITUTION OF THE STATE OF DELAWARE TO HARMONIZE THOSE SECTIONS REGARDING THE AUTHORITY OF A JUSTICE UNDER SECTIONS 12, 13 AND 38 TO DESIGNATE STATE JUDGES TO SIT IN VARIOUS COURTS OF THE STATE OR TO DESIGNATE RETIRED STATE JUDGES OR JUSTICES TO TEMPORARILY PERFORM JUDICIAL SERVICE IN THE ABSENCE, DISQUALIFICATION OR INCAPACITY OF THE CHIEF JUSTICE OR A VACANCY IN THAT OFFICE, AND TO HARMONIZE SECTION 13 WITH SECTIONS 2, 3 AND 12 TO MAKE UNIFORM THE REFERENCES THEREIN TO MEMBERS OF THE SUPREME COURT, TO ELIMINATE OBSOLETE REFERENCES IN SECTION 13 TO THE ORPHANS' COURT, WHICH NO LONGER EXISTS, AND TO PROVIDE FOR THE DESIGNATION OF A STATE JUDGE FROM VARIOUS COURTS OF THE STATE TO SIT IN THE COURT OF CHANCERY AND SUPERIOR COURT TO TEMPORARILY PERFORM JUDICIAL SERVICE.

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. Article 4, Section 12 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

'Section 12. A quorum of the Supreme Court shall consist of not less than three Justices. The entire Court shall sit in any criminal case in which the accused has been sentenced to death and in such other civil and criminal cases as the Court, by rule, or the General Assembly, upon the concurrence of two-thirds of all the members elected to each house, shall determine. In case of a lack of quorum by reason of vacancies in their number, incapacity, or disqualification to sit by reason of interest, or to constitute a three-member panel of the Court, the Chief Justice of the Supreme Court, or in case of his absence from the State, disqualification, incapacity, or if there be a vacancy in that office, the next qualified and available Justice, who by seniority is next in rank to the Chief Justice, shall have the power to designate judges from among the judges of the constitutional courts to sit in the Supreme Court temporarily to satisfy the number of Justices required by law. It shall be the duty of the judges of the constitutional courts so designated to sit accordingly. No judge shall be so designated to sit in the Supreme Court in any cause in which he sat below. Any one of the Justices of the Supreme Court may open and adjourn court.'

Section 2. Article 4, Section 13 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

'Section 13. The Chief Justice of the Supreme Court, or in case of his absence from the State, disqualification, incapacity, or if there be a vacancy in that office, the next qualified and available Justice who by seniority is next in rank to the Chief Justice shall be administrative head of all the courts in the State, and shall have general administrative and supervisory powers over all the courts. Such powers shall include but shall not be limited to the following:

(1) Upon the approval of a majority of the Justices of the Supreme Court to adopt rules for the administration of justice and the conduct of the business of any or all the courts in this State: Provided, however, that any other of the courts in this State may from time to time, subject to the exercise of the power in this paragraph (1) conferred upon the Justices of the Supreme Court, adopt rules of pleading practice and procedure applicable to such Court.

(2) Upon written request made by the Chancellor, or in his absence or incapacity by the next qualified and available Vice-Chancellor who by seniority is next in rank to the Chancellor, or upon the written request made by the President Judge of the Superior Court, or in his absence or incapacity by the next qualified and available Associate Judge who by seniority is next in rank to the President Judge, to designate one or more of the State Judges (including the Justices of the Supreme Court) to sit in the Court of Chancery or the Superior Court, as the case may be, and to hear and decide such causes in such Court and for such period of time as shall be designated. It shall be the duty of the State Judge so designated to serve according to such designation as a Judge of the Court designated. The provisions of this paragraph shall not be deemed to limit in any manner the powers conferred upon the judges of the Superior Court under Section 14 of this Article.'

Section 3. Article 4, Section 38 of the Constitution of the State of Delaware of 1897, as amended, is amended to read as follows:

'Section 38. A former State Judge or a former Justice of the Supreme Court, who is retired and is receiving a state judicial pension and who assents to active judicial duty and who is not engaged in the practice of law, upon designation of the Chief Justice of the Supreme Court, or in case of his absence from the State, disqualification, incapacity, or if there be a vacancy in that office, upon designation of the next qualified and available Justice, who by seniority is next in rank to the Chief Justice, shall be authorized to sit temporarily in the court from which he retired or in any other court to which he could be designated under the Constitution and statutes of the State if he still held the judicial position from which he retired. Any person so designated shall receive compensation as the General Assembly shall provide. Nothing herein shall authorize the designation of any former State Judge or a former Justice of the Supreme Court to sit in the Supreme Court except temporarily to fill up the number of that Court to the required quorum. The term "State Judge" as used in this section means a Chancellor or Vice-Chancellor of the Chancery Court or a President Judge or Associate Judge of the Superior Court.'

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 136th General Assembly:

NOW, THEREFORE:

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

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

Approved January 13, 1994.

CHAPTER 176

FORMERLY

HOUSE BILL NO. 377

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF §107(a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF THOMAS EDWARD MILLER AND SVETLANA TRIPHONOVA.

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

Section 1. Thomas Edward Miller and Svetlana Triphonova are hereby exempted from the provisions of 13 Del.C. §107(a) which states that nonresidents of the State of Delaware must obtain a marriage license at least ninety-six (96) hours prior to the time of the ceremony. The Clerk of the Peace for New Castle County shall issue to Thomas Edward Miller and Svetlana Triphonova one official marriage license pursuant to this Act, the provisions of 13 Del.C. §107(a) to the contrary notwithstanding.

Approved January 27, 1994.

CHAPTER 177

FORMERLY

SENATE BILL NO. 151

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

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO FISHING SEASONS.

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

Section 1. Amend Title 7 of the Delaware Code by deleting §939(a) and replacing said section with the following:

"(a) Notwithstanding §938 of this Title, it shall be unlawful for any person to possess or retain more than 3 tautog (*Tautoga onitis*) during the period beginning at 12:01 a.m. on April 1 through and including midnight on June 30 next ensuing except that an individual who free dives without the aid of an underwater mechanical breathing device may take by spear and possess not more than 10 Tautog per day during this period.

Notwithstanding §929 (b)(7) of this title, it shall be unlawful to possess any tautog during the period beginning at 12:01 a.m. on April 1 through and including midnight on June 30, next ensuing, which measures less than 15 inches long in total length."

Approved February 4, 1994.

CHAPTER 178

FORMERLY

SENATE BILL NO. 218
 AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1 AND
 SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTERS 4, 6 AND 51, TITLE 24 OF THE DELAWARE CODE RELATING TO COSMETOLOGY AND BARBERING.

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

Section 1. Amend Title 24 of the Delaware Code by striking Chapters 4 and 6 in their entirety and also striking Chapter 51 in its entirety and substituting in lieu thereof the following:

"CHAPTER 51. COSMETOLOGY AND BARBERING AND CERTIFICATION OF AESTHETICIANS.

Subchapter 1. Board of Cosmetology and Barbering

§5100. Objectives.

The primary object of the Board of Cosmetology and Barbering, 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 artificially 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 competency; 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, both licensed and unlicensed.

§5101. Definitions.

As used in this Chapter:

(1) 'Apprentice' means any person who is engaged in the learning of any or all the practices of cosmetology, barbering, nail technology, or electrology from a practitioner licensed in the profession the apprentice is studying. The apprentice may perform or assist the licensed practitioner in any of the functions which the practitioner is licensed to perform.

(2) 'Barber' means any person licensed under this Chapter who, for a monetary consideration, shaves or trims beards, cuts or dresses hair, gives facial or scalp massaging, treats beards or scalps with preparations made for this purpose or dyes hair.

(3) 'Cosmetologist' means any person licensed under this Chapter, who is not an apprentice or student practicing cosmetology, who shall have the qualifications provided for by this Chapter.

(4) 'Cosmetology' includes any or all work done for monetary compensation by any person, which work is generally and usually performed by cosmetologists. Such work shall include, but not be limited to, the embellishment, cleansing and beautification of the human hair, such as arranging, dressing, curling, waving, cutting, bleaching or coloring, the removal of superfluous hair and nail technology. The term 'cosmetology' shall also include, but not be limited to, the massaging, stimulating or beautifying, or similar work, of the scalp, face, arms, hands or the upper body. All work performed under the definition of 'cosmetology' may be done by hand or by mechanical or electrical devices and may include the use of cosmetic preparations, tonics, lotions or creams.

(5) 'Nail Technician' means any person licensed under this Chapter who engages only in the practice of manicuring, pedicuring or sculpting nails, including acrylic nails, of any person.

(6) 'Instructor' shall mean any person licensed under this Chapter who is a cosmetologist, barber, electrologist or nail technician, who teaches cosmetology, barbering, electrology or nail technology in a duly registered school of cosmetology, barbering, electrology or nail technology.

(7) 'Beauty salon' means any place or part thereof wherein cosmetology, barbering, electrology, or nail technology, or any of its practices, are practiced, whether such place is known or designated as a cosmetological establishment, beauty salon or barber shop, nail salon or electrology establishment, or where the person practicing cosmetology, barbering, nail technology, or electrology therein holds himself or herself out as a cosmetician, cosmetologist, beauty culturist, barber, nail technician, or electrologist, or by any other name or designation indicating that cosmetology or barbering is practiced therein.

(8) 'School of cosmetology', 'School of electrology', 'School of Nail Technology', 'School of Barbering' shall mean any place or part thereof where cosmetology, barbering, electrology, nail technology or any of the practices are taught, whether such place or establishment is known or designated as a cosmetological establishment, barbering school, beauty culture school, school of electrology, or by any other name or designation, indicating that cosmetology, barbering, electrology or nail technology is taught therein to students.

(9) 'Classroom hour' is defined as 50 minutes of each 60 minute hour.

(10) 'Board' means and refers to the Delaware State Board of Cosmetology and Barbering, as provided for in this Chapter.

(11) 'Electrologist' shall mean any person licensed under this Chapter who, for a monetary consideration, engages in the removal of superfluous hair by use of specially designed electric needles.

§5102. Authority to regulate.

The Board of Cosmetology and Barbering shall regulate persons performing any of the functions outlined in the duties of a cosmetologist, barber, electrologist, nail technician, or instructor.

§5103. License requirement; applicability of chapter.

No person shall practice cosmetology, barbering, electrology, nail technology, or act as an instructor in this State, who has not been licensed in accordance with this Chapter. Under such rules and regulations as the Board may adopt, this Chapter shall not be construed to prohibit practice by:

1. Persons who are licensed to practice cosmetology, barbering, electrology or nail technology in any other state, district or foreign country who, as practicing cosmetologists, barbers, electrologists, or nail technicians enter this State to consult with a cosmetologist, barber, electrologist or nail technician of this State. Such consultation shall be limited to less than thirty days in any calendar year.

2. Any student of an accredited school of cosmetology, barbering, electrology or nail technology, who is receiving practical training under the personal supervision of a licensed instructor in cosmetology, barbering, electrology or nail technology.

3. Any cosmetologist, barber, electrologist or nail technician, commissioned by any of the armed forces of the United States, or by the Public Health Service.

4. Individuals licensed under this Chapter from performing those services for which they are licensed in a health care institution, funeral home, or in the residence of a home-bound person.

5. Persons employed to render cosmetology or hairstyling services in the course of, and incidental to, the business of employers engaged in the theatrical, radio, television, or motion picture production industries, modeling or photography.

§5104. Appointment; composition; qualifications; term of office; suspension or removal; compensation; continuation of former Board.

(a) The Board of Cosmetology and Barbering shall consist of 9 members appointed by the Governor, 6 members, who shall be licensed in accordance with this Chapter, and 3 public members. To serve on the Board, a public member shall not be, nor ever have been, a cosmetologist, barber, electrologist, nail technician, or aesthetician; nor a member of the immediate family of a cosmetologist, barber, electrologist, nail technician or aesthetician; shall not have been employed by a cosmetologist, barber, electrologist, nail technician, or aesthetician; shall not have had a material or financial interest in the providing of goods and services to a cosmetologist, barber, electrologist, nail technician, or aesthetician; nor have been engaged in an activity directly related to cosmetology, barbering, electrology, nail technology, or aesthetics. 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 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 Board shall hold office for the remainder of the unexpired term of the former member.

(c) A person who has never served on the Board may be appointed to serve on the Board for two consecutive terms, but no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for 6 years within any 9 year period, shall again be appointed to the Board until an interim period of at least 1 term has expired since such person last served.

(d) Every person who is a member of the Board of Cosmetology and Barbering on the effective date of this Chapter shall continue to serve until the expiration of his or her term. Any vacancy occurring in the membership of the former Board shall be filled in accordance with the provisions of this Chapter.

(e) Any act or vote by a person appointed in violation of subsection (c) of this section 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) of this section, unless such amendment or revision amends this section to permit such an appointment.

(f) 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.

(g) No member of the Board of Cosmetology and Barbering, while serving on the Board, shall be a president, chairperson or other official of a professional cosmetology, barbering, nail technology or electrology association.

(h) The provisions set forth for 'employees' in Chapter 58 of Title 29, Del. C., shall apply to all members of the Board, and to all agents appointed or otherwise employed by the Board.

(i) Board members shall receive not more than \$50 for each meeting attended, nor more than \$500 maximum per member in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

§5105. Officers; meetings; quorum.

(a) In the same month of each year the members shall elect, from among their number, a President, a Vice President and a Secretary for one year. Each officer shall serve for 1 year, and may succeed himself or herself in the same office for one additional term. In the event that the President

shall leave the Board, the Vice President shall become President and an election shall be held within 90 days.

(b) The Board shall hold a regularly scheduled business meeting at least once in each quarter of a calendar year, and at such other times as the President deems necessary or at the request of a majority of Board members.

(c) A majority of members shall constitute a quorum; and no action shall be taken without the affirmative vote of a majority of the quorum. Any member who fails to attend 3 consecutive regular business 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 by the Governor.

(d) Minutes of all meetings shall be recorded, and copies of the minutes shall be maintained by the Division of Professional Regulation. At any hearing where evidence is presented, such hearing shall be recorded by a court reporter and any stenographic transcript requested shall be at the expense of the party making the request.

§5106. Powers and duties.

(a) The Board of Cosmetology and Barbering shall have the power to:

(1) Formulate rules and regulations, with appropriate notice given. Each rule or regulation shall implement or clarify a specific section of this Chapter;

(2) Designate and process the application form to be used by all applicants; however, no application form shall require a picture of the applicant, require information relating to citizenship, race, place of birth or length of state residency; nor shall it require personal references;

(3) Designate a written examination, prepared by either a national professional association or by a recognized legitimate national testing service;

(4) Provide for the administration of all examinations, subject to the approval of the Division of Professional Regulation, including notice and information to applicants;

(5) Design and administer practical examinations, subject to the approval of the Division of Professional Regulation, for cosmetology, nail technology, barbering and electrolysis, only;

(6) Grant licenses to all persons who meet the qualifications for licensure under this Chapter and who, in addition, have paid the appropriate fees as determined by the Division of Professional Regulation and approved by the General Assembly;

(7) Grant temporary work permits to all persons who qualify. Rules and regulations for the issuance of work permits shall be established by the Board;

(8) Receive complaints from practitioners and from the public concerning practitioners, in accordance with the investigative policy of the Division of Professional Regulation in §8810, Title 29, Delaware Code; and take such action within its powers as the Board deems appropriate;

(9) 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;

(10) Where it has been determined after a disciplinary hearing that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty, after time for appeal has lapsed;

(11) Bring proceedings in the courts for the enforcement of this Chapter;

(12) Take such action outlined in §5116 of this Title with regard to unlicensed practitioners.

(13) Establish by rule and regulation the curriculum to be completed by an instructor for any of the professions regulated by this Chapter.

§5107. Qualifications of applicant: judicial review: report to Attorney

General.

All persons applying for a license to practice under this Chapter shall have:

(1) Successfully completed an education equivalent to a tenth grade education. Instructors shall have successfully completed an education equivalent to completion of the twelfth grade. Proof of the required education shall be a certified high school transcript or any other document or affidavit which constitutes reliable proof of educational attainment. This requirement shall not apply to those students enrolled in a school of instruction for any of the practices for which a license is required under this Chapter or for any registered apprentices at the time this law is enacted;

(2) Passed a written and practical examination to the satisfaction of the Board;

(3) Paid the appropriate fee as established by the Division of Professional Regulation. In addition, except as otherwise provided for in this Chapter, no individual shall be permitted to sit for an examination or shall be granted a license to practice in any of the professions regulated by this Chapter, unless he/she meets the following education requirements, or has successfully completed an apprenticeship. The requirements are for:

(a) Cosmetologists and Barbers - The successful completion of a minimum of 1,500 classroom hours of continuous training for a complete course in either barbering or cosmetology. School owners shall have the option of the amount of hours of training per day not to exceed 10 hours and shall be able to choose which days of the week the student works provided the hours accumulated do not exceed 40 hours per week; however, upon a written agreement signed by the school owners and the student, the student may work more than 10 hours per day or 40 hours per week; or,

(b) Apprentice cosmetologists or barbers - The completion of 3,000 hours in an apprenticeship, to either a licensed cosmetologist or barber, with the total number of hours worked per day not to exceed ten hours, nor to exceed 40 hours per week, unless a written agreement to exceed these limits is signed by the licensed cosmetologist or barber and the apprentice; or,

(c) Nail Technicians - The successful completion of a course of training in nail technology of not less than 125 hours in a school of nail technology or cosmetology; or successful completion of 250 hours as an apprentice under the supervision of a licensed nail technician. In either case, training is not to exceed 10 hours per day or 40 hours per week. However, upon a written agreement signed by the school owner and the student, the student may work more than 10 hours per day or 40 hours per week; or,

(d) Electrologists - The successful completion of a course of training in electrology of not less than 300 hours in a school of electrology or cosmetology, or successful completion of 600 hours as an apprentice under the supervision of a licensed electrologist. In either case, training is not to exceed 10 hours per day or 40 hours per week. However, upon a written agreement signed by the school owner and the student, the student may work more than 10 hours per day or 40 hours per week; or,

(e) Students - Any school of cosmetology, barbering, electrology or nail technology which enrolls a student shall file with the Board the name of such student. The Division of Professional Regulation shall keep a register of all enrolled students. Each student shall be at least 16 years of age at the time of enrollment.

(f) Instructors - The successful completion of a course in cosmetology or barbering, consisting of at least 500 hours of instruction in a registered school of cosmetology or barbering; or, at least 2 years' experience as an active licensed, practicing cosmetologist or barber, supplemented by at least 250 hours of instruction in cosmetology or barbering. Proof of education or experience shall be provided to the satisfaction of the Board.

(4) When a person who feels the Board has refused or rejected his or her application without justification; has imposed higher or different conditions for him or her than for other applicants, or persons now licensed; or, has in some other manner contributed to or caused the failure of such person's application, the applicant may appeal to Superior Court.

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.

§5108. Examinations

(a) Written and practical examinations for licensure in any of the categories of licensure contained in this Chapter shall be professionally developed and used on a national basis. If the required written or practical examination cannot be procured from a professional testing service, the Board may develop the written or practical examination subject to the approval of the Division of Professional Regulation.

(b) No board member or designee of the Board may administer a practical examination to a student from an educational institution or commercial establishment where the Board member or designee of the Board is employed or has a fiduciary interest therein.

(c) Examination services shall be contracted and approved by the Division of Professional Regulation. Grading will be performed by the contracted testing service where professionally developed examinations are used. All scoring for practical examinations shall be approved by the Division of Professional Regulation.

§5109. Reciprocity.

Where the applicant is already licensed in another state, the Board shall accept the certificate issued by the other state in lieu of all other requirements for licensure provided for in this Chapter, provided that the requirements of that state are equal to or greater than those of Delaware. However, an individual with a license from a State with less stringent requirements than Delaware may obtain a license through reciprocity if he or she can prove, to the satisfaction of the Board, that he or she has worked in the field for which he or she is seeking a license in Delaware for a period of one year before application in Delaware.

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.

§5110. Fees.

The amount to be charged for each fee imposed under this Chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board.

There shall be a separate fee charged for each service or activity; but no fee shall be charged for an activity not specified in this Chapter. The application fee shall not be combined with any other fee or charge. At the beginning of each calendar year, the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute for each separate service or activity, the appropriate fee for the coming year.

§5111. Issuance of license; renewal; inactive status; reinstatement.

(a) Each person who has passed the examinations required by this Chapter, who has been admitted to practice in this State by reciprocity, or

who has otherwise qualified for a license shall, prior to receiving such license, file for and obtain an occupational license from the Division of Revenue, if required, in accordance with Chapter 23 of Title 30, Delaware Code. The Board shall issue a license to each person who has qualified for same under this Chapter. A duplicate license shall be issued to a practitioner licensed under this Chapter upon payment of a fee established by the Division of Professional Regulation. The license shall be clearly marked "DUPLICATE."

(b) Licensees shall be required to renew their licenses on the date set pursuant to subsection (10) of §8803 of Title 29, Delaware Code. Failure to renew the license shall provide grounds for suspension. A license which has been allowed to lapse for less than two years shall be renewed by the Board on payment of a late fee not to exceed two times the regular renewal fee. If a license is allowed to lapse for longer than two years, the applicant must complete one of the following:

(1) a six-month apprenticeship with an individual licensed under this Chapter and in the profession for which the applicant is applying; or,

(2) retake the practical examination for the profession for which a license is being applied; or,

(3) for cosmetology, barbering, electrology, or nail technology, complete a course of instruction at a registered school of cosmetology, barbering, electrology or nail technology, of not less than 500 classroom hours.

(c) Any licensee may, upon his or her written request, be placed in an inactive status. The renewal fee of such person shall be prorated in accordance with the amount of time such person was inactive. Such person may reenter practice upon notification to the Board of his or her intent to do so.

(d) A former licensee, who has been penalized for a 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 all examinations, and pay all appropriate fees before he or she may be licensed.

§5112. Complaints.

(a) The Division of Professional Regulation shall investigate any written complaints concerning practitioners practicing as, or advertising themselves to be, cosmetologists, barbers, electrologists or nail technicians. When it is determined that an individual is practicing cosmetology, barbering, electrology or nail technology without a license, the Board shall apply to the Office of the Attorney General to issue a cease and desist order after formally warning the unlicensed practitioner in accordance with the provisions of this Chapter.

Any complaints involving allegations of unprofessional conduct or incompetence shall be investigated by the Division of Professional Regulation. Complaints involving unsanitary or other conditions, which may harm the health of those receiving the services outlined in this Chapter, shall be investigated by the Division of Public Health.

§5113. Grounds for discipline; procedure.

(a) Practitioners regulated under this Chapter shall be subject to those disciplinary actions set forth in §5114 of this Chapter if, after a hearing, the Board finds that the practitioner has:

(1) employed or knowingly cooperated in fraud or material deception in order to be licensed, or be otherwise authorized to practice cosmetology, barbering, electrology, or nail technology;

(2) been incompetent or negligent in the practice of cosmetology, barbering, electrology or nail technology;

(3) excessively used or abused drugs (including alcohol, narcotics or chemicals);

(4) been convicted of a felony within the past five years;

(5) as a cosmetologist, barber, electrologist, or nail technician, or otherwise in the practice of his or her profession, knowingly engaged in an act of consumer fraud or deception, engaged in the restraint of competition, or participated in price-fixing activities;

(6) violated a lawful provision of this Chapter, or any lawful regulation established thereunder.

(b) Where a practitioner fails to comply with the Board's request that he or she attend a hearing, the Board may petition the Superior Court to order such attendance, and the said Court or any judge assigned thereto shall have jurisdiction to issue such order.

(c) Subject to Subchapter IV of Chapter 101 of Title 29, Delaware Code, no license shall be restricted, suspended or revoked by the Board, and no practitioner's rights 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.

§5114. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the conditions or violations set forth in §5113 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 of the probation;

b. Limit all practice and professional activities to those areas prescribed by the Board;

(4) Suspend any practitioner's license;

(5) Revoke a practitioner'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 of a client or to the public if the licensee is allowed to continue to practice. Such suspension may be appealed to Superior Court.

(d) As a condition of 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.

§5115. Hearing procedures.

(a) If a complaint investigated by the Division of Professional Regulation is alleged to be a violation of §5113 of this Title, the Board shall determine what action to take. If the Board decides not to take any further action, 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 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 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.

(c) Where the practitioner is in disagreement with the action of the Board, he or she may appeal the Board's decision to the Superior Court within 30 days of service, or of the postmarked date of the copy of the decision mailed to him or her. Upon such appeal the Court shall hear the evidence on the record, and the filing of an appeal shall act as a stay of the Board's decision pending final determination of the practitioner's appeal.

§5116. Practicing without a license: penalties.

(a) Where the Board has determined that a person is practicing cosmetology, barbering, electrology, nail technology or instructing in any of the professions for which a license is required under this Chapter, without first having obtained a license to practice, or that a person previously licensed under this Chapter is unlawfully practicing, although his or her 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 practitioner's license.

(c) Where a person not currently licensed as a cosmetologist, barber, electrologist, nail technician or instructor, in any of the professions for which a license is required, is convicted of unlawfully practicing cosmetology, barbering, electrology or nail technology 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 applicable provision(s) of Title 11 of the Delaware Code.

(d) Where a person previously convicted of unlawfully practicing cosmetology, barbering, electrology, nail technology, or instructing in any of the professions for which a license is required under this Chapter, 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.

§5117. Registration of salons and schools.

(a) Any person, firm, corporation or association shall apply to the Board for a certificate of registration as a registered beauty salon,

barbershop, nail salon, electrology establishment, school of cosmetology, barbering, nail technology, or electrology, within the meaning of this Chapter; said application to be upon a form prescribed by the Board, together with the required fees set biennially by the Division of Professional Regulation and approved by the General Assembly. Renewals, with fees set by the Division of Professional Regulation, shall be required biennially. Any beauty salon, barbershop, nail salon, electrology establishment, school of cosmetology, barbering, nail technology, or school of electrology shall fully comply with all the rules and regulations promulgated by the Board as provided for in this Chapter. The Board of Cosmetology and Barbering, by regulation, shall establish the minimum equipment necessary for schools registered to instruct any of the occupations regulated by this Chapter. Nothing contained in this Chapter shall prevent a person from operating a registered beauty salon, barber shop, or nail salon or electrology establishment in his or her home, provided there is full compliance with all applicable health regulations.

(b) No beauty salon, barber shop, nail salon, or electrology establishment shall accept an apprentice unless said salon or shop shall have on its staff at least 1 individual licensed in the profession for which instruction is being provided; further, that such salon or shop may register 1 additional apprentice for each additional licensed professional attached to its staff. In addition, such salon or shop shall possess the necessary apparatus and equipment for the proper instruction in all subjects for the practices for which a license is required under this Chapter; and shall maintain a daily record of the attendance of such apprentice or apprentices, together with the number of hours of apprenticeship; and shall certify to the Board upon termination of such apprenticeship the credits earned. Such instruction shall consist of the necessary training for a complete course comprising all, or the majority, of the practices of cosmetology, barbering, nail technology, and electrology as provided in this Chapter; and such course shall include theoretical studies and practical demonstrations in sanitation, sterilization and other safety measures, and the use of antiseptics, cosmetics and electrical appliances, consistent with the practical and theoretical requirements as applicable to cosmetology, barbering, nail technology and electrology as provided for in this Chapter.

