

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.
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CHAPTER 259

FORMERLY

SENATE BILL NO. 311

AN ACT TO AMEND CHAPTER 15 OF TITLE 6 OF THE DELAWARE CODE RELATING TO THE 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(6), Chapter 15, Title 6 of the Delaware Code by (a) deleting the word "and" immediately following the reference to "1545", and substituting therefor the punctuation mark ",", and (b) adding the words "and 1549" immediately following the reference to "1546".

Section 2. Amend § 1515(b), Chapter 15, Title 6 of the Delaware Code by (a) deleting the words "for debts and obligations of the partnership" immediately before the words "arising from negligence", and (b) adding immediately following the words "registered limited liability partnership is not liable", the words ", either directly or indirectly, by way of indemnification, contribution, assessment or otherwise, for debts, obligations and liabilities of or chargeable to the partnership.", and (c) adding immediately following the word "misconduct", the words ", whether characterized as tort, contract or otherwise,".

Section 3. Amend § 1544(a), Chapter 15, Title 6 of the Delaware Code by (a) deleting (i) the words "the address of its principal office; if the partnership's principal office is not located in this state," (ii) the words "in this state which the partnership shall be required to maintain", and (iii) immediately preceding the words "that the partnership thereby" the word "and", and (b) adding (i) immediately following the words "service of process" the words "required to be maintained by § 1549 of this title", (ii) immediately following the words "as the case may be, as a registered limited liability partnership" the words "; and any other matters the partnership determines to include therein", and (iii) two new sentences immediately following the last sentence of § 1544(a) reading as follows: "A partnership becomes a registered limited liability partnership at the time of the filing of the initial application in the Office of the Secretary of State or at any later date or time specified in the application if, in either case, there has been substantial compliance with the requirements of this chapter. A partnership continues as a registered limited liability partnership if there has been substantial compliance with the requirements of this chapter."

Section 4. Amend § 1544(f), Chapter 15, Title 6 of the Delaware Code by deleting the current text of subsection "(f)" and substituting in lieu thereof the following: "If a person is included in the number of partners of a registered limited liability partnership set forth in an application, a renewal application or a certificate of amendment of an application or a renewal application, the inclusion of such person shall not be admissible as evidence in any action, suit or proceeding, whether civil, criminal, administrative or investigative, for the purpose of determining whether such person is liable as a partner of such registered limited liability partnership. The status of a partnership as a registered limited liability partnership and the liability of a partner of such registered limited liability partnership shall not be adversely affected if the number of partners stated in an application, a renewal application or a certificate of amendment of an application or a renewal application is erroneously stated provided that the application, renewal application or certificate of amendment of an application or a renewal application was filed in good faith."

Section 5. Amend § 1544, Chapter 15, Title 6 of the Delaware Code by adding a new § 1544(h) reading as follows:

"(h) The filing of an application or a renewal application in the Office of the Secretary of State shall make it unnecessary to file any other documents under Chapter 31 of this title."

Section 6. Amend § 1545 by adding the words "or the designation 'LLP'" following the words "or the abbreviation 'L.L.P.'", and by inserting the

following new sentence at the end of § 1545: "The name of a registered limited liability partnership 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, limited liability company, business trust or registered limited liability partnership reserved, registered, formed 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 registered limited liability 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, limited liability company, business trust or registered limited liability partnership reserved, registered, formed or organized under the laws of the State of Delaware with the written consent of the other corporation, limited partnership, limited liability company, business trust or registered limited liability partnership, which written consent shall be filed with the Secretary of State."

Section 7. Amend Chapter 15, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§ 1548" reading as follows:

"§ 1548. Reservation of Name.

(a) The exclusive right to the use of a name of a registered limited liability partnership may be reserved by:

- (1) Any person intending to become a registered limited liability partnership under this chapter and to adopt that name; and
- (2) Any registered limited liability partnership which proposes to change its name.

(b) The reservation of a specified name shall be made by filing with the Secretary of State an application, executed by the applicant, specifying the name to be reserved and the name and address of the applicant. If the Secretary of State finds that the name is available for use by a registered limited liability partnership, he shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may again reserve the same name for successive 120 day periods. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the Office of the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be canceled by filing with the Secretary of State a notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be canceled and the name and address of the applicant or transferee.

(c) A fee in the amount of \$75 shall be paid to the Secretary of State for the use of the State of Delaware upon receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation pursuant to this § 1548."

Section 8. Amend Chapter 15, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§ 1549" reading as follows:

"§ 1549. Registered Office; Registered Agent.

(a) Each registered limited liability partnership shall have and maintain in the State of Delaware:

- (1) A registered office, which may but need not be a place of its business in the State of Delaware; and
- (2) A registered agent for service of process on the registered limited liability partnership, which agent may be either an individual resident of the State of Delaware whose business office is identical with the registered limited liability partnership's registered office, or a domestic corporation, or a foreign corporation authorized to do business in the State of Delaware having a business office identical with such registered office, or the registered limited liability partnership itself.

(b) A registered agent may change the address of the registered office of the registered limited liability partnerships for which he is registered agent to another address in the State of Delaware by paying a fee in the amount of \$50, and a further fee in the amount of \$2 for each registered limited liability partnership affected thereby, to the Secretary of State for the use of the State of Delaware and filing with the Secretary of State a certificate, executed by such registered agent, setting forth the names of all the registered limited liability partnerships represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such registered limited liability partnerships, and further certifying to the new address to which such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the registered limited liability partnerships recited in the certificate. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under his hand and seal of office, and thereafter, or until further change of address, as authorized by law, the registered office in the State of Delaware of each of the registered limited liability partnerships recited in the certificate shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a registered limited liability partnership, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, the names of all the registered limited liability partnerships represented by such registered agent, and the address at which such registered agent has maintained the registered office for each of such registered limited liability partnerships, and shall pay a fee in the amount of \$50, and a further fee in the amount of \$2 for each registered limited liability partnership affected thereby, to the Secretary of State for the use of the State of Delaware. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under his hand and seal of office. Filing a certificate under this section shall be deemed to be an amendment of the application or renewal application, as the case may be, of each registered limited liability partnership affected thereby, and each such registered limited liability partnership shall not be required to take any further action with respect thereto, to amend its application or renewal application, as the case may be, pursuant to § 1550 of this title. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each registered limited liability partnership affected thereby.

(c) The registered agent of 1 or more registered limited liability partnerships may resign and appoint a successor registered agent by paying a fee in the amount of \$50, and a further fee in the amount of \$2 for each registered limited liability partnership affected thereby, to the Secretary of State for the use of the State of Delaware and filing a certificate with the Secretary of State, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement executed by each affected registered limited liability partnership ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such registered limited liability partnerships as have ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such registered limited liability partnership's registered office in the State of Delaware. The Secretary of State shall furnish to the successor registered agent a certified copy of the certificate of resignation. Filing of such certificate of resignation shall be deemed to be an amendment of the application or renewal application, as the case may be, of each registered limited liability partnership affected thereby, and each such registered limited liability partnership shall not be required to take any further action with respect thereto, to amend its application or renewal application, as the case may be, pursuant to § 1550 of this title.

(d) The registered agent of a registered limited liability partnership may resign without appointing a successor registered agent by paying a fee in the amount of \$10 to the Secretary of State for the use of the State of Delaware and filing a certificate with the Secretary of State stating that it resigns as registered agent for the registered limited liability partnership identified in the certificate, but such resignation shall not become effective until 120 days after the certificate is filed. There shall be attached to

such certificate an affidavit of such registered agent, if an individual, or the president, a vice-president or the secretary thereof if a corporation, that at least 30 days prior to and on or about the date of the filing of said certificate, notices were sent by certified or registered mail to the registered limited liability partnership for which such registered agent is resigning as registered agent, at the principal office thereof within or outside the State of Delaware, if known to such registered agent or, if not, to the last known address of the attorney or other individual at whose request such registered agent was appointed for such registered limited liability partnership, of the resignation of such registered agent. After receipt of the notice of the resignation of its registered agent, the registered limited liability partnership for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning. If such registered limited liability partnership fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 120 days after the filing by the registered agent of the certificate of resignation, the application or renewal application of such registered limited liability partnership shall be deemed to be canceled."

Section 9. Amend Chapter 15, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§ 1550" reading as follows:

"§ 1550. Amendment of Application or Renewal Application.

(a) An application or a renewal application is amended by filing a certificate of amendment thereto in the Office of the Secretary of State. The certificate of amendment of an application or a renewal application shall set forth:

- (1) The name of the registered limited liability partnership; and
- (2) The amendment to the application or renewal application.

(b) No later than 90 days after the happening of any of the following events an amendment to an application or a renewal application reflecting the occurrence of the event or events shall be executed and filed by a majority in interest of the partners or by one or more partners authorized to execute an amendment to the application or renewal application:

(1) A change in the name of the registered limited liability partnership; or

(2) Except as provided in § 1549(b) and (c) of this title, a change in the address of the registered office or a change in the name or address of the registered agent of the registered limited liability partnership.

(c) No amendment of an application or a renewal application is required as a result of a change after the application or renewal application is filed in the number of partners of the registered limited liability partnership or in the business in which the registered limited liability partnership engages. 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.

(d) An application or a renewal application may be amended at any time for any other proper purpose as determined by a majority in interest of the partners of the registered limited liability partnership or by one or more partners authorized to amend the application or renewal application.

(e) Unless otherwise provided in this title or in the certificate of amendment of an application or a renewal application or in a withdrawal notice of an application or a renewal application, a certificate of amendment of an application or a renewal application or a withdrawal notice of an application or a renewal application shall be effective at the time of its filing with the Secretary of State.

(f) A fee in the amount of \$100 shall be paid to the Secretary of State for the use of the State of Delaware upon the receipt for filing of a certificate of amendment of an application or a renewal application or a withdrawal notice of an application or a renewal application."

Section 10. Amend Chapter 15, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§ 1551" reading as follows:

"§ 1551. Notice.

The fact that an application, a renewal application or a certificate of amendment of an application or a renewal application is on file in the Office of the Secretary of State is notice that the partnership is a registered limited liability partnership and is notice of all other facts set forth in the application, renewal application or certificate of amendment of an application or a renewal application."

Section 11. Amend Chapter 15, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§ 1552" reading as follows:

"§ 1552. Procedures Concerning Filing of Documents and Issuance of Good Standing Certificates.

(a) The original signed copy of the application, renewal application, certificate of amendment of an application or a renewal application, and of any withdrawal notice of an application or a renewal application, shall be delivered to the Secretary of State. A person who executes an application, a renewal application, a certificate of amendment of an application or a renewal application, or any withdrawal notice of an application or a renewal application, as an agent or fiduciary, need not exhibit evidence of his authority as a prerequisite to filing. Any signature on any application, renewal application, certificate of amendment of an application or a renewal application, or any withdrawal notice of an application or a renewal application, filed with the Secretary of State under any provision of this chapter may be a facsimile. Unless the Secretary of State finds that any application, renewal application, certificate of amendment of an application or a renewal application, or any withdrawal notice of an application or a renewal application, does not conform to law, upon receipt of all filing fees required by law he shall:

(1) Certify that the application, renewal application, certificate of amendment of an application or a renewal application, or any withdrawal notice of an application or a renewal application, has been filed in his office by endorsing upon the application, renewal application, or certificate of amendment of an application or a renewal application, or any withdrawal notice of an application or a renewal application, the word "Filed", and the date and hour of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud;

(2) File and index the endorsed application, renewal application, certificate of amendment of an application or a renewal application, or any written withdrawal notice of an application or a renewal application; and

(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.

(b) A fee in the amount of \$20 shall be paid to the Secretary of State for use of the State of Delaware for a certified copy of any paper on file as provided for by this chapter, and a fee in the amount of \$5 for the first page and \$1 for each additional page shall be paid to the Secretary of State for the use of the State of Delaware for each page copied.

(c) The Secretary of State may issue certificates of good standing relating to registered limited liability partnerships for a fee in the amount of \$20 for the use of the State of Delaware, except that for issuing a certificate of good standing that recites all of the registered limited liability partnership's filings with the Secretary of State, a fee of \$100 shall be paid to the Secretary of State for the use of the State of Delaware."

Section 12. Amend Chapter 15, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§ 1553" reading as follows:

"§ 1553. Limited Partnerships as Registered Limited Liability Limited Partnerships.

A domestic limited partnership may become a registered limited liability limited partnership by complying with the applicable provisions of the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101, et seq.)."

Section 13. This Act shall become effective on August 1, 1994.

Approved June 27, 1994.

CHAPTER 260

FORMERLY

SENATE BILL NO. 312

AN ACT TO AMEND CHAPTER 18, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED LIABILITY COMPANIES AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED LIABILITY COMPANIES.

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

Section 1. Amend §18-101, Chapter 18, Title 6 of the Delaware Code by redesignating paragraphs "(5)" through "(13)", as paragraphs "(6)" through "(14)", and by adding a new paragraph designated as paragraph "(5)" in its appropriate numerical order reading as follows:

"(5) 'Knowledge' means a person's actual knowledge of a fact, rather than the person's constructive knowledge of the fact."

Section 2. Amend §18-102(3), Chapter 18, Title 6 of the Delaware Code by adding at three places in the subsection immediately following the words "business trust", the words ", registered limited liability partnership".

Section 3. Amend §18-103(b), Chapter 18, 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 §18-103(b), and the last sentence of §18-103(b) in its entirety, and by adding a new sentence immediately following the last sentence of §18-103(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 §18-107, Chapter 18, Title 6 of the Delaware Code by deleting the word "specific" contained therein, and by adding the punctuation mark "," immediately following the words "and transact other business with".

Section 5. Amend Subchapter I, Chapter 18, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§18-110" to read as follows:

"§18-110. Contested Matters Relating to Managers; Contested Votes.

(a) Upon application of any member or manager, the Court of Chancery may hear and determine the validity of any admission, election, appointment or withdrawal of a manager of a limited liability company, and the right of any person to be a manager of a limited liability company, and, in case the right to serve as a manager is claimed by more than 1 person, may determine the person or persons entitled to serve as managers; 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 liability company relating to the issue. In any such application, service of copies of the application upon the registered agent of the limited liability company shall be deemed to be service upon the limited liability company and upon the person or persons whose right to serve as a manager is contested and upon the person or persons, if any, claiming to be a manager or claiming the right to be a manager; and the registered agent shall forward immediately a copy of the application to the limited liability company and to the person or persons whose right to serve as a manager is contested and to the person or persons, if any, claiming to be a manager or the right to be a manager, in a postpaid, sealed, registered letter addressed to such limited liability company 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 member or manager. The Court may

make such order respecting further or other notice of such application as it deems proper under these circumstances.

(b) Upon application of any member or manager, the Court of Chancery may hear and determine the result of any vote of members or managers upon matters as to which the members or managers of the limited liability company, or any class or group of members or managers, have the right to vote pursuant to the limited liability company agreement or other agreement or this chapter (other than the admission, election, appointment or withdrawal of managers). Service of the application upon the registered agent of the limited liability company shall be deemed to be service upon the limited liability company, 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 these 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 18, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§18-111" to read as follows:

"§18-111. Interpretation and Enforcement of Limited Liability Company Agreement.

Any action to interpret, apply or enforce the provisions of a limited liability company agreement, or the duties, obligations or liabilities of a limited liability company to the members or managers of the limited liability company, or the duties, obligations or liabilities among members or managers and of members or managers to the limited liability company, or the rights or powers of, or restrictions on, the limited liability company, members or managers, may be brought in the Court of Chancery."

Section 7. Amend §18-201(a), Chapter 18, Title 6 of the Delaware Code by adding immediately after the punctuation mark ";" appearing at the end of subsection 18-201(a)(2) the word "and", by deleting subsection 18-201(a)(3) in its entirety, and by redesignating paragraph "(4)" as paragraph "(3)".

Section 8. Amend §18-206(a), Chapter 18, Title 6 of the Delaware Code by adding after the words "certificates of amendment", the words ", correction, termination of a merger or consolidation".

Section 9. Amend §18-206(a)(1), Chapter 18, 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 10. Amend §18-206(b), Chapter 18, 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 11. Amend §18-206(c), Chapter 18, 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 12. Amend §18-209(a), Chapter 18, Title 6 of the Delaware Code by adding after the word "general", the words "(including a registered limited liability partnership)".

Section 13. Amend §18-209(d), Chapter 18, 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 §18-209(b) of this chapter 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 14. Amend Subchapter II, Chapter 18, Title 6 of the Delaware Code by adding a new section to be designated as "§18-210" to read as follows:

"§18-210. Contractual Appraisal Rights.

A limited liability company agreement or an agreement of merger or consolidation may provide that contractual appraisal rights with respect to a limited liability company interest or another interest in a limited liability company shall be available for any class or group of members or limited liability company interests in connection with any amendment of a limited liability company agreement, any merger or consolidation in which the limited liability company is a constituent party to the merger or consolidation, or the sale of all or substantially all of the limited liability company's assets. The Court of Chancery shall have jurisdiction to hear and determine any matter relating to any such appraisal rights."

Section 15. Amend Subchapter II, Chapter 18, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§18-211" to read as follows:

"§18-211. 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 16. Amend §18-301(a), Chapter 18, Title 6 of the Delaware Code by deleting the words "acquiring a limited liability company interest".

Section 17. Amend §18-301(b), Chapter 18, Title 6 of the Delaware Code by deleting the words "acquiring a limited liability company interest".

Section 18. Amend §18-301(b)(1), Chapter 18, Title 6 of the Delaware Code by deleting the words "a person acquiring a limited liability company interest directly from the limited liability company," and by substituting in lieu thereof the words "a person who is not an assignee of a limited liability company interest, including a person acquiring a limited liability company interest directly from the limited liability company and a person to be admitted as a member of the limited liability company without acquiring a limited liability company interest in the limited liability company," and by deleting the word "or" appearing at the end of said subsection.

Section 19. Amend §18-301(b)(2), Chapter 18, 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 20. Amend §18-301(b), Chapter 18, 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 limited liability company agreement, in the case of a person acquiring a limited liability company interest in a surviving or

resulting limited liability company pursuant to a merger or consolidation approved in accordance with §18-209(b) of this chapter, at the time provided in and upon compliance with the limited liability company agreement of the surviving or resulting limited liability company."

Section 21. Amend §18-301(c), Chapter 18, Title 6 of the Delaware Code by adding at the end of said subsection a new sentence reading: "Unless otherwise provided in a limited liability company agreement, a person may be admitted to a limited liability company as a member of the limited liability company without acquiring a limited liability company interest in the limited liability company."

Section 22. Amend §18-303, Chapter 18, Title 6 of the Delaware Code by designating the existing paragraph of said section as "(a)", by deleting the ":", as it currently appears therein and replacing such punctuation mark with the punctuation mark ":", and by adding a new subsection to §18-303 to be designated as subsection "(b)" to read as follows:

"(b) Notwithstanding the provisions of §18-303(a) of this chapter, under a limited liability company agreement or under another agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations and liabilities of the limited liability company."

Section 23. Amend §18-401, Chapter 18, Title 6 of the Delaware Code by deleting "§18-101(9)" and by substituting in lieu thereof "§18-101(10)".

Section 24. Amend §18-402, Chapter 18, Title 6 of the Delaware Code by adding a new sentence immediately following the last sentence of §18-402 reading as follows:

"Unless otherwise provided in a limited liability company agreement, each member and manager has the authority to bind the limited liability company."

Section 25. Amend Subchapter IV, Chapter 18, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§18-407" to read as follows:

"§18-407. Delegation of Rights and Powers to Manage.

Unless otherwise provided in the limited liability company agreement, a member or manager of a limited liability company has the power and authority to delegate to one or more other persons the member's or manager's, as the case may be, rights and powers to manage and control the business and affairs of the limited liability company, including to delegate to agents and employees of a member or manager or the limited liability company, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the limited liability company agreement, such delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager, as the case may be, of the limited liability company."

Section 26. Amend Subchapter V, Chapter 18, Title 6 of the Delaware Code by adding thereto a new section to be designated as "§18-505" to read as follows:

"§18-505. Defense of Usury Not Available.

No obligation of a member or manager of a limited liability company to the limited liability company arising under the limited liability company agreement or a separate agreement or writing, and no note, instrument or other writing evidencing any such obligation of a member or manager, shall be subject to the defense of usury, and no member or manager shall interpose the defense of usury with respect to any such obligation in any action."

Section 27. Amend §18-603, Chapter 18, 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 28. Amend §18-605, Chapter 18, 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 limited liability company agreement, a member may be compelled to accept a distribution of any asset in kind from a limited liability company 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 liability company."

Section 29. Amend §18-607(b), Chapter 18, Title 6 of the Delaware Code by deleting from the last sentence of said subsection the words "a limited liability company", and by substituting in lieu thereof the word "an".

Section 30. Amend §18-702(b)(1), Chapter 18, Title 6 of the Delaware Code by adding immediately following the word "assignment", the words "of a limited liability company interest".

Section 31. Amend §18-702, Chapter 18, Title 6 of the Delaware Code by adding a new subsection to be designated as "(e)" to read as follows:

"(e) Unless otherwise provided in the limited liability company agreement, a limited liability company may acquire, by purchase, redemption or otherwise, any limited liability company interest or other interest of a member or manager in the limited liability company. Unless otherwise provided in the limited liability company agreement, any such interest so acquired by the limited liability company shall be deemed canceled."

Section 32. Amend §18-801(1), Chapter 18, Title 6 of the Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(1) At the time specified in a limited liability company agreement, which limited liability company agreement may include a provision providing for the perpetual existence of the limited liability company, or thirty (30) years from the date of the formation of the limited liability company if no such time is set forth in the limited liability company agreement or the limited liability company agreement does not provide for the perpetual existence of the limited liability company;"

Section 33. Amend §18-804(a)(1), Chapter 18, Title 6 of the Delaware Code by adding immediately following the words "distributions to members", the words "and former members".

Section 34. Amend §18-903(b), Chapter 18, Title 6 of the Delaware Code by deleting §18-903(b) in its entirety and substituting 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 35. Amend §18-1101(c), Chapter 18, Title 6 of the Delaware Code by adding the words "or other person" after the word "manager" and before the words "has duties", by adding the words "or other person" after the words "any such member or manager" and before the words "acting under", by adding the words "or other person's" after the words "for the member's or manager's" and before the words "good faith reliance", and by adding the words "or other person's" after the words "and (2) the member's or manager's" and before the words "duties and liabilities".

Section 36. Amend §18-1105(a)(2), Chapter 18, Title 6 of the Delaware Code by deleting "\$10", and by substituting in lieu thereof "\$2.50".

Section 37. Amend §18-1105(a)(3), Chapter 18, Title 6 of the Delaware Code by deleting the word "or" appearing after the words "under §18-209 of this chapter", and by substituting in lieu thereof a ".", and by adding after the words "under §18-208 of this chapter," the words "a certificate of termination of a merger or consolidation under §18-209(d) of this chapter, a certificate of correction under §18-211 of this chapter or a certificate of restoration under §18-1107(1) of this chapter,".

Section 38. Amend §18-1107(h), Chapter 18, Title 6 of the Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(h) A domestic limited liability company or foreign limited liability company that neglects, refuses or fails to pay the annual tax when due shall cease to be in good standing as a domestic limited liability company or registered as a foreign limited liability company in the State of Delaware."

Section 39. Amend §18-1107(i), Chapter 18, Title 6 of the Delaware Code by adding at the end of said subsection the following new sentence:

"A fee as set forth in §18-1105(a)(3) of this title shall be paid at the time of the filing of any such certificate."

Section 40. This Act shall become effective on August 1, 1994.

Approved June 27, 1994.

CHAPTER 261

FORMERLY

SENATE BILL NO. 323

AN ACT TO AMEND CHAPTER 1, TITLE 8, SECTION 145, OF THE DELAWARE CODE, RELATING TO INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS OF DELAWARE CORPORATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-Thirds of all members elected to each house of the General Assembly concurring therein):

Section 1. Amend Section 145(d), Chapter 1, Title 8, Delaware Code, by deleting the second sentence thereof in its entirety and inserting in lieu thereof as follows:

"Such determination shall be made (1) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (2) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (3) by the stockholders."

Section 2. Amend Section 145, Chapter 1, Title 8, Delaware Code, by adding new subsection (k) as follows:

"(k) The Court of Chancery is hereby vested with exclusive jurisdiction to hear and determine all actions for advancement of expenses or indemnification brought under this section or under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise. The Court of Chancery may summarily determine a corporation's obligation to advance expenses (including attorneys' fees)."

Section 3. This Act shall become effective July 1, 1994, and shall not apply to suits pending as of July 1, 1994.

Approved June 27, 1994.

CHAPTER 262

FORMERLY

SENATE BILL NO. 324

AN ACT TO AMEND CHAPTER 1, TITLE 8, SECTION 262, OF THE DELAWARE CODE, RELATING TO APPRAISAL RIGHTS UNDER 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 of the General Assembly concurring therein):

Section 1. Amend Section 262(a), Chapter 1, Title 8, Delaware Code, by deleting the "." at the end of the last sentence thereof and adding the following thereto:

"; and the words 'depository receipt' mean a receipt or other instrument issued by a depository representing an interest in one or more shares, or fractions thereof, solely of stock of a corporation, which stock is deposited with the depository."

Section 2. Amend Section 262(b)(1), Chapter 1, Title 8, Delaware Code, by deleting the word "which" following the words "class or series of stock" and inserting in lieu thereof the following: ", which stock, or depository receipts in respect thereof".

Section 3. Amend Section 262(b)(1) Chapter 1, Title 8, Delaware Code, by deleting the word "stockholders" appearing in clause (ii) thereof and inserting in lieu thereof the word "holders".