(c) Any person, firm or corporation teaching any or all of the practices of cosmetology, including barbering, nail technology and electrology, shall be required to comply with all provisions applicable to establishments having apprentices; and any and all rules which may be promulgated by the Board established in accordance with this Chapter. No school of cosmetology, barbering, nail technology or electrology or beauty salon, barbershop, nail salon or electrology establishment, shall operate within this State unless a proper certificate of registration under this Chapter has first been obtained. The practice of cosmetology and other professions regulated by this Chapter shall not be taught or practiced in this State, except in a duly registered establishment except as provided for elsewhere in this Chapter.

(d) Nothing contained in this Chapter shall affect the instructional program of cosmetology as conducted in the public schools of this State. Any student, who has successfully completed the prescribed course in cosmetology in a State public school, shall be eligible to take the examinations required by this Chapter.

§5118. Requirements of a school.

(a) Each school of barbering, cosmetology, electrology or nail technology shall employ at least 1 instructor for the first 25 students enrolled, and 1 additional instructor for each additional 25 students enrolled. Each school shall possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum; shall keep a daily record of the attendance of each student; maintain regular class and instruction hours; establish grades and hold examinations before issuance of diplomas. Each school shall require training for a complete course comprising all, or the majority, of the practices regulated under this Chapter, as provided in this Chapter, together with the minimum number of hours therein prescribed, and shall include practical demonstrations and theoretical studies, and study in sanitation, sterilization, other safety measures, and the use of antiseptics, cosmetics and electrical appliances,

consistent with the practical and theoretical requirements as applicable to any practice for which a license is required under this Chapter, as provided in this Chapter.

(b) An instructor shall decide when a student, of any of the practices for which a license or certification is required under this Chapter, is sufficiently competent to perform those services for the public.

(c) Each school for a profession regulated by this Chapter shall display, in a conspicuous place within the clinic area of the school, a sign which shall read as follows:

'ALL SERVICES IN THIS SCHOOL PERFORMED BY STUDENTS WHO ARE IN TRAINING.'

(d) Each school licensed under this Chapter shall afford to its students the full course of instruction required under this Chapter, in default of which a proportionate amount of the tuition paid by the student shall be refunded.

Subchapter II. Aesthetician Certification

§5119. Objectives.

The primary purpose for the certification of aestheticians is to guarantee to the public that each certified practitioner has achieved a minimum level of competence as an aesthetician.

§5120. Definitions.

(a) For the purpose of this Subchapter, a 'certified aesthetician' is a person who is certified under this Subchapter 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) 'Board' means the Board of Cosmetology and Barbering.

(c) 'School' means an institution privately owned and conducted for the purpose of teaching aesthetics.

(d) 'Apprentice in Aesthetics' means any person who is engaged in the learning of any or all the practices of aesthetics from a practitioner certified in the profession the apprentice is studying. The apprentice may perform or assist the certified practitioner in any of the functions which the practitioner is certified to perform.

§5121. Prohibitions.

(a) No person may use the title 'certified aesthetician' unless he or she is certified under this Chapter.

(b) A person may not seek a certification or renewal of certification by means of false or fraudulent actions or misrepresentations.

§5122. Exemptions.

Nothing in this Subchapter shall prohibit:

- 1) A licensed cosmetologist from performing services as an aesthetician;
- (2) A licensed dermatologist from performing services as a dermatologist.

§5123. Records.

The Board shall maintain a register of all applicants for certification. This register shall be available for public inspection. The certification to practice as a certified aesthetician in this State shall be renewed by the certified aesthetician every two years, and shall be renewed upon payment of the renewal fee. The Board shall provide forms

for application for certification and for the renewal of certification. The Board 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 certified aesthetician to notify the Board of any change of address and to renew his or her certification before its expiration. A late fee shall be established by the Division of Professional Regulation and approved by the General Assembly to take effect one month after the expiration date of the certificate. A late fee must be paid before the certificate is renewed.

§5124. Qualifications.

No person shall be certified under this Subchapter unless he or she has:

(1) Completed a course of study of not less than 300 hours in the principles pertaining to the practice of aesthetics; or

(2) Completed 600 hours in an apprenticeship to a certified aesthetician, with the total number of hours worked per day not to exceed ten, nor to exceed 40 per week, unless a written agreement to exceed these limits is signed by the certified aesthetician and the apprentice.

(3) Passed the national examination required in §5125 of this Chapter.

(4) Paid the appropriate fee as established by the Division of Professional Regulation.

§5125. Examinations.

(a) Examinations for certification as aesthetician 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 or its designee shall administer the examination for certification. Grading will be performed by the contracted testing service.

§5126. Complaints.

(a) The Division of Professional Regulation shall investigate any written complaints concerning uncertified practitioners practicing as, or advertising themselves to be, aestheticians. When it is determined that an individual is using the title 'certified aesthetician' without having obtained certification under this Chapter, 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 certified as a certified aesthetician, is convicted of unlawfully using the title 'certified aesthetician' in violation of this Subchapter, such offender shall, upon the first offense, be fined \$50.00 and pay all costs.

(c) Where a person previously convicted of unlawfully practicing aesthetics is convicted of a second or subsequent time of such offense, the fine assessed against such person shall be increased by \$250 for each subsequent offense thereafter.

§5127. Display of certificate.

Each individual certified under this Subchapter shall prominently display his or her certificate issued by the Board 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.

§5128. Fees.

(a) The amount to be charged for each fee imposed under this Subchapter shall approximate and reasonably reflect all costs necessary to defray the proportional expenses incurred by the Division of Professional Regulation in its services pursuant to this Subchapter. 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 Subchapter. 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. The fees are subject to approval by the General Assembly.

(b) In those instances where a national examination is to be taken in Delaware, applicants shall 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 of Professional Regulation. 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.

§5129. Operation of aesthetic schools.

(a) Any school, which holds a current license to conduct a school for the purpose of teaching cosmetology and/or its branches, may apply for approval by the Board 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 has the following:

(1) A clinic room of no less than 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 400 square feet, with armchairs or desks and chairs for a minimum of 25 students. The lecture room must be available for at least one period per day for exclusive use for instruction in aesthetics.

§5130. 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 shall be established by regulation by the Board of Cosmetology and Barbering.

§5131. Instructors.

Every school shall at all times be in the charge, and under the immediate supervision, of an instructor. Instructors shall be competent to teach the principles of aesthetics by having completed an advanced course in aesthetics consisting of a minimum of 600 hours.

§5132. Course of study.

Each school of aesthetics shall maintain a course of study of not less than 300 hours, extending over a period of a maximum of 160 hours a month. Every school shall maintain regular class hours with a daily schedule."

Section 2. The Board of Cosmetology and Barbering shall consist of the members presently serving unexpired terms on the present Board.

Approved February 4, 1994.

CHAPTER 179

FORMERLY

HOUSE BILL NO. 186
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 25 OF TITLE 29, DELAWARE CODE, RELATING TO SUPPLYING
OF LEGAL ADVICE AND COUNSEL TO DELAWARE TECHNICAL AND COMMUNITY COLLEGE.

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

Section 1. Amend §2515 of Chapter 25, Title 29, Delaware Code, by inserting immediately after the word "Delaware State University" and before the word "or" the following: ", Delaware Technical and Community College".

Approved February 4, 1994.

CHAPTER 180
137TH GENERAL ASSEMBLY

HOUSE BILL NO. 370

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO UNCLAIMED DIVIDENDS, INTEREST AND OTHER DISTRIBUTIONS MADE BY ISSUERS OF SECURITIES AND HELD BY FINANCIAL INTERMEDIARIES FOR OWNERS WHOSE IDENTITIES ARE UNKNOWN.

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

Section 1. Amend Section 1198(10), Chapter 11 of Title 12 of the Delaware Code, by inserting after the phrase "personal property" as it appears for the first time in said subsection the following:

"including 'distributions held by financial intermediaries for unknown owners' as that phrase is defined in subsection (11) of this section,"

Section 2. Amend Section 1198, Chapter 11 of Title 12 of the Delaware Code by adding thereto a new subsection (11) to read as follows:

"(11) 'Distributions held by financial intermediaries for unknown owners' means property as generally defined in subsection (10) of this section, which consists of dividends, interest, stock and other distributions made by issuers of securities which are held by financial intermediaries (including, by way of example and not limitation, banks, transfer agents, brokers, and other depositories) for beneficial owners whose identities are unknown."

Section 3. Amend §1201, Chapter 11 of Title 12 of the Delaware Code by striking the word "Ninety" as it appears at the beginning of said section and substituting in lieu thereof the phrase "Except as otherwise provided in subsection (b) of this section, ninety".

Section 4. Amend §1201, Chapter 11 of Title 12 of the Delaware Code by designating existing §1201 as subsection "(a)" of said section and by adding to said section

new subsection "(b)" to read as follows:

"(b) In the case of 'distributions held by financial intermediaries for unknown owners', as defined in §1198(11) of this title, payment or delivery shall be made on or before the date required for filing of the report pursuant to §1199 of this title."

Section 5 Effective Date. Holders of property for which the period of dormancy equals or exceeds five years as of December 31, 1993, shall report and remit or deliver such property by the later of: (a) The date required under Chapter 11 of Title 12 of the Delaware Code as amended by this Act; and (b) A date 21 days from the enactment of this Act into law, subject to an extension of time for payment or delivery based upon reasonable cause shown, such extension period not to exceed 30 days, but in no case later than June 1, 1994. The State Escheator shall not impose penalties under §1192 of Title 12 in the case of such property, provided such property is reported and remitted in accordance with this Act.

Approved February 4, 1994.

CHAPTER 181

FORMERLY

HOUSE BILL NO. 371

AN ACT TO AMEND TITLE 29 DELAWARE CODE AND CHAPTER 107 OF 69 LAWS OF DELAWARE, BEING HOUSE BILL NO. 209, RELATING TO THE REGISTER OF REGULATIONS.

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

Section 1. Amend Chapter 107 of 69 LAWS of Delaware, being House Bill No. 209, by striking Section 6 in its entirety and substituting in lieu thereof the following new sections:

"Section 6. The provisions of Sections 1, 2, & 3 shall become effective January 1, 1994.

Section 7. The provisions of Sections 4 & 5 shall become effective October 1, 1994."

Section 2. Amend §1135 (a), of Chapter 11, Title 29, Delaware Code by inserting immediately after the word "agency," in the first sentence the words "while or".

Approved February 4, 1994.

CHAPTER 182

FORMERLY

HOUSE BILL NO. 307

AN ACT TO AMEND CHAPTER 30, TITLE 9 OF THE DELAWARE CODE RELATING TO THE ISSUANCE OF OCCUPANCY PERMITS.

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

Section 1. Amend §3005(b), Chapter 30, Title 9 of the Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(b) No occupancy permit shall be issued for such building, improvement or structure, or land thereunder, except upon a determination of full compliance with the land subdivision approval. It shall be the responsibility of the County to enforce satisfactory completion of the subdivision."

Approved February 4, 1994.

CHAPTER 183

FORMERLY

HOUSE BILL NO. 337

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

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING TO THE ISSUANCE OF SPECIAL REGISTRATION PLATES.

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 21, Title 21, by adding a new Section 2140 to read as follows:

"(a) The owner of a motor vehicle described in subsection (b) of this section who is a member of a non-profit organization considered eligible by the Division of Motor Vehicles may apply to the Division for the assignment of a special registration plate for such vehicle.

(b) This section applies only to:

- (1) A passenger vehicle; or
- (2) A truck with a three-fourth ton or smaller manufacturer's rated capacity; or
- (3) A van with a three-fourth ton or smaller manufacturer's rated capacity.

(c) The applicant must submit acceptable proof, as required by the Division, that he/she is a member in good standing or is otherwise eligible for the issuance of such special plate.

(d) No fee in addition to the regular annual registration fee required by this title is required. However, upon the initial application for a special plate issued pursuant to this section, a one-time administrative fee of \$10 shall be assessed.

(e) The one-time administrative fee collected pursuant to subsection (d) of this Section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this Section, notwithstanding the provisions of Chapters 13 and 14, of Title 2, Delaware Code to the contrary.

(f) Only one such plate shall be issued to an applicant.

(g) At least 200 applications for special plates must be received from a specific organization before the Division of Motor Vehicles will approve the issuance. However, the minimum number of 200 shall not apply to the following:

- (1) Survivors of Pearl Harbor
- (2) members of university alumni associations, provided that at least 25 applications for special plates must be received from members of a given university alumni association before the Division of Motor Vehicles will approve the issuance of special plates for that particular university alumni association; and
- (3) retired Delaware police officers.

(h) The numbers and letters assigned to these special plates must be such that they can be integrated with the Division's computerized vehicle registration records.

(i) The Division of Motor Vehicles may refuse to issue special registration plates when it is deemed not in the best interest of the State.

(j) The Department upon receipt of any official correspondence from the organization advising that the individual to which a special plate has been issued is no longer affiliated with such organization such special plate shall be forfeited and/or revoked immediately.

(k) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this Section."

Approved February 4, 1994.

CHAPTER 184

FORMERLY

HOUSE BILL NO. 368 AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 10 AND CHAPTER 91, TITLE 9, DELAWARE CODE RELATING TO THE OFFICE OF SHERIFF AND UNIFORM MILEAGE PAYMENTS.

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

Section 1. Amend §2101, Title 10, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §2101 to read as follows:

"§2101. Compensation

The Sheriff of New Castle, Kent and Sussex Counties shall only receive compensation for the performance of their official duties in the form of an annual salary as fixed by their representative county governments. The New Castle County government, the Kent County Levy Court, and the Sussex County Council shall set the annual salaries for each representative Sheriff. The Sheriff shall henceforth not be allowed to keep or retain as additional compensation any fees, costs, allowances and other perquisites paid to or collected by them for any service rendered by them as county officers for any service rendered by them as county officers or rendered by them in the name of their office."

Section 2. Amend §2112, Chapter 21, Title 10, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §2112 to read as follows:

"§2112. Mileage Fees

The Sheriff of each county at the end of each month shall present to the receiver of taxes and county treasurer or the Department of Finance an itemized and verifiable account of all mileage travelled in the performance of every official duty when travelled in other than a county-provided vehicle."

Section 3. Amend §9121, Chapter 91, Title 9, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new §9121 to read as follows:

"§9121. Uniform mileage payments

The authorized mileage rate for officers or employees of the several counties who receive mileage from the respective county governments for miles driven in their private motor vehicles shall be at a rate to be determined by Levy Court or County Council."

Section 4. The provisions of this act shall become effective 30 days after signature of the Governor.

Approved February 4, 1994.

CHAPTER 185

FORMERLY

SENATE BILL NO. 266

AN ACT TO AMEND CHAPTER 197, VOLUME 54, LAWS OF DELAWARE, THE CHARTER OF REHOBOTH BEACH, AS AMENDED, WITH REGARD TO THE PROCEDURES AND LIMITS FOR AUTHORIZING GENERAL OBLIGATION 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. Section 29, Chapter 197, Volume 54, Laws of Delaware, as heretofore amended, be and the same is hereby further amended as follows:

Paragraph (43) is amended by deleting the words and numerals "Two Hundred Fifty Thousand Dollars (\$250,000)" each place where they appear therein and by substituting therefor the words and numerals "One Million Dollars (\$1,000,000)".

Section 2. Section 40, Chapter 197, Volume 54, Laws of Delaware, as heretofore amended, be and the same is hereby further amended as follows:

(a) The second sentence of paragraph "p" is amended and restated in its entirety to read as follows: "If it is determined to sell the said bonds at public sale, the bonds shall be offered for sale to the best and most responsible bidder therefor after such public advertising as the Commissioners shall deem appropriate".

(b) After paragraph "q", the following new paragraph "r" is added:

"r. Notwithstanding the foregoing provisions of this Section, the Commissioners may by Resolution authorize the issuance of bonds or other obligations under this Section for the purposes of refinancing any outstanding bonds or other obligations of the City (including the payment of transaction costs), without the necessity of the special public hearing referred to in paragraph d or the second resolution or the Special Election referred to in paragraph f; provided that the issuance of the refunding obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refunding obligations as the discount rate calculated based on the internal rate of return. The principal amount of the refunding obligations may exceed the outstanding principal amount of the obligations to be refunded. At the time of the issuance of the refunding obligations, there shall be deposited in escrow, pledged to secure the refunded obligations, sufficient monies and/or direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States government, which, without regard to any reinvestment earnings, will be sufficient to pay when due all interest, principal and redemption price on the refunded obligations at maturity or upon earlier call for redemption."

(c) Paragraph "l" is amended and restated in its entirety to read as follows:

"The polling places shall be open from ten o'clock (10:00) in the morning, prevailing time, until six o'clock (6:00) in the evening, prevailing time, on the date set for the Special Election. Persons in the polling place at 6:00 in the evening shall be entitled to vote even though such votes may be cast after 6:00 in the evening."

Approved February 4, 1994.

CHAPTER 186

FORMERLY

SENATE BILL NO. 253

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE RELATING TO PROCESSING AND PAYMENT OF INSURANCE BENEFITS.

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

Section 1. Amend §2118 (B) (b), Chapter 21, Title 21, Delaware Code by inserting the words "in writing" between the word "notified" and the word "by" as they appear in the first sentence of subsection (b) of Section 2118 B.

Approved February 4, 1994.

CHAPTER 187

FORMERLY

SENATE BILL NO. 267

AN ACT TO AMEND CHAPTER 74, TITLE 29 OF THE DELAWARE CODE RELATING TO BONDS AND NOTES OF THE STATE.

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

AMEND §7402(c), Chapter 74, Title 29, Delaware Code by adding the following subsection (6) to the end thereof:

"(6) Any other law to the contrary notwithstanding, the issuing officers, by resolution adopted by unanimous vote may resolve to issue refunding bonds to refund the State's Certificates of Participation (Real Estate Acquisition Program) Series 1989 so long as the other requirements of this section are satisfied and assuming that said Certificates of Participation are treated as the Bonds to be refunded."

Approved February 4, 1994.

CHAPTER 188

FORMERLY

HOUSE BILL NO. 244
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO DELAWARE 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 §535(k), Title 30 of the Delaware Code, by deleting the phrase "were frivolous" as it appears in subparagraph (1)c. of said subsection and substituting in lieu thereof the phrase "indicate such position was frivolous".

Section 2. Amend §537(c), Title 30 of the Delaware Code by deleting said subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c)(1) If more than the correct amount of tax required to be paid under the provisions of §1154 of this title is paid with respect to any payment of remuneration, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Director may by regulations prescribe.

(2) If more than the correct amount of tax required to be paid under the provisions of §1154 of this title is paid or deducted with respect to any payment of remuneration and the overpayment cannot be adjusted under paragraph (1) of this subsection, the amount of the overpayment shall be refunded to the employer, subject to the limitations of paragraph (3) of this subsection, with interest calculated from the 46th day following the date of the claim for the refund, and in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Director may by regulations prescribe.

(3) In the case of an overpayment of tax required to be deducted and withheld under §1151 of this title, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld by the employer."

Section 3. Amend §351, Title 30 of the Delaware Code, by adding immediately after the phrase "Division of Revenue" as it first appears in said section the phrase "after January 1, 1989".

Section 4. Amend Section 540(3), Title 30 of the Delaware Code by striking said subsection in its entirety, and substituting in lieu thereof a new subsection (3) to read as follows:

(3) 'Value' means, in the case of any document granting, bargaining, selling or otherwise conveying any real estate or interest or leasehold interest therein, 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 and ground rents which encumber the interest in real estate and any other interest in real estate conveyed; provided that in the case of a transfer for an amount less than the highest appraised full value of said property for local real property tax purposes, 'value' shall mean the highest such appraised value unless the parties or one of them can demonstrate that fair market value is less than the highest appraised value, in which case 'value' shall mean fair market value, or actual consideration, whichever is greater. A demonstration that the transaction was at arm's length between unrelated parties shall be sufficient to demonstrate that the transaction was at fair market value."

Section 5. Amend §1124(c), Title 30 of the Delaware Code, by adding the following at the end of said subsection:

"For purposes of this subsection, intangible assets of the taxpayer which are treated as held for investment for federal income tax purposes (or would be so treated if such assets were held by an individual) shall

not be considered as property employed by the taxpayer in a business, trade, commerce, profession or vocation carried on in this State. Notwithstanding the foregoing and for purposes of this subsection, assets whose acquisition, management and disposition constitute integral parts of the taxpayer's regular trade or business operations (other than the operations of a taxpayer whose trade or business is that of investing) shall not be considered held for investment."

Section 6. Amend §1902(b), Title 30 of the Delaware Code by adding to said subsection the following new paragraph:

"(15) An entity that is registered as an investment company under the Investment Company Act of 1940, as amended [15 U.S.C. §80a-1 et seq.];"

Section 7. Amend §1902(b) of Title 30 of the Delaware Code by adding to said subsection the following new paragraph:

"(16) An entity that is a real estate investment trust as defined in §856 of the Internal Revenue Code of 1986 [26 U.S.C. §856] as amended."

Section 8. Amend §1124(b) of Title 30 of the Delaware Code by striking paragraph (2) of said subsection and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) The ownership or disposition of any interest in real or tangible personal property in this State (including that percentage of ordinary and capital gain dividends received from a real estate investment trust, as defined in §856 of the Internal Revenue Code [26 U.S.C. §856], that is attributable to rents from real property located in Delaware or gain from the disposition of real property located in Delaware);"

Section 9. Sections 1, 2, and 3 of this Act shall be effective for tax years commencing after December 31, 1991. Sections 4, 5, 6, 7, and 8 of this Act shall be effective upon enactment into law.

Section 10. Except with respect to Sections 7 and 8 of this Act solely in relation to each other, 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 February 4, 1994.

CHAPTER 189

FORMERLY

SENATE BILL NO. 113 AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 11, DELAWARE CODE, RELATING TO ASSAULT IN THE SECOND DEGREE.

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

Section 1. Amend §612, Chapter 5, Title 11, Delaware Code, by adding thereto new subsections (7) and (8) to read as follows:

"(7) He or she intentionally assaults a law enforcement officer while in the performance of his or her duties, with any aerosol or hand sprayed liquid or gas with the intent to incapacitate such officer and prevent him or her from performing such duties.

(8) He or she intentionally, while engaged in commission of any crime enumerated in this chapter, assaults any other person with any aerosol or hand sprayed liquid or gas with the intent to incapacitate the victim."

Approved March 24, 1994.

CHAPTER 190

FORMERLY

HOUSE BILL NO. 376

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO RULES OF THE ROAD TO CLEARLY SPECIFY THAT THE ACT APPLIES TO DRUG OFFENSES.

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

Section 1. Amend §4177A(a), Chapter 41, Title 21, Delaware Code by striking the phrase "which substantially conforms to the charge of" as it currently appears and substituting in lieu thereof the phrase "or local jurisdiction or the District of Columbia which prohibits".

Section 2. Amend §4177H(a), Chapter 41, Title 21, Delaware Code by striking the phrase "which substantially conforms to the provisions of the foregoing code sections".

Approved March 24, 1994.

CHAPTER 191

FORMERLY

HOUSE BILL NO. 265

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 15, CHAPTER 20, SECTIONS 2011, 2041, 2049 TO PROVIDE FOR A UNIFORMED CLOSURE PERIOD FOR REGISTRATION PRIOR TO GENERAL ELECTION.

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

Section 1. Amend §2011, Chapter 20, Title 15 of the Delaware Code by adding at the end of subsection (a) a sentence to read as follows:

"No person shall be permitted to register during the period beginning 20 days before each general election through election day."

Section 2. Amend §2041, Chapter 20, Title 15 of the Delaware Code by deleting the phrase "except during the period from the third Saturday in October of a general election year" and substituting in lieu thereof "except during the period beginning 20 days before each general election."

Section 3. Amend §2049, Chapter 20, Title 15 of the Delaware Code by deleting "from the third Saturday in October of that year" and substituting in lieu thereof "from 20 days before each general election."

Approved March 24, 1994.

CHAPTER 192

FORMERLY

HOUSE BILL NO. 362

AN ACT TO AMEND CHAPTER 19 AND CHAPTER 21, TITLE 14, DELAWARE CODE RELATING TO THE LEVY OF TAXES AND SPECIAL ELECTIONS.

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

Section 1. Amend §1903, Chapter 19, Title 14, Delaware Code by striking the last sentence and substituting the following:

"There shall be not more than 2 such special elections held during any 12 month period."

Section 2. Amend §2122(1), Chapter 21, Title 14, Delaware Code by striking such section and substituting the following:

"(1) There shall be not more than 2 such special elections held during any 12 month period."

Approved March 24, 1994.

CHAPTER 193

FORMERLY

HOUSE BILL NO. 381

AN ACT WAIVING THE STATUTORY PROVISIONS OF SECTION 107(A) OF CHAPTER 1, TITLE 13, DELAWARE CODE AS IT RELATES TO THE MARRIAGE OF MICHAEL L. SZCZECHURA AND CLARA ANNE COLWELL, NON-RESIDENTS OF THE STATE OF DELAWARE.

WHEREAS, Michael L. Szczechura of Newport Beach, California, wishes to marry Clara Anne Colwell of Salisbury, Maryland, both of whom are non-residents of the State of Delaware; and

WHEREAS, the groom to be, a former resident of Delaware, has been recently transferred to Fullerton, California; and

WHEREAS, the couple plan to be married on April 16, 1994, in Delaware; 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. Michael L. Szczechura of Newport Beach, California, and Clara Anne Colwell of Salisbury, Maryland, are hereby exempted from the provisions of §107(a), Chapter 1, Title 13, Delaware Code and are specifically authorized to marry on April 16, 1994, or within 30 days thereafter; the Clerk of the Peace for Kent County shall issue to Michael L. Szczechura and Clara Anne Colwell one 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 March 24, 1994.

CHAPTER 194

FORMERLY

HOUSE BILL NO. 383

AN ACT TO AMEND CHAPTER 217, VOLUME 24, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO INCORPORATE THE TOWN OF MILLVILLE", AS AMENDED, TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF MILLVILLE AND TO PROVIDE A PROCEDURE FOR FUTURE 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. Section 1, Chapter 217, Volume 24, Laws of Delaware, As Amended, is hereby amended to extend the boundaries of the Town of Millville to include the territory bounded and described as follows:

"TRACT I

BEGINNING at a point located on the southeasterly R.O.W. of County Road 349 on the Town of Millville line as scaled from current Sussex County Tax Map #1-34-12;

THENCE along a curve to the right, by and with the southeasterly R.O.W. of County Road 349, having a radius of 1065.25 feet, a central angle of 003 degrees 38 minutes 05 seconds, an arc length of 67.58 feet, and a chord which bears North 46 degrees 27 minutes 34 seconds East to an iron pipe;

THENCE with a curve to the right having a radius of 25.00 feet, a central angle of 093 degrees 01 minutes 06 seconds, an arc length of 40.59 feet, and a chord which bears South 85 degrees 12 minutes 51 seconds East to an iron pipe;

THENCE along a curve to the left, by and with the southwesterly R.O.W. of East Millstone Lane, having a radius 139.11 feet, a central angle of 037 degrees 27 minutes 48 seconds, an arc length of 90.96 feet, and a chord which bears South 57 degrees 26 minutes 14 seconds East to an iron pipe;

THENCE South 76 degrees 10 minutes 06 seconds East a distance of 186.55 feet to an iron pipe;

THENCE along a curve to the right having a radius of 246.85 feet, a central angle of 025 degrees 00 minutes 36 seconds, an arc length of 107.75 feet, and a chord which bears South 63 degrees 39 minutes 49 seconds East to an iron pipe;

THENCE along a curve to the right having a radius of 25.00 feet, a central angle of 090 degrees 00 minutes seconds, an arc length of 39.27 feet, and a chord which bears South 06 degrees 09 minutes 30 seconds East to an iron pipe;

THENCE South 38 degrees 50 minutes 30 seconds West, by and with the northwesterly R.O.W. of Doc's Place, a distance of 72.00 feet to an iron pipe;

THENCE along a curve to the right having a radius of 475.00 feet, a central angle of 018 degrees 59 minutes 24 seconds, an arc length of 157.43 feet, and a chord which bears South 48 degrees 20 minutes 12 seconds West to an iron pipe;

THENCE South 57 degrees 49 minutes 54 seconds West a distance of 110.00 feet to an iron pipe;

THENCE along a curve to the left having a radius of 315.00 feet, a central angle of 000 degrees 19 minutes 23 seconds, an arc length of 1.78 feet, and a chord which bears South 57 degrees 40 minutes 12 seconds West to a point;

THENCE North 27 degrees 40 minutes 14 seconds West, by and with the Town of Millville line as scaled from current Sussex County Tax Map

#1-34-12, a distance of 396.91 feet to the Point of Beginning, said parcel contains 2.09 Acres of land, being the same, more or less.

TRACT 2 - Beebe Medical Center

BEGINNING at a point located on the northerly R.O.W. of State Rt. 26, said point being a corner for this parcel and lands N/F Renal F. Bryner, Jr., et ux.;

THENCE North 64 degrees 40 minutes 06 seconds West, by and with the northerly R.O.W. of State Rt. 26, a distance of 450.00 feet to a point;

THENCE along a curve to the right, by and with the southeasterly R.O.W. of Doc's Place, having a radius of 25.00 feet, a central angle of 090 degrees 00 minutes 00 seconds, an arc length of 39.27 feet, and a chord which bears North 19 degrees 40 minutes 06 seconds West to a point;

THENCE along a curve to the right having a radius of 265.00 feet, a central angle of 032 degrees 30 minutes 00 seconds, an arc length of 150.32 feet, and a chord which bears North 41 degrees 34 minutes 54 seconds East to a point;

THENCE North 57 degrees 49 minutes 54 seconds East a distance of 110.00 feet to a point of curve;

THENCE along a curve to the left having a radius of 525.00 feet, a central angle of 018 degrees 59 minutes 24 seconds, an arc length of 174.00 feet, and a chord which bears North 48 degrees 20 minutes 12 seconds East to a point;

THENCE South 37 degrees 00 minutes 00 seconds East, by and with Lots 52, 51, 50 and 49, Creekside Subdivision, a distance of 256.11 feet to a point;

THENCE South 64 degrees 40 minutes 06 seconds East, by and with Lots 49 and 48, a distance of 100.00 feet to an iron pipe;

THENCE South 29 degrees 09 minutes 35 seconds West, by and with lands N/F Renal F. Bryner, Jr., et ux., a distance of 301.34 feet to the Point of Beginning, said parcel contains 3.41 Acres of land, being the same, more or less."

Section 2. This annexation shall become effective upon recording of the description and a plot of the territories so annexed in the Office of the Recorder of Deeds, in and for Sussex County. The territories considered for annexation shall be considered to be a part of the Town of Millville from the time of recordation; the failure to record a description or plot of the territories so annexed within ninety (90) days of the effective date of the remainder of this Act shall make the annexation invalid.

Section 3. Section 1, Chapter 217, Volume 24, Laws of Delaware, As Amended, is further amended by adding at the end of the existing section the following:

"ANNEXATION OF TERRITORY

Section 1. In the event it becomes feasible and necessary in the future for The Town of Millville to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful:

(a) If all of the property owners of a territory contiguous to the then existing corporate limits and territory of The Town of Millville, by written Petition with the signature of each such Petitioner duly acknowledged, shall request the Town Commissioners to annex that certain territory in which they own property, the President of The Town of Millville shall appoint a Committee composed of not less than three (3) of the elected members of the Town Commissioners to investigate the possibility of annexation. The Petition presented to the Town Commissioners shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the President, as aforesaid,

the Committee shall submit a written Report containing its findings and conclusions to the President and Commissioners of Millville. The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville 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 President concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Commissioners of Millville may then pass a second Resolution annexing such territory to The Town of Millville. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the Town Commissioners. In the event that the Committee appointed by the President concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the procedure to be followed shall be the same as hereinafter provided as if the annexation were proposed by five (5) or more property owners but less than all the property owners of a territory contiguous to the then limits and territory of The Town of Millville.

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

(1) Not later than ninety (90) days following its appointment by the President, as aforesaid, the Committee shall submit a written Report containing its findings and conclusions to the President and the Town Commissioners of Millville. The Report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville 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 President concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, within thirty (30) days after receiving a report, a second Resolution shall then be passed by the Town Commissioners proposing to the property owners and residents of both The Town of Millville and the territory proposed to be annexed that the Town proposes to annex certain territory contiguous to its then limits and territory. In the event that the Committee appointed by the President concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution proposing annexation to the property owners and residents shall require the affirmative vote of two-thirds (2/3) of all the elected members of the Town Commissioners. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the Town Commissioners, the territory proposed to be annexed shall not again be considered for annexation for a period of one (1) year from the date that the Resolution failed to receive the required affirmative vote. The second Resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The Resolution adopted by the Town Commissioners setting forth the above information shall be printed in a newspaper having a general circulation in The Town of Millville at least one (1) week prior to the date set for the public hearing, or, at the discretion of the Town Commissioners, the said Resolution shall be posted in four (4) public places both in The Town of Millville and in the territory proposed to be annexed.

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

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

(4) At the Special Election, every property owner, whether an individual, partnership or a corporation both in The Town of Millville and in the territory proposed to be annexed shall have one (1) vote. Every citizen of either The Town of Millville or of the territory proposed to be annexed over the age of eighteen (18) years who is not a property owner shall have one (1) vote. In the case of property owned by more than one (1) person, firm or corporation or any combination thereof whether as tenants in common, joint tenants, or as tenants by the entirety, each such joint owners shall have one (1) vote. In the event that a person owns property or has an ownership interest in property both in The Town of Millville and in the territory proposed to be annexed and resides in either place, he may vote only where he resides. In the event that a person owns property both in The Town of Millville and in the territory proposed to be annexed but does not reside in either place, he may vote only in The Town of Millville and not in the territory proposed to be annexed. Property owners whose property is exempt from taxation or is not assessed for taxation shall not be entitled to vote. The books and records of The Town of Millville in the case of property owners and citizens of the Town and the books and records of the Board of Assessment of Sussex County in the case of property owners and residents of the territory proposed to be annexed shall be conclusive evidence of the right of such property owners and citizens to vote at the Special Election.

(5) In the event that an individual holds an unrevoked Power of Attorney duly executed specifically authorizing the said individual to vote at the said Special Election, an executed copy of the Power of Attorney shall be filed in the Office of The Town of Millville. Said Power of Attorney so filed shall constitute conclusive evidence of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election.

(6) The Town Commissioners of The Town of Millville shall cause voting machines to be used in the Special Election, the form of ballot to be printed as follows:

[] For the proposed annexation

[] Against the proposed annexation.

(7) The President of The Town of Millville shall appoint three (3) persons to act as a Board of Special Election, at least one (1) of whom shall own property in The Town of Millville and at least one (1) of whom shall own property in the property proposed to be annexed. One (1) of the said persons so appointed shall be designated the Presiding Officer. Voting shall be conducted in a public place as designated by the Resolution calling the Special Election. The Board of Special Election shall have available, clearly marked, two (2) voting machines. All votes cast by those persons, partnerships or corporations authorized to vote as residents or property owners in the territory proposed to be annexed shall be accomplished on one such voting machine and all ballots cast by those persons, partnerships, or corporations who are authorized to vote as residents or property owners of The Town of Millville shall be accomplished on the other such voting

machine. The polling place shall be open from one o'clock in the afternoon, prevailing time until five o'clock in the afternoon, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time of the closing of the polls.

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

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

(c) If the territory proposed to be annexed includes only territory which is exempt from taxation or which is not assessed on the books of the Board of Assessment of Sussex County, no election shall be necessary and the Town Commissioners of The Town of Millville may proceed to annex such territory by receiving a certified copy of a Resolution requesting such annexation if such property is owned by a corporation or by a written Petition with the signature of each such Petitioner duly acknowledged if such property is owned by an individual, requesting the Town Commissioners to annex that certain territory in which they own property. The certified copy of the Resolution or the Petition shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Upon receipt of the certified copy of the Resolution or the Petition, the President of the Town of Millville shall appoint a committee composed of not less than three (3) of the elected members of the Town Commissioners to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the President, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the President and Town Commissioners of Millville. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to The Town of Millville 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 President concludes that the proposed annexation is advantageous both to the Town and to the territory proposed to be annexed, the Town Commissioners of Millville may then pass a second Resolution annexing such territory to The Town of Millville. Such Resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the Town Commissioners. In the event that the Committee appointed by the President concludes that the proposed annexation is disadvantageous either to the Town or to the territory proposed to be annexed, the Resolution shall be passed by three-fourths (3/4) of all the elected members of the Town Commissioners. If the Resolution fails to receive the required number of votes, no part of the territory proposed for annexation shall again be proposed for annexation for a period of one (1) year from the date that the Resolution failed to receive the required votes. If the Resolution

receives the required number of votes, the Town Commissioners of The Town of Millville shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Sussex County, and in no event shall such recordation be completed more than ninety (90) days following the passage of the Resolution. The territory considered for annexation shall be considered to be a part of The Town of Millville from the time of recordation. The failure of the Town Commissioners to record the description and plot within the time hereinbefore specified shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the passage of the Resolution."

Approved March 24, 1994.

CHAPTER 195

FORMERLY

SENATE BILL NO. 139 AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CASUALTY INSURANCE CONTRACTS.

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

Section 1. Amend Title 18 of the Delaware Code by adding a new section as follows:

"§3916. Unfair trade practices. No insurance company, domestic or foreign, or any agent or employee shall require that automobile glass repair or replacement work must be performed by a particular facility, individual, or business establishment as a condition of payment of a claim."

Approved March 29, 1994.

CHAPTER 196

FORMERLY

HOUSE BILL NO. 21
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1 TO 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 Chapter 23, §2301(9), Title 19, Delaware Code by adding an additional sentence at the end of the subsection to read as follows: "Inmates in the custody of the Department of Correction, inmates on work release who participate in the Prison Industries Program or other programs sponsored for inmates by the Department of Correction pursuant to 11 Del. C., Chapter 65 or other applicable Delaware law shall not be considered employees of the State of Delaware for purposes of this title or otherwise be eligible for workmen's compensation benefits unless said inmate is employed by an employer other than the State or a political subdivision thereof."

Approved March 31, 1994.

CHAPTER 197

FORMERLY

HOUSE BILL NO. 212
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21, DELAWARE CODE TO PERMIT ISSUANCE OF INSURANCE I.D.
CARDS FOR ONE YEAR IF THE INSURANCE HAS BEEN PAID IN ADVANCE FOR ONE YEAR.

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

Section 1. Amend Title 21, Delaware Code, Chapter 21, Section 2118(o) by adding the following sentence after the sentence "The insurance identification card shall be valid for a period not to exceed six months":

"Notwithstanding this limitation, an insurance identification card may be issued for a period of twelve months if premium has been paid for the twelve-month period."

Section 2. This Act shall become effective three months after its enactment into law.

Approved March 31, 1994.

CHAPTER 198

FORMERLY

HOUSE BILL NO. 170
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 11 OF THE DELAWARE CODE PERTAINING TO
NONCOMPLIANCE WITH CONDITIONS OF BAIL.

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

Section 1. Amend §2113, Chapter 21, Title 11 of the Delaware Code by striking all words at the beginning of subsection (c) starting with the word "If" and ending with the words "punished as follows", and substituting in lieu thereof the following:

"If the accused knowingly fails to appear as required or knowingly breaches any condition of his release, each such failure or breach shall be a separate crime, and upon conviction thereof shall be punished as follows:"

Approved March 31, 1994.

CHAPTER 199

FORMERLY

HOUSE BILL NO. 24
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14, DELAWARE CODE, CHAPTER 40 RELATING TO FAIR SHARE FEES AND THE PUBLIC SCHOOL EMPLOYMENT RELATIONS ACT.

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

Section 1. Amend Title 14, Delaware Code, Chapter 40, §4002 by adding new subsections to read as follows:

"(s) 'Fair Share Fee' means a fee that a nonmember shall be required to pay to the exclusive representative to offset his or her per capita share of the exclusive representative's expenditures. Such fee shall be equal in amount to regular membership dues that a member of the exclusive representative is required to pay, including payments to the exclusive representative's affiliated organizations, or such lesser amount as is prescribed by the exclusive representative in compliance with the procedures contained herein.

(t) 'Nonmember' means an employee of a public school employer who is not a member of the exclusive representative, but who is represented in a collective bargaining unit by the exclusive representative for purposes of collective bargaining."

Section 3. Amend Title 14, Delaware Code, Chapter 40 by adding a new §4019 which shall read as follows:

"§4019. Fair Share Fees.

(a) If the provisions of a collective bargaining agreement so provide, each nonmember of a bargaining unit shall be required to pay the exclusive representative a fair share fee.

(b) To implement fair share fee agreements in accordance with subsection (a), the exclusive representative shall provide the public school employer with the name of each nonmember who is obligated to pay a fair share fee, the amount of the fee that he or she is obligated to pay, and a reasonable and lawful schedule for deducting said amount from the salary or wages of such nonmember. The public school employer shall deduct the fee in accordance with said schedule and promptly transmit the amount deducted to the exclusive representative.

(c) As a precondition to the collection of fair share fees, the exclusive representative shall establish and maintain a procedure that (i) provides nonmembers with an adequate explanation of the basis for the fee, (ii) provides nonmembers with a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker, and (iii) provides an escrow for the amounts reasonably in dispute while such challenges are pending. A public school employer shall not refuse to carry out its obligations under subsection (b) on the grounds that the exclusive representative has not satisfied its responsibilities under this subsection.

(d) Since fair share fees are collected each school year, in order to avoid undue delays in the receipt of, and determination of the validity of, fair share fees, any suit challenging a fair share fee must be filed within six months after receipt of the notice described in subsection (c), or within six months after the nonmember exhausts the procedure described in subsection (c), whichever is later."

Section 4. If any clause, sentence, paragraph or part of this act, or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act and the application of such provision to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof, directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstances involved. It is hereby declared

to be the legislative intent that this act would have been adopted had such invalid provisions not been included.

Approved March 31, 1994.

CHAPTER 200

FORMERLY

SENATE BILL NO. 173 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 40, TITLE 14 OF THE DELAWARE CODE RELATING TO THE PUBLIC SCHOOL EMPLOYMENT RELATION ACT.

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

Section 1. Amend Title 14, Chapter 40 Section 4004(c), Delaware Code, by deleting the second sentence as it appears in this section and substituting the sentence,

"Such authorization is revocable at the employee's written request, provided that said revocation shall not be effective until the next ensuing August 31 after the employer's receipt of the written notice."

Approved March 31, 1994.

CHAPTER 201

FORMERLY

SENATE BILL NO. 282

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF §107(c), TITLE 13 OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF JEFFREY TODD AND MICHELE TIGUE.

WHEREAS, Jeffrey Todd and Michele Tigue of New Castle County are scheduled to be married on June 18, 1994; and

WHEREAS, Jeffrey Todd will be leaving for flight training for the U. S. Navy on April 18, 1994, and will not be able to obtain a marriage license less than 30 days prior to the ceremony, as required by law.

NOW, THEREFORE:

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

Section 1. Jeffrey Todd and Michele Tigue are hereby exempted from the provisions of §107(c), Title 13, Delaware Code, and are specifically authorized to marry on June 18, 1994, or within 30 days thereafter. The Clerk of the Peace of New Castle County shall issue to Jeffrey Todd and Michele Tigue one official marriage license pursuant to this Act, the provisions of §107(c), Title 13, Delaware Code, to the contrary notwithstanding.

Approved March 31, 1994.

CHAPTER 202

FORMERLY

HOUSE BILL NO. 410

AN ACT TO AMEND CHAPTER 137, VOLUME 61, LAWS OF DELAWARE, AS AMENDED, TO PROVIDE A PROCEDURE FOR CHANGING THE STREET STRUCTURE OF THE TOWN OF DELMAR.

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 137, Volume 61, Laws of Delaware, as amended, by adding a new Section thereto following Section 30 to be designated as "Section 30A" to read as follows:

"STREETS

Section 30A.

(a) The Town Council shall have the power and authority to locate, lay-out and open new streets and to widen, close or abandon streets or a part thereof, whenever it shall be deemed to be in the best interest of the Town.

(b) In every case, the procedure to be followed in respect thereto shall be as follows: The Town Council shall adopt a Resolution favorable to the opening of such new street or to the widening or altering of a street or to the vacating, abandoning or closing of a street or any part thereof, as the case may be. The Resolution shall give a general description of the street to be opened, widened or altered or of the street, or part thereof, to be vacated, abandoned or closed, as the case may be. The Resolution shall also state the day, hour and place where the Town Council will sit to hear objections and to award just and reasonable compensation to anyone who will be deprived of his property by reason thereof.

(c) A copy of the Resolution setting forth the information shall be printed in a newspaper of general circulation in The Town of Delmar at least one (1) week prior to the date set for the public hearing, or, at the discretion of the Town Council, the said Resolution shall be posted in five (5) public places in the Town at least thirty (30) days prior to the date fixed by the Town Council for the hearing, as aforesaid.

(d) At the time and at the place fixed in the Resolution, the Town Council shall hear such residents or taxables of the Town, or the owners of property affected thereby, as shall attend the hearing. After hearing all objections, the Town Council shall, at said meeting, or at a subsequent date, as it may deem proper, adopt the Resolution to proceed with or abandon the proposed locating, laying-out, widening, altering, vacating, abandoning or closing of any streets or any part thereof contemplated in its aforementioned prior Resolution.

(e) 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 Delmar on a warrant drawn upon him by authority of the Town Council, as aforesaid, upon delivery of a good and sufficient deed conveying a fee simple title thereto unto The Town of Delmar, which title shall be free and clear of all liens and encumbrances.

(f) If anyone who shall be deprived of his property by virtue thereof be dissatisfied with the compensation awarded by the Town Council, as aforesaid, such property owner may, within thirty (30) days after the award by the Town Council, as aforesaid, appeal from such award by serving written notice to that effect upon the Secretary of the Town Council or the Mayor of The Town of Delmar, or in their absence from the Town, upon any member of the Town Council.

(g) In order to prosecute said appeal, such property owner shall, within ten (10) days after the award of the Town Council, as aforesaid, apply to the Resident Judge of the Superior Court of the State of Delaware, in and for Sussex County, or should he be absent from the County during that time, such application shall be made to any other Judge of the Superior Court, for the appointment of freeholders to hear and determine the matter of compensation due such property owner by virtue of the deprivation of its property, as aforesaid. Thereupon, the said Resident Judge, or any Judge of the Superior Court, as aforesaid, shall issue a commission under his Hand directed to five (5) impartial freeholders of Sussex County, commanding them to determine and fix the damages which the said property owner shall have sustained by reason of being deprived of his property, as aforesaid. The freeholders, so appointed, shall take into consideration the benefits or advantages that will enure to the said property owner from any such new street, or otherwise. The freeholders, so appointed, shall make a return of their findings to the said Resident Judge, or other Judge of the Superior Court, as aforesaid, at a time appointed in said Commission.

(h) The freeholders so appointed shall give notice of the day, hour and place where they will meet to view the premises and affix the damages, if any, as aforesaid. Such notice shall be served upon the property owner personally, or by posting a copy thereof on the premises affected, at least five (5) days before the day specified therein as upon which they are to view the premises, as aforesaid. A copy of such notice shall also be served upon the Secretary of the Town Council or upon the Mayor of The Town of Delmar at least five (5) days before the day of such meeting.

(i) The freeholders' names and such commission being first duly sworn or affirmed to fully, fairly and honestly determine the damages to the best of their several abilities, and at the hour and place stated in the notice, as aforesaid, shall view the premises and hear the property owner and his witnesses, and the Town Council and their witnesses, and shall, without delay, determine and fix the damages, if any, which the said property owner will have sustained by reason of being deprived of any property, as aforesaid.

(j) Thereupon, and without delay and in accordance with the Commission by which the said freeholders were appointed, the said freeholders shall make return, in writing, of their proceedings in the premises to the said Resident Judge, or other Judge of the Superior Court, as the case may be. The Resident Judge, or other Judge of the Superior Court, as the case may be, shall cause the said return to be delivered to the Secretary of the Town Council or the Mayor of The Town of Delmar. Such return shall be final and conclusive. The Resident Judge or other Judge of the Superior Court, as the case may be, shall have full power to fill any vacancy among the freeholders.

(k) The amount of damages being ascertained, as aforesaid, The Town of Delmar, shall pay or tender the amount thereof to the property owner or property owners entitled thereto within one (1) month after the same shall be finally ascertained or The Town of Delmar may deposit the same to the credit of such property owner or property owners in any bank in The Town of Delmar within the same period of one (1) month and thereupon, The Town of Delmar may carry into effect the plan contemplated in their Resolution aforementioned.

(l) In the ascertainment and assessment of damages by the freeholders appointed by the Resident Judge of the Superior Court of the State of Delaware, or other Judge of the Superior Court as the case may be, if the damages shall be increased above the amount fixed by the Town Council, or if the Town Council shall decide not take such property, the cost of the appeal shall be paid by The Town of Delmar out of any funds belonging to the said Town. If the said damages be not increased, the cost of the appeal shall be paid by the property owner appealing.

(m) The fees of the freeholder shall be Twenty-Five Dollars (\$25.00) per day to each of them and shall be taxed as part of the costs of the action.

(n) After the damages shall be fixed and ascertained by the freeholders, as aforesaid, the Town Council shall have the option of either paying the damages assessed within the period of one (1) month, aforementioned, and proceeding with the improvement or paying the cost only and abandoning the proposed improvements.

(o) for all purposes of this Section, the word "street" shall be deemed and held to comprehend and include sidewalks, lanes, alleys, roadways, boulevards, highways or any other thoroughfare used for pedestrian or vehicular traffic.

Approved April 1, 1994.

CHAPTER 203

FORMERLY

HOUSE BILL NO. 379
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 AND TITLE 6 OF THE DELAWARE CODE AND VOLUME 69, CHAPTER 64, LAWS OF DELAWARE RELATING TO THE TRANSFER OF THE DIVISION OF CONSUMER AFFAIRS FROM THE DEPARTMENT OF ADMINISTRATIVE SERVICES TO THE DEPARTMENT OF JUSTICE AND THE EXPANSION OF THE ENFORCEMENT POWERS OF CONSUMER PROTECTION.

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

Section 1. AMEND Chapter 88, Title 29 of the Delaware Code by redesignating in its entirety § 8823 of Title 29 as § 2517 of Title 29.

Section 2. AMEND § 2517(a) of Title 29 of the Delaware Code by deleting the entire subsection and substituting in lieu thereof the following:

"(a) There are established within the Department of Justice the programs and functions of consumer protection involving all of the power, duties, and functions heretofore performed by the Division of Consumer Affairs of the Department of Administrative Services."

Section 3. AMEND § 2517(c) of Title 29 of the Delaware Code by deleting the entire subsection and substituting in lieu thereof the following:

"(c) The programs and functions of Consumer Affairs shall be performed by the Consumer Protection Division of the Department of Justice. The Attorney General may appoint a Deputy Attorney General to be designated as the Director of the Consumer Protection Division and who will be charged with the furtherance of the programs and functions thereof. In addition to the powers, duties, and authorities enumerated in § 2504 of this Chapter and otherwise provided to the Attorney General by law, the Attorney General, through the Director of the Consumer Protection Division or someone similarly designated, shall have the authority and responsibility:

(1) To issue cease and desist orders against any person, firm, business, corporation, proprietorship or other entity in order to enforce § 2513 of Title 6, § 2532 of Title 6, Chapter 35 of Title 6, Chapters 51 through 67 of Title 25, and Chapter 70 of Title 25, §914 and §915 of Title 11 and all other laws or regulations in which the Division of Consumer Affairs is charged with the enforcement thereof. Such orders may seek and recover, on behalf of the State, monies or property wrongfully obtained as a result of the alleged violations, penalties and/or fines against the violators, those remedies as provided by § 2533 of Title 6 for violations of § 2532 of that Title, reasonable attorneys' fees, investigative costs, to prohibit persons found to have violated the above state statutes from engaging in a specified trade or occupation, and such other relief, remedies or penalties otherwise provided by law appropriate to prevent violators from being unjustly enriched as a result of engaging in the prohibited activities. Any such recovery pursuant to the above, whether by final judgment, settlement or otherwise, shall be deposited in the Consumer Protection Fund as established under § 2527 of Title 6 of the Delaware Code. A cease and desist order shall:

- a. Be in writing and shall state what alleged violation(s) have occurred or are about to occur which are the basis for the issuance of such an order;
- b. Be served upon the violator(s) and a copy shall be filed in the Office of the Prothonotary of the county where the violator's main place of business in this State is located or in the Office of the Prothonotary of the county where the violation(s) occurred, or both;

- c. Upon receipt by the violator(s), result in the immediate cessation by the violator(s) of any activity which has been ordered ceased. Any person, agent or employee of any corporation, partnership or other business who continues to conduct any activity which he or she has been ordered to cease shall be considered to be in contempt of the Consumer Affairs Board and may be proceeded against in accordance with § 8824 of this Title.
- (2) To bring an action or actions, in state courts of competent jurisdiction, against any person, firm, business, corporation, proprietorship or other entity in order to enforce § 2513 of Title 6, § 2532 of Title 6, § 2562 of Title 6, Chapter 35 of Title 6, Chapters 51 through 67 of Title 25, Chapter 70 of Title 25, § 1311(2) of Title 11, § 1311(3) of Title 11, § 914 of Title 11, § 915 of Title 11, as well as all laws or regulations in which the Division of Consumer Affairs is charged with enforcement thereof. In such actions, the Department of Justice may seek and recover, on behalf of the State, monies or property wrongfully obtained as a result of the alleged violations, penalties and/or fines against violators, remedies as provided by § 2533 of Title 6 for violations of § 2532 of that Title, penalties as provided by § 2563 of Title 6, reasonable attorneys' fees, investigative costs, to prohibit persons found to have violated the above state statutes from engaging in a specified trade or occupation, such other relief, remedies or penalties otherwise provided by law, or seek such relief appropriate to prevent violators from being unjustly enriched as a result of engaging in the prohibited activities. Any such recovery as a result of enforcement under the above listed state statutes, whether by final judgment, settlement or otherwise, shall be deposited in the Consumer Protection Fund as established under § 2527 of Title 6 of the Delaware Code.
- (3) To receive and forward to appropriate agencies of the State, for final processing and determination, complaints from any citizen relating to consumer issues which are not otherwise appropriately handled by or within the jurisdiction of the Department of Justice;
- (4) To review and make recommendations regarding state policies and programs of primary importance to consumers or the unmet consumer needs which can be met appropriately through state action;
- (5) To review and make recommendations regarding state policies, programs, and operations wherein the view of consumers should be made available to state officials and the manner in which such views can be communicated to appropriate departments and agencies;
- (6) To recommend the enactment of such legislation as it deems necessary to protect and promote the interest of the public as consumers;
- (7) To cooperate with and provide assistance to federal, state, and local governmental agencies and activities relating to consumer affairs/protection;
- (8) To appear before federal, state, and local governmental departments, agencies and commissions, to represent and be heard on behalf of consumer interests;
- (9) To cooperate with and establish necessary liaison with both local and national consumer organizations; and
- (10) To do such other acts as may be necessary and proper to the exercise of the powers, duties, and functions conferred by this Chapter."