Section 4. Amend Section 262(b)(2)a., Chapter 1, Title 8, Delaware Code, by deleting the ";" at the end thereof and adding thereto the following: ", or depository receipts in respect thereof";.

Section 5. Amend Section 262(b)(2)b., Chapter 1, Title 8, Delaware Code, by deleting the word "which" following the word "corporation" and inserting in lieu thereof the following: ", or depository receipts in respect thereof, which shares of stock or depository receipts".

Section 6. Amend Section 262(b)(2)b., Chapter 1, Title 8, Delaware Code, by deleting the word "stockholders" at the end thereof and inserting in lieu thereof the word "holders".

Section 7. Amend Section 262(b)(2)c., Chapter 1, Title 8, Delaware Code, by deleting the words "of the corporations" and inserting in lieu thereof the words "or fractional depository receipts".

Section 8. Amend Section 262(b)(2)d., Chapter 1, Title 8, Delaware Code, by inserting the following immediately after the words "shares of stock": ", depository receipts".

Section 9. Amend Section 262(b)(2)d., Chapter 1, Title 8, Delaware Code, by inserting the following immediately after the words "fractional shares": "or fractional depository receipts".

Section 10. This Act shall become effective July 1, 1994, and shall apply only with respect to mergers or consolidations consummated pursuant to an agreement of merger or consolidation entered into after July 1, 1994.

Approved June 27, 1994.

CHAPTER 263

FORMERLY

SENATE BILL NO. 326

AN ACT TO AMEND CHAPTER 1, TITLE 8, SECTION 218, DELAWARE CODE, RELATING TO VOTING TRUSTS AND OTHER VOTING AGREEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-Thirds of all members elected to each house of the General Assembly concurring therein):

Section 1. Amend Section 218(a), Chapter 1, Title 8, Delaware Code, by deleting the words "One or more stockholders" appearing at the beginning thereof and inserting in lieu thereof the words "One stockholder or two or more stockholders".

Section 2. Amend Section 218(a), Chapter 1, Title 8, Delaware Code, by deleting the clause "not exceeding 10 years," appearing in the first sentence thereof.

Section 3. Amend Section 218(b), Chapter 1, Title 8, Delaware Code, by deleting such subsection in its entirety and inserting in lieu thereof the following: "(b) Any amendment to a voting trust agreement shall be made by a written agreement, a copy of which shall be filed in the registered office of the corporation in this State."

Section 4. Amend Section 218(c), Chapter 1, Title 8, Delaware Code, by deleting the second sentence thereof in its entirety.

Section 5. Amend Section 218, Chapter 1, Title 8, Delaware Code, by deleting subsection (d) thereof in its entirety.

Section 6. Amend Section 218, Chapter 1, Title 8, Delaware Code, by relettering subsection (e) thereof to become subsection (d) thereof.

Section 7. This Act shall become effective on July 1, 1994, provided that it shall not apply to any voting trust agreement or voting agreement entered into, or any amendment thereto entered into, prior to such effective date unless and only to the extent that (i) such voting trust agreement, voting agreement or amendment thereto, as the same may have been extended, has not expired as of such effective date, and (ii) such voting trust agreement, voting agreement or amendment thereto provides that it will or may last beyond the 10 year period formerly permitted under § 218 and expressly indicates that the parties intended to be bound by changes in the law increasing the permitted duration of such agreement or amendment.

Approved June 27, 1994.

CHAPTER 264

FORMERLY

SENATE BILL NO. 325

AN ACT TO AMEND CHAPTER 1, TITLE 8, SECTION 151, DELAWARE CODE, RELATING TO CLASSES AND SERIES OF STOCK OF DELAWARE CORPORATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-Thirds of all members elected to each house of the General Assembly concurring therein):

Section 1. Amend Chapter 1, Title 8, Section 151(a), Delaware Code, by adding a new sentence immediately prior to the final sentence of subparagraph (a) reading as follows:

"The term 'facts,' as used in this subsection, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation."

Section 2. This Act shall become effective July 1, 1994.

Approved June 27, 1994.

CHAPTER 265

FORMERLY

SENATE BILL NO. 343

AN ACT TO AMEND CHAPTER 38 OF TITLE 12 OF THE DELAWARE CODE RELATING TO BUSINESS TRUSTS.

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

Section 1. Amend §3803, Chapter 38, Title 12 of the Delaware Code by adding a new subsection (c) thereto to read as follows:

"(c) Except to the extent otherwise provided in the governing instrument of a business trust, an officer, employee, manager or other person acting pursuant to Section 3806(b)(7), when acting in such capacity, shall not be personally liable to any person other than the business trust or a beneficial owner for any act, omission or obligation of the business trust or any trustee thereof."

Section 2. Amend §3804(a), Chapter 38, Title 12 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) A business trust may sue and be sued, and service of process upon 1 of the trustees shall be sufficient. In furtherance of the foregoing, a business trust may be sued for debts and other obligations or liabilities contracted or incurred by the trustees, or by the duly authorized agents of such trustees, in the performance of their respective duties under the governing instrument of the business trust, and for any damages to persons or property resulting from the negligence of such trustees or agents acting in the performance of such respective duties. The property of a business trust shall be subject to attachment and execution as if it were a corporation, subject to §3502 of Title 10. Notwithstanding the foregoing provisions of this §3804, in the event that the governing instrument of a business trust, including a business trust which is a registered investment company under the Investment Company Act of 1940, as amended (15 U.S.C. §§80a-1 et seq.), creates one or more series as provided in §3806(b)(2), and if separate and distinct records are maintained for any such series and the assets associated with any such series are held and accounted for separately from the other assets of the business trust, or any other series thereof, and if the governing instrument so provides, and notice of the limitation on liabilities of a series as referenced in this sentence is set forth in the certificate of trust of the business trust, then the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series shall be enforceable against the assets of such series only, and not against the assets of the business trust generally."

Section 3. Amend §3806(a), Chapter 38, Title 12 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) Except to the extent otherwise provided in the governing instrument of a business trust, the business and affairs of a business trust shall be managed by or under the direction of its trustees. To the extent provided in the governing instrument of a business trust, any person (including a beneficial owner) shall be entitled to direct the trustees or other persons in the management of the business trust. Except to the extent otherwise provided in the governing instrument of a business trust, neither the power to give direction to a trustee or other persons nor the exercise thereof by any person (including a beneficial owner) shall cause such person to be a trustee."

Section 4. Amend §3806(b), Chapter 38, Title 12 of the Delaware Code by adding a new paragraph (7) thereto to read as follows:

"(7) May provide for the appointment, election or engagement, either as agents or independent contractors of the business trust or as delegates of the trustees, of officers, employees, managers or other persons who may manage the business and affairs of the business trust and may have such

titles and such relative rights, powers and duties as the governing instrument shall provide. Except to the extent otherwise provided in the governing instrument of a business trust, the trustees shall choose and supervise such officers, managers, employees and other persons."

Section 5. Amend §3806, Chapter 38, Title 12 of the Delaware Code by adding a new subsection (d) thereto to read as follows:

"(d) To the extent that, at law or in equity, an officer, employee, manager or other person designated pursuant to Section 3806(b)(7) has duties (including fiduciary duties) and liabilities relating thereto to a business trust, a beneficial owner or a trustee:

(1) Any such officer, employee, manager or other person acting under a governing instrument shall not be liable to the business trust, any beneficial owner or any trustee for such person's good faith reliance on the provisions of such governing instrument; and

(2) The duties and liabilities of an officer, employee, manager or other person acting pursuant to Section 3806(b)(7) may be expanded or restricted by provisions in a governing instrument."

Section 6. Amend §3808(a), Chapter 38, Title 12 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) Except to the extent otherwise provided in the governing instrument of the business trust, a business trust shall have perpetual existence, and a business trust may not be terminated or revoked by a beneficial owner or other person except in accordance with the terms of its governing instrument."

Section 7. Amend Section 3810, Chapter 38, Title 12 by deleting the title thereof and substituting in lieu thereof a new title to read as follows:

"Certificate of trust; amendment; restatement; cancellation"

Section 8. Amend Section 3810(c), Chapter 38, Title 12 of the Delaware Code by redesignating subsection (c) thereof as subsection (d) thereof and by adding a new subsection (c) thereof to read as follows:

"(c) (1) A certificate of trust may be restated by integrating into a single instrument all of the provisions of the certificate of trust which are then in effect and operative as a result of there having been theretofore filed one or more certificates of amendment pursuant to subsection (b) of this section, and the certificate of trust may be amended or further amended by the filing of a restated certificate of trust. The restated certificate of trust shall be specifically designated as such in its heading and shall set forth:

a. The present name of the business trust, and if it has been changed, the name under which the business trust was originally formed;

b. The date of filing of the original certificate of trust with the Secretary of State;

c. The information required to be included pursuant to subsection (a) of this section; and

d. Any other information the trustees determine to include therein.

(2) A certificate of trust may be restated at any time for any purpose as the trustees may determine. A trustee who becomes aware that any statement in a restated certificate of trust was false when made or that any matter described has changed making the restated certificate false in any material respect, shall promptly file a certificate of amendment or a restated certificate of trust."

Section 9. Amend §3814, Chapter 38, Title 12 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section to read as follows:

"§3814. Use of Names Regulated.

(a) The name of each business trust as set forth in its certificate of trust must be such as to distinguish it upon the records of the Office of the Secretary of State from the name of any corporation, limited partnership, business trust or limited liability company reserved, registered, formed 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 business trust may register under any name which is not such as to distinguish it upon the records of the Office of the Secretary of State from the name of any domestic or foreign corporation, limited partnership, business trust or limited liability company reserved, registered, formed or organized under the laws of the State of Delaware with the written consent of the other corporation, limited partnership, business trust or limited liability company, which written consent shall be filed with the Secretary of State.

(b) The name of each business trust as set forth in its Certificate of Trust may contain the name of a beneficial owner, a trustee or any other person.

(c) The name of each business trust, as set forth in its Certificate of Trust, may contain the following words: "Company", "Association", "Club", "Foundation", "Fund", "Institute", "Society", "Union", "Syndicate", "Limited", or "Trust" (or abbreviations of like import).

(d) The exclusive right to the use of a name may be reserved by:

(1) Any person intending to form a business trust and to adopt that name; and

(2) Any business trust registered in this State which proposes to change its name.

(e) The reservation of a specified name shall be made by filing with the Secretary of State an application, executed by the applicant, together with a duplicate copy, which may either be a signed or conformed copy, specifying the name to be reserved and the name and address of the applicant. If the Secretary of State finds that the name is available for use by a business trust, he or she shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may again reserve the same name for successive 120-day periods. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the Office of the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, together with a duplicate copy, which may be either a signed or conformed copy, specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be cancelled by filing with the Secretary of State a notice of cancellation, executed by the applicant or transferee, together with a duplicate copy, which may be either a signed or conformed copy, specifying the name reservation to be cancelled and the name and address of the applicant or transferee. Any duplicate copy filed with the Secretary of State, as required by this Subsection, shall be returned by the Secretary of State to the person who filed it or his or her representative with a notation thereon of the action taken with respect to the original copy thereof by the Secretary of State.

(f) Fees as set forth in §3813 of this Chapter shall be paid at the time of the initial reservation of any name, at the time of the renewal of any such reservation and at the time of the filing of a notice of the transfer or cancellation of any such reservation."

Approved June 27, 1994.

CHAPTER 266

FORMERLY

SENATE BILL NO. 357

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 §280 (a)(1), Chapter 1, Title 8, Delaware Code by deleting the word "requesting" in the first sentence and inserting in lieu thereof the word "requiring".

Section 2. Amend §280 (a)(1), Chapter 1, Title 8 Delaware Code by inserting the following immediately after the words "all persons having a claim against the corporation": "other than a claim against the corporation in a pending action, suit or proceeding to which the corporation is a party".

Section 3. Amend §280 (a)(1), Chapter 1, Title 8 Delaware Code by inserting in subparagraph (a) thereof the following immediately after the words "That all": "such".

Section 4. Amend §280 (a)(1), Chapter 1, Title 8 Delaware Code by inserting in subparagraph (b) thereof the following immediately after the words "mailing address to which": "such".

Section 5. Amend §280 (a)(1), Chapter 1, Title 8 Delaware Code by inserting in subparagraph (c) thereof the following immediately after the words "The date by which": "such".

Section 6. Amend §280 (a)(1), Chapter 1, Title 8 Delaware Code by deleting the "." at the end of subparagraph (d) and inserting in lieu thereof the following "; and" and relettering the current subparagraph (d) thereof to become subparagraph (e) thereof.

Section 7. Amend §280(a)(1), Chapter 1, Title 8 Delaware Code by inserting the following immediately after subparagraph (c) thereof: "d. That such claim will be barred if not received by the date referred to in subparagraph (c) of this subsection; and".

Section 8. Amend §280 (a)(1), Chapter 1, Title 8 Delaware Code by inserting the following immediately before the last paragraph thereof: "f. The aggregate amount, on an annual basis, of all distributions made by the corporation to its stockholders for each of the three years prior to the date the corporation dissolved."

Section 9. Amend §280 (a)(1), Chapter 1, Title 8 Delaware Code by inserting the following in the last sentence between the words "mail" and "return" and between the words "requested" and "to": ",,".

Section 10. Amend §280 (a)(1), Chapter 1, Title 8 Delaware Code by inserting the following in the last sentence immediately after the words "each known claimant of the corporation": "including persons with claims asserted against the corporation in a pending action, suit or proceeding to which the corporation is a party".

Section 11. Amend §280 (a), Chapter 1, Title 8 Delaware Code by inserting the following in current paragraph 2 thereof immediately after the words "A notice sent by a corporation or successor entity pursuant to this subsection shall": "state that any claim rejected therein will be barred if an action, suit or proceeding with respect to the claim is not commenced within 120 days of the date thereof, and shall" and by inserting the following between the words "certified" and "mail": "or registered" and by renumbering current paragraph (2) thereof to become paragraph (3) thereof.

Section 12. Amend §280 (a), Chapter 1, Title 8 Delaware Code by inserting the following after paragraph (1) thereof: "(2) Any claim against the corporation required to be presented pursuant to this subsection is barred if a claimant who was given actual notice under this subsection does not present

the claim to the dissolved corporation or successor entity by the date referred to in subparagraph (1)(c) of this subsection."

Section 13. Amend §280 (a), Chapter 1, Title 8 Delaware Code by inserting the following immediately before subsection (b): "(4) A claim against a corporation is barred if a claimant whose claim is rejected pursuant to paragraph (3) of this subsection does not commence an action, suit or proceeding with respect to the claim no later than 120 days after the mailing of the rejection notice".

Section 14. Amend §280 (b)(2), Chapter 1, Title 8 Delaware Code by inserting the following between the words "certified" and "mail": "or registered".

Section 15. Amend §280 (c)(2), Chapter 1, Title 8 Delaware Code by deleting the words "prior to the expiration of applicable statutes of limitation" and inserting in lieu thereof the following "within 5 years after the date of dissolution or such longer period of time as the Court of Chancery may determine not to exceed 10 years after the date of dissolution".

Section 16. Amend §280 (c), Chapter 1, Title 8 Delaware Code by renumbering current paragraph (1) thereof to become paragraph (2) thereof and by renumbering current paragraph (2) thereof to become paragraph (3) thereof.

Section 17. Amend §280 (c), Chapter 1, Title 8 Delaware Code by inserting the following immediately after "(c)": "(1) A corporation or successor entity which has given notice in accordance with subsection (a) of this section shall petition the Court of Chancery to determine the amount and form of security that will be reasonably likely to be sufficient to provide compensation for any claim against the corporation which is the subject of a pending action, suit or proceeding to which the corporation is a party other than a claim barred pursuant to subsection (a) of this section."

Section 18. Amend §281 (b), Chapter 1, Title 8 Delaware Code by inserting the following immediately after the words "A dissolved corporation or successor entity which has not followed the procedures described in §280 of this title": "shall, prior to the expiration of the period described in §278 of this title, adopt a plan of distribution pursuant to which the dissolved corporation or successor entity".

Section 19. Amend §281 (b), Chapter 1, Title 8 Delaware Code by inserting the following after the words "unmatured contractual claims known to the corporation or such successor entity,": "(ii) shall make such provision as will be reasonably likely to be sufficient to provide compensation for any claim against the corporation which is the subject of a pending action, suit or proceeding to which the corporation is a party" and by deleting "(ii)" and inserting in lieu thereof "(iii)".

Section 20. Amend §281 (b), Chapter 1, Title 8 Delaware Code by deleting the words "prior to the expiration of applicable statutes of limitation. Such" and inserting in lieu thereof the following: "within 10 years after the date of dissolution. The plan of distribution shall provide that such".

Section 21. Amend §281 (b), Chapter 1, Title 8 Delaware Code by inserting the following immediately after the words "If there are insufficient funds,": "such plan shall provide that".

Approved June 27, 1994.

CHAPTER 267

FORMERLY

SENATE BILL NO. 353
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" TO ESTABLISH THE MONITION METHOD AS A PROCEDURE FOR THE COLLECTION OF DELINQUENT TAXES AND OTHER CHARGES DUE THE TOWN OF GEORGETOWN.

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

Section 1. Amend Section 28, Chapter 276, Volume 65, Laws of Delaware, as amended, by adding thereto a new subsection (1) said subsection (1) to read as follows:

"(1) However, should the Town Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the Town Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference thereto, including the method of sale by monition, as the same is set forth in the statutes made and provided, substituting the Town of Georgetown for Sussex County therein.

Approved June 27, 1994.

CHAPTER 268

FORMERLY

SENATE BILL NO. 360

AN ACT TO REINCORPORATE THE TOWN OF SOUTH BETHANY

WHEREAS it is deemed advisable that the Charter of the Town of South Bethany, Delaware, set forth in Chapter 78, Volume 67, Laws of Delaware with subsequent amendments, be replaced by a new charter,

NOW, THEREFORE,

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

"1. Incorporation. The inhabitants and property owners of the Town of South Bethany, within the corporate limits as hereinafter defined in this Charter or as extended as hereinafter provided, are hereby constituted and declared to be a body politic incorporated in law and equity as a single family, detached home community, by the corporate name of the "Town of South Bethany, (hereinafter "Town") with power to govern themselves by such ordinances, regulations, resolutions, and rules for municipal purposes as they, through their duly elected officers and agents may deem proper, not in conflict with the provisions of this Charter of government, nor with the Constitution and Laws of the State of Delaware, nor of the United States; and as such shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts.

The Town shall have perpetual succession and shall succeed to own or possess all property, whether real, personal, or mixed, tangible or intangible, of whatever kind and nature, and all the powers, rights, privileges or immunities now or heretofore belonging to, possessed or enjoyed by the Town of South Bethany previously incorporated at Chapter 78, Volume 67, Laws of Delaware, as amended.

2. Territorial Limits. The present territorial limits of the Town are hereby established and declared to be as follows:

BEGINNING at a point at the mean low water line of the Atlantic Ocean, at a corner of State lands; thence with the mean low water line of the Atlantic Ocean in a northerly direction, a distance of approximately 4,100 feet to the line of the Middlesex Development;

thence, in a west northwest direction with the line of the Middlesex Development to a common corner for Middlesex and South Bethany, and a point on the westerly side of Pine Road;

thence, by and with the westerly side of Pine Road North 08 degrees 23 minutes 19 seconds East, 271.93 feet to a point, said point being a corner of these lands and lands of South Bethany Recreational Association, Inc.

thence, leaving the westerly side of Pine Road, and by and with lands of South Bethany Recreational Association, Inc., the following two (2) courses and distances, North 81 degrees 37 minutes, 31 seconds West, 237.39 feet to a point;

thence, North 08 degrees 20 minutes 11 seconds East, 292.10 feet to a point, said point being a corner of these lands and lands of South Bethany Recreational Association, Inc. and being situate on the south side of Route #361;

thence, by and with Route #361 South 79 degrees 19 minutes 04 seconds West, 126.53 feet to a point; thence, South 84 degrees 14 minutes 46 seconds West, 287.50 feet to a point, said point being a corner of these lands and lands of Sea Colony, Inc.,

thence, leaving said Route #361, and by and with lands of Sea Colony Inc; South 11 degrees 05 minutes 02 seconds West, 526.15 feet to a point, said point being a corner of these lands and lands of Sea Colony, Inc.;

thence, continuing with lands of Sea Colony, Inc., North 69 degrees 33 minutes 48 seconds West, 642.01 feet to a point, said point being situate on the easterly right-of-way of the Assawoman Canal;

thence, continuing with the same bearing the distance necessary to extend the line to the centerline of the Assawoman Canal;

thence, southeasterly along the center of the Assawoman Canal to the Jefferson Creek Canal to a point where said low water line intersects the State lands;

thence, by and with the State lands, South 60 degrees 45 minutes 00 seconds East, to the point of beginning.

The above boundaries having most recently been established by an Act to Reincorporate the Town of South Bethany, Chapter 78, Volume 67, Laws of Delaware, dated July 7, 1989.

The Town Council may, at any time hereafter, cause a survey and plot to be made of said Town, and the said plot or any supplement thereto, when made and approved by said Town Council, signed by the Mayor, and attested to by the Secretary, with the Town Seal affixed, upon being recorded in the Office of the Recorder of Deeds in and for Sussex County, State of Delaware, or the record thereof, or a duly certified copy of said record, shall be evidence in all courts of law and equity in this State.

3. Annexation of Territory. The Town shall have power to annex any additional contiguous territory adjoining the corporate limits of the Town as hereinbefore set forth or as hereafter extended pursuant to the procedure set forth in this Section, and to apply to all such additional territory all laws, ordinances, resolutions, and policies in force in the Town so far as they may be locally applicable.

3.1 Initiation of Annexation Proceedings.

3.1.1 By Petition of the Property Owners. Any property owner(s) holding record fee title to real property in territory contiguous (subject to Sec. 3.2.11) to the then existing corporate limits of the Town may petition the Town Council to annex that certain territory in which they own property. Such petition shall be in writing, duly executed and acknowledged by each petitioner, shall describe with reasonable certainty the territory proposed for annexation, indicate the property owned by each petitioner therein and state the reasons for the requested annexation. The Town Council may, within ninety (90) days following the filing of such petition in the Town Office, vote to accept such petition and proceed as hereinafter provided, or to reject such petition. A petition not so accepted within said ninety (90) days shall be null and void. For purposes of this Sec. 3.1.1 and Sec. 3.1.2, "territory contiguous to the then existing corporate limits of the Town" shall include both real property which is proposed to be included in the annexation and real property which would be contiguous under Sec. 3.2.11.

3.1.2 By Resolution of the Town Council. The Town Council may, at any time, adopt a resolution proposing the annexation of any territory contiguous to the Town. Such resolution shall describe, with reasonable certainty, the territory proposed to be annexed and state the reasons for the proposed annexation. Upon adoption of such resolution, the Town Council shall proceed as hereinafter provided.

3.2 Annexation Procedure. Whether annexation is proposed by petition of the property owners or by resolution of the Town Council, the following procedure shall be complied with:

3.2.1 Resolution and Notice. The Town Council shall adopt a resolution notifying the property owners and the residents of both the Town and the territory proposed to be annexed, that the Town proposes to annex certain territory which adjoins its then corporate limits. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution setting forth the information shall be published at least once in at least two (2) newspapers which shall be of general circulation in the Town and in the territory proposed to be annexed. Such publication shall appear not less than thirty (30) days nor more than sixty

(60) days before the date set for the hearing. In the event that such publications do not appear on the same date, the date of the last publication shall control. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto.

In addition to publication as herein provided, the Town Council shall, not less than thirty (30) days nor more than sixty (60) days before the date of such hearing: (1) cause a public notice, containing the full text of the resolution to be posted in at least five (5) public places in the Town and in at least one (1) place, viewable to the public, in the territory proposed to be annexed; and (2) send a copy of such notice, certified mail, to the owners of record of the lands proposed to be included in the annexation at their addresses as shown on the public tax records. Written notice to one co-owner shall be notice to all.

3.2.2 Public Hearing. At the time, date, and place specified in the resolution proposing annexation (or at any revised date, time, or place if duly notified as provided in Sec. 3.2.1) the Town Council shall sit to hear comments and opinion from any concerned party regarding the proposed annexation. Such public hearing shall be for the purpose of obtaining public opinion and legislative fact finding.

3.2.3 Resolution Ordering Special Election. Following the public hearing, but in no event later than sixty (60) days thereafter, the Town Council may pass a resolution ordering a special election to be held not less than (30) days, nor more than sixty (60) days after the date of such resolution proposing the special election. The passage of this resolution shall be considered the determination of the Town Council to proceed with the matter of the proposed annexation, provided, however, that if the annual municipal election is to be held within one hundred twenty (120) days of the date of the resolution adopted by the Town Council pursuant to this Section, the election on the proposed annexation may be held in conjunction with the annual municipal election and all provisions hereof shall be construed and applied accordingly.

3.2.4 Notice of Special Election. Notice of the time and place of said special election shall be published not less than thirty (30) days nor more than sixty (60) days before the date set for said special election. Notice shall be published at least once in two (2) newspapers which shall be of general circulation in the Town and in the territory proposed to be annexed. In the event that such publications do not appear on the same date, the date of the last publication shall control. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto. In addition to such publication as herein provided, the Town Council shall, not less than thirty (30) days nor more than sixty (60) days before the date of such special election, cause a public notice containing the full text of the resolution proposing such special election to be posted in at least five (5) public places in the Town and in at least one (1) place, viewable to the public, in the territory proposed to be annexed.

3.2.5 Those Entitled to Vote.

(a) At such special election, any person who is lawfully entitled to vote at the annual Municipal election, if it were being held on that day, and any person who would be so entitled if the area proposed to be annexed were already included in the Town, shall be entitled to one (1) vote. For purposes of this section, "lawfully entitled to vote" shall include "registered to vote" if registration is required; but all persons in the area to be annexed shall be deemed to be registered if they would otherwise be entitled to vote. In addition, each legal entity, other than a natural person, owning property in its own name, either in the Town or in the territory proposed to be annexed, shall be entitled to one (1) vote.

(b) These provisions shall be construed so as to permit "one person, one vote". Should a voter be entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one (1) vote. Should a voter be entitled to vote by ownership of two (2) or more properties, that voter shall be entitled to only one (1) vote.

(c) Any legal entity (other than a natural person) entitled to vote must cast its vote by a duly executed and acknowledged power of attorney. Such power of attorney shall be surrendered to the Board of Special Election which shall be filed with the Town Manager. Such power of attorney so filed shall constitute conclusive evidence of the right of said person to vote in the special election on behalf of the legal entity granting the power.

3.2.6 Conduct of the Special Election.

(a) The Town Council may cause voting machines, electronic voting systems, or paper ballots to be used in the special election, as required by law, the form of ballot to be printed as follows:

_____ For the proposed annexation.

_____ Against the proposed annexation.

The Mayor shall appoint three (3) natural persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated the Presiding Officer. The Board of Special Election shall be the sole and final judge of the legality of the votes offered at such special election. It shall keep a true and accurate list of all natural persons and other legal entities voting. Voting shall be conducted in a public place as designated by the resolution calling the special election. The polling place shall be open for a minimum of six (6) consecutive hours as set by the Town Council, on the date set for the special election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls. All ballots cast by those persons or other legal entities authorized to vote in the territory proposed to be annexed shall be deposited in designated ballot box(es) or cast in designated voting machine(s), and all ballots cast by those persons or other legal entities who are authorized to vote in the Town shall be deposited in other designated ballot box(es) or cast in other designated voting machine(s).

(b) Any qualified voter may vote by absentee ballots pursuant to rules promulgated by the Town Council; and such rules shall be consistent with rules governing absentee voting for Town officials promulgated pursuant to Sec. 6.4 (f).

3.2.7 Results of Special Election.

(a) In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast both from the Town and from the territory proposed to be annexed must have been cast in favor of the proposed annexation.

(b) In the event that the special election results in an unfavorable vote for the annexation in either or both the Town and the territory proposed to be annexed, no part of the territory proposed to be annexed shall again be considered for annexation for a period of at least one (1) year from the date of the special election.

(c) If the vote in both the Town and in the territory proposed to be annexed is favorable to the proposed annexation, the Town Council shall at its first meeting following the special election adopt a resolution annexing the said territory and including it within the limits of the Town. Upon the adoption of the resolution of annexation, a copy thereof, signed by the Mayor and certified by the Secretary, with the Town Seal affixed, together with a plot of the area annexed, shall forthwith be filed for recording in the Office of the Recorder of Deeds in and for Sussex County, Delaware. The territory so annexed shall be considered to be a part of the Town from the moment the resolution of annexation is adopted by the Town Council. Failure to record the resolution, or the plot accompanying same, shall not invalidate the annexation,

but such recording may be enforced by writ of mandamus or mandatory injunction.

3.2.8 Annexation Agreements. Notwithstanding any provision herein to the contrary, where, pursuant to Sec. 3.1.1 of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the Town, such petition may be made contingent upon an annexation agreement with the Town which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the Town Council approves such an agreement and votes to accept a petition under Sec. 3.1.1 of this Charter, such annexation agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure: (1) the resolutions and notices adopted by the Town Council pursuant to Sec. 3.2.1, Sec. 3.2.3, Sec. 3.2.4 and Sec. 3.2.10 shall recite that the proposed annexation includes and is subject to an annexation agreement, shall briefly summarize its terms, and shall state that copies of the agreement are available upon request at the Town Office; (2) if the results of the election are favorable to the proposed annexation as provided by Sec. 3.2.7(a) of this Charter, the resolution annexing the territory (as provided by Sec. 3.2.7(c)) shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference; and all affected parties shall be bound to honor the provision of such agreement. No agreement made at the time of annexation under this Sec. 3.2.8 shall extend beyond seven (7) years from the date the property is annexed into the Town; and such agreement shall be null, void, and unenforceable after the expiration of said seven (7) years.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the Town Council at any time prior to the resolution ordering the special election pursuant to Sec. 3.2.3 of this Charter, but any material modification or amendment shall be deemed to be: (1) the withdrawal of the original petition, and (2) the filing of a new petition under Sec. 3.1.1.

3.2.9 Property Owned by the State of Delaware:

Highways, Streets, Roads, Alleys and Waterways.

Real property owned by the State of Delaware may be annexed by the Town without the State casting a vote in the special election, provided the State agency having control and supervision thereof does not notify the Town, in writing, of its objection to such annexation within thirty (30) days after receiving written notice of the resolution proposing the annexation, as provided in Sec. 3.2.3.

3.2.10 Limitations. No action contesting the annexation of any territory under this Section shall be brought after the expiration of sixty (60) days from the publication of a notice in at least two (2) newspapers, both of general circulation in the Town and in the territory annexed, which notice shall contain the following information:

(a) notice that the Town has annexed such territory and a description thereof;

(b) notice that any person or other legal entity desiring to challenge such annexation must bring his/her/its action within sixty (60) days from the date of publication of such notice or forever be barred from doing so. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto. In addition to publication as herein provided, the Town Council shall cause a public notice, containing the information set out in subparagraph (a) and (b) above (using date of posting for date of "publication") to be posted in at least five (5) public places in the Town and in at least one (1) place, viewable to the public in the territory to be annexed. In the event the publication and/or the posting dates do not appear on the same date, the date of the last publication or posting shall control.

3.2.11 Contiguity.

(a) Contiguity with the Town's existing corporate limits, or with other territory which is itself contiguous with the Town's existing corporate limits, shall not be deemed interrupted by the existence of any highway, street, road, alley, or waterway (including but not limited to ponds, creeks, canals, lagoons, wetlands, and ditches) which passes through, or lies within, the territory to be annexed.

(b) Territory that is separated from the corporate limits of the Town by federal or state-owned roads, lands, or waterways shall, nevertheless, be considered contiguous territory for the purposes of this Sec.

4. Powers of the Town.

4.1 General. The Town shall have and enjoy all the powers possible for a municipal corporation to have under the Constitution and Laws of the United States and the State of Delaware, as fully and completely as though they were specifically enumerated in this Charter.

4.2 Enumeration of Powers. Not by way of limitation upon the scope of the powers vested in the Town Council to exercise all powers delegated by this Charter to the Town (except as may expressly appear herein to the contrary), but rather by way of enumeration and for purposes of clarity, the Town Council is vested by this Charter with the following powers, that is to say, the Town Council:

4.2.1 may have and use a corporate seal which may be altered, changed, or renewed at any time.

4.2.2 may hold and acquire by gift, negotiation and purchase, devise, lease, or condemnation property both real (improved or unimproved) and personal, or mixed, within or without the boundaries of the Town, in fee simple or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to providing sites for constructing, improving, extending, altering or demolishing:

(a) public buildings;

(b) parks;

(c) streets, squares, lanes, alleys, and

(d) sewer systems, including but not limited to sewage lines, conduits, sewage disposal or treatment plants, and all appurtenances thereto;

(e) water systems, including but not limited to, water plants, wells, lines, conduits and all appurtenances thereto;

(f) recreational facilities, including but not limited to public bathing beaches, gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddle ball courts and all appurtenances thereto;

(g) adequate municipal services for persons and other legal entities residing either within or beyond the corporate limits of the Town, to their mutual benefit and advantage, upon such terms, charges, and conditions as the Town Council may determine and approve;

(h) slum clearance and redevelopment, urban renewal, revitalization or rehabilitation of blighted areas or removal of dangerous buildings;

(i) protection services for the citizens of the Town to include, but not limited to, police, fire, rescue and paramedic support.

4.2.3 may sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the Town may require

except as prohibited by the Constitution and Laws of the United States and the State of Delaware or as restricted by this Charter;

4.2.4 may pay for the acquisition, construction, improvement, repair, extension, alteration or demolition of any Town property (real, personal or mixed) from the general fund of the Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the Town by any governmental entity of the United States or the State of Delaware where the proceeds of the grant or loan are for the purposes for which lands and premises are authorized by this Charter to be acquired;

4.2.5 may acquire, build, erect, and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town;

4.2.6 may purchase, take and hold real and personal property when sold for any delinquent tax, assessment, water rent, electric bill, gas bill, license fee, tapping fee, charge growing out of abatement of nuisances, or other charge due the Town and sell the same;

4.2.7 may:

(a) ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, improve, dredge, erect, remove, repair and replace any new or present street, highway, road, alley, waterway, park, crosswalk, wharf, dock, boat ramp, sewer, drain, gutter, aqueduct or pipeline or portion thereof, or any new or present curb, or gutter or portion thereof in the Town and the beach or strand in or contiguous to the Town;

(b) specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done;

(c) enter into contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, highway, road, alley, waterway, sidewalk or other public thoroughfare within the Town;

4.2.8 may provide, construct, extend, maintain, manage and control groins, bulkheads, embankments, rip rap, piers or fills for the preservation of any waterway, beach, strand or high land within the corporate limits of the Town and contiguous thereto to the end that the same may be preserved and properly protected that the general public might enjoy the use thereof;

4.2.9 may regulate and control the planting, growing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and lands of the Town and may authorize or prohibit the removal or destruction of said trees;

4.2.10 may fully control the drainage of all surface water within the Town, and to that end, may provide, construct, extend, maintain, manage and control a surface water drainage system for the health, sanitation, and convenience of the inhabitants of the Town;

4.2.11 may provide an adequate supply of potable water for the Town and its inhabitants and, to this end, may:

(a) acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, water treatment facilities, stations, tanks, standpipes, water mains, fire hydrants and all other equipment, property, or rights used in or about the collection, storage, purification, conveyance or distribution or sale of water;

(b) regulate and prescribe for what public or private purposes the water furnished by the Town may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties, or both, for any willful or negligent injury, or damage to or interference with the water system or the equipment of the Town;

(c) furnish or refuse to furnish water from the Town system to places and properties outside the Town corporate limits; and

(d) contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the Town itself;

4.2.12 may:

(a) provide, construct, extend, maintain, manage and control: a sewer system and/or a sewage treatment and disposal plant and facilities for the health, sanitation and convenience of the inhabitants of the Town:

(b) regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof, the means whereby such amounts shall be collected and the fines or penalties or both, for any willful or negligent injury or damage to, or interference with the said system, plant or facilities;

(c) furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits;

(d) compel any and all properties in the Town to be connected to the sewer system of the Town; and

(e) contract for and purchase sewer disposal service and resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself;

4.2.13 may provide for and control the lighting of the streets, highways, roads, alleys, waterways, parks, strands, crosswalks, wharfs, docks, public buildings or other public places in the Town;

4.2.14 may regulate, control or prevent the use or storage of gasoline, naphtha, gun powder, fireworks, tar, pitch, resin and all other combustible or dangerous materials and the use of candles, lamps and other lights in stores, shops, and other places; and may regulate, suppress, remove or secure any fireplace, stove chimney, oven broiler or other apparatus which may pose a danger of causing fires;

4.2.15 may:

(a) provide for the organization of a fire department and the control and government thereof;

(b) establish fire limits and do all things necessary for the prevention or extinguishment of fires; and

(c) contribute or donate funds to any volunteer fire company or companies incorporated under the Laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town, provided that any such contribution or donation may be made subject to such conditions as to the use thereof as the Town Council may deem advisable;

4.2.16 may provide for the organization of ambulance, rescue or paramedic services and the control and government thereof, may establish territories within the Town for such services; and may, at the discretion of the Town Council, contribute or donate funds

to any such service formed or incorporated under the Laws of the State of Delaware, or to any volunteer service maintaining and operating ambulance, rescue or paramedic equipment and services for the inhabitants of the Town, provided that any such contribution or donation may be made subject to such conditions to the use thereof as the Town Council may deem advisable;

4.2.17 may prohibit drunkenness, use or distribution of any controlled substance, gaming and fraudulent devices and riots, disturbances and disorderly assemblies;

4.2.18 may adopt and enforce such ordinances regulating traffic on all streets, highways, roads, alleys and public ways within the Town as are consistent with the motor vehicle laws of the State of Delaware;

4.2.19 may adopt and enforce such ordinances regulating traffic on all waterways within the Town as are consistent with U. S. Coast Guard and Delaware Marine Police regulations;

4.2.20 may regulate or prohibit the use of streets, highways, roads, alleys, beaches, parks, rights-of-way, other public places and Town-owned lands for commercial use, or activities not otherwise protected from such regulation or prohibition by the Constitution and Laws of the United States and the State of Delaware;

4.2.21 may regulate or prohibit the use of guns, air guns, spring guns, pistols, sling shots, bean shooters, and any other device for discharging missiles which may cause bodily injury or injuries or harm to persons or property; and may regulate or prevent the use of bonfires, open fires, fireworks, bombs and detonating works of all kinds within the Town;

4.2.22 may provide for and preserve the health, peace, safety, cleanliness, beauty, good order and public welfare of the Town;

4.2.23 may prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games;

4.2.24 may direct the excavation, draining, filling, cleaning, curbing or fencing of privately owned lots, tracts, pieces or parcels of land in the Town which are deemed dangerous or unwholesome, or necessary to carry out any improvements authorized by this Charter and may assess the cost thereof against the owner thereof;

4.2.25 may define, prevent, abate or remove nuisances, obstructions or any other conditions detrimental to the public safety, health or welfare; and may cause the cost of such abatement or removal to be paid by the person or other legal entity causing or permitting same to exist;

4.2.26 may adopt ordinances providing for the condemnation of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinances to be a fire hazard or otherwise unsafe, and may cause the same to be torn down or removed;

4.2.27 may adopt ordinances to establish and regulate animal pounds and restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large within the corporate limits of the Town; authorize the destruction of the same; and may regulate the keeping of pets within the Town, and provide for registration and fees thereof;

4.2.28 may provide for the punishment of a violation of any ordinance of the Town by appropriate fine, penalty, or forfeiture;

4.2.29 may regulate and control the construction, alteration, or removal of dwellings or other structures and provide for granting permits for same;

4.2.30 may regulate and control construction activities by private individuals or companies at such times and seasons of the year and at such hour of the day as the Town Council may determine necessary and appropriate for the public health, welfare and convenience.

4.2.31 may provide for and regulate the naming of the streets and waterways and the numbering of houses and commercial establishments within the Town corporate limits;

4.2.32 may:

(a) establish setback lines for buildings and other structures to be erected;

(b) zone or district the Town and establish standards for construction and building materials;

(c) prohibit any construction except that for which a building permit has been issued pursuant to ordinances as prescribed by the Town Council; and

(d) exercise all powers and authorities pursuant to 22 Del.

C., Chapter 3, or any future corresponding provisions of law;

4.2.33 may regulate the conduct of any business, profession or occupation within the corporate limits of the Town;

4.2.34 may license, tax, and collect fees annually for any and all municipal purposes of such various amounts as the Town Council, from time to time, shall fix from any individual, firm, association or corporation carrying on, or practicing any business, profession or occupation within the corporate limits of the Town;

4.2.35 may grant licenses, issue permits, and regulate any activity within the corporate limits of the Town; specifically including any beach property, whether previously dedicated to or owned by the State of Delaware;

4.2.36 may impose upon new development or construction or upon first-time occupancy of new construction such "impact fees" as are reasonably calculated to recover the cost of installing, enlarging, improving or expanding public or municipal improvements which have a rational relationship to such new construction;

4.2.37 may borrow and appropriate money to pay the debts and liabilities of the Town, or any portion thereof, from any funds available therefor; and may, in case of emergency, temporarily transfer money from one fiscal account to another fiscal account of the Town;

4.2.38 may raise revenue for the Town by the levying and collecting of taxes on real property, taxes on business activities, special assessments, licensing fees and other charges for services;

4.2.39 may investigate the conduct of any officer, employee or representative of the Town, in the conduct of his or her official duties, and for such purpose may compel the attendance of witnesses and the production of books, records, or other evidence by subpoena, and may administer oaths or affirmations;

4.2.40 may establish a pension plan or a health and welfare plan or both, for the employees of the Town under such terms and conditions as the Town Council may deem appropriate, with the funding accomplished through an insurance company licensed by and authorized to do business in the State of Delaware, approved by the Town Council;

4.2.41 may, by condemnation proceedings, take private property or the right to use private property within the corporate limits of the Town for any of the purposes specified in this Charter, such proceedings to be in conformity with 10 Del. C. Chapter 61, or any future corresponding provision of law;

4.2.42 may adopt, alter, and amend all such ordinances, regulations, resolutions, and rules not contrary to the Constitution and Laws of the United States and the State of Delaware as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any Federal or State law relating generally to municipal corporations or which may be deemed proper and necessary for the order, protection, and good government of the Town; the protection of persons and preservation of property; and the protection of the public health and welfare of the Town and its inhabitants. Any ordinance relating to the public health of the Town and its inhabitants or designed to prevent the introduction or spread of infectious or contagious diseases or to prevent nuisances affecting the same, shall apply not only within the corporate limits of the Town but as well to all areas and persons outside the Town within one (1) mile from its corporate limits.

4.3 Liberal Construction: Manner of Exercise. The powers of the Town under this Charter shall be liberally construed in favor of the Town, and the enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein or implied hereby, appropriate to the exercise thereof, the Town shall have and may exercise any and all powers which, under the Constitution and Laws of the United States and the State of Delaware, it would be competent for this Charter to specifically enumerate.

All powers of the Town, whether express or implied, shall be exercised in the manner prescribed by this Charter, or if not prescribed herein, then in the manner provided by ordinances, regulations, resolutions, and rules of the Town Council. The Council may, by ordinance or resolution, do such other act or thing incidental, necessary, or useful in connection with any of the matters duly authorized in this Charter.

4.4 Intergovernmental Cooperation. The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one (1) or more states or civil divisions or agencies thereof, or the United States or any agency thereof, except as prohibited or restricted by the Constitution and Laws of the United States and the State of Delaware or by this Charter.

5. Town Council.

5.1 Governing Body. The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided therein, shall be vested in and exercised by a seven (7) member Town Council composed of a Mayor and six (6) other members, each of whom shall be elected by popular vote as hereinafter provided.

5.2 Qualifications.

5.2.1 General. A candidate for the Town Council shall be a natural person at least twenty one (21) years of age, a citizen of the United States, and otherwise qualified to vote at the annual municipal election as provided in Sec. 6.1.

5.2.2 Residency Requirement for Council Candidates. At least four (4) members of the Town Council shall be residents of the State of Delaware, as defined by the Laws of the State of Delaware.

(a) If a "resident" member of the Council who is also a freeholder, should, during term of office, fail to maintain residency in the State, but continue to be a freeholder during his

or her term of office, that person shall continue to be deemed a "resident" member of the Town Council.

(b) If a non-resident member of the Council, during his or her term, establishes residency in the State, that person shall be deemed a resident member of the Council as of the next regularly scheduled annual municipal election.

5.2.3 Residency Requirement for Mayoral Candidates. The Mayor shall be a resident of and property owner in the Town of South Bethany, Delaware, twenty-one (21) years of age and otherwise qualified as provided in Sec. 5.2.1 and 5.2.2.

5.2.4 Council to Act as Final Judge. The Town Council, by majority vote of its disinterested members, shall be the sole and final judge of the qualifications of its members, and shall interpret and apply the standards set forth in this Charter.

5.3 Term of Office. Staggered Terms.

5.3.1 Term of Office. The term of office for each member of the Town Council shall be two (2) years.

5.3.2 Staggered Terms. The present Mayor and Council members of the Town of South Bethany, and other officers appointed to serve in the office under Chapter 78, Volume 67, Laws of Delaware, as amended, shall continue to serve as Council members and Officers of the Town from and after the effective date of this Charter, until the successors are duly elected or appointed. At the annual Town election in 1995, three (3) Council members shall be elected to fill the vacancies created by the expiration of the terms of Office of the four (4) then-outgoing Council members. At the annual Town election in 1996, the Mayor and three (3) Council members shall be elected to fill the vacancies created by the expiration of the terms of office of the three (3) then-outgoing Council members. Thereafter, the Mayor and three (3) members of the Town Council shall be elected in even years and three (3) members shall be elected in odd years.

6. Municipal Elections.

6.1 Voter qualifications. Any natural person shall be qualified to vote in any annual municipal election, special election or referendum who, on voting day shall:

- (a) have attained eighteen (18) years of age;
- (b) be a citizen of the United States;
- (c) shall be registered under the Town's Voter Registration ordinance (if one be in effect); and
- (d) shall have been either:
 - (1) a freeholder in the Town, as defined herein, for a period of ninety (90) consecutive days immediately preceding the date of the election; or
 - (2) a resident of the Town, as defined herein, for at least nine (9) months, consecutively or non-consecutively of the twelve (12) month period immediately preceding the date of the election in which he or she seeks to vote.

For purposes of this Charter except for Sec. 5.2.2.,

(a) a "freeholder" shall be deemed to include any natural person who holds title of record to a fee simple estate or a life estate in and to real property located within the corporate limits of the Town; and

(b) a "resident of the Town" shall mean any natural person who has actually lived within the corporate limits of the Town at least

nine (9) months, consecutively or non-consecutively, of the twelve (12) month period immediately preceding the date of the election.

6.1.1 Determination of Voter Eligibility. The Board of Elections is responsible to determine voter qualifications as prescribed in this Charter, as provided in Sec. 6.1.

6.2 Voter Registration. The Town Council may, by ordinance, provide for the registration of voters and may prescribe registration and voting places. Such ordinance shall not alter the qualifications of voters as defined in this Charter nor unduly impair the right to vote in any election.

6.3 Uncontested Election. Where there is only one (1) official candidate for any office on the day of the annual municipal election, the official candidate shall be deemed elected thereto without the holding of such an election.

6.4 Annual Municipal Election Procedures.

(a) Notice of Candidacy. In order to be listed on the ballot for election of Mayor and other Town Council Members, each candidate shall file a written notice of intention to seek such office with the Town Manager during normal business hours at least forty-five (45) days prior to the date set for the election. If the Election Board (Sec. 6.4.(g)) determines that any candidate may not meet the qualifications for office, it shall notify the Mayor who shall call a special meeting of the Town Council to be held not less than thirty (30) days prior to the date set for the election, at which the Town Council shall decide the matter. The candidate whose qualifications are at issue shall be notified, by registered mail, of the date, time and place of the meeting, at which he or she may appear and testify. If the Town Council determines that the candidate does not meet the qualifications of office, it shall reject the notice of intention to seek office and his or her name shall not appear on the ballot. In making the determination, only those members of the Town Council who are not running for re-election shall be entitled to vote on the question.

(b) Date, Time, and Place. Annual municipal elections for the Town Council shall be held on the last Saturday before the last Monday in May at such time and place, within the Town, as shall be determined by the Town Council. The polls shall remain open for at least a six (6) hour period to be determined by the Town Council.

(c) Notice of Elections. Public notice of any election to elect members to the Town Council shall be given by posting notices thereof in at least five (5) public places in the Town not less than thirty (30) days before the date of such election and by publishing notices at least once in two (2) newspapers of general circulation in the Town at least thirty (30) days before the date of the election. Such notices shall state the date, time, and place of the election as well as a description of the offices to be filled. Such notices as shall be in bold print or bordered in black in such manner as to call attention thereto. In the event that the publications and/or posting do not appear on the same date, the date of the last publication or posting shall control.

(d) Voting Machines, Paper Ballots. Elections shall be by voting machine, electronic voting system, or by paper ballot as the Town Council shall determine; provided, however, that voting machines or electronic voting systems shall be used if required by State law.

(e) Absentee Voting. Any qualified voter may vote by absentee ballot at any election.

(f) Rules Governing Conduct of Elections. The Town Council shall adopt rules, consistent with the provisions of this Charter, and with applicable state or federal law governing the conduct of elections, including absentee voting.

(g) Election Board. Every election shall be held under the supervision of an Election Board. The Election Board shall consist of

three (3) Judges of Election. Such Judges shall be qualified voters of the Town and shall be appointed for that purpose by the Town Council at least sixty (60) days before such election. If, at the opening of the polls, there shall not be present any member of the Election Board, in such case, the ranking Town officer available at the opening of the polls shall appoint a qualified voter or voters to act as a member or members of the Election Board to fill vacancies caused by such absence. Members of the Election Board shall be the sole and final judges of the conduct of the election, the legality of the votes offered, and the election results. The Election Board shall have the power to subpoena persons and records relative to the determination of the qualifications of voters and the legality of any vote or votes offered.

(h) Election Results. Upon the close of such election, the votes shall be counted by the Election Board. The persons having the highest number of votes shall be declared by the Election Board to be duly elected to such vacant offices as then exist. Persons holding office shall continue in office until their successors are duly elected and installed.

(i) Tie Vote. In the event of a tie vote for any office, the election to such office shall be determined by a run-off election within thirty (30) days pursuant to the election procedures of this Sec.

(j) Preservation of Records and Ballots. The custody of election records and all ballots cast shall be maintained in the Town Office for a minimum period of six (6) months.

(k) Election Record Book. The Election Board shall enter in an Election Record Book the complete results of the election, to be subscribed by all Election Board Members. Such Book shall be preserved by the Town Council.