Section 4. AMEND § 2517(d) of Title 29 of the Delaware Code by deleting the words "Director of Consumer Affairs" and insert in lieu thereof the words "Director of Consumer Protection."

Section 5. AMEND § 2517 of Title 29 of the Delaware Code by adding a new subsection, designated as § 2517(e), to read as follows:

"(e) The provisions of this Act shall be liberally construed in order to effectively carry out the purposes of this Act in the interests of consumer protection."

Section 6. 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 of the Division of Consumer Affairs shall continue to exist with respect to such act or acts as hereafter performed by the Department of Justice. Each such appeal shall be perfected in the same manner as heretofore provided by law.

Section 7. All property, including all books, records, papers, maps, charts, plans, equipment, and other materials owned by or in connection with functions transferred by this Act shall, on the effective date of this Act, be delivered into the custody of the Department of Justice. All investigations, petitions, hearings, and legal proceedings pending before, or instituted by the Division of Consumer Affairs, which are not concluded prior to the effective date of this Act, shall continue unabated and remain in full force and effect, notwithstanding the passage of this Act and, where necessary, may be completed by or in the name of the Department of Justice. All orders, rules, consent agreements, and regulations made by or entered into by the Division of Consumer Affairs which are in effect upon the effective date of this Act, shall remain in full force until revoked or modified in accordance with law by the Department of Justice. Notwithstanding this Act, all contracts and obligations of any agency made or undertaken in the performance of a function transferred by this Act, being in force on the effective date of this Act, shall remain in full force and effect and be performed by the Department of Justice.

Section 8. Employees of the Division of Consumer Affairs whose functions are consistent with this Act and which have been transferred by this Act, may elect to be deemed exempt from the Merit System of Personnel Administration as provided in Title 29, Chapter 59 of the Delaware Code. Any employee who does not elect to be exempt from the Merit System of Personnel Administration, shall retain their merit employment status under the Merit System of Personnel Administration as provided under Title 29, Chapter 59 of the Delaware Code until the occurrence of one of the following events:

- (1) The promotion of the employee to another position within the Department of Justice or the filing by the employee of a written request to become exempt and subject to the tenure provisions set forth in § 2511 of Title 29 of the Delaware Code. Tenure will be contingent upon satisfactory completion of the requirements set forth in § 2511 of Title 29 of the Delaware Code, including but not limited to review of the employee's work performance and will be further subject to final approval by the Attorney General.
- (2) The termination of the employee's employment with the Department of Justice by promotion to another merit exempt Department, by retirement, or otherwise.

Section 9. All definitions and references to the Division of Consumer Affairs appearing in any other act of law shall, to the extent consistent with this Act, be construed as referring and relating to the Division of Consumer Protection of the Department of Justice.

Section 10. All definitions and references to Director of Consumer Affairs or agents thereof in any other act of law shall be construed as referring or relating to such person or persons within the Department of Justice whose powers, duties, and functions are consistent with those transferred by this Act.

Section 11. Any misnomer shall not defeat or annul any gift, grant, devise or bequest if it sufficiently appears by the will, conveyance or other writing that the party making the same intended to pass and convey thereby to the Division of Consumer Affairs which, by this Act, the powers, duties and functions have been transferred, the estate or interest therein expressed or described.

Section 12. All funds heretofore awarded by Federal Grantor agencies or heretofore authorized in Capitol Improvements or Budget Acts of the State of Delaware or any other funds heretofore appropriated to the Department of Administrative Services for the Division of Consumer Affairs which remain unexpended or unencumbered on the effective date of this Act and which are not otherwise specifically transferred by other laws which may be enacted prior to or subsequent to the effective date of this Act are hereby transferred to the Department of Justice.

Section 13. AMEND § 2527(f) of Title 6 of the Delaware Code by deleting it in its entirety and redesignating § 2527(g) as § 2527(f).

Section 14. In order to facilitate and fund the initial costs of establishing the Consumer Protection Division of the Department of Justice, a sum of three hundred thousand dollars (\$300,000) from the Investor Protection Fund, existing pursuant to § 7329 of Title 6 of the Delaware Code, shall be transferred to the Consumer Protection Fund (§ 2527 of Title 6 of the Delaware Code). This fund shall support the costs of salary, other employment costs, and other non-salary expenses related to consumer protection.

Section 15. In order to facilitate a more proactive approach to consumer protection, four additional investigator positions are hereby authorized for the Department of Justice, Office of the Attorney General (15-01-01) and shall be funded by the Consumer Protection Fund.

Section 16. AMEND Volume 69, Chapter 64, Laws of Delaware, by adding on line 16, page 13 of said law the figure "4.0" under the heading "ASF Personnel" and changing the figure "200.0" under the heading "ASF Line Item" to "300.0". Further Amend Volume 69, Chapter 64, Laws of Delaware, by recomputing all totals and sub-totals as they appear in said law.

Section 17. AMEND § 2527(a) of Title 6 of the Delaware Code by deleting the words "to this subchapter" and substituting in lieu thereof the words "§ 2517(c) of Title 29."

Section 18. AMEND § 2527(b) of Title 6 of the Delaware Code by deleting the words "court order or judgment in a consumer fraud" and substituting in lieu thereof the words "actions brought pursuant to § 2517(c) of Title 29."

Section 19. AMEND § 2527(c) of Title 6 of the Delaware Code by inserting the words "§ 2517(c) of Title 29," after the word "under" but before the word "this."

Section 20. AMEND § 2527(c) of Title 6 of the Delaware Code by deleting the number "\$200,000," and substituting in lieu thereof the words "three hundred thousand dollars."

Section 21. AMEND § 2527(d) of Title 6 of the Delaware Code by deleting the word "fraud" and substituting in lieu thereof the word "protection."

Section 22. AMEND § 2533 of Title 6 of the Delaware Code by adding a new subsection, to be designated as § 2533(d), to read as follows:

"(d) The Attorney General shall have standing to seek, on behalf of the State, any of the remedies enumerated in this section for violations of § 2532 against effected persons including but not limited to consumer purchasers."

Section 23. AMEND § 2513 of Title 6 of the Delaware Code by adding a new subsection, to be designated as § 2513(c), to read as follows:

"(c) If a court or tribunal of competent jurisdiction finds that any person has willfully violated this section, the Attorney General, upon petition to the court or tribunal, shall recover from the person, on behalf of the State, a civil penalty of not more than ten thousand dollars per violation. For the purposes of this section, a willful violation occurs when the party committing the violation knew or should have known that the conduct was of the nature prohibited by this section."

Section 24. All other laws or parts of laws now in effect that are inconsistent with this Act are hereby repealed, superseded, modified or

amended so far as necessary to conform, and give full force and effect to this Act.

Section 25. If any provision of this Act or application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act and to that end the provisions of this Act are declared severable.

Section 26. This Act shall be effective immediately after its enactment into law.

Approved April 11, 1994.

CHAPTER 204

FORMERLY

HOUSE BILL NO. 313

AN ACT TO AMEND CHAPTER 82, TITLE 29 OF THE DELAWARE CODE RELATING TO THE COMMISSION ON HAZARDOUS MATERIALS.

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

Section 1. Amend §8226(a), Chapter 82, Title 29 of the Delaware Code by striking the reference therein to "members of the State Emergency Response Commission" and in lieu thereof substituting "the chairman of each of the Local Emergency Planning Committees as designated by the State Emergency Response Commission".

Section 2. Amend §8226(a), Chapter 82, Title 29 of the Delaware Code by striking the word "Eight" as it appears therein and in lieu thereof substituting the word "Eleven".

Approved April 11, 1994.

CHAPTER 205

FORMERLY

SENATE BILL NO. 140

AN ACT TO AMEND CHAPTER 9, SUBCHAPTER III, TITLE 10, DELAWARE CODE, RELATING TO THE PROSECUTION OF A DELINQUENT CHILD.

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

Section 1. Amend §931, Chapter 9, Subchapter III, Title 10, Delaware Code, by adding the following:

"However, if a child reaches his eighteenth birthday prior to an adjudication on a charge of delinquency arising from acts which would constitute a felony were he charged as an adult under the laws of this State, then the Family Court shall retain jurisdiction for the sole purpose of transferring the matter to the Superior Court for prosecution as an adult. Any such transfer under this Section shall not be subject to the provisions of 10 Del. C. §939."

Approved April 11, 1994.

CHAPTER 206

FORMERLY

SENATE BILL NO. 57

AN ACT TO AMEND CHAPTER 42, TITLE 11, DELAWARE CODE, RELATING TO THE METHOD AND IMPOSITION OF SENTENCE OF DEATH.

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

Section 1. Amend §4209(f) of Chapter 42, Delaware Code, by striking the period "." immediately following the word "privacy" as the same appears in the first sentence and inserting the following:

", and shall occur between the hours of 12:01 a.m. and 3:00 a.m. on the date set by the trial court."

Approved April 11, 1994.

CHAPTER 207

FORMERLY

SENATE BILL NO. 27B
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT BEING CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO", AS AMENDED, TO ALLOW CONTRIBUTIONS TO A LIBRARY SERVICING MILLSBORO.

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

Section 1. Section 30, Chapter 457, Volume 60, Laws of Delaware, as amended, be and the same is hereby further amended by adding a new subsection as follows:

"(45) To provide for or continue a Public Library and, at the discretion of the Town Council, to contribute, donate or give unto any public library providing service to the Town funds or property; provided that any such contribution, donation or gift may be subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable."

Approved April 11, 1994.

CHAPTER 208

FORMERLY

SENATE BILL NO. 274

AN ACT TO AMEND AN ACT BEING CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO", AS AMENDED, TO EXTEND THE HOURS FOR 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 (a), Section 8, Chapter 457, Volume 60, Laws of Delaware, as amended, be and the same is hereby further amended by striking out the word "six" and substituting in lieu thereof, the word "seven."

Approved April 11, 1994.

CHAPTER 209

FORMERLY

SENATE BILL NO. 273
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND AN ACT BEING CHAPTER 109, VOLUME 68, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF GREENWOOD" TO PROVIDE FOR VOTING BY ABSENTEE BALLOT.

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 (h), Section 7, Chapter 109, Volume 68, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of said Subsection (h) and substituting in lieu thereof a new Subsection (h) to read as follows:

"(h) The Town Council of The Town of Greenwood may, by Ordinance, provide for any qualified voter to cast an absentee ballot if such person is unable to appear and cast his or her ballot or vote at the Annual Municipal Election in person."

Approved April 11, 1994.

CHAPTER 210

FORMERLY

HOUSE BILL NO. 405

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 §2312, Chapter 23, Title 19, Delaware Code, by striking existing paragraph (d) in its entirety and in lieu thereof substituting the following:

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

April 12, 1994.

CHAPTER 211

FORMERLY

SENATE BILL NO. 258
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 3, TITLE 25, DELAWARE CODE RELATING TO AGRICULTURAL LEASES AND REAL ESTATE CONTRACTS.

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

Section 1. Amend Chapter 3, Title 25, Delaware Code by adding thereto a new Section 315 to read as follows:

"§315. Contracts for Sale of Agricultural lands

Every contract for the sale of agricultural lands which are, either at the time of execution or at the time of settlement of said contract subject to an agricultural lease, shall include within its terms notice to the purchaser of the terms of said agricultural lease and the agricultural lease renewal provisions of Chapter 67 of this Title."

Approved April 12, 1994.

CHAPTER 212

FORMERLY

HOUSE BILL NO. 205
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 17, TITLE 14 OF THE DELAWARE CODE RELATING TO THE GUARANTEED UNIT COUNT.

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

Section 1. Amend §1704(2) and 1704(3), Title 14, Delaware Code by striking said subsections in their entirety and by substituting in lieu thereof the following:

"(2) The actual unit count as determined in subsection (1) of this Section shall be multiplied by 0.97 and the product shall be known as the 'guaranteed unit count.'

(3) The State Board of Education shall annually (after September 30) certify and report the number of units as required in §1710 of this Title, by certifying for each school district whichever is greater of the following:

- a. The actual unit count for the current school year; or
- b. The guaranteed unit count calculated for the immediately preceding school year.

The implementation of this subsection shall be subject to a specific annual appropriation in the Annual Appropriations Act. In the event that no appropriation is made, the State Board of Education shall certify and report the actual unit count."

Approved April 28, 1994.

CHAPTER 213

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 199
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 10, DELAWARE CODE RELATING TO THE PROSECUTION OF HOMICIDES COMMITTED BY JUVENILES.

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

Section 1. Amend §921(2)(a) of Subchapter II, Chapter 9, Title 10, Delaware Code by striking said paragraph (2)a in its entirety and substituting in lieu thereof a new paragraph (2)a to read as follows:

"(2)a. Any child charged in this State with delinquency by having committed any act or violation of any laws of this State or any subdivision thereof, except murder in the first or second degree, unlawful sexual intercourse in the first degree, kidnapping in the first degree; any child 16 years of age or older charged with violation of Title 21, except as provided in Section 927 of this Title; or any other crime over which the General Assembly has granted or may grant jurisdiction to another court."

Section 2. Amend §938(a)(1) of Subchapter III, Chapter 9, Title 10, Delaware Code by striking said paragraph (1) in its entirety and substituting in lieu thereof a new paragraph (1) to read as follows:

"(1) The acts alleged to have been committed constitute first or second degree murder, unlawful sexual intercourse in the first degree or kidnapping in the first degree;"

Approved April 28, 1994.

CHAPTER 214

FORMERLY

HOUSE BILL NO. 82
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION.

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

Section 1. Amend Chapter 41, Title 14 of the Delaware Code by adding a new §4130 to read as follows:

"§4130. Expulsion of Students: Re-enrollment in Another School District.

(a) In any case where a public school student is expelled from a school district, the expelled student shall not be permitted to re-enroll in any other school district in this state until after the full period of expulsion from the school district where he was expelled shall have expired.

(b) Prior to enrolling any student who attempts to transfer to a school district in this state, the Superintendent of that school district, or his designee, shall first contact the last school district where the student was last enrolled, if in this state, to determine if that student is under a current expulsion order in that district. If it is determined that the student is under a current expulsion order, that student shall not be permitted to enroll until the expulsion order has expired as set forth in subsection (a).

(c) The provisions of subsections (a) and (b) of this section shall not apply to any case in which a student is seeking to enroll in the James H. Grove High School or in any alternative educational or other related program developed to provide educational services to children who have discipline problems."

Approved April 28, 1994.

CHAPTER 215

FORMERLY

HOUSE BILL NO. 409

AN ACT TO AMEND CHAPTER 166, VOLUME 37, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF SELBYVILLE", TO INCREASE THE AMOUNT OF FINES THAT MAY BE IMPOSED.

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 20 of Section 4, Chapter 166, Volume 37, Laws of Delaware, as amended, by striking the words "One Hundred Dollars" and inserting in lieu thereof the following:

"One Thousand Dollars (\$1,000.00)."

Approved April 28, 1994.

CHAPTER 216

FORMERLY

HOUSE BILL NO. 416
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 3

AN ACT TO AMEND SUBCHAPTER III, CHAPTER 11, TITLE 28, DELAWARE CODE RELATING TO BINGO AND CHARITABLE GAMES.

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

Section 1. Amend §1139 (a) of Title 28 Delaware Code by striking said subsection (a) in its entirety and substituting in lieu thereof a new subsection (a) to read as follow:

"(a) Bingo and charitable games conducted shall not commence prior to 1:30 P.M.. The operation of a function shall be limited to six(6) consecutive hours, except as permitted by regulation 3.08 (2). Instant bingo is permitted during any event sponsored by the entity that is licensed to conduct it, regardless of the day or time."

Section 2. Amend Subsection (b), §1132, Chapter 11, Title 28 of the Delaware Code by adding a sentence at the end of existing paragraph (6) to read follows:

"For purposes of this paragraph, the value of any promotional giveaways, which value shall be no more than \$500 per annum to be distributed at an organizational anniversary date and no more than three holiday dates per year, shall not be counted towards the dollar amounts described herein."

Section 3. Amend Subsection (h), §1139, Title 28 of the Delaware Code by adding a sentence at the end of existing subparagraph (2) to read as follows:

"For purposes of this paragraph, the value of any promotional giveaways, which value shall be no more than \$500 per annum to be distributed at an organizational anniversary date and no more than three holiday dates per year, shall not be counted towards the dollar amounts described herein."

Section 4. Amend §1132, Title 28 of the Delaware Code by adding a new subsection (1) to section (a) which new subsection shall read as follows:

"(1) The Board shall consider the impact of the approval of any new license application to existing licensees within the applicant's geographical location prior to granting the approval, and may deny the application if it concludes that approval of the application would be detrimental to existing licensees."

Approved April 29, 1994.

CHAPTER 217

FORMERLY

HOUSE BILL NO. 129
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 1, AND 21, TITLE 21 OF THE DELAWARE CODE RELATING TO RECREATIONAL TRAILERS.

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 101, Chapter 1, Title 21 of the Delaware Code by adding the following new paragraph:

"(75) 'Recreational trailer' includes every trailer which weighs more than 5000 pounds, is designed to provide temporary living quarters, and which is built into and is an integral part of, or permanently attached to, a trailer chassis. The trailer must contain permanently installed independent life support systems which meet the ANSI/NFPA 501 C Standard, and provide at least four of the following facilities: cooking facilities; refrigeration or ice box; self-contained toilet; heating and/or air conditioning; a portable water supply system, including a faucet and sink; separate 110-125 volt electrical power supply; or an LP-gas supply."

Section 2. Amend §2121, Chapter 21, Title 21 of the Delaware Code by striking the last paragraph of subsection (b) in its entirety, and substituting in lieu thereof the following new paragraph:

"The number of plates for combination vehicles as defined in §2156 of this Title shall display thereon the letters PC followed by the registration numbers assigned. The number plates for recreational vehicles and trailers as defined by §101(29) and §101(75) of this Title shall display thereon the letters RV for recreational motor vehicles and the letters RT for recreational trailers. Each number plate and special plate may have displayed thereon, in addition to all other number of letters required by this subsection, the words 'The First State'."

Section 3. Amend §2151, Chapter 21, Title 21 of the Delaware Code by adding the words "or recreational trailer" immediately after the words "recreational vehicle" as the same appear in the first sentence of subsection (5); and by adding the words "or trailer" immediately after the words "of the vehicle" as the same appear in the first sentence of subsection (5).

Approved May 4, 1994.

CHAPTER 218

FORMERLY

SENATE BILL NO. 122
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, SUBCHAPTER III, TITLE 19, DELAWARE CODE RELATING TO A REASONABLE FEE TO CLAIMANT'S ATTORNEY FOR SERVICES ON AN APPEAL.

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

Section 1. Amend §2350(f), Subchapter III, Title 19, Delaware Code by striking paragraph (f) in its entirety and substituting a new paragraph (f) to read as follows:

"(f) The Superior Court may at its discretion allow a reasonable fee to claimant's attorney for his services on an appeal from the Board to the Superior Court and from the Superior Court to the Supreme Court where the claimant's position in the hearing before the Board is affirmed on appeal. Such fee shall be taxed in the costs and become a part of the final judgement in the cause and may be recovered against the employer and the employer's insurance carrier as provided in this subchapter."

Section 2. The provisions of this Act shall apply to all appeals filed after the effective date of this bill.

Approved May 10, 1994.

CHAPTER 219

FORMERLY

HOUSE BILL NO. 343
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 68, TITLE 21 OF THE DELAWARE CODE RELATING TO OFF-HIGHWAY VEHICLES.

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

Section 1. Amend §6819, Chapter 68, Title 21 of the Delaware Code by striking the Title of §6819 in its entirety, and substitute in lieu thereof the following:

"Same - In a manner causing damage or disturbance."

Section 2. Amend §6819, Chapter 68, Title 21 of the Delaware Code by striking the word "maliciously" as it appears in the first sentence of subsection (a) of §6819.

Section 3. This Act shall become effective thirty days after its enactment into law.

Approved May 10, 1994.

CHAPTER 220

FORMERLY

HOUSE BILL NO. 386
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO CRIMES AND CRIMINAL PROCEDURE.

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 1455 to read as follows:

"§1455 Engaging in a firearms transaction on behalf of another.

(a) A person is guilty of engaging in a firearms transaction on behalf of another when he or she purchases or obtains a firearm on behalf of a person not qualified to legally purchase, own, or possess a firearm in this state or for the purpose of selling, giving, or otherwise transferring a firearm to a person not legally qualified to purchase, own, or possess a firearm in this state.

(b) Engaging in a firearms transaction on behalf of another is a class F felony for the first offense, and a class C felony for each subsequent like offense."

Approved May 10, 1994.

CHAPTER 221

FORMERLY

HOUSE BILL NO. 413
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 8, OF THE DELAWARE CODE RELATING TO THE GENERAL CORPORATION LAW.

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 One. Amend § 103(c), Title 8, Delaware Code by striking paragraph (5) thereof in its entirety and by inserting a new paragraph in its place to read:

"(5) A copy of the instrument filed with the Secretary of State shall be recorded in the office of the recorder of the county in which the corporation's registered office in this State is, or is to be, located, except that a certificate of dissolution qualifying for treatment under § 391(a)(5)(ii) of this Title shall not be so recorded;"

Section Two. Amend § 391(a), Title 8, Delaware Code by striking paragraph (5) thereof in its entirety and by inserting a new paragraph in its place to read:

"(5) Upon the receipt for filing of a certificate of dissolution, there shall be paid to and collected by the Secretary of State a tax of:

(i) forty dollars (\$40); or

(ii) ten dollars (\$10) in the case of a certificate of dissolution which certifies that:

a) the corporation has no assets and has ceased transacting business; and

b) the corporation, for each year since its incorporation in this State, has been required to pay only the minimum franchise tax then prescribed by § 503 of this Title; and

c) the corporation has paid all franchise taxes and fees due to or assessable by this State through the end of the year in which said certificate of dissolution is filed."

Section Three. Amend § 391(a), Title 8, Delaware Code by striking paragraph (7) thereof in its entirety and by inserting a new paragraph in its place to read:

"(7) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee of fifty dollars (\$50) in each case shall be paid, with the following exceptions:

(i) a certificate of dissolution which meets the criteria stated in § 391(a)(5)(ii) of this Title shall not be subject to such fee; and

(ii) a certificate of incorporation filed in accordance with § 102 of this Title shall be subject to a fee of twenty-five dollars (\$25)."

Approved May 10, 1994.

CHAPTER 220

FORMERLY

HOUSE BILL NO. 386
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO CRIMES AND CRIMINAL PROCEDURE.

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 1455 to read as follows:

"§1455 Engaging in a firearms transaction on behalf of another.

(a) A person is guilty of engaging in a firearms transaction on behalf of another when he or she purchases or obtains a firearm on behalf of a person not qualified to legally purchase, own, or possess a firearm in this state or for the purpose of selling, giving, or otherwise transferring a firearm to a person not legally qualified to purchase, own, or possess a firearm in this state.

(b) Engaging in a firearms transaction on behalf of another is a class F felony for the first offense, and a class C felony for each subsequent like offense."

Approved May 10, 1994.

CHAPTER 221

FORMERLY

HOUSE BILL NO. 413
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 8, OF THE DELAWARE CODE RELATING TO THE GENERAL CORPORATION LAW.

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 One. Amend § 103(c), Title 8, Delaware Code by striking paragraph (5) thereof in its entirety and by inserting a new paragraph in its place to read:

"(5) A copy of the instrument filed with the Secretary of State shall be recorded in the office of the recorder of the county in which the corporation's registered office in this State is, or is to be, located, except that a certificate of dissolution qualifying for treatment under § 391(a)(5)(ii) of this Title shall not be so recorded;"

Section Two. Amend § 391(a), Title 8, Delaware Code by striking paragraph (5) thereof in its entirety and by inserting a new paragraph in its place to read:

"(5) Upon the receipt for filing of a certificate of dissolution, there shall be paid to and collected by the Secretary of State a tax of:

(i) forty dollars (\$40); or

(ii) ten dollars (\$10) in the case of a certificate of dissolution which certifies that:

a) the corporation has no assets and has ceased transacting business; and

b) the corporation, for each year since its incorporation in this State, has been required to pay only the minimum franchise tax then prescribed by § 503 of this Title; and

c) the corporation has paid all franchise taxes and fees due to or assessable by this State through the end of the year in which said certificate of dissolution is filed."

Section Three. Amend § 391(a), Title 8, Delaware Code by striking paragraph (7) thereof in its entirety and by inserting a new paragraph in its place to read:

"(7) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee of fifty dollars (\$50) in each case shall be paid, with the following exceptions:

(i) a certificate of dissolution which meets the criteria stated in §391(a)(5)(ii) of this Title shall not be subject to such fee; and

(ii) a certificate of incorporation filed in accordance with § 102 of this Title shall be subject to a fee of twenty-five dollars (\$25)."

Approved May 10, 1994.

CHAPTER 222

FORMERLY

SENATE BILL NO. 288

AN ACT TO AMEND CHAPTER 61, TITLE 29, DELAWARE CODE, REGARDING THE CREATION OF THE TWENTY-FIRST CENTURY FUND.

WHEREAS, the United States Supreme Court in the Delaware V. New York decision affirmed Delaware's right to collect abandoned property held by financial intermediaries who are incorporated in the State; and

WHEREAS, Delaware and New York have reached a settlement in response to the Supreme Court decision which requires New York to pay Delaware \$200 million, before deductions for expenses, over the next five years; and

WHEREAS, the General Assembly recognizes that the State has a unique opportunity to invest the proceeds to make long-term investments over the next ten years to ensure that Delaware remains an excellent place to live and do business in the 21st century; and

WHEREAS, the General Assembly recognizes the importance of maintaining a modern infrastructure, promoting economic development and improving the quality of life for Delaware's residents by making prudent, long-term investments over the next ten years,

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

Section 1. Amend Section 6102, Title 29, Delaware Code, by adding a new subsection (p) thereto to read as follows:

"(p)(1) A special fund of the State is created in the Department of Finance to be known as the "Twenty-First Century Fund". The Secretary of Finance shall transfer the initial \$35 million payment received from the settlement with New York in the Delaware v. New York Supreme Court litigation from the General Fund to the Twenty-First Century Fund. The Secretary of Finance shall deposit upon receipt the remaining proceeds from the settlement with the State of New York less expenses relating to the litigation. The Secretary of Finance shall also deposit amounts received as 'distributions held by financial intermediaries' as that term is defined in Section 1198(1), Title 12 for a full period of dormancy prior to January 1, 1988 and which had not been deposited into the State's General Fund as of April 1, 1994. The General Assembly at any time may appropriate additional monies to the Twenty-First Century Fund.

(2) Monies from the Twenty-First Century Fund shall be expended for Delaware's citizens by making long-term investments to enhance the State's infrastructure and economic development, and for improving the quality of life.

(3) The Twenty-First Fund shall be invested by the State Treasurer in securities consistent with the investment policies established by the Cash Management Policy Board. All income earned, and gains realized from the sales of such securities, shall be reinvested in the Twenty-First Century Fund. Losses from any sales of securities shall be charged to the Twenty-First Century Fund.

(4) No money shall be expended from the Twenty-First Century Fund except pursuant to an appropriation incorporated in the State's Bond and Capital Improvements Act or the annual Appropriations Act.

(5) To the extent cash available in the Twenty-First Century Fund is insufficient to pay the costs authorized for expenditure from the Twenty-First Century Fund, funds may be advanced from either the Bond and Capital Improvements Act or the General Fund, but must be subsequently reimbursed as the Twenty-First Century Fund's invested monies become available."

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

Approved May 12, 1994.

CHAPTER 223

FORMERLY

HOUSE BILL NO. 417
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND SUBCHAPTER VII, CHAPTER 5, TITLE 11 OF THE DELAWARE CODE
RELATING TO BOMB THREATS.

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

Section 1. AMEND Subchapter VII, Chapter 5, title 11 of the Delaware Code
by adding a new §1303 which new section shall read as follows:

"§1303. Unlawful Disruption of Schools.

(a) Any person who telephones, or knowingly permits any telephone under his control to be used to telephone another to falsely report the existence of a bomb or incendiary device, as defined in 11 Del. C. §1338, in a school or on school property shall be guilty of unlawful disruption of a school.

(b) A first violation of subsection (a) shall be a Class A misdemeanor and any subsequent violation shall be a Class G felony. In addition, a person convicted of a violation of subsection (a) shall pay a fine of not less than \$1,000 nor more than \$2,500, which fine cannot be suspended. In addition to imposing the fine, the sentencing judge shall also require the person to perform a minimum of 100 hours of community service."

Approved May 13, 1994.

CHAPTER 224

FORMERLY

HOUSE BILL NO. 374
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2
AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 AND TITLE 16 OF THE DELAWARE CODE RELATING TO INVOLUNTARY COMMITMENT RECORD CHECKS FOR SALES OF FIREARMS.

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

Section 1. Amend §5161(a)(7), Title 16 of the Delaware Code by striking the third paragraph in its entirety and in lieu thereof substituting the following:

"No information reported to the Division and no clinical records maintained with respect to patients shall be public record, and such information shall not be released to any person or agency outside of the Division except as follows:

- a. Pursuant to an Order of a court of record;
- b. To attorneys representing the patient;
- c. With the consent of the patient or someone authorized to act on his behalf;
- d. To the State Bureau of Identification pursuant to subsection (8) of this section and 11 Del. C. §8509; and
- e. Where the patient has been transferred to an institution outside of the Division of Alcoholism, Drug Abuse and Mental Health."

Section 2. Amend §8509, Title 11 of the Delaware Code by striking the first sentence in its entirety and in lieu thereof substituting the following:

"Every person in responsible charge of an institution to which there are committed individuals convicted of crime, persons declared to be not guilty by reason of mental illness, declared incompetent to stand trial for criminal offenses or involuntarily committed for mental illness pursuant to Title 16, Chapter 50, shall transmit to the Bureau the names, dates of birth, and social security numbers of all adults so committed and shall report any subsequent change in release status."

Section 3. Amend §1448A, Title 11 of the Delaware Code by striking the phrase "criminal history" as it appears therein and in lieu thereof substituting "criminal history and involuntary commitment of an adult".

Section 4. Amend §5161(a), Title 16 of the Delaware Code by redesignating the current subsection (8) as subsection (9) and by creating a new subsection (8) to read as follows:

"(8) Delaware State Hospital, and any other hospital as defined in 16 Del. C. §5001(2) shall submit the names, dates of birth and social security numbers of adults who are involuntarily committed to the State Bureau of Identification pursuant to 11 Del. C. §1448A."

Approved May 20, 1994.

CHAPTER 225

FORMERLY

SENATE BILL NO. 285

AN ACT TO AMEND CHAPTER 87, TITLE 29 DELAWARE CODE RELATING TO THE COMMISSION ON VETERANS' AFFAIRS.

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

Section 1. Amend §8721(b) and (h) of Title 29 Delaware Code by striking the words "Executive Secretary" wherever they appear and substituting in lieu thereof the words "Executive Director".

Section 2. Amend §8723(g) of Title 29 Delaware Code by striking the words "Executive Secretary" as the same appears therein and substituting in lieu thereof the words "Executive Director".

Approved May 20, 1994.

CHAPTER 226

FORMERLY

HOUSE BILL NO. 439
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 4322(a), CHAPTER 43, TITLE 11 OF THE DELAWARE CODE RELATING TO PROTECTION OF RECORDS.

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

Section 1. Amend Section 4322(a), Chapter 43, of Title 11 of the Delaware Code by striking the phrase "except that the court may, in its discretion, permit the inspection of the report or parts thereof by the offender or his attorney or other persons who in the judgment of the court have a proper interest therein," and substitute in lieu thereof the phrase "except that the court or Board of Pardons may, in its discretion, permit the inspection of the report or parts thereof by the offender or his attorney or other persons who in the judgment of the court or Board of Pardons have a proper interest therein,".

Approved May 20, 1994.

CHAPTER 227

FORMERLY

HOUSE BILL NO. 359

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

AN ACT TO AMEND TITLE 18, DELAWARE CODE RELATING TO THE PHARMACY ACCESS ACT.

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

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

"CHAPTER 73. PHARMACY ACCESS ACT

§7301. Title

This Chapter shall be known as the Pharmacy Access Act.

§7302. Purpose and applicability.

The General Assembly finds that pharmaceutical services and prescription drugs are an essential service to the people of this State and that the broadest possible access to such services should be mandated and therefore finds that this chapter shall apply to all health benefit plans providing pharmaceutical service benefits, including prescription drugs, to any resident of Delaware. This chapter shall also apply to insurance companies and health maintenance organizations that provide or administer coverage and benefits for prescription drugs.

A. This chapter shall not apply to any entity that has its own facility, employs or contracts with physicians, pharmacists, nurses, and other health care personnel, and that dispenses prescription drugs from its own pharmacy to its employees and to enrollees of its health benefit plan; provided, however, this chapter shall apply to an entity otherwise excluded that contracts with an outside pharmacy or group of pharmacies to provide prescription drugs and services. This chapter shall not apply to any federal program, clinical trial program, hospital or other health care facility when dispensing prescription drugs to its patients.

§7303. Access and prohibitions.

(a) Any person in the State of Delaware may select the pharmacy of his/her choice as long as the pharmacy has agreed to participate in the plan according to the terms offered by the insurer.

(b) Any pharmacy or pharmacist has the right to participate as a contract provider under a plan or policy if the pharmacy or pharmacist agrees to accept the terms and reimbursement set forth by the insurer.

(c) No insurer shall impose on a beneficiary any co-payment or condition that is not equally imposed with all contracting pharmacy providers the beneficiary may utilize.

(d) No insurer shall require a beneficiary, as a condition of payment or reimbursement, to purchase pharmacy services, including prescription drugs, exclusively through a mail-order pharmacy.

(e) A pharmacist or pharmacy shall not interfere with the control of over-utilization of a plan's covered services and may not waive, discount, rebate or distort in any way the designated co-payment of any insurer plan or patient's co-insurance portion of a prescription drug coverage plan.

(f) At least 60 days prior to the effective date of any health benefit plan or renewal of any pharmacy contract network which provides for coverage of pharmacy services, including prescription drug coverage, to Delaware residents, and restricts pharmacy participation, the entity providing the health benefit plan shall provide notice to all pharmacies within the State of Delaware and shall offer to the pharmacies the opportunity to participate in the health benefit plan. Such notice and offer shall be considered given upon delivery of written notice to the Delaware

Pharmaceutical Society, Inc. or its successor, and upon publication of such notice in a newspaper of general circulation throughout the State. All pharmacies within the State of Delaware shall be eligible to participate under identical reimbursement terms for providing pharmacy services, including prescription drugs. The health benefit insurer shall inform the plan beneficiaries of the names and locations of pharmacies that are participating in the plan as providers of pharmacy services.

(g) Any provision in a health benefit plan which is executed, delivered or renewed, or otherwise contracted for in this State that is contrary to any provision of this section shall, to the extent of the conflict, be void.

(h) It shall be a violation of this section for any insurer of any person to provide any health benefit plan that provides for pharmaceutical services to residents of this State that does not conform to the provisions of this section."

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 provisions or application, and to this end the provisions of this Act are declared to be severable.

Section 3. This Act shall become effective for pharmacy contracts when commenced or renewed after 90 days after the enactment of this Act.

Section 4. This Act shall sunset and automatically be repealed on March 30, 1997, unless reenacted prior to that date.

Approved May 26, 1994.

CHAPTER 228

FORMERLY

SENATE BILL NO. 277 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 87, TITLE 29 DELAWARE CODE RELATING TO THE DELAWARE COMMISSION ON VETERANS' AFFAIRS.

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

Section 1. Amend §8720 (b), Chapter 87, Title 29 Delaware Code by striking the number "11" as the same appears in the first sentence and substituting in lieu thereof the number "15".

Section 2. The four members hereby authorized to be appointed pursuant to Section 1 shall each serve 4 year terms.

Section 3. Amend §8721 (h), Chapter 87, Title 29 Delaware Code by striking the period "." immediately following the word "organizations" and inserting the following "; provided, however, the Commission may appoint a service officer in each county, such service officer to be accountable and responsible to the Commission."

Approved May 26, 1994.

CHAPTER 229

FORMERLY

HOUSE BILL NO. 433

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE POSSESSION OF FIREARMS BY CRIMINALS DURING FELONIES.

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

Section 1. Amend Chapter 5, Title 11 Delaware Code by adding thereto a new section to be designated as §1447A, said section to read as follows:

"§1447A. Possession of a firearm during commission of a felony; Class B felony.

(a) A person who is in possession of a firearm during the commission of a felony is guilty of possession of a firearm during the commission of a felony. Possession of a firearm during the commission of a felony is a Class B felony.

(b) A person convicted under subsection (a) of this section shall receive a minimum sentence of 3 years at Level V, notwithstanding the provisions of §4205(b)(2) of this title.

(c) A person convicted under subsection (a) of this section, and who has been at least twice previously convicted of a felony in this State or elsewhere, shall receive a minimum sentence of 5 years at Level V, notwithstanding the provisions of §4205(b)(2) and 4215 of this title.

(d) Any sentence imposed upon conviction for possession of a firearm during the commission of a felony shall not run concurrently with any other sentence. In any instance where a person is convicted of a felony together with a conviction for the possession of a firearm during the commission of such felony, such person shall serve the sentence for the felony itself before beginning the sentence imposed for possession of a firearm during such felony.

(e) Every person charged under this section over the age of 16 years shall be tried as an adult, notwithstanding any contrary provisions or statutes governing the Family Court or any other state law.

(f) A person may be found guilty of violating this section notwithstanding that the felony for which he is convicted and during which he possessed the firearm is a lesser included felony of the one originally charged."

Approved May 27, 1994.

CHAPTER 230

FORMERLY

SENATE BILL NO. 21
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 51, TITLE 29, DELAWARE CODE, RELATING TO PROTECTION OF PUBLIC EMPLOYEES REPORTING SUSPECTED VIOLATION OF LAW.

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

Section 1. Amend §5115, Chapter 51, Title 29, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"§5115. Protection of public employees reporting suspected violation of law.

(a) For purposes of this section, the following words, terms, and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) 'public employee' shall mean any full-time or part-time employee of the State, its school districts, or a county or municipal government.

(2) 'elected official' shall mean the Auditor of Accounts, a State, school district, county, or municipal official elected by popular vote of same, and employees of said offices.

(b) No public employee shall be discharged, threatened or otherwise discriminated against with respect to the terms or conditions of his or her employment because that public employee reported, in a written or oral communication to an elected official, a violation or suspected violation of a law or regulation promulgated under the law of the United States, this State, its school districts, or a county or municipality of this State unless the employee knows that the report is false.

(c) An employee who alleges a violation of this section may bring a civil action for appropriate injunctive relief, actual damages, or both, within 90 days after the occurrence of the alleged violation of this section."

Approved May 27, 1994.

CHAPTER 231

FORMERLY

SENATE BILL NO. 69

AN ACT TO AMEND CHAPTER 39, TITLE 11, AND CHAPTER 9, TITLE 10, DELAWARE CODE, TO PROVIDE FOR MANDATORY HUMAN IMMUNODEFICIENCY VIRUS TESTING OF CERTAIN SEX CRIME OFFENDERS.

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

Section 1. Amend Chapter 39, Title 11, Delaware Code, by designating said chapter as Subchapter I and adding thereto a new Subchapter II to read as follows:

"Subchapter II. Voluntary and mandatory testing of offenders convicted of certain sex crimes.

§3910. Definitions.

For purposes of this Subchapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) 'Human immunodeficiency virus test' means a test or tests of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection, and includes preliminary screening tests.

§3911. Human immunodeficiency virus testing made available.

A defendant charged with an offense pursuant to Chapter 5 of this Title which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

§3912. Order to undergo human immunodeficiency testing.

When a defendant has been arrested and charged with any offense in §3911 of this subchapter, other provisions of law to the contrary notwithstanding, the court, at arraignment, regardless of any prior human immunodeficiency virus test on the defendant, shall order the defendant to undergo human immunodeficiency virus testing at the request of the victim, under the direction of the Division of Public Health.

§3913. Test result not a public record.

The result of any human immunodeficiency virus test conducted pursuant to this subchapter shall not be a public record for purposes of Chapter 100, Title 29, Delaware Code.

§3914. Test results; notification to Department of Corrections; counseling; cost; notice of appeal not to automatically stay order for HIV testing.

(a) The result of any human immunodeficiency virus testing conducted pursuant to this subchapter shall only be made available by the Division of Public Health to the victim, or the parent or guardian of the victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing, and any other person or agency pursuant to the provisions of Chapter 12 and 12A, Title 16, Delaware Code.

(b) In addition, the Division of Public Health shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this subchapter which indicates that the

defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in any correctional institution.

(c) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Division of Public Health shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health care and support services.

(d) The cost of testing under this subchapter shall be paid by the defendant tested, unless the court has determined that the defendant is an indigent person.

(e) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test."

Section 2. Amend Chapter 9, Title 10, Delaware Code, by adding thereto a new Subchapter IV to read as follows:

"Subchapter IV. Voluntary and mandatory human immunodeficiency virus testing of certain sex offenders.

§937A. Definitions.

For purposes of this subchapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

'Human immunodeficiency virus test' means a test or tests of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection, and includes preliminary screening.

§938A. HIV testing made available.

(a) A person charged with an offense pursuant to Chapter 5, Title 11, Delaware Code, which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing under the provisions of Chapter 12, Title 16, Delaware Code. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

§939A. Order to submit to human immunodeficiency virus testing; test results; notification to Department of Services to Children, Youth and Their Families; counseling; costs; notice of appeal not to stay order for HIV testing.

(a) When a defendant has been arrested and charged with an offense in §937A of this subchapter, other provisions of law to the contrary notwithstanding, the court, at arraignment, regardless of any prior human immunodeficiency virus test on the defendant, shall order, at the request of the victim, the defendant to undergo human immunodeficiency virus testing, under the direction of the Division of Public Health.

(b) The result of any human immunodeficiency virus test conducted pursuant to this subchapter shall not be a public record for purposes of Chapter 100, Title 29, Delaware Code.

(c) The result of any human immunodeficiency virus testing conducted pursuant to this subchapter shall only be made available by the Division of Public Health to the victim, or the parent or guardian of the victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing and any other person or agency pursuant to provisions of Chapter 12 and 12A, Title 16, Delaware Code.

(d) In addition, the Division of Public Health shall provide to the Department of Services to Children, Youth and Their Families the result of any human immunodeficiency virus test conducted pursuant to this subchapter which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Services to Children, Youth and Their Families shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in any institution under the Department's jurisdiction.

(d) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Division of Public Health shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health care and support services.

(e) The costs of testing under this subchapter shall be paid by the defendant tested, unless the court has determined that the defendant is an indigent person.

(f) Filing of a notice of appeal shall not stay an order that the defendant submit to a human immunodeficiency virus test."

Approved May 27, 1994.

CHAPTER 232

FORMERLY

SENATE BILL NO. 287

AN ACT TO AMEND CHAPTER 27, TITLE 18 OF THE DELAWARE CODE RELATING TO THE INSURANCE CONTRACT.

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

Section 1. Amend §2708(4), Chapter 27, Title 18 of the Delaware Code by deleting the sentence contained therein that reads as follows:

"Such welfare or similar plan established by a corporation shall comport with any wellness plan regulations which may be issued by the Commissioner."

Section 2. Amend §2708(4), Chapter 27, Title 18 of the Delaware Code by deleting the phrase "comporting with such wellness plan regulations" as contained in the fifth sentence of said subsection.

Approved May 27, 1994.

CHAPTER 233

FORMERLY

SENATE BILL NO. 300
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 8, SECTION 136, OF THE DELAWARE CODE RELATING TO RESIGNATION OF CORPORATION REGISTERED AGENTS NOT COUPLED WITH APPOINTMENT OF SUCCESSOR.

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 136(a), Chapter 1, Title 8, of the Delaware Code by deleting the word "60" in the third line thereof and by replacing it with the word "30."

Section 2. Further amend Section 136(a), Chapter 1, Title 8, of the Delaware Code by amending the second sentence of said section to read in full as follows:

"There shall be attached to such certificate an affidavit of such registered agent, if an individual, or of an authorized officer thereof if a corporation, stating either (i) that at least 30 days prior to the date of the filing of said certificate, due notice was sent by certified or registered mail to the corporation for which such registered agent was acting, at the principal office thereof outside the State, 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 corporation, of the resignation of such registered agent or (ii) that such registered agent has on not less than two separate occasions attempted to send mail by first class mail to the corporation at its principal office outside the State, 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 corporation, and such mail has been returned by the post office as undeliverable, not forwardable, or unclaimed."

Section 3. Amend Section 136(c), Chapter 1, Title 8, of the Delaware code by deleting the word "60" in the seventh and eleventh lines thereof and by replacing them with the word "30."

Approved May 27, 1994.

CHAPTER 234

FORMERLY

SENATE BILL NO. 301
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 8, SECTION 371, OF THE DELAWARE CODE RELATING TO QUALIFICATION TO DO BUSINESS IN STATE.

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

Section 1. Amend Section 371(c), Chapter 1, Title 8, of the Delaware Code by adding the following sentence at the end of said section:

"If the name of the foreign corporation conflicts with the name of a corporation, limited partnership, limited liability company, registered limited liability partnership, or business trust organized under the laws of this State, or a name reserved for a corporation, limited partnership, limited liability company, registered limited liability partnership, or business trust to be organized under the laws of this State, or a name reserved or registered as that of a foreign corporation, foreign limited partnership, or foreign limited liability company under the laws of this State, the foreign corporation may qualify to do business if it adopts an assumed name which shall be used when doing business in this State as long as the assumed name is authorized for use by this section."

Approved May 27, 1994.

CHAPTER 235

137TH GENERAL ASSEMBLY

SENATE BILL NO. 314
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 8, OF THE DELAWARE CODE RELATING TO GENERAL CORPORATION LAW.

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

Section 1. Amend Section 103(a)(2)(a), Chapter 1, Title 8, of the Delaware Code by deleting same and replacing said subsection with the following.

"a. By any authorized officer of the corporation; or"

Section 2. Amend Section 103(f), Chapter 1, Title 8, of the Delaware Code by deleting the last sentence of said section and adding the following in lieu thereof:

"In lieu of filing a certificate of correction the instrument may be corrected by filing with the Secretary of State a corrected instrument which shall be executed, acknowledged, filed and recorded in accordance with this section. The corrected instrument shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected, and shall set forth the entire instrument in corrected form. An instrument corrected in accordance with this section shall be effective as of the date the original instrument was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the instrument as corrected shall be effective from the filing date."

Section 3. Amend Section 103(h), Chapter 1, Title 8, of the Delaware Code by inserting after the word "facsimile" the phrase: ", a conformed signature, or an electronically transmitted signature".

Section 4. Amend Section 133, Chapter 1, Title 8, of the Delaware Code, by deleting the following phrase from said section:

"; and, if such new office is located in a county other than that in which the former office was located, a certified copy of such certificate shall also be recorded in the office of the recorder for the county in which such former office was located".

Section 5. Amend Section 251(c), of Title 8, of the Delaware Code, by deleting the words:

"It shall be recorded in the office of the recorder of the county of this State in which the registered office of each such constituent corporation is located."

and insert in their place the words:

"It shall be recorded in the office of the recorder of deeds of the county of this State in which the registered office of the surviving constituent corporation is located;"

Approved May 27, 1994.

CHAPTER 236

FORMERLY

HOUSE BILL NO. 394
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 2708, CHAPTER 27, TITLE 21 OF THE DELAWARE CODE RELATING TO SCHOOL BUS DRIVER QUALIFICATIONS AND DRUG TESTING.

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

Section 1. Amend §2708(a), Chapter 27, Title 21 of the Delaware Code by adding a new paragraph thereto read as follows:

"(11) The applicant shall submit to a drug test, to be administered pursuant to the rules and regulations of the Department of Public Instruction, the results of which must be negative for controlled substances classified in Schedule I, II, III, IV, or V of Chapter 47 of Title 16 of the Delaware Code unless the controlled substances have been ingested pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice. Anyone testing positive to the drug test required in this paragraph shall have the right to request and pay for further analysis of their drug test, pursuant to the rules and regulations of the Department of Public Instruction, to determine whether the result was a false positive or the controlled substance was ingested pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice."

Approved May 27, 1994.

CHAPTER 237

FORMERLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 305
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 10 OF THE DELAWARE CODE RELATING TO CHAIN OF CUSTODY.

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

Section 1. Amend Chapter 43, Title 10 of the Delaware Code by adding a new subchapter to read as follows:

"Subchapter III. Chain of Custody

Section 4330. Chemical test report.

For the purpose of establishing that physical evidence in a criminal or civil proceeding constitutes a particular controlled substance defined under Chapter 47 of Title 16, a report signed by the Forensic Toxicologist or Forensic Chemist who performed the test or tests as to its nature is prima facie evidence that the material delivered was properly tested under procedures approved by Office of the Chief Medical Examiner/Forensic Sciences Laboratory, that those procedures are legally reliable, that the material was delivered by the officer or person stated in the report, and that the material was or contained the substance therein stated, without the necessity of the Forensic Toxicologist or Forensic Chemist personally appearing in court, provided the report identifies the Forensic Toxicologist or Forensic Chemist as an individual certified by the Office of the Chief Medical Examiner/Forensic Sciences Laboratory, the Delaware State Police, or any county or municipal police department employing analysts of controlled substances, as qualified under standards approved by the Office of the Chief Medical Examiner/Forensic Sciences Laboratory to analyze those substances, states that he made an analysis of the material under the procedures approved by the Chief Medical Examiner, Director of Forensic Sciences Laboratory and also states that the substance, in his or her opinion, is or contains the particular controlled substance specified. Nothing in this section precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in or the presumption raised by the report.

Section 4331. Chain of physical custody or control.

In the context of controlled dangerous substances:

(a) "Chain of custody" means:

- (1) the seizing officer;
- (2) the packaging officer, if the packaging officer is not also the seizing officer; and
- (3) the Forensic Toxicologist or Forensic Chemist or other person who actually touched the substance and not merely the outer sealed package in which the substance was placed by the law enforcement agency before or during the analysis of the substance.

(b) "Chain of custody" does not include a person who handled the substance in any form after analysis of the substance.

(c) (1) For the purpose of establishing, in a criminal or civil proceeding, the chain of physical custody or control of evidence consisting of or containing a substance tested or analyzed to determine whether it is a controlled substance defined under Chapter 47 of Title 16, a statement signed by each successive person in the chain of custody that the person delivered it to the other person indicated on or about the date stated is

prima facie evidence that the person had custody and made the delivery as stated, without the necessity of a personal appearance in court by the person signing the statement.

(2) The statement shall contain a sufficient description of the material or its container so as to distinguish it as the particular item in question and shall state that the material was delivered in essentially the same condition as received.

(3) The statement may be placed on the same document as the report provided for in §4330 of this Title.

(4) Nothing in this section precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in or the presumption raised by the statement.

Section 4332. Presence of Forensic Toxicologist or Forensic Chemist at criminal proceeding; availability of chemical report to defense counsel.

(a) In general. - (1) In a criminal proceeding, the prosecution shall, upon written demand of a defendant filed in the proceedings at least five days prior to the trial, require the presence of the Forensic Toxicologist or Forensic Chemist, or any person in the chain of custody as a prosecution witness.

(2) The provisions of §§4330 and 4331 of this Title concerning prima facie evidence do not apply to the testimony of that witness.

(3) The provisions of §§4330 and 4331 of this Title are applicable in a criminal proceeding only when a copy of the report or statement to be introduced is mailed, delivered, or made available to counsel for the defendant or to the defendant personally when the defendant is not represented by counsel, at least ten days prior to the introduction of the report or statement at trial.

(b) Witness for defense. - Nothing contained in this subchapter shall prevent the defendant from summoning a witness mentioned in this subchapter as a witness for the defense."

Approved May 31, 1994.

CHAPTER 238

FORMERLY

HOUSE BILL NO. 11

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

AN ACT TO AMEND CHAPTER 6, TITLE 13, DELAWARE CODE RELATING TO UNIFORM INTERSTATE FAMILY SUPPORT.