7. Organization of Town Council.

7.1 Organizational Meeting. An organizational meeting of the Town Council shall be held on the first Saturday following the date of the election. Such meeting shall be held at the usual place for holding regular Town Council meetings and shall be open to the public. The newly elected Mayor and other Town Council members shall assume the duties of their respective offices, being first duly sworn or affirmed to perform their duties with fidelity. Such oath or affirmation shall be taken before a Notary Public, a Justice of the Peace, the Town Alderman, or by one (1) of the holdover Town Council members. At the organizational meeting, the Mayor shall appoint a President Pro-tempore, a Council Secretary, and a Treasurer subject to ratification by majority vote of the Town Council. The Council Secretary and Treasurer need not be members of the Town Council. Each of these officers of the Town Council shall serve in that position for a term of one (1) year or until the organizational meeting after the next succeeding election.

7.2 Duties of Mayor. The Mayor shall preside at all meetings of the Town Council and shall have a vote on all pending issues. The Mayor shall execute, on behalf of the Town, when authorized by Town Council majority vote, all agreements, contracts, bonds, deeds, leases, and other legal documents. The Mayor shall appoint such standing and other committees as the Town Council shall require, provided that a member of the Town Council shall serve as Chairman of each standing committee. It shall be the duty of the Mayor to see that the ordinances, regulations, resolutions, and rules of the Town are duly executed; he or she shall perform all additional duties as are imposed by this Charter. The Mayor shall be empowered to delegate specific duties and responsibilities and to administer oaths and affirmations.

7.2.1 Emergency Powers. The Mayor shall be empowered to act on behalf of the Town, without prior Town Council approval, in the event of a sudden emergency requiring prompt action, in order to protect the public health, safety, and welfare of the Town, its inhabitants and property owners. A "sudden emergency", for purposes of this Section shall include, by way of example and not

in limitation, a major fire or conflagration, significant flooding, or serious storm threatening significant damage, a civic disturbance, or a toxic spill. A "sudden emergency" shall also include any emergency situation as declared by any county, state or federal agency having jurisdiction over the Town where the scope of the emergency so declared includes the Town.

7.3 Duties of President Pro Tempore. The President Pro-tempore shall function as Mayor during the absence or disability of the Mayor.

7.4 Duties of Council Secretary. The Council Secretary shall be responsible for recording the proceedings of the Town Council and for maintaining safe custody of other Town records and shall perform such other duties as directed by ordinance or the Town Council.

7.5 Duties of Treasurer. It shall be the duty of the Treasurer to attend all Town Council meetings. The Treasurer shall be responsible for maintaining custody of all Town funds in a banking institution selected by the Town Council; for deposit of all Town receipts and disbursement of Town funds in payment of bills presented for payment; for presenting an annual financial report to the Town Council at the end of the fiscal year; and for performing such other duties as directed by ordinance or the Town Council. The Treasurer, before assuming the duties of such office, shall be required to give bond with sufficient surety to the Town Council in an amount at least equal to the funds likely to be handled in the discharge of such duties. The Treasurer shall at the end of such term of office deliver to his/her successor in office all fiscal records relating to such office and all Town funds then held in the Treasurer's custody as part of the settlement of final account. The cost of said bond shall be paid out of Town funds. In case of resignation, incapacitation, or at the expiration of the term of office an audit shall be performed.

7.6 Filling Vacancies of Appointed Officers. If a vacancy shall occur in the office of any officer appointed pursuant to Sec. 7.1 of this Charter, the successor shall be selected for the unexpired term pursuant to the procedures of Sec. 7.1.

7.7 Code of Ethics.

7.7.1 Conflict of Interest. No Town Council member, officer, employee, or representative shall represent the Town in any business or governmental transaction involving any corporation or other private party in which he or she has a direct or indirect financial interest.

7.7.2 Abuse of Office. No Town Council member, officer, employee, or representative shall use his or her official position to obtain an undue, unwarranted, or unfair advantage, privilege or exception.

7.7.3 Disclosure of Information. No Town Council member, officer, employee, or representative shall disclose to any unauthorized person, confidential information gained by reason of official position, nor shall such information be used for personal gain or benefit.

7.7.4 Contracts for Materials and Services.

(a) No Town Council member, officer, employee or representative may contract with the Town to provide personal services or materials for the benefit of the Town, nor may any corporation or other private party in which such official holds a pecuniary interest contract with the Town to provide such services or materials, except with the unanimous consent of all other Town Council members.

(b) Notice of all bids for street, sewer, or water systems, installations, improvements, extensions, or repairs shall be published at least once in at least two (2) newspapers having general circulation in the Town.

7.7.5 Competitive Bidding. All contracts for purchase or lease of materials or services authorized by this Charter shall be consummated by competitive bidding, and each such contract shall be awarded to the lowest responsible bidder who submits a responsive bid, provided, however, that competitive bidding shall not be required where:

- (a) the aggregate amount involved is not more than \$2,500.00;
- (b) the contract is for any service to be rendered by the State of Delaware, or by any political subdivision thereof;
- (c) the contract is for any service to be rendered by a university, college, or other educational institution;
- (d) the contract is for property or services for which it is impractical to obtain competitive bids;
- (e) the Town Council determines that due to an emergency or special exigency, the time required for competitive bidding is inadequate; or
- (f) the Town Council determines that the bids received were:
 - (1) unreasonable as to all or part of the requirement; or
 - (2) were not independently reached in open competition.

7.8 Vacancies, Forfeiture of Office.

7.8.1 Vacancies. The office of a Town Council member shall become vacant upon death, incapacitation, resignation or forfeiture of such office.

7.8.2 Forfeiture Proceedings. A forfeiture of such office shall occur when any Town Council member:

- (a) is no longer qualified to hold such office;
- (b) willfully violates any provision of this Charter;
- (c) is convicted of any felony or crime involving moral turpitude; or
- (d) fails to attend three (3) consecutive regular Town Council meetings without being excused by Town Council vote.

7.8.3 Determination Concerning Forfeiture. Where the conditions set forth in Sec. 7.8.2 (c) or (d) occur, forfeiture shall be automatic. Where the conditions set forth in Sec. 7.8.2 (a) or (b) are alleged, forfeiture shall be approved by the remaining Town Council members. Such decision shall be made in executive session and if the Town Council determines by a majority vote that a forfeiture has occurred, it shall, within forty-eight (48) hours thereafter, provide written notice thereof to the affected Town Council member, by certified mail, return receipt requested, sufficiently posted. "Written notice" shall be deemed provided when deposited in first-class mail with sufficient postage. The affected member shall be entitled to a hearing and shall then have thirty (30) days in which to make a written request for a public hearing before the Town Council, to be held within forty-five (45) days of the written request, at which hearing such member may appear with the assistance of counsel and present evidence to the relevant issues. The Town Council shall also hear any other relevant evidence and vote again on the question of forfeiture. A determination of forfeiture shall be made only by unanimous vote of the Town Council members present and entitled to vote on the question.

7.8.4 Failure to Request Hearing as a Bar. Failure of the affected member to make written request for a public hearing as hereinabove stated shall be an absolute bar to his or her right to

challenge the Town Council's decision. If a public hearing is held, the Town Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all of which shall be done if requested in writing by the affected person.

7.9 Filling Vacancies. A vacancy in the office of the Mayor or of any other Town Council member shall be filled for the unexpired term by a person qualified to fill the position.

7.9.1 Procedure: Office of the Mayor. Upon the occurrence of a vacancy in the office of the Mayor, the President Pro-tempore shall assume the duties and responsibilities of Mayor until such time as a new Mayor is elected and installed in office. A vacancy in the office of Mayor shall be filled for the remainder of the unexpired term at the next annual municipal election. If the next annual municipal election is to occur more than 120 days from the occurrence of the vacancy, the Town Council shall, within 24 hours of notice of the vacancy, announce the existence of the vacancy and the date and time for a special election to be held for the remainder of the term of office. Said election shall be held within sixty (60) days of the announcement of said vacancy. Said special election shall be held pursuant to the provisions as provided in Sec. 6.4 of this Charter.

7.9.2 Other Council Members. A vacancy in the office of any Council member other than Mayor shall be filled for the remainder of the unexpired term at the next annual municipal election. If the next annual municipal election occurs more than sixty (60) days after the occurrence of the vacancy, the Town Council, by a majority vote of the remaining members in an open meeting, shall appoint a qualified person to fill such vacancy until the next annual municipal election. If the vacancy occurs within sixty (60) days of the expiration of term of office, such vacancy shall not be filled.

7.10 Meetings.

7.10.1 Regular Meetings. The Town Council shall hold at least eleven (11) regular meetings during the year. The time and place of each regular meeting shall be set by the Town Council each year at its organizational meeting, but such meetings may be rescheduled by the Mayor as need arises, subject to the requirement of adequate public notice. All such meetings shall be open to the public.

7.10.2 Special Meetings. Special meetings of the Town Council shall be called upon the written request of the Mayor or any four (4) members of the Council stating the day, hour, and place of such meeting and the subject or subjects to be considered thereat. Notice shall be given thereafter at least seven (7) days prior to said meeting date to the Mayor and each member of the Council of the day, hour, and place of such special meeting and the subject or subjects to be considered thereat. A written waiver of such notice, (written, telegraphic, telefacsimile or recorded telephonic message), by all members of the Council prior to or immediately at the beginning of the convening of such special meeting shall make the forty-eight (48) hour written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time and for any purpose named in such waiver, or the transaction of any other business at the meeting, if the waiver so states. Subject to the scope of the notice, the Town Council shall have the same power and authority to enact all ordinances, adopt all regulations, resolutions and rules, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at a regular meeting. The aforesaid procedure shall not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health or safety.

7.10.3 Adjourned Meetings. The Town Council may adjourn its meetings from time to time, provided that adequate public notice

shall be given of the date, place, and time for the resumption of such meetings.

7.10.4 Open Meetings. All meetings of all Town governmental bodies shall be in compliance with the Freedom of Information Act, (Title 29, Chapter 100, Delaware Code), or any future corresponding provision of law.

7.10.5 Place of Meetings. All regular, special, and adjourned meetings of the Town Council shall be held within the corporate limits of the Town, except that emergency meetings may be held elsewhere.

7.11 Town Council Actions.

7.11.1 Council Actions. No Town Council actions may be taken except at a duly convened meeting.

7.11.2 Rules of Procedure, Record of Proceedings. The Town Council shall determine its own rules of procedure and order of business. It shall keep a record of its proceedings which shall be open to public inspection.

7.11.3 Ordinances, Regulations, Resolutions, and Rules. The Town Council is hereby vested with the authority to adopt ordinances, regulations, resolutions, and rules relating to any subject within the powers and functions of the Town, or relating to the government of the Town, its peace and order, sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances, regulations, resolutions, and rules. No provision of this Charter on any particular subject shall be held to be restrictive of the power to enact ordinances, regulations, resolutions, and rules on any subject not specifically enumerated, provided they do not violate State or Federal law. In addition to other acts required by law or this Charter the Town Council may by ordinance:

- (a) adopt or amend administrative rules, or establish or reorganize any Town department, office or agency;
- (b) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (c) grant, renew, extend, or terminate a franchise; and
- (d) amend or repeal any ordinances previously adopted.

Every ordinance shall be introduced in writing. Voting on any ordinance shall be by roll call vote, and the vote of each Town Council member on any ordinance shall be entered on the record. No ordinance shall be adopted unless it shall have the affirmative vote of a majority of the entire Town Council.

The Town Council shall not have the power to exempt any individual from the application of any ordinance, regulation, resolution, or rule of the Town, except as set out in this Charter or as provided by the Constitution and Laws of the United States and the State of Delaware.

7.11.4 Emergency Ordinances. To meet an emergency affecting public health, safety, and welfare the Town Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Sec. 13 of this Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency

ordinance may be adopted with or without amendment or rejected at the meeting at which it was introduced, but the majority vote of all Town Council members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the one hundred twentieth (120th) day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this Sub-section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for the adoption of emergency ordinances.

7.11.5 Quorum. Four (4) members of the Town Council shall be present in order to constitute a quorum to conduct business. Council decisions shall require voting approval of a majority of the entire Council.

7.11.6 Vote Necessary to Carry Action. All powers of the Town Council, whether expressed or implied, shall be exercised in the manner provided herein, or if not prescribed herein, then by ordinances, regulations, resolutions, and rules. In the general performance of their duties, the acts, doings and determinations of a majority of the entire Council shall be as valid as the acts, and determinations of all the members of the Council.

7.11.7 Compensation of Council Members. Each Town Council member may receive compensation for services to the Town as may be prescribed by ordinance.

7.12 Succession of Authority. In the event that the Mayor is absent or incapable of assuming responsibilities, such responsibility shall be carried out by the following Town officials in the following order: 1) President Pro-tempore, 2) each of the remaining Council members in order of seniority in years of Council service, 3) Council Secretary, and 4) Treasurer.

B. Appointed Officers.

8.1 Town Manager.

8.1.1 Appointment and Removal. Pursuant to ordinance the Town Council, by a majority vote of all members, may appoint a Town manager who shall be the chief managerial administrative officer of the Town. The terms and conditions of such employment shall be included in a written agreement between the Town Council and the Town Manager. The Town Manager shall be appointed solely on the basis of professional, executive, and administrative qualifications and experience. Such person shall reside no farther than thirty (30) miles from the Town. No member of the Town Council may serve as Town Manager unless he or she first resigns. Subject to any limitations set forth in the written agreement between the Town Manager and the Town Council, the Town Manager shall serve at the pleasure of the Town Council. In case of the temporary absence, disability, or other interruption of service of the Town Manager, the Town Council may designate some other competent person to perform the duties of the office during such period.

8.1.2 Functions and Duties of Town Manager.

The Town Manager shall be responsible for the administration of all governmental activities of the Town which are assigned by or under this Charter. The functions and duties of the Town Manager shall be set forth in an ordinance enacted by the Town Council.

8.2 Town Solicitor. The Town Council shall appoint a Town Solicitor who shall be removable at the pleasure of the Town Council. The Solicitor shall be a member in good standing of the Bar of the State of Delaware with law offices in Sussex County. It shall be the Solicitor's duty to give legal advice to the Town Council, the Town

Manager, and other officers of the Town, and to perform such other legal services as may be required by the Town Council.

8.3 Other Officers and Employees.

8.3.1 Appointment and Employment. The Town Council may authorize the Town Manager to appoint or employ such other officers and employees deemed necessary for the proper management of the Town.

8.3.2 Termination of Appointment of Employment. The Town Manager may at any time terminate the service of any Town officer, after he or she has obtained approval from the Mayor and Town Council, or employee unless otherwise proscribed by the terms of a written contract, a written personnel policy, a written personnel or merit system, a written grievance or disciplinary procedure adopted by the Town Council. The Town Manager's decision shall be deemed to be upheld after a majority of the Town Council votes to approve the Town Manager's decision.

8.4 Compensation. The Town Council shall by ordinance or resolution fix the amount of any compensation of the officers, employees and representatives of the Town, as well as reimbursement for actual and necessary expenses incurred by them in the performance of their duties.

8.5 Personnel Records. The Town Office shall maintain a full and complete record of all officers, employees and representatives hired by the Town, containing the names of such persons, the dates of their employment, job descriptions, compensation paid and the date of the termination of their services.

9. Assessment for Taxes.

9.1 Board of Assessment.

9.1.1 Appointment. The Mayor may, with the approval of the entire Town Council, appoint a Board of Assessment composed of three (3) members, each of whom shall be a property owner within the corporate limits of the Town, and who shall serve for a three (3) year term, established on a staggered basis, one (1) term expiring annually.

The Mayor may, with the approval of the entire Town Council, appoint a Board of Assessment Review, composed of three (3) members, none of whom shall be a property owner within the corporate limits of the Town, and who shall serve for a three (3) year term, established on a staggered basis, one (1) term expiring annually.

The Town Council may authorize the retention of professional services to assist the Board of Assessment and Board of Assessment Review. In all instances the Board of Assessment shall be responsible for making final assessment determinations, subject to assessment review.

9.1.2 Oaths, Duties, Compensation. The Members of the Board of Assessment shall be sworn or affirmed by the Mayor, a Justice of Peace, or Town Alderman, to perform their duties diligently, with fidelity and without favor to the best of their ability, knowledge and judgment. It shall be the duty of the Board of Assessment to make a fair and impartial assessment of property subject to taxation situate within the corporate limits of the Town and to perform such other duties with reference thereto as shall be prescribed from time to time by the Town Council. The compensation received by such members for the performance of their duties, and the hiring of employees or consultants to assist them in the performance of their duties, shall be approved by the Town Council.

9.1.3 Adoption of Sussex County Assessments. The Town Council may elect to use the assessment by the Sussex County Board of Assessment for all property located within the corporate limits of the Town in lieu of making its own independent valuation and assessment of such property. In such event, the assessed values

established by Sussex County shall be conclusive for purposes of levying Town taxes, and the Town Council shall have no authority to hear appeals (under Sec. 9.3) regarding same. If the Town Council elects to adopt the Sussex County assessments, then Sections 9.1.1, 9.1.2, 9.2, and 9.3 shall not apply.

9.1.4 Addition to Tax Bills. Whether utilizing the Sussex County assessments or those prepared by the Town's own Board of Assessments, the Town Council shall annually, prior to the posting of the assessment list, by resolution, provide a list of any and all charges, costs or other assessments owed to the Town, which list of charges incurred shall include, but not be limited to, the following: Water assessments, weed and grass cutting bills, trash collection bills and past due water rents.

9.2. Assessment Procedure.

9.2.1 Making the Assessment. If appointed, the Board of Assessment shall, prior to the first day of April of each year, make a just, true and impartial annual valuation and assessment of all real estate located within the corporate limits of the Town, based on current fair market value. All real estate shall be described with sufficient particularity to be identified and shall be assessed to the owner or owners thereof. If such owner or owners of real estate cannot be found or ascertained, the property shall be assessed to "Owner Unknown". A mistake in the name of the owner or owners or a wrong name of an assessment to "Owner Unknown" shall not affect the validity of the assessment or the tax based thereon; provided, however, that the assessment shall specify the last record owner or owners of the property as the same shall appear in the records of the Office of the Recorder of Deeds, in and for Sussex County.

9.2.2 Assessment of Members of the Board of Assessment. The real property of the members of the Board of Assessment shall be valued by an ad hoc group of three (3) local real estate brokers selected by the Town Council.

9.2.3 Delivery of Assessment List. The Board of Assessment, after making such annual valuation and assessment, shall deliver to the Town Council a list containing the names of owners of all properties assessed and the amount of assessment against each.

9.3. Assessment Appeals.

9.3.1 Authorization of Appeal. Any aggrieved property owner may appeal (1) his property assessment and (2) additions to his tax bill pursuant to the provisions of this Section and procedures established by the Town Council.

9.3.2 Posting of Assessment List: Notice. Immediately upon receiving the annual assessment list from the Board of Assessment, the Town Council shall cause a full and complete copy of the same, containing the amount assessed to each property, to be made available for public inspection at the Town Office for a period of at least sixty (60) days. Appended thereto, and also in five (5) or more public places in the Town, shall be posted a notice of the date and place where the assessment list has been made available, stating that, a day shall be set (not earlier than sixty (60) days after the assessment list has been made available), for the Board of Assessment Review to hear assessment appeals and make such corrections and revisions deemed appropriate. Any aggrieved property owner may file an appeal within ninety (90) days after the first day of posting of the assessment list. Such notice shall also be published at least once in at least two (2) newspapers of general circulation in the Town not less than thirty (30) days prior to the date set for such appeals.

9.3.3 Appeals Day. On the day set for such appeals, the Board of Assessment Review will hear appeals from the said assessment and correct and revise the assessment as deemed appropriate. The Board of Assessment Review shall have full power and authority to alter,

revise, increase, or reduce the said assessment. The decision of a majority of the Board of Assessment Review shall be final and conclusive, unless an appeal is taken to the Superior Court of the State of Delaware in and for Sussex County within thirty (30) days from the date of the Board's decision.

The Board of Assessment shall be present at all appeal hearings and shall furnish to the Board of Assessment Review such information as it may require in respect to any assessment for which an appeal has been taken.

10. Levy of Taxes, Fees, Special Assessments and Other Charges (hereinafter referred to as "taxes").

10.1 Establishment of Balanced Budget. After the valuation and assessment process has been completed, the Town Council shall adopt an annual balanced operating budget, and may adopt a capital budget for the ensuing fiscal year, including sufficient revenue to meet the fixed and anticipated expenses and obligations of the Town, reasonable and appropriate reserves and a reasonable amount to cover emergencies.

10.2 Determination of Revenue Sources. The Town Council shall determine the appropriate revenue sources within the limits prescribed by this Charter, with respect to the amount to be raised from each such source. It shall then determine, assess, fix and/or levy as follows:

10.2.1 Real Estate and Improvements. The rate of tax on real estate including improvements, shall be fixed per one hundred dollars (\$100.00) of the assessed value, and/or

10.2.2 Real Estate Transfer Tax. Appropriate transfer taxes to be charged upon the transfer of real property, or any interest in real property, situate within the corporate limits of the Town, provided, however, that no tax levied under this Section shall exceed one percent (1%) of the sales price (including the value of any assumed mortgage or mortgages) or fair market value of the real property so transferred; and provided, further, that no tax shall be levied upon an organization exempted from ad valorem real estate taxes; and/or

10.2.3 License Fees. Appropriate license fees to be charged for carrying on or conducting of the several businesses, professions or occupations as authorized by Sec. 4.2.35 of this Charter; and/or

10.2.4 Municipal Services. Appropriate charges for furnishing water service, front footage assessment, trash collection, and other services authorized by the Town Council; and/or

10.2.5 Other Services. The fees or rates to be charged in respect to any other authorized source of revenue; and/or

10.2.6 Business Taxes. Appropriate taxes on the gross receipts of any business activity, as defined by the Town Council, conducted within the corporate limits of the Town.

10.3 Levy of Real Property Tax. The setting of the tax rate by Town Council resolution shall constitute the levy of such taxes in accordance with the assessment list (subject to any pending assessment appeals to the Superior Court).

10.4 Special Assessment. The Town Council is empowered to levy a special assessment against any or all real property situated within the corporate limits of the Town, when determined by the Council to provide a necessary public work, improvement, or municipal service. Such assessments shall be duly collected, the proceeds of which shall be applied for the payment of the cost of such work, improvement, or service, provided, however, that if such assessment shall apply to all properties within the Town, it shall first be approved by majority vote of the Town voters in a special election. In order to proceed under the powers granted in this Section, the Town Council shall authorize such special assessment in the following manner:

10.4.1 The Town Council, by resolution, shall give notice to the voters of the Town that the Town Council proposes to levy a special assessment against any or all real property situated within the corporate limits of the Town. The resolution shall state the amount of money desired, the purpose for which it is desired, and all other pertinent facts relating to the assessment which are deemed pertinent by the Council in its possession at the time of the passage of the resolution and shall fix a time and place for a public hearing on the said resolution.

10.4.2 Notice of the time and place of the public hearing on the resolution authorizing the special assessment shall be published at least once in at least two (2) newspapers having a general circulation in the Town not less than thirty (30) days nor more than forty-five (45) days prior to the public hearing. In addition to such publication, the Town Council shall cause notices to be posted in at least five (5) public places in the Town not less than thirty (30) days, and not more than forty-five (45) days prior to the day set for the public hearing. Notices concerning such public hearings shall be in bold print or bordered in black, in such manner as to call attention thereto;

10.4.3 If, following the public hearing, the Town Council determines to proceed with the proposed special assessment, it shall adopt a second resolution ordering a special election, to be held not less than thirty (30) days, nor more than sixty (60) days after the said public hearing relating to the special assessment. The adoption of the second resolution calling a special election shall be considered the determination of the Town Council to proceed with the matter in issue; provided, however, that if the annual municipal election is to be held within one hundred twenty (120) days of the date of the resolution adopted by the Town Council pursuant to this Section, the election on the proposed special assessment may be held in conjunction with the annual municipal election and all provisions hereof shall be construed and applied accordingly.

10.4.4 The notice of the time and place of holding such special election shall be printed in one (1) issue of two (2) newspapers having general circulation in the Town of South Bethany, not less than thirty (30) days, nor more than forty-five (45) days prior to the special election. In addition to such publication, the Town shall cause to be posted in at least five (5) public places in the Town, not less than thirty (30) days and not more than forty-five (45) days prior to the special election, public notices concerning the special election. In addition to the time and place of the special election, such notices shall contain the same information as required under Sec. 10.4.1, and shall be in bold print or bordered in black, in such manner as to call attention thereto.

10.4.5 At such special election, any person who is entitled to vote in the annual municipal election, if it were held on that day, shall be entitled to one (1) vote. For purposes of this Section, "entitled to vote" shall include "registered to vote" if voter registration is required for the annual election. Any special election held pursuant to the provisions of this Section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

() For the proposed Special Assessment

() Against the proposed Special Assessment

The Mayor, by and with the advice and consent of the majority of the Town Council, shall appoint three (3) persons to act as a Board of Special Election. The polling place shall be opened for a minimum of six (6) hours, as specified by resolutions of the Town Council. Persons in the polling place at the time scheduled for closing of the polls shall be entitled to vote;

10.4.6 The Board of Special Election shall be the sole and final judge of the legality of the votes offered at such special election. It shall keep a true and accurate list of all persons

voting. It shall count the votes "for" and "against" the proposed special assessment and shall announce the result thereof. The Board of Special Election shall execute a certificate of the number of votes cast "for" and "against" the proposed Special Assessment and the number of void votes, and shall deliver the same to the Town Office.

10.4.7 If a majority of the votes cast at such special election shall be in favor of such special assessment, the Town Council shall proceed with the special assessment.