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

Section 1. Amend Title 13, Delaware Code by striking Chapter 6 in its entirety and substituting in lieu thereof the following new Chapter.

"CHAPTER 6. UNIFORM INTERSTATE FAMILY SUPPORT ACT

Subchapter I. General Provisions

As used in this Chapter:

§601. (1) 'Child' means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is alleged to be the beneficiary of a support order directed to the parent.

(2) 'Child support order' means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) 'Duty of support' means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) 'Home state' means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) 'Income' includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.

(6) 'Income-withholding order' means an order or other legal process directed to an obligor's employer or other debtor, as defined by the income-withholding law of this State, to withhold support from the income of the obligor.

(7) 'Initiating state' means a state in which a proceeding under this Act or a law substantially similar to this Act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state.

(8) 'Initiating tribunal' means the authorized tribunal in an initiating state.

(9) 'Issuing state' means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) 'Issuing tribunal' means the tribunal that issues a support order or renders a judgment determining parentage.

(11) 'Law' includes decisional and statutory law and rules and regulations having the force of law.

(12) 'Obligee' means:

(i) an individual to whom a duty or support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(ii) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(iii) an individual seeking a judgment determining parentage of the individual's child.

(13) 'Obligor' means an individual, or the estate of a decedent:

(i) who owes or is alleged to owe a duty of support;

(ii) who is alleged but has not been adjudicated to be a parent of a child; or

(iii) who is liable under a support order.

(14) 'Register' means to record, file a support order or judgment determining parentage in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically.

(15) 'Registering tribunal' means a tribunal in which a support order is registered.

(16) 'Responding state' means a state to which a proceeding is forwarded under this Act or a law substantially similar to this Act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) 'Responding tribunal' means the authorized tribunal in a responding state.

(18) 'Spousal-support order' means a support order for a spouse or former spouse of the obligor.

(19) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term 'state' includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this Act.

(20) 'Support enforcement agency' means a public official or agency authorized to seek:

(i) enforcement of support orders or laws relating to the duty of support;

(ii) establishment or modification of child support;

(iii) determination of parentage; or

(iv) to locate obligors or their assets.

(21) 'Support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) 'Tribunal' means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

§602. Tribunal of this State

The Family Court of the State of Delaware is the tribunal of this State.

§603. Remedies Cumulative

Remedies provided by this Act are cumulative and do not affect the availability of remedies under other law.

SUBCHAPTER II. JURISDICTION

Part A. Extended Personal Jurisdiction

§610. Bases for Jurisdiction over Nonresident

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) the individual is personally served with notice within this State;
- (2) the individual submits to the jurisdiction of this State by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) the individual resided with the child in this State;
- (4) the individual resided in this State and provided prenatal expenses or support for the child;
- (5) the child resides in this State as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse;
- (7) there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

611. Procedure when Exercising Jurisdiction over Nonresident

A tribunal of this State exercising personal jurisdiction over a nonresident under Section 610 may apply Section 635 (Special Rules of Evidence and Procedure) to receive evidence from another state, and Section 637 (Assistance with Discovery) to obtain discovery through a tribunal of another state. In all other respects, Subchapter III through VII do not apply and the tribunal shall apply the procedural and substantive law of this State, including the rules on choice of law other than those established by this Act.

PART B. PROCEEDINGS INVOLVING TWO OR MORE STATES

§612. Initiating and Responding Tribunal of this State

Under this Act, a tribunal of this State may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

§613. Simultaneous Proceedings in Another State

(a) A tribunal of this State may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after petition or comparable pleading is filed in another state only if:

- (1) the petition or comparable pleading in this State is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this State is the home state of the child.

(b) A tribunal of this State may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State;

(2) the contesting party timely challenges the exercise of jurisdiction in this State; and

(3) if relevant, the other state is the home state of the child.

§614. Continuing, Exclusive Jurisdiction

(a) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a child support order:

(1) as long as this State remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the tribunal of this State for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this State issuing a child support order consistent with the law of this State may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this Act.

(c) If a child support order of this State is modified by a tribunal of another state pursuant to a law substantially similar to this Act, a tribunal of this State loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this State, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this State shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to this Act.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this State may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

§615. Enforcement and Modification of Support Order by Tribunal having Continuing Jurisdiction

(a) A tribunal of this State may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this State having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply Section 635 (Special Rules of Evidence and Procedure) to receive evidence from another state and Section 637 (Assistance with Discovery) to obtain discovery through a tribunal of another state.

(c) A tribunal of this State which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

PART C. RECONCILIATION WITH ORDERS OF OTHER STATES

§616. Recognition of Child Support Orders

(a) If a proceeding is brought under this Act, and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this State shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this Act, the order of that tribunal must be recognized.

(3) If two or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under this Act, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(4) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this Act, the tribunal of this State may issue a child support order, which must be recognized.

(b) The tribunal that has issued an order recognized under subsection (a) is the tribunal having continuing, exclusive jurisdiction.

§617. Multiple Child Support Orders for Two or More Obligees

In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this State.

§618. Credit for Payments

Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this State.

SUBCHAPTER III. CIVIL PROVISIONS OF GENERAL APPLICATION

§620. Proceedings Under This Act

(a) Except as otherwise provided in this Act, this chapter applies to all proceedings under this Act.

(b) This Act provides for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to Subchapter IV;

(2) enforcement of a support order and income withholding order of another state without registration pursuant to Subchapter V;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to Subchapter VI.

(4) modification of an order for child support or spousal support issued by a tribunal of this State pursuant to Subchapter II, Part B;

(5) registration of an order for child support of another state for modification pursuant to Subchapter VI;

(6) determination of parentage pursuant to Subchapter VII; and

(7) assertion of jurisdiction over nonresidents pursuant to Subchapter II, Part A.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this Act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

§621. Action by Minor Parent

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

§622. Application of Law of this State

Except as otherwise provided by this Act, a responding tribunal of this State:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

§623. Duties of Initiating Tribunal

Upon the filing of a petition authorized by this Act, an initiating tribunal of this State shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

§624. Duties and Powers of Responding Tribunal

(a) When a responding tribunal of this State receives a petition or comparable pleading from an initiating tribunal or directly pursuant to Section 301(c) (Proceedings Under this Act), it shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

(b) A responding tribunal of this State, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this State shall include in a support order issued under this Act, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this State may not condition the payment of a support order issued under this Act upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this State issues an order under this Act, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

§625. Inappropriate Tribunal

If a petition or comparable pleading is received by an inappropriate tribunal of this State, it shall forward the pleading and accompanying documents to an appropriate tribunal in this State or another state and notify the petitioner by first class mail where and when the pleading was sent.

§626. Duties of Support Enforcement Agency

(a) A support enforcement agency of this State, upon request, shall provide services to a petitioner in a proceeding under this Act.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this State or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first class mail to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) This Act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

§627. Duty of Attorney General

If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under this Act or may provide those services directly to the individual.

§628. Private Counsel

An individual may employ private counsel to represent the individual in proceedings authorized by this Act.

§629. Duties of Attorney General's Office

(a) The Division of Child Support Enforcement is the State Information Agency under this Act.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this State which have jurisdiction under this Act and any support enforcement agencies in this State and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this State in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this Act received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by

other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

§630. Pleadings and Accompanying Documents

(a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this Act must verify the petition. Unless otherwise ordered under Section 631 (Nondisclosure of Information in Exceptional Circumstances), the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

§631. Nondisclosure of Information in Exceptional Circumstances.

Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this Act.

§632. Costs and Fees.

(a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Subchapter VI (Enforcement and Modification of Support Order After Registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

§633. Limited Immunity of Petitioner.

(a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this State to participate in a proceeding under this Act.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this Act committed by a party while present in this State to participate in the proceeding.

§634. Nonparentage as Defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this Act.

§635. Special Rules of Evidence and Procedure.

(a) The physical presence of the petitioner in a responding tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this Act, a tribunal of this State may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this State shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this Act.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this Act.

§636. Communications Between Tribunals.

A tribunal of this State may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this State may furnish similar information by similar means to a tribunal of another state.

§637. Assistance With Discovery.

A tribunal of this State may:

(1) request a tribunal of another state to assist in obtaining discovery; and

(2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

§638. Receipt and Disbursement of Payments.

A support enforcement agency or tribunal of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

SUBCHAPTER IV. ESTABLISHMENT OF SUPPORT ORDER

§640. Petition to Establish Support Order.

(a) If a support order entitled to recognition under this Act has not been issued, a responding tribunal of this State may issue a support order if:

(1) the individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) The respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to §624 (Duties and Powers of Responding Tribunal).

SUBCHAPTER V. DIRECT ENFORCEMENT OF ORDER OF ANOTHER STATE

WITHOUT REGISTRATION

§650. Recognition of Income-Withholding Order of Another State.

(a) An income-withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under the income-withholding law of this State without first filing a petition or comparable pleading or registering the order with a tribunal of this State. Upon receipt of the order, the employer shall:

(1) treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State;

(2) immediately provide a copy of the order to the obligor; and

(3) distribute the funds as directed in the withholding order.

(b) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this State. Section 663 (Choice of Law) applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

(1) the person or agency designated to receive payments in the income-withholding order; or

(2) if no person or agency is designated, the obligee.

§651. Administrative Enforcement of Orders.

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this State.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this Act.

SUBCHAPTER VI. ENFORCEMENT AND MODIFICATION OF

SUPPORT ORDER AFTER REGISTRATION

PART A. REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

§660. Registration of Order for Enforcement.

A support order or an income-withholding order issued by a tribunal of another state may be registered in this State for enforcement.

§661. Procedure to Register Order for Enforcement.

(a) A support order or income-withholding order of another state may be registered in this State by sending the following documents and information to the appropriate tribunal in this State:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this State not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

§662. Effect of Registration for Enforcement.

(a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this State.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.

(c) Except as otherwise provided in this chapter, a tribunal of this State shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

§663. Choice of Law.

(a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this State or of the issuing state, whichever is longer, applies.

PART B. CONTEST OF VALIDITY OR ENFORCEMENT.

§664. Notice of Registration of Order.

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first class, certified, or registered mail or by any means of personal service authorized by the law of this State. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within 30 days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this State.

§665. Procedure to Contest Validity or Enforcement of Registered Order.

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this State shall request a hearing within 30 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to §666 (Contest of Registration or Enforcement).

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time, and place of the hearing.

§666. Contest of Registration or Enforcement.

(a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this State to the remedy sought;

(6) full or partial payment has been made; or

(7) the statute of limitation under §663 (Choice of Law) precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this State.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

§667. Confirmed Order.

Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

PART C. REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER

§668. Procedure to Register Child Support Order of Another State for Modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this State in the same manner provided in Part A of this article if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

§669. Effect of Registration for Modification.

A tribunal of this State may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this State, but the registered order may be modified only if the requirements of §670 (Modification of Child Support Order of Another State) have been met.

§670. Modification of Child Support Order of Another State.

(a) After a child support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only if, after notice and hearing, it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this State seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this State; or

(2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this State may modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this State and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this State may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this State becomes the tribunal of continuing, exclusive jurisdiction.

(e) Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

§671. Recognition of Order Modified in Another State.

A tribunal of this State shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this Act and, upon request, except as otherwise provided in this Act, shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

SUBCHAPTER VII. DETERMINATION OF PARENTAGE

§675. Proceeding to Determine Parentage.

(a) A tribunal of this State may serve as an initiating or responding tribunal in a proceeding brought under this Act or a law substantially similar to this Act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this State shall apply the Uniform Parentage Act being Chapter 8 of this Title; procedural and substantive law of this State and the rules of this State on choice of law.

SUBCHAPTER VIII. INTERSTATE RENDITION

§680. Grounds for Rendition.

(a) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this Act.

(b) The governor of this State may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this State with having failed to provide for the support of an obligee; or

(2) on the demand by the governor of another state, surrender an individual found in this State who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this Act applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

§681. Conditions of Rendition.

(a) Before making demand that the governor of another state surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the governor of this State may require a prosecutor of this State to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this Act or that the proceeding would be of no avail.

(b) If, under this Act or a law substantially similar to this Act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the governor of this State surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

SUBCHAPTER IX. MISCELLANEOUS PROVISIONS

§690. Uniformity of Application and Construction.

This Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting it.

§691. Short Title.

This Act may be cited as the Uniform Interstate Family Support Act."

Section 2. Severability Clause. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 3. Effective Date. This Act takes effect July 1, 1995 unless the Federal government legislatively mandates its implementation prior to July 1, 1995.

Approved May 31, 1994.

CHAPTER 239

FORMERLY

HOUSE BILL NO. 264

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO VACATION AND ABANDONMENT OF ROADS, BRIDGES, AND OTHER RIGHTS OF WAY.

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

Section 1. Amend §1303(1), Title 17, Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof a new §1303(1) to read as follows:

"(1) 'Abandonment' shall mean the loss of all right, title, interest, and jurisdiction in any road, bridge, or other right of way previously held by the Department, other governmental authority, or the general public in which the Department, other governmental authority, or the general public has clearly indicated an intent to surrender all right, title, interest, and jurisdiction through lack of use, care, or maintenance thereof."

Section 2. Amend §1303(4), Title 17, Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof a new §1303(4) to read as follows:

"(4) 'Vacation' shall mean the transfer of all right, title, interest, and jurisdiction in any road, bridge, or other right-of-way when the Department, other governmental authority, or the general public has clearly indicated an intent to abandon same through lack of use, care, or maintenance thereof. In addition, 'Vacation' with respect to any alley, pathway, walkway, or other such right-of-way not within the jurisdiction of the Department shall mean the transfer of all right, title, interest, and jurisdiction, in such right-of-way when the Superior Court shall determine that continued maintenance and use of such right-of-way has created or constitutes a nuisance or detriment to the abutting or surrounding landowners which nuisance outweighs the benefit to the general public of the continued existence of the right-of-way, provided that no parkland, open space, or greenway under the control of the Department of Natural Resources and Environmental Control or any county or municipal parks department shall be vacated under this Chapter without the written approval of the controlling jurisdiction."

Section 3. The provisions of the Bill are severable. The invalidity or unenforceability of any provision shall not affect the validity or enforceability of the remaining provisions of this Act.

Approved June 9, 1994.

CHAPTER 240
FORMERLY
HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 219

AN ACT TO AMEND CHAPTER 30, TITLE 30, DELAWARE CODE RELATING TO MOTOR VEHICLE DEALER LICENSE FEE.

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

Section 1. Amend §3005, Title 30, Delaware Code by striking the period "." immediately following the word "Finance" and inserting the following:

"; provided, however, no dealer license fee shall be applicable for out-of-state new recreational dealers at industry-wide public vehicle shows or exhibitions at enclosed malls in this state when such out-of-state new recreational dealers participate as exhibitors with permission of the licensed manufacturer, and further provided that:

(1) reciprocity is granted to such recreational dealers of this state; and

(2) providing that any participating out-of-state new recreational dealer is duly licensed and authorized by his or her state of residence to sell new recreational vehicles."

Approved June 9, 1994.

CHAPTER 241

FORMERLY

SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 272

AN ACT TO AMEND CHAPTER 83, TITLE 9 OF THE DELAWARE CODE RELATING TO VALUATION AND ASSESSMENT OF PROPERTY.

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

Section 1. Amend Section 8335(d), Chapter 83, Title 9 of the Delaware Code by redesignating current Section 8335(d)(4) as new Section 8335(d)(5) and by adding new Sections 8335(d)(4) and (6) to read as follows:

"(4) Notwithstanding anything in this Chapter to the contrary, whenever land in agricultural use is applied to a use other than agriculture, and such land is but a portion of a larger tract of land, the remainder of which continues in agricultural use, roll-back taxes as provided herein shall become payable only with respect to the portion of the land which is applied to a use other than agricultural, and the remainder of the land which continues in agricultural use shall remain eligible for valuation under Sections 8330-8337 of this title provided the criteria for land use set forth under Section 8333 continue to be satisfied. The owner of the land which continues in agricultural use shall not be required to apply for eligibility for valuation, and the burden for establishing ineligibility shall rest with the assessing authority."

"(6) When land in agricultural use and being valued, assessed, and taxed under the provisions of this chapter, is acquired for public use by State agencies, whether by condemnation, gift, or purchase, and is then applied to a use other than agriculture, that portion of the land which is applied to such other use shall be subject to a payment by the agency in lieu of roll-back taxes, to be paid to the Delaware Agricultural Lands Preservation Foundation. The amount of this payment in lieu shall be determined as if it were the roll-back tax chargeable under this section for the tax year in which the land was acquired by the agency, or the tax year in which the land is applied to such other use, whichever is greater, after first deducting the school tax component of the roll-back tax chargeable for that year. This payment shall be made directly by the agency to the Foundation, after obtaining the assessment information from the appropriate county receiver of taxes, treasurer, or director of finance, and shall not be subject to any charge for administration by the county. In all other respects, the land so acquired for such public use shall not be assessed or charged for roll-back or other property taxes by any county, school district, or other political subdivision."

Approved June 9, 1994.

CHAPTER 242

FORMERLY

SENATE BILL NO. 321

AN ACT TO AMEND CHAPTERS 3 AND 17, TITLE 15, DELAWARE CODE TO ELIMINATE THE DISQUALIFICATION OF VOTERS WHO DID NOT VOTE IN THE LAST TWO (2) PRECEDING GENERAL ELECTIONS.

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

Section 1. Amend §306, Chapter 3, Title 15, Delaware Code by deleting the phrase ", which shall undertake an investigation as prescribed in §1704 of this title".

Section 2. Amend §1704, Chapter 17, Title 15, Delaware Code by striking said section in its entirety.

Approved June 9, 1994.

CHAPTER 243

FORMERLY

HOUSE BILL NO. 378

AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 4126 OF TITLE 21 OF THE DELAWARE CODE RELATING TO BICYCLE USE OF CONTROLLED ACCESS HIGHWAYS.

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

Section 1. Amend Section 4126(a) (7), Chapter 41, Title 21 of the Delaware Code by inserting the following between the word "bicycle" and the semicolon ";": appearing therein:

" , except where appropriately marked by the Department of Transportation"

Approved June 9, 1994.

CHAPTER 244

FORMERLY

SENATE BILL NO. 199

AN ACT TO AMEND CHAPTER 31, TITLE 15, DELAWARE CODE, RELATING TO NOMINATIONS OF CANDIDATES BY PARTIES.

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

Section 1. Amend §3103(b), Chapter 31, Title 15, Delaware Code by striking all the language appearing after the word "except" commencing with the word "that" and ending with the word "Title" and substituting in lieu thereof the following: "for candidates who fulfill the requirement of subsections (d) and (e) of Section 3103."

Section 2. Amend Section 3103, Title 15, Delaware Code by adding subsection (d) thereto to read as follows:

"(d) A person who establishes to the Commissioner that he or she is indigent may, in lieu of the filing fee, present a nomination petition by the deadline for notification of candidacy, in a form prescribed by the Commissioner of Elections bearing the signatures, in the manner hereinafter prescribed, of one percent of the persons who, at the time such petition is presented, are registered voters in all of the election districts in which such candidate would appear on the ballot. Each person who signs a nomination petition shall sign but one such petition for each office to be filled, and must be a registered member of the party designated in such petition; provided, however, that where there are to be elected two or more persons to the same office, each signer may sign petitions for as many candidates for such office, as, and no more than, he or she could vote for at the succeeding election. Each signer of such petition shall declare his or her street address, the date of his or her signature, and that he or she is a registered voter of the county and of the party therein named. No nomination petition shall be circulated before the year in which the election is to take place, and no signature shall be counted unless it bears a date affixed not earlier than January 1 of the year in which the election is to take place. Said nomination petition may be on one or more sheets, and different sheets must be used for signers who reside in different counties. If more than one sheet is used, they shall be bound together when offered for filing, and each sheet shall be numbered consecutively. Each sheet shall bear the affidavit of the person responsible for circulating the petition that to the best of affiant's knowledge and belief, the signers are registered voters in election districts in which such candidate would appear on the ballot and members of the political party of the candidate."

Section 3. Amend Section 3103, Title 15, Delaware Code by adding subsection (e) thereto, to read as follows:

"(e) For purposes of this section, a person is 'indigent' only if such person is receiving benefits under the Supplemental Security Income program for Aged, Blind and Disabled under Title 42, U.S.C. Subchapter XVI, or if the Commissioner determines that such person meets the income and resources tests for such benefits under 42 U.S.C. §1382(a), as applied to Delaware residents. The Commissioner shall require any person who seeks to be treated as indigent under this section to provide such information under oath necessary to determine any claim of indigence, including copies of such person's personal income tax returns and may require the person to authorize the Commissioner to receive information from banks, the Social Security Administration, credit reporting services and any other source of information as may be necessary to make the determination under this section."

Approved June 9, 1994.

CHAPTER 245

FORMERLY

SENATE BILL NO. 392

AN ACT TO AMEND TITLE 8 OF THE DELAWARE CODE RELATING TO ISSUING COPIES OF RECORDS OF DELAWARE 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(c), Title 8, Delaware Code, by deleting the present §391(c) in its entirety and inserting in lieu thereof the following:

"(c) The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents, and other papers not on file, and for all such photocopies or electronic image copies which are not certified by him, a fee of five dollars (\$5.00) shall be paid for the first page and one dollar (\$1.00) for each additional page. The Secretary of State may also issue microfiche copies of instruments on file as well as instruments, documents, and other papers not on file, and for each such microfiche a fee of two dollars (\$2.00) shall be paid therefor. Notwithstanding Delaware's Freedom of Information Act or other provision of this Code granting access to public records, the Secretary of State shall issue only photocopies, microfiche, or electronic image copies of records in exchange for the fees described above."

Approved June 15, 1994.

CHAPTER 246

FORMERLY

HOUSE BILL NO. 308
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14, DELAWARE CODE PERTAINING TO EDUCATION AND THE PROMOTION OF VOLUNTEERISM AMONG HIGH SCHOOL STUDENTS AND THE DELAWARE OFFICE OF VOLUNTEERISM.

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

Section 1. Amend Title 14, Delaware Code, by creating a new chapter to read as follows:

"Chapter 89A. Delaware Volunteerism Act.

§8901A. Purpose.

The active participation of young adults in volunteer activities is necessary to achieve a truly healthy community. It is especially rewarding to instill the spirit of volunteerism in young people who may display that spirit repeatedly in their future years. Thus, it is deemed beneficial to encourage volunteerism among high school students.

§8902A. Provisions.

(a) The Delaware Office of Volunteerism, and the Department of Public Instruction, having knowledge of bona fide volunteer opportunities, shall make those opportunities known to high school students through the schools' guidance counseling program and shall update their information regularly.

(b) High schools through guidance counselors shall promote known opportunities to students by stressing the desirability of giving back to one's community, helping people, and of the benefits of such experience in the process of finding employment and applying for acceptance in institutions of secondary education.

(c) Any student having worked the minimum number of hours of voluntary community service in one academic year as may be promulgated by the authorities listed under subsection (e) below shall be awarded a certificate noting that the student is a "Delaware Volunteer".

(d) Each student desirous of attaining "Delaware Volunteer" status shall maintain a diary or log of hours served and shall be responsible for self-reporting such hours to his or her guidance counselor for certification.

(e) The Associate State Superintendent for Improvement and Assistance and the Director of the State Office of Volunteerism shall determine the standards for certification and the method of awarding certificates."

Approved June 15, 1994.

CHAPTER 247

FORMERLY

HOUSE BILL NO. 446

AN ACT TO AMEND CHAPTER 5, TITLE 29, OF THE DELAWARE CODE RELATING TO STATE HISTORICAL OBJECTS.

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

Section 1. Amend §558, Chapter 5, Title 29, Delaware Code by adding the following new subsections:

"(c) All historical markers which are erected by the Department of State shall be the property of the State of Delaware. No person, entity or business shall possess, transport, alter or remove said marker without written authority of an appropriate official of the Department of State. Further, no person, entity or business shall receive, retain, alter or dispose of State historical markers absent written authorization of an appropriate official of the Department of State. Unauthorized recipients of these markers may be prosecuted criminally for receiving stolen property.

(d) The Department of State may establish rules or regulations regarding all aspects of State historical markers. Other persons, entities or businesses shall not duplicate State historical markers, or create, obtain or install similar markers with an intent to mislead or deceive the public."

Approved June 15, 1994.

CHAPTER 248

FORMERLY

HOUSE BILL NO. 441
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 71 OF TITLE 10, DELAWARE CODE RELATING TO ILLEGAL DRUG ACTIVITY AND NUISANCE.

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

Section 1. AMEND §7101 of Title 10, Delaware Code by renumbering subsections (1), (2) and (3) as subsections (2), (3) and (4) and inserting a new subsection (1) to read as follows:

"(1) 'Illegal drug activity' means the unlawful selling, serving, storing, giving away or manufacturing (which includes the production, preparation, compounding, conversion, processing, packaging or repackaging) of any drug, which includes all narcotic or psycho active drugs, cannabis, cocaine and all controlled substances as defined in the Delaware Uniform and Controlled Substance Act, Title 16, of the Delaware Code."

Section 2. FURTHER AMEND §7101(2) of Title 10, Delaware Code by inserting a comma "," after the word "prostitution", striking the word "or" immediately preceding the word "illegal" and adding immediately after the word "gambling" the following:

"or illegal drug activity".

Approved June 17, 1994.

CHAPTER 249

FORMERLY

HOUSE BILL NO. 318

AS AMENDED BY SENATE AMENDMENT NO. 1 AS AMENDED BY
SENATE AMENDMENT NO. 1 TO SENATE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 47, TITLE 29 OF THE DELAWARE CODE RELATING TO DNA ANALYSIS AND DATA BANK, AND TO AMEND CHAPTER 35, TITLE 11 OF THE DELAWARE CODE TO PROVIDE DNA PROFILE ADMISSIBILITY.

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 47, Title 29, Delaware Code by adding a new section to read as follows:

"Section 4713. DNA Analysis and Data Bank.

(a) In any criminal proceeding, DNA (deoxyribonucleic acid) testing shall be deemed to be a reliable scientific technique, and the evidence of a DNA profile comparison shall be admitted to prove or disprove the identity of any person. This section shall not otherwise limit the introduction of any relevant evidence bearing upon any question at issue before the court. The court shall, regardless of the results of the DNA analysis, if any, consider such other relevant evidence of the identity of the person as shall be admissible in evidence.

(b) Any person convicted on or after the effective date of this section of any offense or attempted offense defined in Subchapter II, Subpart D or Subchapter V of Chapter 5, Title 11 of the Delaware Code or who is in the custody of the Department of Correction after the effective date of this section as a result of a conviction on one of the above offenses shall have a sample of blood taken by the Department of Correction for DNA (deoxyribonucleic acid) law enforcement identification purposes and inclusion in law enforcement identification databases. Any person convicted on or after the date of this Act who is not sentenced to a term of confinement shall provide a blood sample as a condition of such sentence at a time and place specified by the sentencing court.

(c) The samples shall be obtained in a medically approved manner by a physician, registered nurse, licensed practical nurse, phlebotomist, medical technologist, or other qualified medical personnel approved by the Chief Medical Examiner, and packaged and submitted in containers provided by the Chief Medical Examiner, Forensic Sciences Laboratory in accordance with administrative regulations promulgated by the Chief Medical Examiner. No civil liability shall attach to any person authorized to draw blood as provided by this section as a result of the act of drawing blood from any person, provided the blood was drawn according to generally accepted medical procedures.

(d) Any person who tampers or attempts to tamper with any sample of blood or the container collected pursuant to subsection (b) or (c) without lawful authority shall be guilty of a Class D felony.

(e) A centralized database of DNA (deoxyribonucleic acid) identification records for convicted criminals shall be established in the Office of the Chief Medical Examiner, Forensic Science Laboratory. The established system shall be compatible with the procedures set forth in a national DNA identification index to ensure data exchange on a national level.

(f) The purpose of the centralized DNA database is to assist federal, state, and local criminal justice and law enforcement agencies within and outside the State in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes and the identification of missing and unidentified persons.

(g) The Chief Medical Examiner and Forensic Sciences Laboratory shall receive, analyze, and classify samples in compliance with subsections (b) and (c) of this section, and shall record the DNA results in a centralized database for identification and statistical purposes. A report of the analysis certified by the Chief Medical Examiner shall be admissible in any court as evidence of the facts therein stated. Except as specifically provided in this section, the results of the analysis shall be securely stored and shall remain confidential.

(h) Records produced from the samples shall be used only for law enforcement purposes and shall be exempt from the provisions of the Freedom of Information Act.

(i) A person whose DNA profile has been included in the Data Bank pursuant to this section may petition Superior Court for expungement on the grounds that the conviction on which the authority for including the DNA profile was based has been reversed or the case dismissed. The Office of Chief Medical Examiner, Forensic Science Laboratory shall expunge all identifiable information in the Data Bank pertaining to the person and destroy all samples from the person upon receipt of a certified court order.

(j) The Chief Medical Examiner and Forensic Sciences Laboratory shall promulgate administrative regulations necessary to carry out the provisions of the DNA database identification system to include procedures for collection of samples of blood and the database system usage and integrity.

(k) Upon completion of the analysis required by this section, the Office of the Chief Medical Examiner, Forensic Science Laboratory shall forward to the State Bureau of Identification the name and other identifying information required by the State Bureau of Identification of each individual for whom a DNA identification record is developed. Upon receipt of such information the State Bureau of Identification shall make a notation of the existence of such DNA identification record in the criminal history record information file for such individual maintained pursuant to 11 Del. C. Chapter 85. Such information shall be available to all requesting criminal justice agencies in the same manner and under the same conditions as all other criminal record information maintained by the State Bureau of Identification.

(l) Any person who disseminates, receives, or otherwise uses or attempts to use information in the database, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor."

Section 2. Amend Chapter 35, Title 11, Delaware Code by adding a new section to read as follows:

"Section 3515. Admissibility of DNA Profiles.

(a) Definitions. - In this section the following words have the meanings indicated.

(1) 'Deoxyribonucleic acid (DNA)' means the molecules in all cellular forms that contain genetic information in a patterned chemical structure of each individual.

(2) 'DNA profile' means an analysis that utilizes the restriction fragment length polymorphism analysis of DNA resulting in the identification of an individual's patterned chemical structure of genetic information.

(b) Purposes. - In any criminal proceeding, the evidence of a DNA profile is admissible to prove or disprove the identity of any person, if the party seeking to introduce the evidence of a DNA profile:

(1) Notifies in writing the other party or parties by mail at least 45 days before any criminal proceeding; and

(2) Provides, if requested in writing, the other party or parties at least 30 days before any criminal proceeding with:

(i) Duplicates of the actual autoradiographs generated;

- (ii) The laboratory protocols and procedures;
 - (iii) The identification of each probe utilized;
 - (iv) A statement describing the methodology of measuring fragment size and match criteria; and
 - (v) A statement setting forth the allele frequency and genotype data for the appropriate database utilized.
- (c) Prerequisites. - If a party is unable to provide the information required under subsection (b) of this section at least 30 days prior to the criminal proceeding, the court may grant a continuance to permit such timely disclosures as justice may require."

Approved June 16, 1994.

CHAPTER 250

FORMERLY

HOUSE BILL NO. 434

AN ACT TO AMEND TITLE 11 AND TITLE 29 OF THE DELAWARE CODE RELATING TO COMPENSATION FOR INNOCENT VICTIMS OF CRIME, AND PROVIDING FOR CLAIMS TO BE FILED BY CLAIM NUMBER.

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

Section 1. Amend §9013, Chapter 90, Title 11 of the Delaware Code by striking the word "name" as it appears therein and substituting in lieu thereof the words "claim number".

Section 2. Amend §10002(d), Chapter 100, Title 29 of the Delaware Code by adding thereto a new subsection (14) to read as follows:

"(14) Investigative files compiled or maintained by the Violent Crimes Compensation Board."

Approved June 21, 1994.

CHAPTER 251

FORMERLY

HOUSE BILL NO. 331
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 3, 5, 7 & 8

AN ACT TO AMEND CHAPTER 93, TITLE 16, DELAWARE CODE RELATING TO HEALTH PLANNING AND RESOURCES MANAGEMENT.

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

Section 1. Amend Part VIII, Title 16 of the Delaware Code by deleting Chapter 93 in its entirety and substituting the following:

"Chapter 93. Health Planning and Resources Management.

§9301. Purpose.

It is the purpose of this chapter to provide a rational framework for promoting the cost effective and efficient use of health care resources while striving to ensure the availability of and access to high quality and appropriate health care services.

§9302. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

(1) 'Board' shall mean the Delaware Health Resources Board established pursuant to §9303 of this title.

(2) 'Bureau' shall mean the Bureau of Health Planning and Resources management within the Department of Health and Social Services.

(3) 'Certificate of Need' shall mean the written approval of an application to undertake an activity subject to review as described in §9304 of this title.

(4) 'Health care facility' shall include hospital, nursing home, freestanding birthing center, freestanding surgical center, freestanding emergency center, prescribed pediatric extended care center, medical detoxification setting, blood bank, kidney disease treatment center and alcoholism rehabilitation facility, whether or not licensed or required to be licensed by the State, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a unit of State or local government. The term does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts. The term shall not include any physician's office, whether an individual or group practice, any independent clinical laboratory or any radiology laboratory. The term shall also not include the office of any other licensed health care provider, including, but not limited to, physical therapist, dentist, physician assistant, podiatrist, chiropractor, an independently practicing nurse or nurse practitioner, optometrist, pharmacist or psychologist. The term also shall not include any dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees, provided that the facility does not contain inpatient beds, nor shall it apply to any first aid station or dispensary or infirmary offering non-acute services exclusively for use by students and employees of a school or university or by inmates and employees of a prison, provided that services delivered therein are not the substantial equivalent of hospital services in the same area or community. Further:

a. 'Hospital' shall mean any nonfederal facility licensed as such pursuant to Chapter 10 of this title and more particularly §50 of the State Board of Health Regulations.

b. 'Nursing home' shall mean any nonfederal facility licensed as such pursuant to Chapter 11 of this title and more particularly §57

(Skilled Care) and §58 (Intermediate Care) of the State Board of Health Regulations.

c. 'Freestanding birthing center' shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.

d. 'Freestanding surgical center' shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.

e. 'Freestanding emergency center' shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly §52 of the State Board of Health Regulations.

f. 'Prescribed pediatric extended care center' shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.

g. 'Medical detoxification setting' shall mean any facility licensed as such pursuant to Chapters 22 and 48 of this title and more particularly §6 of the Division of Alcoholism, Drug Abuse and Mental Health Regulations.

h. 'Blood bank' shall mean an independent organization collecting or storing human blood or plasma.

i. 'Kidney disease treatment center' shall mean a facility (other than the patient's residence) in which patients suffering from permanent or temporary kidney failure are treated by use of an artificial kidney which separates wastes or poisons from the blood.

j. 'Alcoholism rehabilitation facility' shall mean a facility which provides postdetoxification intensive residential treatment for alcoholism involving a highly structured program not exceeding 28 days for a majority of residents.

(5) 'Health services' shall mean clinically related (i.e., diagnostic, curative or rehabilitative) services provided in or through health care facilities.

(6) 'Major medical equipment' shall mean a single unit of medical equipment or a single system of components with related functions which is used for the diagnosis or treatment of patients and which: (i) Entails a capital expenditure as set forth in this chapter which exceeds \$750,000; (ii) represents medical technology which is not yet available in Delaware; or (iii) represents medical technology which has been designated by the Board as being subject to review. Prior to such designation of medical technology by the Board, medical technology previously designated by the Health Resources Management Council shall continue to be subject to review. The Board may exempt from review a capital expenditure used to acquire major medical equipment which represents medical technology which is not yet available in Delaware. A notice of intent filed pursuant to §9305 of this title along with any other information deemed necessary by the Board shall provide the basis for exempting such a capital expenditure from review.

(7) 'Person' shall mean an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state or political subdivision or instrumentality (including a municipal corporation) of a state.

§9303. Delaware Health Resources Board.

(a) There is hereby established a Delaware Health Resources Board to foster the cost-effective and efficient use of health care resources and the availability of and access to high quality and appropriate health care services.

(b) The Board shall consist of a Chair, a Vice Chair and 19 other members, all of which shall be appointed by the Governor. Appointments shall be for 3-year terms except that of the initial

appointments, 7 shall be for 3-year terms, 7 shall be for 2-year terms and 7 shall be for 1-year terms. Members shall serve no more than 2 full terms consecutively. The membership shall be representative of all counties in the State. In addition to the Chair and the Vice Chair, the membership shall consist of 1 representative designated by the Delaware Health Care Commission; 1 representative designated by the Secretary of the Department of Health and Social Services; 1 representative of organized labor; 1 representative of the health insurance industry; 1 representative designated by the Association of Delaware Hospitals; 1 representative designated by the Medical Society of Delaware; 1 representative designated by the Delaware Health Care Facilities Association; 1 representative of a provider group other than hospitals, nursing homes or physicians; 1 representative designated by the State Chamber of Commerce; 1 representative designated by the Delaware Health Care Coalition; 1 representative involved in purchasing health care coverage on behalf of State employees; 1 other representative involved in purchasing health care coverage for employers with more than 200 employees; and 9 representatives of the public-at-large and not involved in the delivery of health care, health care insurance or the purchasing of health care coverage for an employer with more than 200 employees. The Chair and Vice Chair shall be appointed from among the 9 representatives of the public-at-large. Any vacancy shall be filled by the Governor for the balance of the unexpired term. A quorum shall consist of at least 50 percent of the membership. Members of the Board shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties, to the extent that funds are available and the expenditures are in accordance with State laws.

(c) The Board is an independent public instrumentality. For administrative and budgetary purposes only, the Board shall be placed within the Department of Health and Social Services. Staff support for the Board shall be provided by the Bureau of Health Planning and Resources Management. The Bureau Director shall serve as Secretary to the Board and as its Chief Administrative Officer.

(d) The duties and responsibilities of the Board shall include, but not be limited to the following:

(1) Develop a Health Resources Management Plan which shall assess the supply of health care resources, particularly facilities and medical technologies, and the need for such resources. A statement of principles to guide the allocation of resources and specific criteria and other guidance for use in reviewing Certificate of Need applications shall be essential aspects of the plan. Prior to adoption of the plan or revision of the plan, the Board shall provide written notification of the proposed action and conduct a public hearing. Such notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The notification shall generally describe the plan or plan revisions under consideration and announce the time and place of the public hearing. The notification shall also provide a period of at least 21 days during which written comments may be submitted. The public hearing shall be held not less than 14 days after the notice appears in the newspaper. No fees shall be imposed for such hearings. An opportunity must be provided for any person to present testimony. Also, prior to adoption, the plan or revision of the plan shall be submitted to the Delaware Health Care Commission for review and comment and to the Secretary, Department of Health and Social Services. The plan or revision shall become effective upon the written approval of the Secretary;

(2) Review Certificate of Need applications filed pursuant to this chapter and make decisions on same. Decisions can be conditional but the conditions must be related to the specific project in question;

(3) Gather and analyze data and information needed to carry out its responsibilities. Identify the kinds of data which are not available so that efforts can be made to assure that legitimate data needs can be met in the future;

(4) Address specific health care issues as requested by the Governor or the General Assembly;

(5) Adopt bylaws as necessary for conducting its affairs. Board members shall comply with the provisions of Chapter 58, Title 29 of the Delaware Code (State Ethics Code) and the Board shall operate in accordance with Chapter 100, Title 29 of the Delaware Code (Freedom of Information Act); and

(6) Coordinate activities with the Delaware Health Care Commission, the Department of Health and Social Services and other groups as appropriate.

§9304. Activities Subject to Review.

Any person must obtain a Certificate of Need prior to undertaking any of the following activities:

(1) The construction, acquisition, development or other establishment of a health care facility. The acquisition of a health care facility by acquiring the assets or a controlling equity interest may be exempted from review by the Board. A notice of intent filed pursuant to §9305 of this title, along with any other information deemed necessary by the Board, shall provide the basis for exempting such capital expenditure from review;

(2) Any expenditure by or on behalf of a health care facility in excess of \$750,000 which, under generally accepted accounting principles consistently applied, is a capital expenditure. When a person makes an acquisition by or on behalf of a health care facility under lease or comparable arrangement, or through donation which would have required review if the acquisition had been by purchase, such acquisition shall be deemed a capital expenditure subject to review. The Board may exempt from review capital expenditures in excess of \$750,000 when determined to be necessary for maintaining the physical structure of a facility and not related to direct patient care. A notice of intent filed pursuant to §9305 of this title, along with any other information deemed necessary by the Board shall provide the basis for exempting such capital expenditures from review;

(3) A change in bed capacity of a health care facility which increases or decreases the total number of beds (or distributes beds among various categories, or relocates such beds from one physical facility or site to another) by more than 10 beds or more than 10 percent of total licensed bed capacity, whichever is less, over a 2-year period;

(4) Health services which are offered in or through a health care facility and which were not offered on a regular basis in or through such health care facility within the 12-month period prior to the time such services would be offered, and for which the annual operating expenses exceed \$250,000 during the 1st or 2nd year of operation;

(5) The acquisition of major medical equipment, whether or not by a health care facility and whether or not the acquisition is through a capital expenditure, an operating expense or a donation. In the case of major medical equipment acquired by an entity outside of Delaware, the use of that major medical equipment within Delaware, whether or not on a mobile basis, is subject to review under this Chapter. Major medical equipment which is acquired for use in a dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees or in a first aid station, dispensary or infirmary offering services exclusively for use by students and employees of a school or university or by inmates and employees of a prison is not subject to review.

§9305. Procedures for Review.

Reviews under this chapter shall be conducted in accordance with the following procedures:

(1) Notices of intent. At least 30 days prior to submitting an application for review under this chapter, applicants shall submit to the Bureau a notice of intent in such form as may be determined by the Board to cover the scope and nature of the project. An application may be submitted less than 30 days from submitting the notice of intent only with the written approval of the Board.

(2) Applications for review. Application forms will be developed by the Board and may vary according to the nature of the application.

(3) Deadlines and time limitations. Upon receipt of an application under this chapter, the Bureau shall have a maximum of 15 days to notify the applicant as to whether the application is considered complete. If complete, written notification in accordance with subdivision (4) of this section will be provided. If incomplete, the applicant will be notified in writing of such determination and will be advised of what additional information is required to make the application complete. When the additional information is received, the Bureau again has a maximum of 15 days to determine whether the application is complete. The same steps shall be taken as with the initial submission each time that additional information is required.

Except as provided below, the review of an application shall take no longer than 90 days from the date of notification as covered under subdivision (4) of this section. If a public hearing is requested under subdivision (6) of this section, the maximum review period will be extended to 120 days from the date of notification. Within 30 days from the date of notification (60 days if a public hearing is requested), the Board may extend the maximum review period up to 180 days from the date of notification. Such extensions shall be invoked only as necessary to allow the development of appropriate review criteria or other guidance when these are lacking or to facilitate the simultaneous review of similar applications. The maximum review period can also be extended as mutually agreed to in writing by the Board and the applicant.

In the case of a project required to remedy an emergency situation which threatens the safety of patients or the ability of the health facility to remain in operation, an abbreviated application shall be submitted in such format as the Board prescribes. As quickly as possible, but within 72 hours after receipt, the Board shall render a decision as to whether or not the project shall be treated as an emergency and whether or not the application shall be approved. The Chair or Vice Chair of the Board shall be authorized to render such decision and shall have discretion as to the decision making process.

(4) Agency review; notification. Within 5 working days of determining that an application under this chapter is complete, the Bureau shall provide written notification of the beginning of a review. Such notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The date of notification is the date on which such notice appears in the newspaper. The notification shall identify the applicant, indicate the nature of the application, specify the period during which a public hearing in the course of the review as covered in subdivision (6) of this section may be requested, and indicate the manner in which notice will be provided of the time and place of any hearing so requested.

(5) Findings. Upon completion of a review under this chapter, and within the time frames outlined in subdivision (3) of this section, the Bureau shall notify in writing the applicant and anyone else upon request as to the Board's decision, including the basis on which the decision was made. Decisions can be conditional, but the conditions must be related to the specific project in question.

(6) Public hearing in the course of review. Within 10 days after the date of notification as described in subdivision (4) of this section, a public hearing in the course of review may be requested in writing by any person. The Board shall provide for a public hearing if requested and shall provide notification of the time and place for such hearing in a

newspaper of general circulation. The public hearing shall be held not less than 14 days after such notice appears in the newspaper. Fees shall not be imposed for such hearings. An opportunity must be provided for any person to present testimony.

(7) Administrative Reconsideration - Procedure for Board. Any person may, for a good cause shown, request in writing a public hearing for purposes of reconsideration of a Board decision rendered under subdivision (5) of this Section. The Board may not impose fees for such a hearing. For purposes of this subdivision, a request for a public hearing shall be deemed by the Board to have shown good cause if it:

- a. Presents newly discovered, significant, relevant information not previously available or considered by the Board; and
- b. Demonstrates that there have been significant changes in factors or circumstances relied upon by the Board in reaching its decision; or
- c. Demonstrates that the Board has materially failed to follow its adopted procedures in reaching its decision.

A request for such a hearing must be received within ten (10) days of the decision. The hearing shall commence within forty-five (45) days of the request.

Notice of such public hearing shall be sent, not less than fifteen (15) days prior to the date of the hearing, to the person requesting the hearing and to the applicant, and shall be sent to others upon request. Following completion of the hearing, the Board shall, within forty-five (45) days, issue its written decision which shall set forth the findings of fact and conclusion of law upon which its decision is based.

(8) Appeal - Applicant. A decision of the Board following review of an application pursuant to subdivision (5) of this Section, an administrative reconsideration pursuant to subdivision (7) of this Section, or the denial of a request for extension of a Certificate of Need pursuant to §9307 of this Title, may be appealed within thirty (30) days to the Superior Court. Such appeal shall be on the record.

(9) Access by public. The general public shall be provided access to all applications reviewed under this chapter and to all other written materials pertinent to any review of an application.

(10) Filing fees. Within 5 working days of determining that an application under this chapter is complete, the Bureau shall notify the applicant of any filing fee due.

Filing fees shall be determined from the following table:

<u>Capital Expenditure</u>	<u>Filing Fee</u>
Less than \$500,000	\$100
\$500,000 to \$999,999	\$750
\$1,000,000 to \$4,999,999	\$3,000
\$5,000,000 to \$9,999,999	\$7,500
\$10,000,000 to over	\$10,000

Filing fees shall be due 30 days after the date of notification of the beginning of review as covered under subdivision (4) of this section. This due date may be extended up to 10 additional days at the discretion of the Bureau. Applications for which filing fees have not been paid within this time frame shall be considered to be withdrawn. All filing fees shall be deposited in the General Fund.

§9306. Review Considerations.

In conducting reviews under this chapter, the Board shall consider as appropriate at least the following:

(1) The relationship of the proposal to the Health Resources Management Plan adopted pursuant to §9303 of this title. Prior to adoption of a Health Resources Management Plan by the Board, the State health plan last in use by the Health Resources Management Council shall comprise such plan;

(2) The need of the population for the proposed project;

(3) The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the State of Delaware;

(4) The relationship of the proposal to the existing health care delivery system;

(5) The immediate and long-term viability of the proposal in terms of the applicant's access to financial, management and other necessary resources;

(6) The anticipated effect of the proposal on the costs of and charges for health care; and

(7) The anticipated effect of the proposal on the quality of health care.

§9307. Period of Effectiveness of Certificate of Need.

(a) A Certificate of Need shall be valid for 1 year from the date such approval was granted.

(b) At least 30 days prior to the expiration of the Certificate of Need, the applicant shall inform the Board in writing of the project's status. The Board shall determine if sufficient progress has been made for the Certificate of Need to continue in effect. If sufficient progress has not been made, the applicant may request in writing, to the Board, that a 6-month extension be granted. The Board shall either allow the certificate to expire or grant such extension. A decision by the Board to deny an extension may be appealed pursuant to §9305(B) of this title.

§9308. Sanctions.

(a) Any person undertaking an activity subject to review as described in §9304 of this title, without first being issued a Certificate of Need for that activity, shall have its license or other Board to operate denied, revoked or restricted as deemed appropriate by the responsible licensing or authorizing agency of the State and an order in writing to such effect shall be issued by that licensing or authorizing agency.

(b) In addition to subsection (a) of this section, the Board or any adversely affected health care facility may maintain a civil action in the Court of Chancery to restrain or prohibit any person from undertaking an activity subject to review as described in §9304 of this title without first being issued a Certificate of Need.

(c) A person who willfully undertakes an activity subject to review as described in §9304 of this title and who has not received a Certificate of Need for that activity shall be fined not less than \$500 nor more than \$2,500 for each offense and each day of a continuing violation after notice of violation shall be considered a separate offense. The Superior Court shall have jurisdiction over criminal violations under this subsection.

§9309. Surrender, Revocation and Transfer of Certificate of Need.

(a) A Certificate of Need may be surrendered by the holder upon written notification to the Board and such surrender shall become effective immediately upon receipt of the Board.

(b) A Certificate of Need may be revoked by the Board in the case of misrepresentation in the Certificate of Need application, failure to undertake the activity for which the Certificate of Need was granted in a timely manner or loss of license or other Board to operate. Prior to revoking a Certificate of Need, the Board shall provide written notice to the holder of the certificate stating its intent to revoke the certificate and providing the holder at least 30 days to voluntarily surrender the certificate or to show good cause why the certificate should not be revoked. No Certificate of Need shall be revoked by the Board without first providing the holder of the certificate an opportunity for a hearing. The Board's decision to revoke a Certificate of Need may be appealed pursuant to §9305(8) of this title.

(c) No Certificate of Need issued under this chapter, and no rights or privileges arising therefrom, shall be subject to transfer or assignment, directly or indirectly, except upon order or decision of the Board specifically approving the same, issued pursuant to application supported by a finding from the evidence that the public to be served will not be adversely affected thereby.

§9310. Immunity.

No member, officer or employee of the Board, the Bureau or health care facility shall be subject to, and such persons shall be immune from, any claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendations made while discharging any duty or Board under this chapter, so long as such person acted in good faith, without malice, and within the scope of his duty or Board 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 to be shown by the complainant.

§9311. Sunset Provisions.

The Board and all provisions of this chapter shall sunset June 30, 1996. Prior to this date, the Delaware Health Care Commission or its successor agency shall have completed a review of the effectiveness of Certificate of Need."

Section 2. Severability.

If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgement shall not impair, invalidate or affect the remainder of this Act which shall remain in full force and effect.

Section 3. Repealing Clause.

All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date.

This Act shall become effective January 1, 1994 or 90 days after its passage, whichever comes later.

Approved June 22, 1994.

CHAPTER 252

FORMERLY

HOUSE BILL NO. 175

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO BAIL FOR PERSONS CONVICTED OF A FELONY FOR WHICH A MANDATORY JAIL SENTENCE IS REQUIRED.

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

Section 1. Amend Section 2104 of Chapter 21 of Title 11 of the Delaware Code by adding thereto a new subsection said subsection to be denominated as subsection "C," said new subsection to read as follows:

"(C) Any person who is arrested and thereafter released from custody pursuant to this Chapter, and who subsequently:

1. tenders to the Superior Court a plea of guilty or nolo contendere to any felony for which a mandatory minimum period of incarceration is required; or,

2. is convicted upon a verdict of guilty of any felony for which a mandatory minimum period of incarceration is required, shall immediately be remanded to the custody of the Department of Corrections, and shall be incarcerated in lieu of bail until the sentence for said felony is imposed."

Approved June 23, 1994.

CHAPTER 253

FORMERLY

HOUSE BILL NO. 373
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 39, TITLE 18 OF THE DELAWARE CODE PERTAINING TO UNDERINSURED MOTORIST COVERAGE.

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

Section 1. Amend §3902(b), Chapter 39, Title 18 of the Delaware Code by adding a new paragraph thereto to read as follows:

"(4) An insured who executes a release of a single tortfeasor owner or operator of an underinsured motor vehicle in exchange for payment of the entire limits of liability insurance afforded by the tortfeasor's liability insurer shall continue to be legally entitled to recover against that tortfeasor for the purposes of recovery against the insured's underinsurance carrier. An insured who executes a release of one of multiple tortfeasors shall have his rights against that tortfeasor and his underinsurance carrier determined in accordance with the Uniform Contribution Among Joint Tortfeasors Act and paragraph (3) of this subsection."

Approved June 23, 1994.

CHAPTER 254

FORMERLY

SENATE BILL NO. 350

AN ACT TO AMEND THE STATUTORY PROVISIONS OF §106(a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF KIMBERLY FAITH OBERLY AND STEVEN B. LACORTE-KENNEDY.

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

Section 1. Kimberly Faith Oberly and Steven B. LaCorte-Kennedy are hereby exempted from the provisions of 13 Del. C. §106(a) which state that a clergyman or minister of a recognized religion, or the clerks of the peace of various counties may solemnize marriages; and the Honorable Vincent J. Popplitt of the Family Court of Delaware is hereby authorized to solemnize the marriage between Kimberly Faith Oberly and Steven B. LaCorte-Kennedy. The Clerk of the Peace for New Castle County shall issue to Kimberly Faith Oberly and Steven B. LaCorte-Kennedy one official marriage license pursuant to this Act, the provisions of 13 Del. C. §106 to the contrary notwithstanding.

Approved June 24, 1994.

CHAPTER 255

FORMERLY

HOUSE BILL NO. 93

AN ACT TO AMEND CHAPTER 33, TITLE 24, DELAWARE CODE, RELATING TO THE BOARD OF VETERINARIANS.

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

Section 1. Amend §3307(a)(3), Chapter 33, Title 24, Delaware Code by striking therefrom in its entirety the second and last sentence thereof.

Approved June 27, 1994.