10.5 Limitation on Taxes. The total amount of money to be raised by real property taxes and special taxes levied or imposed in connection with any municipal bond issued (Sec.13.2.7), shall in no year exceed two (2) percent of the total appraised valuation of all taxable real estate (and improvements thereon) in the Town.

10.6 Savings Clause. Nothing contained in this Charter shall be construed to affect or impair, in any way, the validity of any taxes lawfully levied, assessed or due the Town under existing laws in reference to said Town.

11. Collection of Taxes, Fees, Special Assessments and Other Charges (hereinafter referred to as taxes).

11.1 Collection by Town Manager or Tax Collector.

(a) After the Town Council shall have set the real estate tax rate pursuant to Sec. 10.2.1, the Town Manager or duly appointed Tax Collector, shall proceed to collect the taxes so levied.

(b) The Town Manager or duly appointed Tax Collector, shall collect the taxes fixed pursuant to Sec. 10.2.

(c) The Town Council shall obtain a bond for the Town Manager or duly appointed Tax Collector, in a form suitable to the Town Council with sufficient surety, in favor of the Town, in a sum to be determined by the Town Council for the collection of all such taxes and for the payment of them to the Town Treasurer.

11.2 Posting of Charges. Whether utilizing the Sussex County assessments or those prepared by the Town's own Board of Assessment, the Town Council prior to posting the assessment list shall provide annually for the Town Manager or duly appointed Tax Collector, a list of any and all charges, costs or other assessments owed to the Town, which list shall include but not be limited to, the following: water bond sinking funds assessments, water assessments, weed and grass cutting bills, trash collection bills, past due water use charges, and other special assessments. Said amounts shall be shown on the copies of the assessment list posted pursuant to the provisions of Sec. 9.3.2 of this Charter.

11.3 Lien. All taxes imposed by the Town shall be and constitute a lien for a period of ten (10) years from the date so levied, upon the real property against which such charges are imposed. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any charges so levied. Such lien shall have preference and priority over all other prior liens on such real property, although such lien or liens be of a time and date prior to the time of attaching of such lien for taxes.

11.4 Due Date. All taxes and other charges, when and as collected by the Town Manager or duly appointed Tax Collector, shall be paid to or deposited to the credit of the Town in federally insured banking institutions, or the Delaware Local Government Investment Pool, and State of Delaware agencies approved by the Town Council. All taxes shall be due and payable at and from the time the tax rate is set pursuant to Sec. 10.2.1.

11.5 Place of Payment. All taxes shall be payable at the Town Office during the normal business hours of that office.

11.6 Penalty for Late Payment: Collection Fee. All taxes unpaid on such date as specified by ordinance, shall be considered delinquent. On such delinquencies, an appropriate penalty shall be imposed by the Town Council except that the Town Council may make just allowances. In addition, a collection charge, reasonably calculated to recover the cost of such collection, may be imposed.

11.7 Exemption from Taxation. The Council shall have the power by ordinance to allow credits to reduce the taxes otherwise imposed by this Section with respect to real property owned by taxpayers of low income who have an annual adjusted gross income not exceeding an amount as set by ordinance, excluding Social Security and/or Railroad Pension Fund, and who are over sixty-two (62) years of age.

12. Remedies, Powers and Methods for Collection of Taxes Fees, Special Assessments and Other Charges (hereinafter referred to as taxes).

12.1 Prior Notice. Before exercising any of the powers herein given for the collection of taxes written notice of the amount due shall be sent to the delinquent taxpayer at his/her last known address.

12.2 Debt Action. When any tax has become delinquent, the Town Manager may, in the name of the Town of South Bethany, institute suit before any court of competent jurisdiction for the recovery of the unpaid amount in an action of debt. Upon judgment obtained, the Town Manager may sue out writs of execution as in the case of other judgments recovered before any court of competent jurisdiction provided, however, that as to any personal property of the delinquent taxpayer located in Sussex County and levied upon by the Sheriff within sixty (60) days after the writ of execution was delivered into his or her hands, the lien of judgment shall have priority over all other prior liens against such personal property created or suffered by the delinquent taxpayer (excepting only the liens of the Federal, State or Sussex County governments).

12.3 Sale of Lands. Should the Town Manager so elect, and without the necessity of employing any or all of the other remedies provided herein, the Town Manager is authorized and empowered to sell the lands and tenements of a delinquent taxpayer or the lands and tenements alienated by a delinquent taxpayer subsequent to the levy of the tax by the following procedure:

12.3.1 The Town Manager shall present, in the name of the Town of South Bethany, to the Superior Court of the State of Delaware, in and for Sussex County, a petition in which shall be stated:

- (a) the name of the person owing payment;
- (b) the year for which tax was levied, assessed or charged;
- (c) the rate of tax;
- (d) the total amount due; the date from which the penalty for nonpayment, if any, shall commence and the rate of such penalty and any collection charge permitted;
- (f) a short description of the lands and tenements proposed to be sold, sufficient to reasonably identify same;
- (g) a statement that the bill of said tax has been mailed to the delinquent taxpayer at his or her last known post office address with return receipt requested by certified mail and postage prepaid, together with a notice that the Town Manager will proceed to sell the lands and tenements of the delinquent taxpayer for payment of the tax due the Town; and the date of such mailing; and
- (h) the petition shall be signed by the Town Manager and shall be verified before a Notary Public.

12.3.2 At least ten (10) days prior to the filing of any such petition as described herein, the Town Manager shall deposit in the

mail in a sealed and stamped envelope and addressed to the delinquent taxpayer at his or her last known post office address requiring a return receipt, an itemized statement of the tax together with all penalties, collection charges, and costs then due thereon, together with a notice to the delinquent taxpayer that he/she shall proceed to sell the lands and tenements of such taxpayer for the payment of the tax. The Town Manager shall exhibit the return registry receipt to the Superior Court by filing the same with the petition; provided, however, that if the taxpayer cannot be found, or if delivery is refused, it shall be sufficient for the Town Manager to file with said petition evidence that such statement has been mailed in accordance with this subsection and has been returned.

12.3.3 Upon the filing of the petition, the prothonotary shall record the same in a properly indexed record of the Superior Court of the State of Delaware, in and for Sussex County, and shall endorse upon the said record of said petition the following:

This petition, filed the ____ day of _____ A.D.____. (giving year and date) and the Town Manager is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the delinquent amount. This endorsement shall be signed by the prothonotary.

12.3.4 Any sale of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the Town, one (1) of which shall be on the premises to be sold and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. Such public notice shall be in bold print or bordered in black, in such manner as to call attention thereto, and shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least fifteen (15) days before the day of the sale.

12.3.5 Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Sussex County, at the next Motion Day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be set aside, the said Superior Court may order another sale until the tax be collected. No sale shall be approved by the Superior Court if the owner or his or her designee be ready at court to pay the taxes, penalty, collection fees, and costs. If the sale be approved, the Town Manager making the sale shall execute a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or his alienee; provided however, that no deed shall be delivered to the purchaser until the expiration of one (1) year from the date of the sale within which time the taxpayer or his alienee, heirs, executors, administrators or assigns, shall have the power to redeem the lands on payment to the purchaser, his personal representatives or assigns of the costs, the amount of the purchase price, plus twenty (20) percent, and the expense of having the deed prepared. All taxes assessed after the sale and before the delivery of the deed shall be paid by the purchaser at said sale who shall be reimbursed by the delinquent taxpayer in the event of redemption to which shall be added twenty (20) percent thereon.

In the event the purchaser refuses to accept the same, or in the event he or she, or his or her heirs or assigns, cannot be located within the State of Delaware, it shall be lawful for the owner, his or her heirs, executors, administrators, and assigns, to pay the redemption money to the Town Manager and upon obtaining from him or her a receipt therefor, such receipt shall be considered a valid and lawful exercise of the power to redeem the said lands.

In the event the lands have not been redeemed within the redemption year, the Town Manager shall deliver to the purchaser,

his or her heirs, executors, administrators, or assigns, a deed which shall convey the title of the delinquent taxpayer(s).

The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

12.3.6 After satisfying the taxes or other charge due and the courts costs and expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land. If he or she shall refuse to accept said remainder, or if the owner be unknown or cannot be found, the amount remaining shall be deposited in a bank either to the credit of the owner or in a manner in which the fund may be identified.

12.3.7 In the sale of the lands and tenements for the payment of delinquent taxes, the following costs shall be allowed to be deducted from the proceeds of the sale or chargeable against the owner, as the case may be, in the amount customarily charged:

- (a) to the prothonotary for filing and recording the petition;
- (b) to the Recorder of Deeds for filing and recording the return of sale; and
- (c) to the Town Manager for: (1) preparing the certificate, (2) making the sale of lands and tenements, (3) preparing and filing a return, and (4) posting sale bills; and
- (d) attorneys' fees.

In addition, the costs of printing handbills, the publication of the advertisement of sale in a newspaper, and the auctioneer's fee, if any, shall be chargeable as costs. The costs of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer. The total of any Delaware transfer tax shall be paid by the purchaser of said lands and tenements at the tax sale.

12.3.8 If the owner of any lands and tenements against which a tax or other charge shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale and in the petition to the Court.

12.3.9 If any person be assessed for several parcels of land and tenements in the same assessment in the Town, the total of said taxes or other charges may be collected from the sale of any part or portion of said lands and tenements.

12.3.10 In the event of death, resignation, or removal from office of the Town Manager, before the proceedings for the sale of lands shall have been completed, the successor in office shall succeed to all powers, rights, and duties in respect to said sale. In the event of the death of the purchaser at said sale prior to receiving a deed for the property purchased thereat, the person having right by consent, devise, assignment or otherwise, may file with the Superior Court of the State of Delaware, in and for Sussex County, a petition representing the facts and praying for an order authorizing and requiring the Town Manager to execute and acknowledge a deed conveying to the petitioner the premises so sold, and thereupon the Court may make such order adjudging the conveyance of the premises as shall be according to justice and equity.

12.3.11 The Town Manager shall have the same right to require the aid or assistance of any person or persons in the performance of the Manager's duty of sale which the Sheriff of Sussex County now has by law or may hereafter have.

12.4 In addition to all of the remedies, methods, and

authorities for the collection of taxes, the Tax Collector shall have the same rights in the collection of taxes as the Tax Collector or

Receiver of Taxes as Sussex County now has by law or may hereafter have including the monition method for the collection of such taxes.

13. Borrowing Powers.

13.1 Short-Term Borrowing. Voter Approval Not Required. The Town Council shall have the power to borrow money on the full faith and credit of the Town, without approval of the voters and without regard to the provisions of Sec. 13.2 of this Charter, such principal sum or sums not exceeding in the aggregate one hundred thousand dollars (\$100,000.00), for general purposes only when, in the opinion of the majority of the Town Council, the needs of the Town require it; provided, however, that any new borrowing under this Section made after the effective date of this Charter shall, by its terms, be repayable in full within five (5) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the Town Council duly authorized by resolution of the Town Council and signed by the Mayor and attested by the Secretary of the Town with the Town Seal affixed. No Town Council member shall be liable for the payment of any such note or any other evidence of indebtedness because it is signed by such Town Council member, provided that such signature be authorized by the Town Council. Such notes or evidences of indebtedness and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions. Any sum(s) of money borrowed on the full faith and credit of the Town shall be repaid from the general fund of the Town. At no time shall the amount of outstanding principal from any such borrowing or borrowings under this Section exceed the sum of one hundred thousand dollars (\$100,000.00).

13.2 Long-Term Borrowing. Voter Approval Required. In addition to other borrowing powers granted to the Town under this Charter or by State law, the Town Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or other evidence of indebtedness to secure the repayment thereof, on the full faith and credit of the Town, or such other security or securities as the Town Council shall elect, for the payment of principal thereof and interest due thereon.

13.2.1 Proper Municipal Purpose. By way of illustration and not in limitation, "any proper municipal purpose" includes, but is not limited to:

(a) refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) erecting, extending, enlarging, maintaining or repairing any plant, building machinery or equipment for the manufacture, supplying or distribution of water, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements, and rights-of-way which may be required therefor;

(c) constructing, paving, laying out, widening, extending, repairing, and maintaining of streets, curbing and gutters, including storm sewers along the same and the condemning or purchasing of lands, easements or rights-of-way which may be required therefor;

(d) constructing, laying out, widening, extending, repairing and maintaining piers, bulkheads, cross walks, embankments, beach nourishment, revetments, groins or dunes or any of them, and the condemning or purchasing of any lands, easements, or rights-of-way which may be required therefor;

(e) defraying the costs to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter; and

(f) paying all expenses deemed necessary by the Town Council for the issuance of said bonds or other evidence of indebtedness, including bond discount and legal expenses of bond counsel.

13.2.2 Exempt from Taxation. All bonds or other evidences of indebtedness issued by the Town pursuant to the provisions of this Section, and the interest thereon, shall be exempt from all state, county, or municipal taxes.

13.2.3 Limit of Aggregate Long-Term Indebtedness. In no event shall the indebtedness of the Town, authorized by this Section, at any one time exceed, in the aggregate, five (5) percent of the appraised value of all real property within the corporate limits of the Town and subject to assessment for the purpose of levying the annual taxes as provided in this Charter.

13.2.4 Procedure: Notice, Hearing, Special Election. In order to proceed under the power granted in this Section, the Town Council shall authorize such borrowing in the following manner:

(a) The Town Council, by resolution, shall give notice to the voters of the Town that the Town Council proposes to borrow a certain sum of money for a stated municipal purpose. The Town Council shall state the amount of money desired to be borrowed, which may be stated as a "not to exceed" amount, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the loan which are deemed pertinent by the Council and in its possession at the time of the passage of the resolution and shall fix a time and place for a public hearing on the said resolution.

(b) Notice of the time and place of the public hearing on the resolution authorizing said loan shall be published at least once in at least two (2) newspapers having a general circulation in the Town not less than thirty (30) days nor more than forty-five (45) days prior to the day set for the public hearing. In addition to such publication, the Town Council shall cause to be posted, in at least five (5) public places in the Town of South Bethany, not less than thirty (30) days and not more than forty-five (45) days prior to the day set for the public hearing and notices concerning such public hearing; such public notice shall be in bold print or bordered in black, in such manner as to call attention thereto, and shall contain the purpose for which the loan is desired and the manner of securing the same, plus all other pertinent facts relating to the loan. The last date of publication or posting shall control.

(c) If at any time following the public hearing, the Town Council determines to proceed with the proposed borrowing it shall pass a second resolution ordering a special election, to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing, to borrow the said money. The said special election shall be for the purpose of voting for or against the proposed loan. The passage of the second resolution calling a special election shall be considered the determination of the Town Council to proceed with the matter in issue.

(d) The notice of the time and place of holding such special election shall be printed in two (2) consecutive issues of two (2) newspapers having general circulation in the Town not less than thirty (30) days nor more than forty-five (45) days prior to the special election; such public notice shall be in bold print or bordered in black, in such manner as to call attention thereto and the last date of publication or posting shall control; in addition to such publication, the Town Council shall cause to be posted in at least five (5) public places in the Town not less than thirty (30) days and not more than forty-five (45) days prior to the special election, public notices concerning the special election; in addition to the time and place of the special election, such notices shall contain the same information as required under Sec. 13.2.4(a) above;

(e) At such special election, any person who is entitled to vote in the annual municipal election, if it were held on that day, shall be entitled to one (1) vote. (For purposes of this Section,

"entitled to vote" shall include "registered to vote" if voter registration is required for the annual municipal election); any special election held pursuant to the provisions of this Section shall be conducted by voting machines, electronic voting systems or printed ballots as permitted by law which shall have the following designation:

- () For the proposed borrowing
- () Against the proposed borrowing

The Mayor, by and with the advice and consent of the majority of the Town Council, shall appoint three (3) persons to act as a Board of Special Election. The polling place shall be opened for a minimum of six (6) hours, as specified by resolution of the Town Council. Persons in the polling place at the time scheduled for closing of the polls shall be entitled to vote;

(f) The Board of Special Election shall be the sole and final judge of the legality of the votes offered at such special election. It shall keep a true and accurate list of all persons voting. It shall count the votes for and against the proposed borrowing and shall announce the result thereof. The Board of Special Election shall execute a certificate of the number of votes cast for and against the proposed borrowing and the number of void votes and shall deliver the same to the Town Office.

(g) If a majority of the votes cast at such special election shall be in favor of such borrowing, the Town Council shall proceed with the issuance of the said bonds or evidences of indebtedness.

13.2.5 Form of Bonds. The form of the bonds or evidences of indebtedness, attached coupons, if any, the time or times of payment, the interest rate, the classes, the series, the maturity date, the registration and any callable or redeemable feature, the denomination, the name thereof and any other relative or appurtenant matter pertaining thereto shall all be determined by the Town Council after said special election.

13.2.6 Public or Private Sale. Bonds may be sold at either public or private sale. If the bonds shall be offered for public sale, they shall be sold to the best and most responsible bidder(s) therefor after advertisement in a manner to be prescribed by the Town Council for at least one (1) month before offering the same for sale.

13.2.7 Provision for Payment: Special Tax, Sinking Fund. The Town Council shall provide for the payment of interest and principal on the said bonds or evidences of indebtedness at the maturity thereof. The Council is authorized and empowered, at its discretion, to levy a special tax upon all the real estate within the Town, or only upon such real estate as is directly benefitted by the improvements paid for by the proceeds of such borrowing, to pay interest and/or principal; and at its discretion, to establish a sinking fund adequate to the redemption, at or before maturity, of all bonds or evidences of indebtedness which may be issued under the provisions of this Section; provided, that the amount to be raised under any special tax for this purpose shall not, in any one (1) year, exceed a sum equal to five (5) percent of the total of such indebtedness. The special tax provided for in this Section shall be collected from the owners of real estate in the same manner as other taxes levied by the Town Council are collected. The Town Council may also appropriate and set aside for such sinking fund as much of the general fund of said Town as it may from time to time think advisable. The sinking fund provided for by this Section shall be deposited in federally insured accounts in a bank, trust company, or other banking institution until such time as it may be needed for the redemption of the bonds.

13.2.8 Full Faith and Credit Unless Otherwise Stated. Unless any such bond(s) or evidence(s) of indebtedness shall provide otherwise, the full faith and credit of the Town shall be deemed to

be pledged for the due payment thereof and the interest thereon issued under the provisions of this Section when the same shall have been properly executed and delivered for value, notwithstanding any other provisions of this Charter.

13.2.9 Statute of Limitations. No action contesting any proceeding conducted or action taken by the Town Council hereunder regarding the authorization of any bond(s) or evidence(s) of indebtedness issued under this Section shall be brought after the expiration of sixty (60) days from the date of a notice published at least once in at least two (2) newspapers, one (1) of which shall be of general circulation in the Town and one (1) of which shall be of general circulation in the State of Delaware, which notice shall announce the following information:

(a) that the Town Council has determined to borrow a certain sum of money and to issue bonds or evidences of indebtedness therefor;

(b) that the proposal has been approved by a majority of those casting votes at a special election in the Town called for the purpose of voting for or against the borrowing;

(c) the amount of money to be borrowed;

(d) the purpose for which it is to be borrowed; and

(e) that any person desiring to challenge the authorization of such bond(s) or evidence(s) of indebtedness must bring his or her action within sixty (60) days from the date of publication of such notice or forever be barred from doing so. In the event that the two (2) newspapers do not publish the notice on the same date, the date of the last publication shall control. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto.

14. Use of Town Monies. The Town Council shall have full power and authority to use the money in the Treasury of the Town, or any portion thereof, from time to time, for the improvement, benefit, protection, ornamentation, and best interest of the Town, as the Council may deem proper, and to use Town money to accomplish and carry into effect all acts and things which it has power to do by virtue of the Laws of the State of Delaware, this Charter and all ordinances and resolutions enacted by Town Council.

14.1 Proposed Capital Expenditure. Any proposed capital expenditure of Town funds in an amount exceeding one hundred thousand dollars (\$100,000.00) shall first be submitted for approval by the qualified voters of the Town in a special election. Funds derived from long-term loans (Sec. 13.2) are not subject to this requirement.

14.2 Procedure: Notice, Hearing, Special Election.

In order to proceed under the power granted in this Section, the Town Council shall propose the expenditure of an amount exceeding one hundred thousand dollars (\$100,000.00) in the following manner:

(a) The Town Council, by resolution, shall give notice to the voters of the Town that the Town Council proposes to spend monies in excess of one hundred thousand dollars (\$100,000.00) for a stated municipal purpose. The resolution shall state the amount of money which may be stated as a "not to exceed" amount, the purpose for which it is desired, the manner of securing the same, and all other pertinent facts relating to the expenditure which are deemed pertinent by the Council and in its possession at the time of the passage of the resolution and shall fix a time and place for a public hearing on the said resolution;

(b) Notice of the time and place of the public hearing on the resolution authorizing the expenditure shall be published at least once in at least two (2) newspapers having a general circulation in the Town not less than thirty (30) days nor more than forty-five (45) days prior

to the day set for the public hearing. In addition to such publication, the Town Council shall cause to be posted, in at least five (5) public places in the Town not less than thirty (30) days nor more than forty-five (45) days prior to the day set for the public hearing, notices concerning such public hearings; such public notice shall be in bold print or bordered in black in such manner to call attention thereto, and shall contain the purpose of the expenditure and all pertinent facts relating to the expenditure. The last date of publication or posting shall control.

(c) If, at any time, following the public hearing, the Town Council determines to proceed with the proposed expenditure, it shall pass a second resolution ordering a special election to be held not less than thirty (30) nor more than sixty (60) days after the said public hearing, to authorize the expenditure.

The said special election shall be for the purpose of voting for or against the proposed expenditure. The passage of the second resolution calling for a special election shall be considered the determination of the Town Council to proceed with the matter in issue, provided, however, that if the annual municipal election is to be held within one hundred twenty (120) days of the date of the resolution adopted by the Town Council pursuant to this Section, the election on the proposed expenditure may be held in conjunction with the annual municipal election and all provisions hereof shall be construed and applied accordingly.

(d) The notice of the time and place of holding such special election shall be printed in one (1) issue of two (2) newspapers having general circulation in the Town not less than thirty (30) days nor more than forty-five (45) days prior to the special election; such public notice shall be in bold print or bordered in black in such manner as to call attention thereto and the last date of publication or posting shall control; in addition to such publication the Town Council shall cause to be posted in at least five (5) places in the Town not less than thirty (30) days nor more than forty-five (45) days prior to the special election, public notices concerning the special election; in addition to the time and place of the special election, such notices shall contain the same information as required under this Section.

(e) At such special election, any person who is entitled to vote in the annual municipal election, if it were held on that day, shall be entitled to one (1) vote. (For purposes of this Section, "entitled to vote" shall include "registered to vote" if voter registration is required for the annual municipal election). Any special election held pursuant to the provision of this Section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

() For the proposed expenditure

() Against the proposed expenditure

The Mayor, by and with the advice of the Town Council, shall appoint three (3) persons to act as a Board of Special Election. The polling place shall be opened for a minimum of six (6) hours, as specified in the resolution of the Town Council. Persons in the polling place at the time scheduled for closing of the polls shall be entitled to vote;

(f) The Board of Special Election shall be the sole and final judge of the legality of the votes offered at such election. It shall keep a true and accurate list of all persons voting. It shall count the votes for and against the proposed expenditure and shall announce the result thereof. The Board of Special Election shall execute a certificate of the number of votes cast for and against the proposed expenditure and the number of void votes and shall deliver the same to the Town Office.

15. Annual Audit. The Town Council shall retain a certified public accountant to be the Auditor of Accounts of the Town. It shall be the duty of the Auditor to audit the accounts of the Town and all its officers whose duties involve the collection, custody, or disbursement of Town monies.

The Auditor shall audit the books of the Alderman and the Assistant Alderman and the records of all fines, penalties, costs imposed or collected by them pursuant to any judgment, order or decree made. The Auditor shall, on or before expiration of one hundred twenty (120) days after the end of each fiscal year, make and deliver a detailed report of all accounts, records, and books examined and audited by such Auditor which report shall be available for public inspection. Notice of the filing of the Auditor's report shall be published at least once in a newspaper of general circulation in the Town within thirty (30) days of its receipt by the Town Council. The Auditor, in the performance of official duties, shall have access to all records and accounts of the Town.

16. Alderman's Court.

16.1 Establishment and Appointment. The Town Council may establish an Alderman's Court and may appoint a suitable person to serve as Alderman who shall serve for a term of two (2) years, or for a lesser term as determined by Town Council, or until a successor is duly appointed, subject, however, to being removed from office for just cause at any time by majority vote of the Town Council. The Town Council may, in addition, appoint an Assistant Alderman subject to the same conditions.

16.2 Qualifications. Any person appointed to serve as Alderman or Assistant Alderman shall be at least twenty-five (25) years of age, a United States citizen of good character and reputation, and shall reside in Delaware no farther than fifteen (15) miles from the corporate limits of the Town. Such person shall not be a member of the Town Council, an officer, or an employee of the Town.

16.3 Oath of Office. Before entering upon the duties of such office, the persons appointed to serve as Alderman and Assistant Alderman shall be sworn or affirmed by the Mayor to perform the duties of such office honestly, faithfully and diligently.

16.4 Duties. It shall be the duty of the Alderman and Assistant Alderman to render judgements on charges of breaches of the peace, offenses and violations of the Town Charter, Town ordinances, and the Constitution and Laws of the United States and the State of Delaware, and impose penalties in accordance with existing law.