CHAPTER 256

FORMERLY

HOUSE BILL NO. 510
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO REDESIGNATE EXISTING CHAPTER 74A OF TITLE 16 OF THE DELAWARE CODE AS CHAPTER 100 OF TITLE 16 OF THE DELAWARE CODE, AND TO ADD A NEW CHAPTER 101 TO TITLE 16 OF THE DELAWARE CODE TO PROVIDE AUTHORITY FOR EACH COUNTY OF THIS STATE TO ESTABLISH AND OPERATE A FUND TO BE USED TO REIMBURSE COUNTY AND LOCAL GOVERNMENTAL COSTS ASSOCIATED WITH 911 EMERGENCY REPORTING SYSTEMS FUND.

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

Section 1. Amend Chapter 74A of Title 16, Delaware Code, by redesignating such chapter as Chapter 100 of Title 16, Delaware Code, and by numbering the sections in such redesignated chapter as 10001, 10002, 10003, 10004 and 10005, respectively.

Section 2. Amend Title 16, Delaware Code, by adding thereto a new Chapter 101 to read as follows:

"Chapter 101. 911 Emergency Reporting System Fund.

§ 10101. Creation; Purpose.

Each county of the State by action of its governing body may create a special fund designated as the 911 Emergency Reporting System Fund (hereinafter 'Fund'). The Fund is created to provide a source of funds to reimburse county and local governments in this State for costs associated with 911-Enhanced Emergency Reporting Systems.

§ 10102. Definitions.

As used in this Chapter:

(1) 'Fund' shall mean the 911 Emergency Reporting System Fund created by this Chapter.

(2) '911-Enhanced Emergency Reporting System' shall have the same meaning assigned to such term by § 7402A(2) of this Title.

(3) 'System' shall mean a 911-Enhanced Emergency Reporting System.

(4) '911 Emergency Report Center' shall have the same meaning assigned to such term in § 7402A(1) of Chapter 16 of this Title.

(5) 'Primary 911 Emergency Report Center' shall mean each of the 911 Emergency Report Centers located in the cities of Newark and Wilmington, and in New Castle County, Kent County and Sussex County in this State as of May 1, 1993.

(6) 'Residential local exchange telephone service' shall mean telephone service where the use of the service is primarily for social or domestic purposes.

§ 10103. Funding.

(a) The fund shall be funded by means of a monthly surcharge of up to fifty (50) cents per month on all subscribers per subscription to residential local exchange telephone service in each county within this State. Each company providing residential local exchange telephone service shall impose the aforementioned monthly surcharge on all subscribers per subscription for such service and shall set forth such surcharge as a clearly identifiable, separate item on all subscriber invoices rendered after the effective date of a county ordinance creating the fund pursuant to this Chapter. Notwithstanding any statute to the contrary, each county

of this State shall have the authority to impose by ordinance this monthly surcharge of up to fifty (50) cents as described in this subsection.

(b) All surcharges collected by companies pursuant to this Chapter shall be remitted to the appropriate county in which a Primary 911 Emergency Report Center is located for costs incurred by that county or local governments in connection with the administration, staffing, street addressing and training necessary to support a system on a monthly basis. Each county shall enter into a Memorandum of Understanding with each local jurisdiction in their respective county which provides primary or secondary 911 Emergency Reporting Service. Each Memorandum of Understanding shall include, but not be limited to, the terms related to areas of service responsibility and revenue sharing. Should two or more counties enact a surcharge pursuant to this Chapter then the revenue collected minus the company's cost shall be distributed to each county based upon the percent of population in the county versus the total of all such counties, based upon the latest census.

(c) Each company collecting such surcharge shall be entitled to recover the actual incremental costs of imposing, collecting and remitting such surcharges through a credit against such surcharges. This cost is defined as the additional incremental expense incurred by the company that is in addition to the normal expense of imposing and collecting the charges for the normal telephone service, subject to audit by the appropriate county jurisdiction. Where monies collected are equal to or less than the total charge for the telephone service provided, not including the surcharge, all monies collected will be used for the actual telephone service provided. Audits shall occur once every three years with all counties participating conducting the audit simultaneously.

(d) Each company collecting such surcharges shall not be responsible for uncollectable surcharges. Each county shall also enter into a memorandum of understanding with each company providing residential local exchange telephone service. Each memorandum of understanding shall include, but not be limited to, the terms related to the collection and distribution of funds pursuant to this Chapter and shall provide for reporting to the county the names and addresses of subscribers that fail to pay the surcharge; however, nothing in this Chapter shall be construed to prevent the county from taking appropriate actions to collect such surcharges designated by the company as uncollectable.

(e) Each company collecting such surcharge is fulfilling a governmental function and in so doing is immune from suit for damages of any kind or liable for refunds except to the extent that the company has failed to remit payment to the respective county including, but not limited to, funds due as a result of an audit pursuant to subsection (c) of this section."

Section 3. If any provision of this Act or its application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 5. This Act shall become effective January 1, 1995.

Approved June 27, 1994.

CHAPTER 257

FORMERLY

SENATE BILL NO. 188

AN ACT TO AMEND CHAPTER 87, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF STATE.

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

Section 1. Amend §8708, Chapter 87, Title 29 of the Delaware Code by adding a new "subsection (8)" thereto, to read as follows:

"(8) Director of Historical and Cultural Affairs."

Approved June 27, 1994.

CHAPTER 258

FORMERLY

SENATE BILL NO. 310

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, AND TO AMEND CHAPTER 23, TITLE 6 OF THE DELAWARE CODE RELATING TO THE AVAILABILITY OF THE DEFENSE OF USURY.

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, Chapter 17, Title 6 of the Delaware Code by redesignating paragraphs "(6)" through "(12)", as paragraphs "(7)" through "(13)", by redesignating paragraph "(13)" as paragraph "(15)", by adding at the end of the definition of "limited partnership" before the "." found in redesignated paragraph "(8)" the words ", and includes, for all purposes of the laws of the State of Delaware, a registered limited liability limited partnership", and by adding new paragraphs designated as paragraphs "(6)" and "(14)" in their appropriate numerical order reading as follows:

"(6) 'Knowledge' means a person's actual knowledge of a fact, rather than the person's constructive knowledge of the fact."

"(14) 'Registered limited liability limited partnership' means a limited partnership complying with §17-214 of this title."

Section 2. Amend §17-102(3), Chapter 17, Title 6 of the Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(3) Must be such as to distinguish it upon the records in the Office of the Secretary of State from the name of any corporation, limited partnership, business trust, registered limited liability partnership or limited liability company reserved, registered or organized under the laws of the State of Delaware or qualified to do business or registered as a foreign corporation, foreign limited partnership or foreign limited liability company in the State of Delaware; provided, however, that a limited partnership may register under any name which is not such as to distinguish it upon the records in the Office of the Secretary of State from the name of any domestic or foreign corporation, limited partnership, business trust, registered limited liability partnership or limited liability company reserved, registered or organized under the laws of the State of Delaware with the written consent of the other corporation, limited partnership, business trust, registered limited liability partnership or limited liability company, which written consent shall be filed with the Secretary of State; and"

Section 3. Amend §17-103(b), Chapter 17, Title 6 of the Delaware Code by deleting the words "together with a duplicate copy, which may be either a signed or conformed copy," in the three places where such words are contained in §17-103(b), and the last sentence of §17-103(b) in its entirety, and by adding a new sentence immediately following the last sentence of §17-103(b) reading as follows: "Unless the Secretary of State finds that any application, notice of transfer, or notice of cancellation filed with the Secretary of State as required by this subsection does not conform to law, upon receipt of all filing fees required by law he shall prepare and return to the person who filed such instrument a copy of the filed instrument with a notation thereon of the action taken by the Secretary of State."

Section 4. Amend §17-107, Chapter 17, Title 6 of the Delaware Code by adding after the words "business with", the punctuation mark ",".

Section 5. Amend Subchapter I, Chapter 17, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§17-110" to read as follows:

"§17-110. Contested Matters Relating to General Partners; Contested Votes.

(a) Upon application of any partner, the Court of Chancery may hear and determine the validity of any admission, election, appointment or withdrawal of a general partner of a limited partnership, and the right of any person to be a general partner of a limited partnership, and, in case the right to serve as a general partner is claimed by more than 1 person, may determine the person or persons entitled to serve as general partners; and to that end make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the limited partnership relating to the issue. In any such application, service of copies of the application upon the registered agent of the limited partnership shall be deemed to be service upon the limited partnership and upon the person or persons whose right to serve as a general partner is contested and upon the person or persons, if any, claiming to be a general partner or claiming the right to be a general partner; and the registered agent shall forward immediately a copy of the application to the limited partnership and to the person or persons whose right to serve as a general partner is contested and to the person or persons, if any, claiming to be a general partner or the right to be a general partner, in a postpaid, sealed, registered letter addressed to such limited partnership and such person or persons at their post-office addresses last known to the registered agent or furnished to the registered agent by the applicant partner. The Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(b) Upon application of any partner, the Court of Chancery may hear and determine the result of any vote of partners upon matters as to which the partners of the limited partnership, or any class or group of partners, have the right to vote pursuant to the partnership agreement or other agreement or this chapter (other than the admission, election, appointment or withdrawal of general partners). Service of the application upon the registered agent of the limited partnership shall be deemed to be service upon the limited partnership, and no other party need be joined in order for the Court to adjudicate the result of the vote. The Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(c) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents."

Section 6. Amend Subchapter I, Chapter 17, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§17-111" to read as follows:

"§17-111. Interpretation and Enforcement of Partnership Agreement.

Any action to interpret, apply or enforce the provisions of a partnership agreement, or the duties, obligations or liabilities of a limited partnership to the partners of the limited partnership, or the duties, obligations or liabilities among partners or of partners to the limited partnership, or the rights or powers of, or restrictions on, the limited partnership or partners, may be brought in the Court of Chancery."

Section 7. Amend §17-204(a)(2), Chapter 17, Title 6 of the Delaware Code by adding at three places in the subsection immediately following the words "certificate of amendment", the words "or a certificate of correction".

Section 8. Amend §17-204(a)(4), Chapter 17, Title 6 of the Delaware Code by adding at four places in the subsection immediately following the words "certificate of merger or consolidation", the words "or certificate of termination of a merger or consolidation".

Section 9. Amend §17-206(a), Chapter 17, Title 6 of the Delaware Code by deleting the words " , together with a duplicate copy, which may be either a signed or conformed copy," and the words "(3) Return the duplicate copy, similarly endorsed, to the person who filed it or his representative", and by adding after the words "certificate of amendment", the words " , correction, termination of a merger or consolidation", and immediately following the words "(2) File and index the endorsed certificate; and" the words "(3) Prepare and return to the person who filed it or his representative a copy of the original

signed instrument, similarly endorsed, and shall certify such copy as a true copy of the original signed instrument".

Section 10. Amend §17-206(a)(1), Chapter 17, Title 6 of the Delaware Code by adding after the words "certificate of amendment," the words "the certificate of correction, the certificate of termination of a merger or consolidation,".

Section 11. Amend §17-206(b), Chapter 17, Title 6 of the Delaware Code by adding immediately following "(or judicial decree of amendment)", the words

", certificate of correction", and by adding the following sentence at the end of said subsection:

"Upon the filing of a certificate of termination of a merger or consolidation, the certificate of merger or consolidation identified in the certificate of termination of a merger or consolidation is terminated."

Section 12. Amend §17-206(c), Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "certificate of amendment," the words "a certificate of correction, a certificate of termination of a merger or consolidation,".

Section 13. Amend §17-207(a), Chapter 17, Title 6 of the Delaware Code by adding after the word "amendment", the word ", correction".

Section 14. Amend §17-207(a)(2), Chapter 17, Title 6 of the Delaware Code by adding after the word "amend", the word ", correct", and by adding after the word "amendment", the word ", correction".

Section 15. Amend §17-207(b), Chapter 17, Title 6 of the Delaware Code by adding after the words "cause the amendment", and after the words "for its amendment", the word ", correction", and by adding after the words "certificate of amendment," the words "certificate of correction,".

Section 16. Amend §17-211(a), Chapter 17, Title 6 of the Delaware Code by adding after the words "a common-law trust," the words "a limited liability company," and by adding after the word "general", the words "(including a registered limited liability partnership)".

Section 17. Amend §17-211(e), Chapter 17, Title 6 of the Delaware Code by adding the following sentence at the end of said subsection:

"If a certificate of merger or consolidation provides for a future effective date or time and if an agreement of merger or consolidation is terminated or amended to change the future effective date or time as permitted by §17-211(b) of this title prior to the future effective date or time, the certificate of merger or consolidation shall be terminated by the filing of a certificate of termination of a merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation which has been terminated or amended and shall state that the agreement of merger or consolidation has been terminated or amended."

Section 18. Amend §17-211, Chapter 17, Title 6 of the Delaware Code by adding new subsections to be designated as "(i)" and "(j)" to read as follows:

"(i) Except as provided by agreement with a person to whom a general partner of a limited partnership is obligated, a merger or consolidation of a limited partnership that has become effective shall not affect any obligation or liability existing at the time of such merger or consolidation of a general partner of a limited partnership which is merging or consolidating.

(j) If a limited partnership is a constituent party to a merger or consolidation that shall have become effective, but the limited partnership is not the surviving or resulting entity of the merger or consolidation, then a judgment creditor of a general partner of such limited partnership may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the surviving or resulting entity of the merger or consolidation unless:

(1) A judgment based on the same claim has been obtained against the surviving or resulting entity of the merger or consolidation and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The surviving or resulting entity of the merger or consolidation is a debtor in bankruptcy;

(3) The general partner has agreed that the creditor need not exhaust the assets of the limited partnership that was not the surviving or resulting entity of the merger or consolidation;

(4) The general partner has agreed that the creditor need not exhaust the assets of the surviving or resulting entity of the merger or consolidation;

(5) A Court grants permission to the judgment creditor to levy execution against the assets of the general partner based on a finding that the assets of the surviving or resulting entity of the merger or consolidation that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the surviving or resulting entity of the merger or consolidation is excessively burdensome, or that the grant of permission is an appropriate exercise of the Court's equitable powers; or

(6) Liability is imposed on the general partner by law or contract independent of the existence of the surviving or resulting entity of the merger or consolidation."

Section 19. Amend Subchapter II, Chapter 17, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§17-212" to read as follows:

"§17-212. Contractual Appraisal Rights.

A partnership agreement or an agreement of merger or consolidation may provide that contractual appraisal rights with respect to a partnership interest or another interest in a limited partnership shall be available for any class or group of partners or partnership interests in connection with any amendment of a partnership agreement, any merger or consolidation in which the limited partnership is a constituent party to the merger or consolidation, or the sale of all or substantially all of the limited partnership's assets. The Court of Chancery shall have jurisdiction to hear and determine any matter relating to any such appraisal rights."

Section 20. Amend Subchapter II, Chapter 17, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§17-213" to read as follows:

"§17-213. Certificate of Correction.

Whenever any certificate authorized to be filed with the Office of the Secretary of State under any provision of this chapter has been so filed and is an inaccurate record of the action therein referred to, or was defectively or erroneously executed, such certificate may be corrected by filing with the Office of the Secretary of State a certificate of correction of such certificate. The certificate of correction shall specify the inaccuracy or defect to be corrected, shall set forth the portion of the certificate in corrected form and shall be executed and filed as required by this chapter. The corrected certificate shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction, and as to those persons the corrected certificate shall be effective from the filing date."

Section 21. Amend Subchapter II, Chapter 17, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§17-214" to read as follows:

"§17-214. Limited Partnerships as Registered Limited Liability Limited Partnerships.

(a) To become and to continue as a registered limited liability limited partnership, a limited partnership shall, in addition to complying with the requirements of this chapter:

(1) file an application or a renewal application, as the case may be, as provided in §1544 of the Uniform Partnership Law of the State of Delaware, as permitted by the limited partnership's partnership agreement or, if the limited partnership's partnership agreement does not provide for the limited partnership's becoming a registered limited liability limited partnership, with the approval (i) by all general partners, and (ii) 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;

(2) comply with §1546 of the Uniform Partnership Law of the State of Delaware; and

(3) have as the last words or letters of its name the words 'Limited Partnership' or the abbreviation 'L.P.' followed by the words 'Registered Limited Liability Limited Partnership', or the abbreviation 'L.L.L.P.', or the designation 'LLLP'.

(b) In applying §1544 and §1550 of the Uniform Partnership Law of the State of Delaware to a limited partnership:

(1) an application to become a registered limited liability limited partnership, a renewal application to continue as a registered limited liability limited partnership, a certificate of amendment of an application or a renewal application, or a withdrawal notice of an application or a renewal application shall be executed by at least one general partner of the limited partnership; and

(ii) all references to partners mean general partners only.

(c) If a limited partnership is a registered limited liability limited partnership, its partners who are liable for the debts, liabilities and other obligations of the limited partnership shall have the limitation on liability afforded to partners of registered limited liability partnerships under the Uniform Partnership Law of the State of Delaware."

Section 22. Amend §17-301(a), Chapter 17, Title 6 of the Delaware Code by deleting the words "acquiring a partnership interest as a limited partner".

Section 23. Amend §17-301(b), Chapter 17, Title 6 of the Delaware Code by deleting the words "acquiring a partnership interest as a limited partner".

Section 24. Amend §17-301(b)(1), Chapter 17, Title 6 of the Delaware Code by deleting the words "a person acquiring a partnership interest directly from the limited partnership," and by substituting in lieu thereof the words "a person who is not an assignee of a partnership interest, including a person acquiring a partnership interest directly from the limited partnership and a person to be admitted as a limited partner of the limited partnership without acquiring a partnership interest in the limited partnership," and by deleting the word "or" appearing at the end of said subsection.

Section 25. Amend §17-301(b)(2), Chapter 17, Title 6 of the Delaware Code by deleting the period appearing at the end of said subsection and by substituting in lieu thereof "; or".

Section 26. Amend §17-301(b), Chapter 17, Title 6 of the Delaware Code by adding a new paragraph to said subsection to be designated as paragraph "(3)" to read as follows:

"(3) Unless otherwise provided in an agreement of merger or consolidation or a partnership agreement, in the case of a person acquiring a partnership interest in a surviving or resulting limited partnership pursuant to a merger or consolidation approved in accordance with §17-211(b) of this title, at the time provided in and upon compliance with

the partnership agreement of the surviving or resulting limited partnership."

Section 27. Amend §17-301(c), Chapter 17, Title 6 of the Delaware Code by adding at the end of said subsection a new sentence reading: "Unless otherwise provided in a partnership agreement, a person may be admitted to a limited partnership as a limited partner of the limited partnership without acquiring a partnership interest in the limited partnership."

Section 28. Amend §17-303(b)(1), Chapter 17, Title 6 of the Delaware Code by adding immediately before the ";" appearing at the end of said subsection the words "or to be a member, manager, agent or employee of a limited liability company which is a general partner".

Section 29. Amend §17-303(b)(7), Chapter 17, Title 6 of the Delaware Code by adding immediately before the ";" appearing at the end of said subsection the words "or partners or to appoint, elect or otherwise participate in the choice of a representative or another person to serve on any such committee, and to act as a member of any such committee directly or by or through any such representative or other person".

Section 30. Amend §17-303(b)(8), Chapter 17, Title 6 of the Delaware Code by redesignating paragraph "l." of said subsection as paragraph "m.", by amending paragraph "k." 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 "l." to read as follows:

"l. The making of, or calling for, or the making of other determinations in connection with, contributions; or".

Section 31. Amend §17-303(b)(9), Chapter 17, Title 6 of the Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(9) To serve on the board of directors or a committee of, to consult with or advise, to be an officer, director, stockholder, partner (other than a general partner of a general partner of the limited partnership), member, manager, trustee, agent or employee of, or to be a fiduciary or contractor for, any person in which the limited partnership has an interest or any person providing management, consulting, advisory, custody or other services or products for, to or on behalf of, or otherwise having a business or other relationship with, the limited partnership or a general partner of the limited partnership; or".

Section 32. Amend §17-401(a), Chapter 17, Title 6 of the Delaware Code by adding to said subsection immediately following the first sentence of the subsection a new sentence reading as follows:

"Unless otherwise provided in a partnership agreement, a person may be admitted to a limited partnership as a general partner of the limited partnership without acquiring a partnership interest in the limited partnership."

Section 33. Amend §17-402(a), Chapter 17, Title 6 of the Delaware Code by amending paragraph "(9)" of said subsection by deleting the word "or" as it appears at the end of said paragraph, by amending paragraph "(10)" of said subsection by deleting the "." as it appears at the end of said paragraph and by adding in lieu thereof "; or", and by adding a new paragraph to said subsection to be designated as paragraph "(11)" to read as follows:

"(11) In the case of a general partner who is not an individual, partnership, corporation, trust or estate, the termination of the general partner."

Section 34. Amend §17-403, Chapter 17, Title 6 of the Delaware Code by adding two new subsections to said section to be designated as subsection "(c)" and subsection "(d)" to read as follows:

"(c) Unless otherwise provided in the partnership agreement, a general partner of a limited partnership has the power and authority to delegate to one or more other persons the general partner's rights and powers to manage and control the business and affairs of the limited partnership, including

to delegate to agents and employees of the general partner or the limited partnership, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the partnership agreement, such delegation by a general partner of a limited partnership shall not cause the general partner to cease to be a general partner of the limited partnership.

(d) A judgment creditor of a general partner of a limited partnership may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership unless:

(1) A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The limited partnership is a debtor in bankruptcy;

(3) The general partner has agreed that the creditor need not exhaust the assets of the limited partnership;

(4) A Court grants permission to the judgment creditor to levy execution against the assets of the general partner based on a finding that the assets of the limited partnership that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the limited partnership is excessively burdensome, or that the grant of permission is an appropriate exercise of the Court's equitable powers; or

(5) Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership."

Section 35. Amend Subchapter V, Chapter 17, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§17-505" to read as follows:

"§17-505. Defense of Usury Not Available.

No obligation of a partner of a limited partnership to the limited partnership arising under the partnership agreement or a separate agreement or writing, and no note, instrument or other writing evidencing any such obligation of a partner, shall be subject to the defense of usury, and no partner shall interpose the defense of usury with respect to any such obligation in any action."

Section 36. Amend §17-603, Chapter 17, Title 6 of the Delaware Code by deleting from the last sentence of said subsection the words "set forth in this chapter", and by substituting in lieu thereof "under applicable law".

Section 37. Amend §17-605, Chapter 17, Title 6 of the Delaware Code by adding a new sentence to the end of said section to read as follows:

"Except as provided in the partnership agreement, a partner may be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him is equal to a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership."

Section 38. Amend §17-607(b), Chapter 17, Title 6 of the Delaware Code by deleting from the last sentence of said subsection the words "a partnership", and by substituting in lieu thereof the word "an".

Section 39. Amend §17-702(a)(3), Chapter 17, Title 6 of the Delaware Code by adding immediately following the word "assignment", the words "of a partnership interest".

Section 40. Amend §17-702, Chapter 17, Title 6 of the Delaware Code by adding a new subsection to be designated as "(d)" to read as follows:

"(d) Unless otherwise provided in the partnership agreement, a limited partnership may acquire, by purchase, redemption or otherwise, any partnership interest or other interest of a partner in the limited partnership. Unless otherwise provided in the partnership agreement, any

such interest so acquired by the limited partnership shall be deemed canceled."

Section 41. Amend §17-801(3), Chapter 17, Title 6 of the Delaware Code by deleting the word "all" in said subsection and by substituting in lieu thereof the words "not less than a majority in interest of the remaining".

Section 42. Amend §17-804(a)(1), Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "distributions to partners", the words "and former partners".

Section 43. Amend §17-902(a)(1), Chapter 17, Title 6 of the Delaware Code by deleting the words "An original", and the words ", together with a duplicate copy," and by adding the word "A" immediately before the words "copy executed by a general partner".

Section 44. Amend §17-902(b), Chapter 17, Title 6 of the Delaware Code by adding after the words "or a partnership", the words ", a limited liability company, a business or other trust or association,".

Section 45. Amend §17-903(b), Chapter 17, Title 6 of the Delaware Code by deleting §17-903(b) in its entirety and inserting in lieu thereof the following: "(b) The Secretary of State shall prepare and return to the person who filed the application or his representative a copy of the original signed application, similarly endorsed, and shall certify such copy as a true copy of the original signed application."

Section 46. Amend §17-1004, Chapter 17, Title 6 of the Delaware Code by deleting said section in its entirety and by substituting in lieu thereof the following:

"§17-1004. Expenses.

If a derivative action is successful, in whole or in part, 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, from any recovery in any such action or from a limited partnership."

Section 47. Amend §17-1101(d), Chapter 17, Title 6 of the Delaware Code by adding the words "or other person" after the words "a partner" and before the words "has duties", by adding the words "or other person" after the words "any such partner" and before the words "acting under", by adding the words "or other person's" after the words "for the partner's" and before the words "good faith reliance", and by adding the words "or other person's" after the words "and (2) the partner's" and before the words "duties and liabilities".

Section 48. Amend §17-1107(a)(2), Chapter 17, Title 6 of the Delaware Code by deleting "\$10", and by substituting in lieu thereof "\$2.50".

Section 49. Amend §17-1107(a)(3), Chapter 17, Title 6 of the Delaware Code by deleting the word "or" appearing after the words "under §17-211 of this title", and by substituting in lieu thereof a ",", and by adding after the words "under §17-210 of this title," the words "a certificate of termination of a merger or consolidation under §17-211(e) of this title, a certificate of correction under §17-212 of this title or a certificate of restoration under §17-1109(h) of this title,".

Section 50. Amend §17-1107(a)(4), Chapter 17, Title 6 of the Delaware Code by deleting "\$10", and by substituting in lieu thereof "\$20".

Section 51. Amend §17-1107(a)(5), Chapter 17, Title 6 of the Delaware Code by deleting "\$1 per page", and by substituting in lieu thereof "\$5 for the first page and \$1 for each additional page copied".

Section 52. Amend §17-1107(a)(10), Chapter 17, Title 6 of the Delaware Code by deleting "\$10", and by substituting in lieu thereof "\$20".

Section 53. Amend §17-1109(g), Chapter 17, Title 6 of the Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(g) A domestic limited partnership or foreign limited partnership that neglects, refuses or fails to pay the annual tax when due shall cease to be in good standing as a domestic limited partnership or registered as a foreign limited partnership in the State of Delaware."

Section 54. Amend §17-1109(h), Chapter 17, Title 6 of the Delaware Code by adding at the end of said subsection the following new sentence:

"A fee as set forth in §17-1107(a)(3) of this title shall be paid at the time of the filing of any such certificate."

Section 55. Amend §2306, Chapter 23, Title 6 of the Delaware Code by deleting said section in its entirety and by substituting in lieu thereof the following:

"§2306. Defense of Usury as Available to Certain Entities and Associations.

No corporation, limited partnership, business trust or limited liability company, and no association or joint stock company having any of the powers and privileges of corporations not possessed by individuals or partnerships, shall interpose the defense of usury in any action."

Section 56. This Act shall become effective on August 1, 1994.

Approved June 27, 1994.

**END
OF
VOLUME**