16.5 Jurisdiction. The Alderman and Assistant Alderman shall have jurisdiction and cognizance of all such breaches of the peace, offenses and violations committed within the corporate limits of the Town, provided that they shall have no jurisdiction over any dispute between or among private parties. The Alderman and Assistant Alderman shall be authorized and empowered to, hold for bail, set bail, impose fines or imprison offenders for any such breach of the peace, offense or violation in accordance with appropriate penalties, provided, however, that the maximum penalty which the Alderman or Assistant Alderman may impose shall not exceed the limits established by the Town Charter, Town ordinances, and the Laws of the State of Delaware. The Delaware Correctional Institution, in Georgetown, Delaware, may be used for imprisonment under this Charter.

Neither the Alderman nor the Assistant Alderman shall be authorized to impose any fine in excess of five hundred dollars (\$500.00), exclusive of costs, nor imprisonment for more than thirty (30) days, or both.

16.6 Costs. The Alderman and Assistant Alderman may, in addition to any fine or term of imprisonment permitted to be imposed, assess and collect such costs as are set by an ordinance enacted by the Town Council, provided that no such costs may be imposed which are in excess of those which may be imposed by a Justice of the Peace for like service.

16.7 Alderman's Docket. Appropriate enforcement records shall be provided for the use of the Alderman and the Assistant Alderman. Such records shall be known as the "Alderman's Docket". The Alderman and Assistant Alderman shall record all official acts and proceedings in the Alderman's Docket.

16.8 Monthly Report to Town Council. The Alderman and Assistant Alderman shall prepare and submit a monthly report to the Town Council reporting all fines, penalties, and costs imposed during the preceding calendar month and shall pay to the Town all such fines and costs at such times as the Town Council shall direct. They shall submit periodic reports as required by the State of Delaware.

16.9 Compensation. The Alderman and Assistant Alderman shall receive such compensation as may be fixed from time to time by action of the Town Council, which compensation shall not be contingent upon or related to the amount of any fines imposed or collected.

16.10 Bonding. The Alderman and Assistant Alderman shall be bonded by a company duly authorized to do business in the State of Delaware in such amount as determined by the Town Council. The cost of said bond shall be paid out of Town funds.

16.11 Removal from Office. If any Alderman or Assistant Alderman shall be removed from office as hereinbefore provided, he or she shall deliver to the Mayor within five (5) days after removal from office, all the books and papers belonging to the office, and shall pay over to the Town all funds on hand within five (5) days after reviewing the notice of such removal from office. The Mayor shall require an immediate audit to be made of the books and papers of the official so removed from office. Upon the neglect or failure to deliver all the books and papers to the Mayor within the time specified by this Charter, or to pay over all of the moneys to the Town within the time specified, the Alderman or Assistant Alderman, so removed, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each day of such delinquent behavior.

17. Police and Public Safety.

17.1 Appointment of Chief of Police and Other Police Department Personnel. The Town Council shall establish a Police Department consisting of a Chief of Police and such police officers and subordinates as the Town Council shall determine. The Town Council shall from time to time make such administrative rules and regulations as may be necessary for the staffing, organization and operation of the Police Department. The Chief of Police shall be appointed by the Mayor subject to ratification by the Town Council and shall serve at the pleasure of the Town Council.

17.2 Police Department Operational Control. Staffing shall be determined by the Town Council and operational control of the Police Department shall be the responsibility of the Chief of Police. The Chief of Police shall be answerable to the Town Manager for all administrative duties and responsibilities, but he or she shall be subordinate to the Mayor and Town Council.

17.3 Police Department Duties and Functions. Each member of the Police Department shall have all the police powers and authority of a State Police Officer and shall be a conservator of the peace throughout the Town, and shall suppress all acts of violence and enforce all laws relating to the safety of persons and property. Such member shall, within the corporate limits of the Town of South Bethany, compel the enforcement of all ordinances enacted by the Town Council of the Town of South Bethany and all criminal laws and motor vehicle laws enacted by the State of Delaware. In the case of a pursuit of an offender, the power and authority of the Police Department shall extend outside the corporate limits of the Town of South Bethany to any part of the State of Delaware. It shall be the duty of the Police Department to suppress riotous, disorderly, or turbulent assemblies of persons in all public places of the Town, and upon view of the above or upon view of any violation of any ordinance of the Town relating to the peace and good order thereof, the Police Department shall have the right and power to arrest without warrant.

17.4 Beach Patrol. There shall be a Beach Patrol, the number of which shall be determined by the Town Council. The Beach Patrol shall consist of a Captain and such other members and subordinates as the Town Council shall determine. The Town Council shall have the power to

establish administrative rules and regulations governing the qualifications of members of the Beach Patrol; provided, however, that each member of the Beach Patrol shall pass a test substantially equal to the test required of a senior lifesaver by the American Red Cross. The primary responsibility of the Beach Patrol shall be the preservation of human life on and adjacent to all beaches of the Town. In addition, the Beach Patrol shall have such other related duties as the Town Manager may prescribe.

18. Subdivision and Land Development.

18.1 Power to Regulate. In order to provide for the orderly growth and development of the Town; to promote the health, safety, prosperity and welfare of the inhabitants and property owners in the Town; to insure the conservation of property values and natural resources, including the protection and beauty of the Town's open lands, water resources, beaches and recreational potential; to preserve the character of the Town as a single-family detached home community; and to afford adequate provisions for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related activities, the Town Council shall regulate the subdivision and development of all land in the Town.

18.2 Recording Plats, Plots or Plans. In the event an ordinance of the Town so provides, no plat, plot or plan of land shall be received for filing or recording by the Recorder of Deeds in and for Sussex County unless and until such plat, plot or plan shall have been approved by the Town body so authorized to grant such approvals and the fact of such approvals shall have been endorsed in writing on such plan documents.

19. Streets.

19.1 "Street" Defined. For all purposes of this Section, the word "street" shall be deemed to include streets, roadways, lanes, guttering, curbing, crosswalks and parking areas but shall not include any state or federal highways.

19.2 Power to Lay Out, Locate, Construct, Open, Close, Vacate or Abandon. The Town Council shall have the power and authority to lay out, locate, construct, open, close, vacate or abandon any street within the Town corporate limits.

19.3 Initiation of Proceedings. The procedures for taking the action described in Sub-section 19.2 shall be established by ordinance of the Town Council.

19.4 Notice of Hearing. Such procedures shall require a notice of hearing that contains a description of the proposed action and fixes a date, time and place when the Town Council shall hold a hearing to hear comments and objections concerning the proposal. Such notice of hearing shall be in bold print or bordered in black, in such manner as to call attention thereto. At least thirty (30) days before the date set for such hearing, the notice of hearing shall be printed in a newspaper having a general circulation in the Town and shall be posted in five (5) public places in the Town.

19.5 Notice to Affected Property Owners. The Town Council shall cause to be sent by certified mail, return receipt requested, to the owner(s) of record of the real estate abutting such street. If the address of the owner be unknown, a copy shall be delivered to any persons occupying the premises, or, if none, posted thereon. Notice to affected property owners under this Sub-section shall be provided at least thirty (30) days before the date set for the hearing.

19.6 Hearing. At the time and place specified, the Town Council shall permit such residents of the Town or owners of properties affected thereby, to present oral or written comments. After receiving all comments, the Town Council shall, at said hearing, or at a subsequent date, as it may deem proper, adopt a resolution to proceed with the proposed laying out, locating, constructing, widening, altering,

opening, closing, vacating or abandoning of any street(s) or parts hereof.

19.7 Payment of Compensation. In every case where the Town Council shall resolve to proceed with the plan contemplated, or a portion thereof, the Town Council shall award just and reasonable compensation to any person or persons who will thereby be deprived of property by virtue of the execution of the plan so contemplated. Such compensation, if any be awarded, shall be paid by the Treasurer of the Town on a warrant drawn upon him by authority of the Town Council upon delivery of a good and sufficient deed conveying a fee simple title unto the "Town of South Bethany"; which title shall be free and clear of all liens and encumbrances. Notice of compensation shall be given to affected property owners as provided in Sub-section 19.4.

19.8 Property Owner Right of Appeal. If the owner of the affected property be dissatisfied with the amount of compensation allowed by the Town, said property owner may, within thirty (30) days after such notice was mailed, delivered, or posted on the property, appeal from the written notice of award of compensation such written appeal shall be deposited in the United States mail, by certified mail with return receipt requested and postage prepaid, to the Mayor of the Town, to the effect that such owner is dissatisfied with the amount of such compensation, and that it is the owner's intention to require the Town to condemn such property, or any compensable interest therein, in accordance with Section 23 of this Charter and 10 Del. C. Chapter 61, or any future corresponding provisions of law. In such event, the Town shall proceed in accordance with Section 23 of this Charter and 10 Del. C. Chapter 61, or any future corresponding provisions of law, to condemn such property, or any interest therein, for the purposes herein stated.

19.9 Disposal of Abandoned and Vacated Streets. Whenever any street or part thereof vacated or abandoned under this Section be owned by the Town, the Town Council may, in its discretion, sell such land at public or private sale and for such consideration as the Town Council shall deem proper. The Town Council shall have the right and power to convey to the purchaser or purchasers thereof, a good and sufficient title thereto for whatever estate the Town may have therein.

19.10 Maintaining and Repairing of Streets. The Town Council shall have full power and authority (1) to regrade, redress and otherwise repair and rebuild all existing streets in the Town; and (2) to reconstruct, rebuild, repave and in any manner improve all existing streets now open or to be hereafter opened for public use in the Town.

19.11 Construction Supervision. Standards. The Town Council, in exercising the authority granted by this Section, may use such materials and substances and such methods of construction and may employ such contractors, engineers, inspectors and other persons as the Town Council may deem necessary. To this end, the Town Council shall have full power and authority to enter into contracts or agreements with the State Highway Department of the State of Delaware for the permanent maintenance and repair of any street within the corporate limits of the Town.

20. Water Systems. The Town Council shall have full power and authority to provide an adequate supply of potable water for the Town and the inhabitants thereof. To this end, it shall have full power and authority to purchase, acquire by grant or gift, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace and control wells, reservoirs, pumping machines and stations, tanks, standpipes, water mains, fire hydrants and all other instruments for the collection, storage, purification, conveyance and distribution of water, over, on, under or through the lands owned by the Town or belonging to any private individual(s).

The Town Council shall have power to enact ordinances, resolutions, regulations and rules in regard to the use for public or private purposes of water furnished by the Town; the amounts to be paid by the users thereof; the means or methods whereby the same amounts are to be paid by the users thereof; the means or methods whereby the same shall

be collected; the fixing of fines, or penalties, or both, for any willful or negligent injury or damage to or interference with any water system facilities, equipment, or services of the Town.

The Town Council shall have the power to make contracts for the purchase or sale of water and to distribute the same to users within or without the corporate limits of the Town.

The Town Council shall have the power to enter into contracts for the sale of water outside the corporate limits of the Town upon such terms and conditions as the Town Council shall deem necessary; and also to enter into mutual aid agreements with other water suppliers conducting operations near the boundaries of the Town upon such terms and conditions as Town Council shall deem appropriate.

The Town Council shall have the power to grant franchises for an appropriate term of years to use the present or future streets and beach strands of the Town for the purpose of furnishing water to the Town and the inhabitants thereof.

In the interest of the public's health and welfare, the Town Council shall have the power to compel any and all properties to be connected to the water system of the Town.

21. Water Structures. The Town Council shall have the power and authority to lay out, locate, construct, widen, alter, extend, improve, repair, vacate or abandon structures including, but not limited to, bulkheads, groins, revetments and embankments for the preservation of any beach, strand or waterway within the corporate limits of the Town. In the exercise of such power and authority, such materials and substances and such methods of construction shall be used, and such contractors, engineers, inspectors and other persons shall be employed as the Town Council shall deem necessary, subject to any controlling Federal or State law. In addition, the Town Council may require such actions to be taken.

22. Referendum.

22.1 Referendum Power. The qualified voters of the Town shall have the right of referendum, and may exercise such right in order to approve or reject, at an election provided for herein, any ordinance, regulation, resolution, or rule promulgated by the Town Council in accord with the provisions of this Charter; provided, however, that such power of referendum shall not extend to any emergency ordinance, to any ordinance authorizing the borrowing of money under Sec. 13.2 ("Long-Term Borrowing"), to any ordinance annexing lands to the Town, to the adoption of an annual balanced operating budget to any ordinance relating to the appropriation of money, to any ordinance relating to the levy of taxes or to any ordinance otherwise subject to Special Election procedures provided under this Charter.

22.2 Petition for Referendum. In order to initiate a referendum under this Section, a referendum petition shall be presented to the Town Manager or the Town Council, signed by qualified voters, qualified as of the date of such presentation, equal in number to not less than twenty-five (25) percent of the total number of persons who voted in the most recent annual municipal election. Each copy of such petition shall contain the South Bethany address of each of the signers and shall have attached thereto, the full text of the ordinance, regulation, resolution, or rule proposed for reconsideration. The Town shall supply up to five (5) copies of the measure for attachment to the petition(s), and all additional copies shall be furnished by the petitioners. Each signature on a petition shall be executed in ink or indelible pencil.

Each copy of the petition presented to the Town Council shall have attached thereto an affidavit executed by the person circulating such petition, stating that he/she personally circulated the petition and stating further the number of signatures thereon and that such signatures are the genuine signatures of the persons who signed, and that each signer had an opportunity, before signing, to read the full text of the ordinance, regulation, resolution, or rule proposed for consideration.

22.3 Determination of Sufficiency of Petition. The Town Council shall examine any petition filed under this Section in order to determine whether or not the petition contains the required number of signatures and whether or not each signer is a qualified voter of the Town. If the petition is found to have an insufficient number of valid signatures, it shall be rejected by the Town Council. Such insufficiency may be "cured" by the addition of signatures of qualified voters and re-submitted within sixty (60) days from the date of rejection by the Town Council.

22.4 Appeal of Council Decision. Any person or persons aggrieved by the rejection by the Town Council may present to the Superior Court of the State of Delaware for Sussex County, an appeal petition duly verified, setting forth that such rejection is invalid, in whole or in part, specifying the grounds of such invalidity. Such petition shall be presented to the Court within thirty (30) days following the determination by the Town Council as to the insufficiency of the referendum petition. Upon presentation of the appeal petition, the Court may direct the Town Council to reconsider its decision and shall prescribe the time within which a response to the Court must be made and also served upon the petitioner or his attorney. Such time shall not be less than ten (10) days and may be extended by the Court. The Court may reverse or affirm, wholly or in part, or may modify the Council's determination brought up for review.

22.5 Reconsideration Upon Receipt of Petition. Upon a determination that the referendum petition is sufficient, either by the Town Council or by the Superior Court on appeal, the Town Council shall reconsider the referred ordinance, regulation, resolution, or rule at its next regular meeting following such determination. If the Town Council fails to adopt, amend, or repeal such ordinance, regulation, resolution, or rule, it shall be submitted to the qualified voters for a referendum as hereinafter provided.

22.6 Voting Procedure. The referendum on a referred ordinance, regulation, resolution, or rule shall be held not less than sixty (60) days nor more than (90) days from the date on which the Town Council failed to adopt, amend, or repeal such measure. If the annual municipal election is to be held within ninety (90) days from such date, the referendum prescribed in Sub-sec. 22.5 shall be held at that time. If the annual municipal election is not to be held within ninety (90) days from such date, the Town Council shall specify the date for the referendum. If the Town Council fails to hold a referendum within the time specified in this Section, the measure under review shall be deemed to be adopted, amended, or repealed at the expiration of the ninety (90) day period. The referendum shall be conducted in accordance with the following procedure:

(a) At any referendum conducted under this Section, a qualified voter shall be any person who would be entitled to vote in the annual municipal election if it were held on that day. Each qualified voter shall be entitled to one (1) vote.

(b) Notice of the time and place of holding the said referendum shall be communicated to all property owners of the Town by publishing at least once in at least two (2) newspapers having a general circulation in the Town not less than thirty (30) days immediately preceding the date of the referendum. Such notice shall also be posted in five (5) public places in the Town, not less than thirty (30) days immediately preceding the date of referendum. In the event that such publications and posting do not appear on the same date, the date of the last publication or posting shall control. Such notice shall be in bold print or bordered in black in such manner as to call attention thereto. The Mayor shall appoint three (3) persons to act as Board of Special Election if the referendum is required. The polling place shall be open for a minimum amount of six (6) consecutive hours, the times shall be set by resolution of the Town Council. Persons in the polling place at the time set for the closing of the polls shall be entitled to vote even though such votes may be cast after the time set for the closing of the polls.

(c) Immediately after the closing of the polls, the Board of Special Election, or the Board of Election if the referendum is held on the day of the annual municipal election, shall count the ballots for and against the proposition as presented, and shall announce the results thereof. Such Board shall certify the number of votes cast for and against the proposed ordinance and the number of void votes, and shall report the same to the Town Council. Such certification shall be filed with the official records of the Town.

(d) The form of the ballot of the referendum whether held on the day of the annual municipal election or at a special election, shall be as follows:

() For the Referred Measure

() Against the Referred Measure

(e) If the majority of the qualified voters voting on a referred measure vote in favor of such measure, it shall be considered adopted, amended, or repealed upon the certification of the result of the referendum by the Board of Special Election or by the Board of Election as the case may be. No ordinance, regulation, resolution, or rule which has been adopted, amended, or repealed as the result of the procedures of Sec. 22 shall be adopted in the same or similar form by the Town Council.

22.7 Non-Binding Referendum. The Town Council may, on its own initiative, by resolution, determine to hold a non-binding referendum to obtain the opinion of the qualified voters of the Town on any subject which the Council has under consideration.

Any such referendum shall be conducted in such manner and with such public notice, as the Town Council shall determine by resolution provided, however, that any such resolution, and any public notice regarding such non-binding referendum shall clearly specify that such referendum is non-binding. The results of any non-binding referendum conducted under this Section shall not bind or obligate the Town Council to take any action or refrain from taking any action on the subject referred, but shall be informational in nature regarding the opinion of those qualified voters who voted in such election.

23. Eminent Domain. The Town Council may, by condemnation proceedings, take private property or may exercise the right to use private property within the corporate limits of the Town for any of the purposes authorized by this Charter. The proceedings for such condemnation shall be as prescribed in 10 Del. C. Chapter 61 or any future corresponding provision of law. The right of condemnation shall not extend to property owned by the United States, the State of Delaware or any agency thereof.

24. Limitation on Liability. No claim or cause of action shall arise, and no judgment, damages, penalties, costs or other money entitlement shall be awarded or assessed against the Town, any board, commission or agency of the Town, or any Town public officer, employee or member of such Town instrumentalities, whether elected or appointed, and whether now or previously serving as such, in any civil suit, or before any administrative tribunal on any and all tort claims seeking recovery of damages, unless made pursuant to Sub-chapter II, entitled "County and Municipal Tort Claims", consisting of Sections 4010-4013, Title 10 of the Delaware Code or its successor.

25. Indemnification. The Town shall indemnify, from the general fund of the Town's treasury, to the extent not otherwise covered by appropriate insurance, any person who is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Town itself) by reason of the fact that he or she is or was a member of the Town Council, Mayor or other duly elected or appointed Town Official or employee of the Town, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding

if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Town, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Town and with respect to any criminal action or proceeding had reasonable cause to believe that his or her conduct was unlawful; provided, however, that in the event of a monetary settlement, the Town Council shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

Indemnification as provided in this Section shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the members of the Town Council, Mayor, Town Officers and/or employee is proper in the circumstances because he or she met the applicable standards of the conduct set forth above. Such determination shall be made:

(a) by a majority vote of the Town Council consisting of Council members who are not parties to such action, suit or proceeding, or

(b) if a quorum is not obtained, by independent legal counsel in a written opinion.

26. **Compendium.** It shall be the duty of the Town Council to compile and reproduce the minutes of official meetings as well as ordinances, regulations, resolutions, rules or other decisions adopted by Town governmental bodies. The Town shall have a reasonable number of copies printed for the use of the officials of the Town and for public information. Copies of such documents shall be made available to private persons at a reasonable cost. At least two (2) copies of the Charter which shall have incorporated within it all amendments enacted by the General Assembly shall be kept at the Town office. Such copies may be typed, written, photographically processed or a combination of both. The Town Office shall make such further copies of the Charter, from time to time, as may be necessary. Copies of the Town Charter shall be available at the Town Office for public review.

27. Survival of Powers and Validating Section.

27.1 All powers conferred upon or vested in the Town Council by any act or law of the State of Delaware not in conflict with the provisions of this Charter are hereby expressly conferred upon and vested in the Town and/or the Town Council precisely as if each of said powers was expressly set forth in this Charter.

27.2 All ordinances, regulations, resolutions, and rules adopted by the Town Council and in force on the effective date of this Charter, as amended, are continued in force until repealed, modified or altered by the Town Council under the provisions of this Charter.

27.3 All actions of the Town Council or of any Town official taken under the provisions of Delaware law, any Town ordinance, regulation, resolution, or rule or any prior Charter of this Town prior to the effective date of this Charter, as amended, shall continue in effect unless otherwise provided herein.

27.4 All taxes, assessments, license fees, penalties, fines, forfeitures and other charges due to the Town, and all debts owed to or by the Town, prior to the effective date of this Charter, as amended, shall remain due and unimpaired.

27.5 All powers granted by this Charter in respect to the collection of taxes, license fees, assessments or other charges shall be deemed to apply and extend to all unpaid taxes, license fees, assessments or other charges heretofore lawfully imposed by the Town.

27.6 The bonds given by or on account of any official of the Town shall not be impaired or affected by the provisions of this Charter.

27.7 Each member of the Town Council who holds office at the time of approval of this Charter, as amended, shall continue to serve until the expiration of such term of office, as prescribed at the time of election or appointment.

27.8 All acts or parts of acts inconsistent with or in conflict with the provisions of this Charter shall be and are hereby repealed to the extent of any such inconsistency.

28. **Separability.** If any section, sub-section, paragraph, sentence, clause or other provision of this Charter shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining sections, sub-sections, paragraphs, sentences, clauses or other provisions of this Charter.

29. **Public Act.** This Charter shall be deemed to constitute a Public Act of the State of Delaware.

30. **Effective Date.** This Charter shall take effect as of the day of enactment."

Section 1. **Incorporation** - Sets out the reincorporation of the Town, including the original Town and all subsequent annexation.

Section 2. **Territorial Limits** - Describes the geographical and territorial limits of the Incorporated Town, including the original Town and all subsequent annexation.

Section 3. **Annexation of Territory** - Provides annexation procedures including notice, public hearing, and election.

Section 4. **Powers of the Town** - Enumerates the powers of the Town.

Section 5. **Town Council** - Describes the structure of the Town Council. The Council consists of an elected Mayor and six other Council members. The Mayor must be a resident of the Town of South Bethany. In addition, three Council members must be residents of the State of Delaware. The remaining three members of the Council may be residents or non-residents. Each elected Council member and Mayor are elected to a two-year term of office on a staggered, alternating basis.

Section 6. **Municipal Elections** - Provides for annual Municipal elections, describes the qualifications of voters and the procedures for the annual Municipal election.

Section 7. **Organization of Town Council** - Describes the organization of the Council. There is a requirement for an annual organizational meeting and procedures for organization of the Council. The duties of the Mayor, President Pro-tem, Council Secretary, and Treasurer are defined. The Mayor is granted certain emergency powers. There is a procedure to fill vacancies in any office. There is a code of ethics and a requirement for competitive bidding for purchase or lease of materials and services over \$2,500.00. There are also procedures set out for identifying when vacancies or a forfeiture of office exists and how to fill them. This section also provides for regular and special meetings and those requirements. This section also describes the form of actions by the Council, including emergency ordinances.

Section 8. **Appointed Officers** - Identifies the appointed officers and provides for their authority. More specifically, this section provides the authority to create the position of Town Manager, his appointment, and removal. This section provides that the functions and duties of the Town Manager would be set forth in a Town ordinance. It also creates the position of Town Solicitor and other officials of the Town.

- Section 9.** **Assessment of Taxes** - Provides for assessment procedures for taxes. This section creates alternatives of either a Board of Assessment and Procedures or the authority to adopt Sussex County Assessments. In addition, this section provides that the Town may add other charges to the tax bills to be treated in the same way as taxes.
- Section 10.** **Levy of Taxes, Fees, and Other Charges** - Provides for the levy of taxes, fees, and other charges. It requires a balanced budget for the Town. It identifies tax levies, special assessment procedures, including a special election procedure, and limits the amount of money to be raised by real property taxes and bonds to 2% of the total appraised value of the real estate in the Town.
- Section 11.** **Collection of Taxes, Fees, Special Assessments, and Other Charges** - Provides procedures for the collection of taxes by the Town Manager or a duly appointed Tax Collector. This section also identifies the powers of the Tax Collector. It allows the Town to exempt tax payers of low income who are over age 62.
- Section 12.** **Remedies, Powers, and Methods for Collection of Taxes and Other Charges** - Describes the remedies and powers for the collection of taxes, including authorization to hold a tax sale. Procedures are identified and described.
- Section 13.** **Borrowing Powers** - Defines the borrowing power of the Town. It provides authorization to the Town Council to borrow up to \$100,000.00 payable within 5 years without a special election. It provides procedures for the Town to borrow greater amounts of money through the issuance of bonds with a limit of 5% of the appraised value of all real property in the Town.
- Section 14.** **Use of Town Monies** - Provides for the use of Town monies for proper purposes. There is also a requirement that any capital expenditure over \$100,000.00 must first be approved by voters in a special election. This section also sets out procedures for that special election.
- Section 15.** **Annual Audit** - Provides for an annual audit of Town records by a certified public accountant.
- Section 16.** **Alderman's Court** - Provides for the creation of and procedures for an Alderman's Court.
- Section 17.** **Police and Public Safety** - Provides for the creation of and procedures for a Police Department and Beach Patrol for the protection of the public.
- Section 18.** **Subdivision and Land Development** - Authorizes the Town to regulate subdivision and land development within the Town.
- Section 19.** **Streets** - Authorizes the Town to lay out, locate, open, construct, widen, alter, close, vacate, or abandon streets and describes procedures to be followed.
- Section 20.** **Water Systems** - Authorizes the Town to provide an adequate supply of potable water and describes the types of powers granted for implementing this purpose.
- Section 21.** **Water Structures** - Authorizes the Town to lay out, open, located, construct, widen, alter, close, vacate, or abandon structures for the preservation of any beach, strand, or waterway within the Town.
- Section 22.** **Referendum** - Provides for referendum procedures of acts of the Town excepting therefrom any emergency ordinance, ordinance authorizing long-term borrowing, annexing lands, adopting the annual operating budget, appropriating money, levying taxes or ordinances otherwise subject to special election procedures set out in the Charter.

Section 23. Eminent Domain - Authorizes the Town to exercise the power of eminent domain.

Section 24. Limitation on Liability - Authorizes a limitation on liability of the Town, members of its boards and offices, agents, representatives, officers, or employees.

Section 25. Indemnification - Provides for indemnification of officers, employees, representatives, or agents of the Town and describes procedures which the Town must follow prior to providing such indemnification.

Section 26. Compendium - Requires the Town to maintain its ordinances, regulations, etc., in a compiled form on a reasonably current basis, and to have copies available for Town Council members and Town officials, and for inspection by the public.

Section 27. Survival of Powers and Validating Section - Authorizes survival of powers, acts, taxes, fees, bonds, and officials from the prior Charter to the inception of this Charter so that there is no lapse in the transition from the old municipal corporation to the "re-incorporated" municipal corporation.

Section 28. Separability - Provides that any section which is incompatible with the laws of the State of Delaware or otherwise may be separated from the remainder of the Charter.

Section 29. Public Act - Recites this Charter as a Public Act.

Section 30. Effective Date - Provides the effective date of this Charter to be the day of its enactment.

Approved June 27, 1994.

CHAPTER 269

FORMERLY

SENATE BILL NO. 241

AN ACT TO AMEND CHAPTER 64, TITLE 7 OF THE DELAWARE CODE TO REQUIRE THE DELAWARE SOLID WASTE AUTHORITY TO CONDUCT AN ENVIRONMENTAL STUDY, FOCUSING UPON THE DANGERS AND COSTS OF ANY PROPOSED RESOURCE RECOVERY FACILITY OR ANY PROPOSED WASTE INCINERATOR, BEFORE PROCEEDING WITH SITE SELECTION AND CONSTRUCTION OF SAME.

WHEREAS, the Delaware Solid Waste Authority is presently considering the construction of a waste-to-energy incinerator as a means for solid waste disposal; and

WHEREAS, the Environmental Protection Agency stated on February 11, 1991, in the Federal Register, that "emissions from municipal waste incinerators cause or significantly contribute to air pollution which may reasonably be anticipated to endanger public health and welfare"; and

WHEREAS, emissions from incinerators can contribute to the contamination of surface water, groundwater, and soil;

NOW, THEREFORE,

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

Section 1. Amend Chapter 64, Title 7 of the Delaware Code by adding a new §6432 to read as follows:

"§6432. Environmental study to be conducted before site selection and construction of any proposed resource recovery facility or any proposed waste incinerator: copies to be filed with the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

Notwithstanding any provision of this title to the contrary, the Authority shall conduct an environmental study, focusing upon the dangers and costs of any proposed resource recovery facility or any proposed waste incinerator, including the potential of same upon air, water, and soil quality, and the Authority shall file copies of any such environmental study with the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, before proceeding with site selection and construction of any proposed resource recovery facility or any proposed waste incinerator."

Section 2. This Act shall become effective upon its enactment into law, and shall apply to any resource recovery facility or any waste incinerator proposed or under consideration by the Delaware Solid Waste Authority as of the effective date of this Act or at anytime thereafter.

Approved June 27, 1994.

CHAPTER 270

FORMERLY

SENATE BILL NO. 276

AN ACT TO AMEND CHAPTER 88, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF ADMINISTRATIVE SERVICES.

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

Section 1. Amend Subsection (b)(1)b, §8806, Chapter 88, Title 29 of the Delaware Code by inserting between the words "governments" and "and" as they appear therein the phrase ", volunteer ambulance services, volunteer rescue services".

Approved June 27, 1994.

CHAPTER 271

FORMERLY

SENATE BILL NO. 283
AS AMENDED BY SENATE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO ABSENTEE VOTERS IN SCHOOL DISTRICT ELECTIONS.

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

Section 1. Amend Title 14, §1086(a) of the Delaware Code by deleting said subsection in its entirety and replacing said subsection with the following:

"(a) Any individual qualified to vote in a school district election who shall be unable to appear to cast their ballot at the polling place of their school district on the date of the election may cast their vote by absentee ballot provided that the voter qualifies under one of the provisions of Title 15, §5502 and files an affidavit of eligibility, in a form prescribed by the State Commissioner of Elections, with the school district office at least 1 day prior to the election."

Section 2. Amend Title 14, §1086(b) of the Delaware Code by deleting said subsection in its entirety and replacing said subsection with the following:

"(b) The State Commissioner of Elections shall develop an official absentee ballot for school district elections which shall include envelopes, ballots and instructions similar to those provided for in Chapter 55 of Title 15. Upon receipt of the executed affidavit of eligibility, by at least 12 noon of the day prior to the election, the school district shall:

- 1) deliver an official ballot to the elector if the elector personally appears at the school district office; or
- 2) follow the instruction contained within the elector's affidavit of eligibility to either:

1. mail the official ballot and instructions to the elector within 3 business days of the later of the receipt of the executed affidavit of eligibility or the official ballot, but at least 3 days prior to the election, provided that the affidavit of eligibility is received at least 3 days prior to the election; or

11. deliver the official ballot and instructions to a person designated by the elector upon the designated person's appearance at the school district office during normal working hours at least 1 day prior to the election."

Section 3. The provisions of this Act shall become effective 90 days after its enactment into law.

Approved June 27, 1994.

CHAPTER 272

FORMERLY

SENATE BILL NO. 299

AN ACT TO AMEND CHAPTER 27, TITLE 14 OF THE DELAWARE CODE RELATING TO COMPULSORY SCHOOL ATTENDANCE REQUIREMENTS.

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

Section 1. Amend §2705, Chapter 27, Title 14 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§2705. Exemption of children from compulsory attendance requirements.

(a) Other provisions of this title notwithstanding, a child may be exempted from §2702 of this title upon request of the parent, guardian or other person legally having control of that child when the request is supported by written documentation of a physician, psychiatrist, psychologist or neurologist, as the case may require. The request and documentation shall be addressed to the superintendent of schools of the district in which the child resides and, in the case of a child with a disability or disabilities, the child's Individual Education Program (IEP) team, for the development of an educational program and determination of whether a change of placement is necessary to ensure that the child receives a free and appropriate public education.

(b) Any disputed decision under this section shall be presented first to the board of education of the school district of which the child is a resident and may thereafter be appealed to the State Board of Education. The decision of the State Board of Education shall be final. In the case of a child with a disability or disabilities, all of the federal regulatory due process procedures of Part B of the Individual with Disabilities Education Act shall apply."

Approved June 27, 1994.

CHAPTER 273

FORMERLY

SENATE BILL NO. 306

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 3314, Chapter 33, Title 19 of the Delaware Code by redesignating subsections "(4), (5), and (6)," as they appear therein as subsections "(5), (6), and (7)", respectively.

Section 2. Amend Section 3314, Chapter 33, Title 19 of the Delaware Code by inserting a new subsection (4) to read as follows:

"(4) Participates in re-employment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and need re-employment services pursuant to a profiling system established by the Department, unless the Department determines that:

a. the individual has completed such services; or

b. there is justifiable cause for the claimant's failure to participate in such services."

Approved June 27, 1994.

CHAPTER 274

FORMERLY

SENATE BILL NO. 307

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 3364, Chapter 33, Title 19 of the Delaware Code, by deleting this section in its entirety and inserting in its place a new §3364 to read as follows:

"The Director of Unemployment Insurance may authorize the compromise of a claim for assessments, interest, and penalties due when the Department has determined that (1) the employer is unable to make payment in full of assessments, interest, and penalties imposed under this Chapter or (2) that it would be inequitable to require the payment in full of assessments, interest, and penalties by the employer, and (3) that the employer has acted in good faith. The Department may prescribe the appropriate accounting methods by which the uncollected portion of the employer debt shall be written off its accounts instead of being carried indefinitely as an uncollected delinquent debt."

Approved June 27, 1994.

CHAPTER 275

FORMERLY

SENATE BILL NO. 333
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO CERTAIN REQUIRED REGISTRATIONS.

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

Section 1. Amend Chapter 5, Title 11, Delaware code by adding thereto a new section as follows:

"§1316 Registration of out-of-state liquor agents.

(a) In order to promote and protect the public safety and the peace of the community, by reason of the presence of many persons engaged in the enforcement of the laws of other states, any agent, employee, or representative of another state shall register with the Delaware Alcoholic Beverage Control Commission not less than 30 days in advance of each entry into a county for the purpose of observing any alcoholic beverage sales.

(b) At the time of registration the person shall provide the following information:

(1) A written statement setting forth the identity of the out-of-state official;

(2) The purpose of the intended entry into the County;

(3) The make, model, and license number of each and every vehicle to be used in the conduct of any surveillance activity;

(4) The specific establishments at which surveillance will be conducted; and

(5) The specific times for surveillance of each establishment.

(c) Any person who registers shall be issued a certificate of registration which must be retained in the possession of the person during all investigative or surveillance activities.

(d) Any person who fails to register as required by this section, or who having registered violates any provision of this section, shall lose the right to register or the person's registration, as the case may be, for a period of six months.

(e) Any person who, during the period imposed by subsection (d) of this section violates this section, is guilty of a violation."

Approved June 27, 1994.

CHAPTER 276

FORMERLY

SENATE BILL NO. 338

AN ACT TO AMEND CHAPTER 70 OF TITLE 9 OF THE DELAWARE CODE RELATING TO THE LIMITATION ON SUSSEX COUNTY IN THE PROCUREMENT OF SERVICES AND SUPPLIES.

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

Section 1. Amend Section 7004(c)(17) of Title 9 of the Delaware Code by deleting from the first line of the second paragraph the phrase "\$5,000.00" and inserting in lieu thereof "\$10,000.00".

Approved June 27, 1994.

CHAPTER 277

FORMERLY

SENATE BILL NO. 339

AN ACT TO AMEND SUBCHAPTER I, CHAPTER 69 OF TITLE 29 OF THE DELAWARE CODE RELATING TO THE RENTAL AND PURCHASE OF MOTOR VEHICLES AND EXCEPTIONS THERETO.

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

Section 1. Amend Section 6902, Subchapter I of Title 29 of the Delaware Code relating to the rental and purchase of motor vehicles, by adding thereto the following new subsection:

"(m) The procurement of vehicles by Sussex County shall be exempt from the provisions of this Section."

Approved June 27, 1994.

CHAPTER 27B

FORMERLY

SENATE BILL NO. 340

AN ACT TO AMEND CHAPTER 87 OF TITLE 9 OF THE DELAWARE CODE RELATING TO COLLECTION OF DELINQUENT TAXES AND PROVIDING FOR ATTORNEY FEES INCURRED BY SUSSEX COUNTY TO BE TAXED IN ALL PROCEEDINGS UNDER SUBCHAPTER II THEREOF.

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

Section 1. Amend Section 8732 of Title 9 of the Delaware Code by renaming current subsection "(b)" as subsection "(c)" and adding a new subsection "(b)" which reads as follows:

"(b) In addition to the fees set forth above, the costs to be taxed in all proceedings under this subchapter which are brought in Sussex County may include all reasonable attorney's fees, as determined by the Court, incurred by the county in connection with each respective proceeding."

Approved June 27, 1994.

CHAPTER 279

FORMERLY

SENATE BILL NO. 345

AN ACT TO AMEND CHAPTER 33, TITLE 12 RELATING TO INVESTMENT ADVISERS.

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

Section 1. Amend Chapter 33, Title 12, by deleting the text of Section 3313 thereof and substituting the following:

"(a) Where one or more persons are given authority by the terms of a governing instrument to direct, consent to, or disapprove a fiduciary's investment decisions, or proposed investment decisions, such persons shall be considered to be fiduciaries when exercising such authority unless the governing instrument provides otherwise.

(b) If a governing instrument provides that a fiduciary is to make investment decisions upon the direction of an adviser, and the fiduciary acts in accordance with such a direction, then except in cases of willful misconduct, the fiduciary shall not be liable for any loss resulting from any such act.

(c) If a governing instrument provides that a fiduciary is to make investment decisions with the consent of an adviser, then except in cases of willful misconduct or gross negligence, the fiduciary shall not be liable for any loss resulting from any act taken or omitted as the result of such adviser's not providing such consent after being requested by the fiduciary to do so.

(d) For purposes of this section 'investment decision' means with respect to any investment, the retention, purchase, sale, exchange, tender or other transactions affecting the ownership thereof."

Section 2. This Act shall become effective August 1, 1994, and shall apply to investment decisions made on or after that date.

Approved June 27, 1994.

CHAPTER 280

FORMERLY

HOUSE BILL NO. 440

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

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO INTENTIONAL CRUELTY TO ANIMALS.

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

Section 1. Amend § 1325(a) of Title 11 of the Delaware Code by adding a new paragraph thereto to read:

"(12) 'Serious injury' shall include any injury to any animal which creates a substantial risk of death, or which causes prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ."

Section 2. Amend § 1325(b) of Title 11 of the Delaware Code by adding to the end of the last sentence thereof, which currently reads: "Cruelty to Animals is a Class A misdemeanor," the following:

", unless the person intentionally kills or causes serious injury to any animal in violation of paragraph (b)(4) of this section, in which case it is a class F felony."

Approved June 27, 1994.

CHAPTER 281

FORMERLY

HOUSE BILL NO. 424
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND §730, TITLE 7 OF THE DELAWARE CODE RELATING TO THE DISCHARGE
OF A FIREARM NEAR AN OCCUPIED DWELLING.

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 §730, Title 7 of the Delaware Code by redesignating
existing subsection (c) as subsection (d) and by creating a new subsection (c)
to read as follows:

"(c) No person, except the owner or occupant, or a person with the
permission of said owner or occupant, shall discharge a firearm so that a
shot, slug, or bullet lands upon any occupied dwelling, house, or residence,
or any barn, stable, or other building used in connection therewith."

Approved June 27, 1994.

CHAPTER 282

FORMERLY

HOUSE BILL NO. 295
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 41 OF TITLE 11 OF THE DELAWARE CODE BY REQUIRING THE REGISTRATION OF CONVICTED SEXUAL OFFENDERS

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

Section 1. AMEND Chapter 41, Title 11, of Delaware Code by adding a new Subchapter III thereto read as follows:

"Subchapter III: Registration of Sexual Offenders

§ 4120 Registration of sex offenders

(a) Duty to register; time. Any person who is hereafter convicted in this state of any sexual offense under Chapter V, Subchapter II, Subpart D or Subchapter V of Title 11 of the Delaware Code or any person who is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who is hereafter adjudged guilty but mentally ill under Section 401 or not guilty by reason of insanity under Section 401 of Title 11 of the Delaware Code for committing or attempting to commit any of the above enumerated offenses, or any person who is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 30 days of coming into any county, city, or town in which he or she temporarily resides or is domiciled for that length of time register with the Superintendent of the Delaware State Police.

(b) Notice of duty to register; prisoner or inmate. Any person who is hereafter discharged or paroled from a jail, prison, school or other institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he or she was committed as a result of having been convicted or adjudged guilty but mentally ill under Section 401 or not guilty by reason of insanity under Section 401 of Title 11 of the Delaware Code for having committed or having attempted to commit any of the above-mentioned offenses shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such forms as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the Superintendent of the Delaware State Police. The official in charge of the place of confinement shall retain one copy. All such forms shall be transmitted within such times as to be received by the Superintendent of the Delaware State Police, and Department of Justice 30 days prior to the discharge, parole, or release of the person.

(c) Notice of duty to register; probationer or one paying fine. Any person who hereafter is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and

shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, and shall send one copy to the Department of Justice, and shall forward one copy to the Superintendent of the Delaware State Police.

(d) Persons discharged or paroled from Juvenile Corrections; destruction of records.

(1) Any person who hereafter is discharged or paroled from the Department of Services for Children, Youth and their Families, Division of Youth Rehabilitative Services, after having been adjudicated a juvenile delinquent because of the commission or attempted commission of the above-mentioned offenses shall be subject to registration under the procedures of this section

(2) Prior to discharge or parole from the Department of Services for Children, Youth and their Families, Division of Youth Rehabilitative Services, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Division officials shall transmit the required forms and information to the Department of Justice.

(3) Such forms and information transmitted to the Department of Justice as above required shall be destroyed if, upon reaching the age of 25 years, the registrant has not been arrested for any like offense since his or her release, discharge or parole from the Department of Services for Children, Youth and their Families, Division of Youth Rehabilitative Services.

(e) Contents of registration. The registration shall consist of (1) a statement in writing signed by the person, giving such information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person.

(f) Changes of address. If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the Superintendent of the Delaware State Police of the new address. The Superintendent of the Delaware State Police shall, within three days after receipt of this information, forward it to the Department of Justice.

(g) Violation; offense; sentence.

(1) Any person required to register under this section who willfully violates any of its provisions is guilty of a misdemeanor and shall be sentenced to serve a term or imprisonment of not less than 90 days nor more than one year. In no event does the court have the power to absolve a person who violates this section from the obligation of spending at least 90 days in confinement and of completing probation for the balance of at least one year.

(2) Any person who has two prior convictions for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a Class G felony.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Violation; parole revocation. When any person is released on parole or probation within this state and is required to register under this section but willfully fails to do so within the time prescribed, the Board of Parole, or the court, as the case may be, shall order the parole or probation of the person revoked.

(i) Confidential records. The statements, photographs, and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law

enforcement officer; provided, however, nothing in this section shall preclude an employer or potential employer, upon showing satisfactory proof that he or she plans to employ a particular person in a sensitive area dealing with children, from inquiring at the office at the State Superintendent at the Delaware State Police and/or the Department of Justice for information as to whether such person's name appears on the registration list."

Approved June 27, 1994.

CHAPTER 283

FORMERLY

HOUSE BILL NO. 455

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO FEES FOR PERMITS, LICENSES, AND CERTIFICATIONS BY THE STATE FIRE PREVENTION COMMISSION.

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 16 of the Delaware Code by inserting a new §6607(g)(5)c, to read as follows, and by redesignating the succeeding subparagraphs:

"c. A maximum of \$25 for all other permits, licenses and certifications as required in the State Fire Prevention Regulations."

Approved June 27, 1994.

CHAPTER 284

FORMERLY

HOUSE BILL NO. 315
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 19, PART II, TITLE 7, DELAWARE CODE AND ADD A NEW CHAPTER 28 TO PART II, TITLE 7, DELAWARE CODE RELATING TO FISHING, POTTING, OR DREDGING FOR CONCHS.

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

SECTION 1. Amend Subsections 1901, 1912(a) and (b), 1913(b) and 1916, Chapter 19, Part II, Title 7 of the Delaware Code by striking the words "through 25" as they appear therein and substitute in lieu thereof the words "through 28".

Section 2. Amend Subsection 1904(b), Chapter 19, Part II, Title 7 of the Delaware Code by adding the words "conchs (whelks)" between the words "crabs" and "and".

Section 3. Amend Subsection 1904(c), Chapter 19, Part II, Title 7 of the Delaware Code by adding the words "or a commercial conch pot licensee" between the words "licensee" and "may" and also by adding the words "or conchs respectively" between the words "crabs" and "1 hour".

Section 4. Amend Part II, Title 7, Delaware Code by adding thereto a new Chapter 28 to read as follows:

"CHAPTER 28. CONCHS (WHELKS) Busycon canaliculatum and B. carica.

Subsection 2801. Definitions.

(a) "Conch Pot" means any pot, basket, box, cage, container or other similar catching device that has at least one escape vent measuring at least 5" x 10" in the top or parlor section of said pot, basket, box, cage or container or other similar catching device.

(b) "Bullrake" means any rake with a width of more than fourteen (14) inches measured perpendicular to the tines or any rake with a handle of more than seven (7) feet.

Subsection 2802. Commercial Conch Pot License; Fees; Exemptions.

(a) It shall be unlawful for any person to catch, take or harvest conchs while fishing more than two (2) conch pots in the waters of this State unless said person has in possession a valid commercial conch pot license.

(b) It shall be unlawful for any person to attempt to catch, take or harvest conchs while fishing more than two (2) conch pots in the waters of this State unless said person has in possession a valid commercial conch pot license.

(c) It shall be unlawful for the operator of any vessel not equipped with a dredge, to have on board said vessel more than five (5) bushels of conchs unless said operator has in possession a valid commercial conch pot license.

(d) It shall be unlawful for a commercial conch pot licensee to place, use, set or tend more than two (2) conch pots from any vessel other than a vessel owned and operated by said licensee. Said vessel shall be listed by the Department on the licensee's commercial conch pot license.

(e) It shall be unlawful for more than one (1) commercial conch pot licensee to place, use, set or tend conch pots from the same vessel.

(f) The Department is authorized to issue a commercial conch pot license to a person who applies for same on forms to be supplied by the

Department. To be eligible for a commercial conch pot license, an applicant shall comply with one of the following conditions:

(1) produce receipts, personal income tax records or affidavits from a certified public accountant that indicates said applicant previously harvested conchs in Delaware for commercial purposes; or

(2) be eligible for a commercial crab pot license in Delaware pursuant to the provisions of 7 Del. C. §1918.

An applicant who is eligible for a commercial conch pot license shall apply and pay all applicable fees to the Department within 90 days of the effective date of this Act. An applicant who is not eligible or an applicant who does not obtain a commercial conch pot license within 90 days of the effective date of this Act or a commercial conch pot licensee who fails to renew his license as provided in the provisions of paragraph (g) in this subsection may register with the Department on a form provided by the Department for a commercial conch pot license that may become valid after a five-year waiting period.

(g) A commercial conch pot licensee shall renew his or her license for at least one year in every three consecutive years. Any person who does not renew his or her commercial conch pot license for at least one year in every three consecutive years shall be deemed not eligible for a commercial conch pot license.

(h) The annual fee for a commercial conch pot license shall be \$57.50 for residents and \$575.00 for non-residents.

(i) A commercial conch pot licensee may designate no more than two persons who are residents of this State on his or her license as designee(s). A commercial conch pot licensee's designee is authorized to place, use, set, tend or remove the licensee's conch pots while operating a vessel listed on the licensee's commercial conch pot license without the licensee being on board the vessel.

Subsection 2803. Commercial Conch Dredge License; Fees; Exceptions.

(a) It shall be unlawful for any person, while operating a vessel equipped with a dredge or a vessel with a bullrake on board, to possess more than fifteen (15) bushels of conchs unless said person has in possession a valid commercial conch dredge license.

(b) It shall be unlawful for a commercial conch dredge licensee to dredge conchs from any vessel other than a vessel owned and operated by said licensee. Said vessel shall be listed by the Department on the licensee's commercial conch dredge license.

(c) The Department is authorized to issue a commercial conch dredge license to a person who applies for same on forms to be supplied by the Department. To be eligible for a commercial conch dredge license, an applicant shall meet one of the following conditions:

(1) produce receipts, personal income tax records or affidavits from a certified public accountant the applicant previously harvested conchs in Delaware for commercial purposes; or

(2) be eligible for a commercial crab dredger's license in Delaware according to the provisions of 7 Del. C. §1918.

An applicant who is eligible for a commercial conch dredge license shall apply and pay all applicable fees to the Department within 90 days of the effective date of this Act. An applicant who is not eligible or an applicant who does not obtain a commercial conch dredge license within 90 days of the effective date of this Act or a commercial conch dredge licensee who fails to renew his license as provided in the provisions of paragraph (d) in this subsection may register with the Department on a form provided by the Department for a commercial conch dredge license that may become valid after a five-year waiting period.

(d) A commercial conch dredge licensee shall renew his or her license for at least one year in every three consecutive years. Any person who

does not renew his or her commercial conch pot license for at least one year in every three consecutive years shall be deemed not eligible for a commercial conch dredge license.

(e) The fee for a resident commercial conch dredge license shall be \$57.50 for residents and \$575.00 for non-residents.

Subsection 2804. Minimum Size.

It shall be unlawful for any person to possess any conch which measures less than a minimum possession size limit specified in regulations promulgated by the Department. The Department is authorized to promulgate regulations to establish the minimum possession size limit of conchs.

Subsection 2805. Areas Closed For Commercial Conch Potting or Dredging.

(a) It shall be unlawful for any person to operate a dredge for the purpose of catching, taking or harvesting conchs over leased shellfish grounds, natural oyster beds or other areas declared closed to dredging for conchs by the Department by regulation. Provided, however, that those conchs of legal size taken by a person on a vessel with a valid oyster harvesting license or a person with a valid commercial clam dredge license while engaged in lawful dredging operations, whether or not over leased shellfish grounds, natural oyster beds, or other areas declared closed to dredging for conchs by the Department, may be retained for non-commercial purposes. The Department is authorized to promulgate regulations that close areas to either dredging or potting for conchs.

Subsection 2806. Seasons Closed For Commercial Conch Potting or Dredging.

The Department is authorized to promulgate regulations that close seasons to either dredging or potting for conchs.

Subsection 2807. Marking of Conch Pots.

(a) It shall be unlawful for any commercial conch pot licensee to catch, take or harvest conchs with any conch pot or attempt to catch, take or harvest conchs with any conch pot unless said conch pot is attached to a floating buoy(s). The buoy(s) for commercial conch pots shall be a specific color combination as assigned to each commercial conch pot licensee by the Department. Any person who has a valid commercial crab pot license shall be assigned the same color code for his or her commercial conch pot buoys as assigned to his or her commercial crab pots. An additional buoy shall be attached at the farthest position from the conch pot which shall be colored one half white and one half black. The Department shall assign a commercial conch pot number to each commercial conch pot licensee. Inscribed on the one half white and one half black buoy the farthest from the conch pot shall be a capital letter "C" followed by said person's commercial conch pot number. The letter "C" and conch pot number shall be at least two inches tall, and a contrasting color to be legible at all times.

(b) It shall be unlawful for any person other than a commercial conch pot licensee to catch, take or harvest conchs with any conch pot or attempt to catch, take or harvest conchs with any conch pot unless said conch pot is attached to an all white buoy with said persons full name and permanent mailing address inscribed either on the white buoy or on a waterproof tag attached to said buoy. The person's name and address shall be legible at all times.

Subsection 2808. Conch Pot Attendance; Abandonment; Confiscation; Forfeiture.

(a) It shall be unlawful for any person who places, uses or sets a conch pot in the tidal waters of this State to fail to tend and remove conchs from said conch pot at least once every 72 hours.

(b) Failure to tend and remove conchs from a conch pot in the tidal waters of this State at least 72 hours after said pot is tagged by the Department shall constitute abandonment of said conch pot.

(c) Any employee of the Department authorized to enforce this Chapter shall be authorized to seize and confiscate any conch pot which has been determined to have been abandoned pursuant to paragraph (b) of this Subsection.

(d) Upon a determination that a conch pot has been abandoned and seized by the Department, ownership in said conch pot shall be forfeited to the Department.

(e) Notwithstanding, the provisions set forth in subsections (a), (b), and (c) of this subsection, any employee of the Department authorized to enforce this Chapter shall be authorized to seize any conch pot which fails to be placed, used or set in compliance with the provisions of this Chapter.

(f) Title to a conch pot seized by the Department and not claimed by the lawful owner after proper notification from the Department within 90 days of said notification shall be forfeited to the Department.

Section 5. Effective Date.

This Act shall become effective 60 days after being signed by the Governor.

Approved June 27, 1994.

CHAPTER 285

FORMERLY

SENATE BILL NO. 373
AS AMENDED BY SENATE AMENDMENT NOS. 1, 2, 4, 5 AND 6

AN ACT TO AMEND CHAPTER 13, TITLE 24, DELAWARE CODE RELATING TO PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES.

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 the Chapter, Title and text of §1301, Chapter 13, Title 24, Delaware Code, by striking said Chapter Title and section in their entirety and substituting in lieu thereof the following:

"CHAPTER 13. Private Investigators and Private Security Agencies.

§1301. This Chapter may be cited as the 'Private Investigators and Private Security Agencies Act'."

Section 2. Amend §1302, Chapter 13, Title 24, Delaware Code, by redesignating said section as "§1303" and substituting a new section 1302 to read as follows:

"§1302. Definitions.

As used in this Chapter, unless the context requires a different definition:

(1) 'Board' means the Delaware Board of Examiners of Private Investigators and Private Security Agencies.

(2) 'Person' includes individual, firm, association, company, partnership, corporation, nonprofit organization, institution, or similar entity.

(3) 'Investigations company' or 'agency' means any person who engages in the business or accepts employment to obtain or furnish information with reference to:

(a) crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, damages or injuries to persons or to property; or

(e) the securing of evidence to be used before any court, board, officer, or investigating committee.

(4) 'Guard company' or 'agency' means any person engaging in the business of or undertaking to provide a private watchman, guard, or street patrol service on a contractual basis for another person and performing any one or more of the following or similar functions:

(a) prevention of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

(b) prevention, observation, or detection of any unauthorized activity on private property;

(c) control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, only to extent and for the time directly and specifically required to assure the protection of property; or

(d) protection of individual from bodily harm.

(5) 'Armored car company' or 'agency' means any person that provides secured transportation and protection from one place or point to another place or point of money, currency, coins, bullion, securities, bonds, jewelry, or other valuables.

(6) 'Security services contractor' means any guard company, armored car company, or courier company as defined herein.

(7) 'Security department of a private business' means the security department of any person, if the security department has as its general purpose the protection and security of its own property and grounds, and if it does not offer or provide security services to any other person.

(8) 'Private investigator' means any person who performs one or more services as described under the definition of investigator.

(9) 'Security officer' means any individual employed by a security services contractor or the security department of a private business to perform the duties of a security guard, security watchman, security patrolman, armored car guard, or courier guard.

(10) 'Manager' means in the case of a corporation, an officer or supervisor, or in the case of a partnership, a general or unlimited partner meeting the experience qualifications set forth in this Chapter for managing a security services contractor or an investigations company.

(11) 'License' means a permit granted by the board entitling a person to operate as a security services contractor or investigations company.

(12) 'Branch office license' means a permit granted by the Board entitling a person to operate as a security services contractor or investigations company at a location other than the principal place of business as shown in the Board records.

(13) 'Licensee' means any person to whom a license is granted under this Chapter.

(14) 'Security officer commission' means an authorization granted by the Board to an individual employed as a security officer to carry a firearm.

(15) 'Commissioned security officer' means any security officer to whom a security officer commission has been issued by the Board.

(16) 'Registration' means a permit granted by the board to an individual to perform the duties as described in this Chapter.

(17) 'Firearm' has the meaning given in Section 222, Title 11.

(18) 'Deadly weapon' has the meaning given in Section 222-5, Title 11.

(19) 'Director' means the Officer In Charge of the Detective Licensing Unit of the Division of the Delaware State Police.

Section 3. Amend §1303, §1304 and §1305, Chapter 13, Title 24, Delaware Code by striking said sections in their entirety and substituting in lieu thereof the following:

"§1304. Board of Examiners of Private Detectives and Security Guards.

(a) Creation of Board.

The Delaware Board of Examiners of Private Investigators and Private Security Agencies is created for the protection of the general public and to carry out the Functions and duties conferred on it by this Chapter.

The Director of the Delaware Board of Examiners of Private Investigators and Security Agencies shall serve as Chief Administrator of the Board. The Director shall be a uniformed member of the Division of State Police designated by the Secretary of Public Safety.

All legal process and all documents required by law to be served or filed with the Board shall be served or filed with the Director at the designated Office herein also referred to as the Detective Licensing Unit, Division of State Police. All official records of the Board or affidavits by the Director as to the content of such records shall be prima facie evidence of all matters required to be kept by the Board.

The Delaware Board of Examiners of Private Investigators and Security Agencies will adhere to the Administrative Procedures Act.

All fines collected under this Chapter shall be deposited to the credit of the General Fund.

(b) Rules of Procedure.

The Board shall have the following powers and duties:

(1) To determine the qualifications of security guards, private investigators, armored car employees and businesses licensed under this Chapter;

(2) To investigate alleged violations of the provision of this Chapter and of any rules and regulations adopted by the Board;

(3) To promulgate all rules and regulations necessary in carrying out the provisions of this Chapter; and

(4) To establish and enforce standards governing the safety and conduct of persons licensed and registered under the provision of this Chapter.

§1305. Board Membership; Eligibility.

(a) The Board is composed of the following members:

(1) The Superintendent of the Division of State Police;

(2) The Attorney General or his designated representative;

(3) Three (3) public members shall be appointed by the Governor, who are residents of the State of Delaware;

(4) Two (2) members shall be appointed by the Governor, who are licensed under this Chapter, who have been engaged for a period of five (5) consecutive years as a private investigator and who are not employed by the same person as any other member of the Board;

(5) Two (2) members shall be appointed by the Governor, who are licensed under this Chapter, who have been engaged for a period of five (5) consecutive years as a security services contractor, and who are not employed by the same person as any other member of the Board, who:

(A) Is licensed under this Chapter as an owner or operator of a guard company;

(B) Has operated for at least five (5) consecutive years as a guard company; and

(C) Is not employed by a person who employs any other member of the Board.

(b) A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) Is licensed by an occupational regulatory agency in the field of private security;

(2) Is employed by or participates in the management of a business entity or other organization related to the field of private security; or

(3) Has, other than as a consumer, a financial interest in a business entity or other organization related to the field of private security.

(c) A member of the Board may not be an officer, employee or paid consultant of a trade association in the private security industry.

For the purpose of this section, 'trade association' means a nonprofit, cooperative, voluntarily joined association of business or professional competitors that is designed to assist its members and its industry or profession in dealing with mutual or professional problems and in promoting their common interests.

(d) It is grounds for removal from the Board if a member:

(1) Does not have, at the time of appointment, the qualifications required by subsection (a)(5)(A) or (B), of this section, for appointment to the Board;

(2) Does not maintain, during the service on the Board, the qualifications required by subsection (a)(5)(A) or (B), of this section, for appointment to the Board;

(3) Violates a prohibition established in subsection (b) of this section;

(4) Does not attend at least one-half of the regularly scheduled meetings, held by the Board, in a calendar year, excluding meetings held when the person was not a member of the Board; or

(5) Is unable to discharge the members' duties for a substantial part of the term of which the member was appointed because of illness or disability.

The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of a member of the Board existed.

If the Director has knowledge that a potential grounds for removal exists, the Director shall notify the Chairman of the Board of the ground. The Chairman of the Board shall then notify the Governor that a potential grounds for removal exists.

(e) Notwithstanding the provisions of this section all Board members serving as of the effective date of this act shall continue to serve the balance of their term.

§1306. Terms of Office.

Members appointed to the Board serve three (3) year terms, however, no member can serve more than two (2) consecutive terms. If a member has served two (2) consecutive terms, he may be reappointed providing that the member has not served for three (3) years prior to his last appointment.

§1307. Compensation of Board Members.

Each member of the Board, who is not serving on the Board in their capacity as a State employee, shall be reimbursed \$50.00 for each meeting attended; provided, however, that no Board member shall receive more than \$500.00 in any given calendar year.

§1308. Subpoenas and Injunctions.

(a) In the conduct of any investigation conducted under the provisions of this Chapter, the Board may issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The officer conducting the hearing may administer oaths and may require testimony and evidence to be given under oath.

(b) No witness is privileged to refuse to testify to any fact, or produce any paper, respecting which he is properly examined by the officer conducting the hearing.

If a witness refuses to obey a subpoena or give any evidence relevant to proper inquiry by the Board, then the Board may petition Superior Court to compel the witness to obey the subpoena or give the evidence. The Court shall immediately issue process to the witness and shall hold a hearing on the petition as soon as possible. If the witness refuses, without reasonable cause or legal grounds, to be examined or to give evidence relevant to proper inquiry by the Board, the Court shall punish the witness for contempt.

(c). The Director and/or his designee shall have the authority to investigate any violations of this Chapter and/or Rules and Regulations adopted by the Board and are authorized to take statements under oath in any investigation of a matter covered by this Chapter. In the conduct of any investigation conducted under the provision of this Chapter, the Board may issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents.

(d) The Board may institute an action in its name against a person to enjoin a violation of this Act or a Rule or Regulation of the Board. For the Board to sustain the action, the Board does not have to allege or prove that an adequate remedy at Law does not exist or that substantial or irreparable damage would result from the continued violation. The Board may not be required to give an appeal bond, in any cause, arising under this Chapter.

(e) Whenever it appears that any person has violated any of the provisions of this Chapter for which a penalty is imposed, the Board may cause a civil suit to be instituted in a Court of Chancery for injunctive relief to restrain such person from continuing the violation and for assessment and recovery of the civil penalty.

§1309. Revocation, Suspension, Etc.

The Board shall have the power to suspend, revoke, or place on probation any person or business required to be licensed under this Chapter that violates any provisions of this Chapter and/or who violates any Rules and/or Regulations promulgated by the Board.

§1310. Emergency Suspension.

(a) The Director shall be granted the power to impose an emergency suspension on any person or business licensed under this Chapter if, in the opinion of the Director, that failure to take such action could jeopardize the public's safety and welfare.

(b) Any person or business whose license is suspended by the Director, under subsection (a) of this Section shall be granted a full hearing, by the Board, within ten (10) days from the date that the suspension was imposed, provided that the violating party request such a hearing, in writing, to the Director within five (5) days of the suspension.

§1311. Board Powers.

(a) The Board may suspend, revoke, place on probation, fine any applicant, registrant or licensee who has committed any act which could result in a felony conviction, or has committed any act that could result in a misdemeanor conviction which involves moral turpitude or a drug offense; or has practiced fraud, deceit, or misrepresentation; or has made a material misstatement in any application or renewal for a license.

(b) Anyone whose license has been suspended, revoked, or denied under this Act is entitled to a hearing before the Board.

(c) Any person whose license has been refused, suspended, revoked, or has been imposed a civil penalty is entitled to a hearing before the Board.

(d) The Board shall have the power to impose a civil penalty upon any person or business required to be licensed under this Chapter up to \$200.00, per day, for each violation.

§1312. Organizations and Meetings of the Board.

The Board shall meet quarterly or at such times to be decided by the majority of the Board.

A majority of the Board constitutes a quorum to transact business.

§1313. Consumer Information.

The Board shall prepare information of interest to consumers or recipients of services regulated, under this Chapter, describing the Board's procedures by which complaints are filed with and resolved by the Board. The Board shall make the information available to the general public and appropriate State Agencies.

The Board, by Rule, shall establish methods by which consumers or service recipients are notified the name, mailing address, and telephone number, of the Board, for the purpose of directing complaints to the Board. The Board may provide for the notification through inclusion of the information, on each registration form, application, or written contract for services of a person regulated under this Chapter.

§1314. Security Guard, License Requirements.

Anyone who wishes to be licensed, under this Chapter, as a non-commissioned security guard, must meet and maintain the following requirements:

- (1) Must be at least 20 years of age;
- (2) Must not have been convicted of any felony;
- (3) Must not have been convicted of any misdemeanor involving moral turpitude;
- (4) Must not have been convicted of any felony or misdemeanor involving the act of theft;
- (5) Must not have been convicted of any felony or misdemeanor involving drug offenses;
- (6) If served in the Armed Forces, must not have been discharged other than Honorable conditions;
- (7) Must not be a member or employee of any Law Enforcement Organization, as defined by the Council of Police Training;
- (8) Must meet and maintain the qualifications set and approved by the Board of Examiners.

§1315. Commissioned Security Guard, License Requirements.

Anyone who wishes to be licensed as an armed security guard, under this Chapter, must meet the same qualifications as a security guard with the following exceptions:

- (1) Must be at least 21 years of age;
- (2) Must meet and maintain the qualifications set and approved by the Board of Examiners.

§1316. Private Investigator, License Requirements.

Anyone who wishes to be licensed as a private investigator, under this Chapter, must meet and maintain the following requirements:

- (1) Must be at least 21 years of age;
- (2) Must not have been convicted of any felony;
- (3) Must not have been convicted of any misdemeanor involving moral turpitude or theft or any misdemeanor that, in the discretion of the Board, bears such a relationship to the performance of security services as to constitute a disqualification for a private security guard and/or private investigator to be issued a license;
- (4) Must not have been convicted of any drug offense;
- (5) Must meet and maintain the qualifications set and approved by the Board of Examiners.

§1317. Armored Car Guard, License Requirements.

Must meet same qualifications as Commissioned Security Guard.

§1318. Security Guard Business Licensee, License Requirements.

An applicant applying for a license, to own and operate a Security Guard business, shall have the following qualifications:

- (1) Must be at least 25 years of age;
- (2) Must have at least four (4) years of experience as a manager in a bona fide licensed security agency;
- (3) Must not have been convicted of any felony;
- (4) Must not have been convicted of any misdemeanor involving moral turpitude or theft or any misdemeanor that, in the discretion of the Board, bears such a relationship to the performance of security services, as to constitute a disqualification for a private security guard, and/or licensee to be issued a license;
- (5) Must not have been convicted of any drug offense;
- (6) Must meet and maintain the qualifications set and approved by the Board of Examiners.

§1319. Private Investigator Business Licensee, License Requirements.

An applicant applying for a license to own and operate a Private Investigative business, shall have the following qualifications:

- (1) Must be at least 25 years of age;
- (2) Must have at least five (5) years investigative experience or must have been a Police Officer or worked with an investigative agency within the United States;
- (3) Must not have been convicted of any felony;
- (4) Must not have been convicted of any misdemeanor involving moral turpitude or theft or any misdemeanor that, in the discretion

of the Board, bears such a relationship to the performance of the private investigative industry, to constitute a disqualification for a private investigator to be issued a license;

(5) Must not have been convicted of any drug offense;

(6) Must meet and maintain the qualifications set and approved by the Board of Examiners.

§1320. Armored Car Guard Business Licensee, License Requirements.

An applicant applying for a license, to own and operate an Armored Car Guard business, shall have the following qualifications:

(1) Must be at least 25 years of age;

(2) Must have at least four (4) years of experience as a manager in a bona fide armored car agency;

(3) Must not have been convicted of any felony;

(4) Must not have been convicted of any misdemeanor involving moral turpitude or theft or any misdemeanor that, in the discretion of the Board, bears such a relationship to the performance of armored car services, as to constitute a disqualification for an armored car guard, and/or licensee to be issued a license;

(5) Must not have been convicted of any drug offense;

(6) Must meet and maintain the qualifications set and approved by the Board of Examiners;

(7) Must have been issued a license by the Banking Commissioner pursuant to Title 5, Chapter 32, Section 3203.

§1321. Firearms.

(a) It shall be unlawful for anyone licensed, under this Chapter, to carry a concealed deadly weapon as defined in Title 11, Section 1442, unless they have been issued a concealed deadly weapons permit.

(b) It shall be unlawful for anyone licensed, under this Chapter, to carry any type of weapon unless the Board has approved the use of such weapon and, if approved, the person has been trained in the use of such weapon, by a Board-approved instructor.

(c) It shall be unlawful for an individual, employed as a security guard, to carry a firearm during the course of performing their duties as a security guard, if they have not been issued a Commissioned Security Guard license.

(d) It shall be unlawful for any person to hire or employ an individual or for any individual to accept employment, in the capacity of a security guard, to carry a firearm in the course and scope of his/her duties unless the security guard has been issued a commissioned security guard license.

(e) It shall be unlawful for a Commissioned Security Guard to carry a firearm unless:

(1) The security guard is engaged in the performance of his/her duties as a security officer or is engaged in traveling directly to or from his/her place of assignment; and

(2) The security guard is wearing a distinctive uniform indicating that he or she is a security guard; and

(3) Such uniform has a distinctive patch that indicates the company by whom he or she is employed; and

(4) The firearm is in plain view; and

(5) The firearm is the type of weapon that the Commissioned Security Guard qualified with pursuant to this Chapter.

§1322. Change of Address.

Notification shall be made to the Board of Examiners within 14 days after the change of address of any individual licensed under this Chapter."

Section 4. Amend §1306, Chapter 13, Title 24, Delaware Code, by redesignating said section as "§1323" and adding new subsections §§1324 through 1329 to read as follows:

"§1324. Identification Card.

Anyone required to be licensed under this Chapter shall be issued, by the Board of Examiners, an identification card which shall be valid for two (2) years from the date of issue.

§1325. Possession of Identification Card.

Any person who has been issued an identification card by the Board of Examiners shall be required to have such card in their possession while in the performance of his or her duties.

§1326. Notification of Arrest.

Anyone licensed under this Chapter shall, excluding weekends and State holidays, notify the Board of Examiners within 24 hours of any arrest which could result in a misdemeanor or felony conviction. Failure to do so may result in the suspension or revocation of a license.

§1327. Insurance.

Any person who applies for a license to own or operate a Private Investigations Company, Private Security Agency or Armored Car Agency shall file, with the Board, a surety bond and certificate of insurance in the amount set forth by the Board of Examiners.

§1328. License Fee.

Any individual, firm, association, corporation or company may be charged an application fee as set forth by the Board of Examiners which shall not exceed \$200 per year.

§1329. License Requirements and Submission of Fingerprints.

No person shall engage in the business of a private investigator, investigations company, security service contractor, security guard, guard company, armored car company, courier company, or armored car guard without first obtaining a license from the Detective Licensing Unit, Division of State Police.

No person will be issued a license unless that person submits, to the State Bureau of Identification, their name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence and the provision of such other information as may be necessary to obtain a report of the person's entire criminal history record from the State Bureau of Identification and a report of the person's entire Federal criminal history pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544."

Section 5. Amend §§1307, 1308, 1312 and 1313, Chapter 13, Title 24, Delaware Code, by striking said subsections in their entirety; further amend §§1309, 1310, and 1311, Chapter 13, Title 24, Delaware Code, by redesignating each §§1330, 1331 and 1332 respectively.

Section 6. Amend §§1314, 1315, 1316 and 1317, Chapter 13, Title 24, Delaware Code, by redesignating said sections as §§1333, 1334, 1335 and 1336 respectively and by striking the word "Superintendent" as it appears therein and substituting the words "Board of Examiners".

Section 7. Amend §§1318, 1319, 1320, Chapter 13, Title 24, Delaware Code, by redesignating said sections as "§§1337, 1338," and "1339" respectively,

Section 8. Amend §1321, Chapter 13, Title 24, Delaware Code by striking said section in its entirety and substituting in lieu thereof a new section that reads as follows:

"§1340. Reports of Convictions for Violations of This Chapter.

Anyone licensed pursuant to §§1318, 1319, or 1320 of this Chapter shall file a report with the Board of Examiners within 10 days of any conviction for a violation of any provision of this Chapter of any employee licensed pursuant to this Chapter."

Section 9. Amend §1322, Chapter 13, Title 24, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following section:

"§1341. Maintenance of Office in State; Manager; Telephone Listing.

Any licensee pursuant to §§1318, 1319, or 1320 of this Chapter shall maintain an office within the State, which office shall be supervised by a manager licensed pursuant to this Chapter and who shall be a resident of the State. The office shall maintain a Delaware area code telephone listing through which an officer or employee of the licensee may be reached at any period in which the license is in effect."

Section 10. Licenses issued under any other law of this State prior to the enactment of this Act, authorizing the conduct of a private detective business or the business of a private detective or investigator, shall continue in force until the expiration thereof, but such licensees in all other respects shall be subject to this Chapter.

Section 11. 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 the 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 June 27, 1994.

CHAPTER 286

FORMERLY

HOUSE BILL NO. 238
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE MODEL DEFENDER ACT, CHAPTER 46, TITLE 29, DELAWARE CODE.

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

Section 1. AMEND Section 4607, Chapter 46, Title 29 of the Delaware Code by redesignating same as Section 4608.

Section 2. FURTHER AMEND Chapter 46, Title 29 of the Delaware Code by adding a new Section to read as follows:

"§4607 Administrative Fee Assessment

(a) Each court of this State shall assess an administrative fee in the amount of \$50 against any defendant on whose behalf an appearance is made by the Public Defender, one of his assistants, or any other attorney who has been appointed by a court to represent the defendant in a criminal proceeding. This fee shall be payable even though the criminal proceedings do not result in conviction but are instead terminated by a guilty plea, nolle prosequi or order of the court.

(b) Upon assessment of any administrative fee under this section, each defendant shall be directed to pay such assessment forthwith to the clerk of the court in which an entry of appearance by the Public Defender, one of his assistants, or any other attorney who has been appointed by a court was entered.

(c) A defendant's present inability, failure, or refusal to pay an assessment made under this section shall not operate to disqualify a defendant from legal representation.

(d) If a defendant is unable or fails to pay the administrative fee pursuant to this section, the court shall order the defendant to report to the Commissioner of the Department of Correction or a person designated by him, for work for a number and schedule of hours necessary to discharge the fine, pursuant to 11 Del. C. §4105(b).

(e) In the event that any portion of an administrative fee assessed under this section shall remain unpaid at the time of sentencing, the sentencing judge shall make payment of the administrative fee an express condition of any sentence imposed.

(g) All monies received in satisfaction of assessments under this section shall revert to the General Fund and the clerk of each court shall regularly remit all monies received to the State Treasurer.

(h) On or before the first day of November of each year, the courts of this state in which assessments are regularly made under this section shall provide the State Auditor with a written report detailing the dollar value of assessments made in the previous fiscal year, the amount collected in the previous fiscal year as well as the balance of unpaid assessments at the open and close of the previous fiscal year.

Approved June 27, 1994.

CHAPTER 287

FORMERLY

HOUSE BILL NO. 33
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO LIMITING EXPOSURE TO TOBACCO SMOKE IN PUBLIC PLACES THROUGH THE CREATION OF A CLEAN INDOOR AIR ACT.

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

Section 1. Amend Title 16 of the Delaware Code by adding a new Chapter 29 to read as follows:

"CHAPTER 29. CLEAN INDOOR AIR ACT

§2901. Legislative Intent.

The General Assembly finds that it is in the best interest of the people of this State to protect non-smokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment.

The General Assembly recognizes that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into and regulation of private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the General Assembly declares that the purpose of this Act is to preserve and improve the health, comfort and environment of the people of this State by limiting exposure to tobacco smoke.

§2902. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) 'Auditorium' means the part of a public building where an audience sits but does not include any corridors, hallways or lobbies adjacent thereto.

(b) 'Bar' means any indoor area open to the public operated primarily for the sale and service of alcoholic beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages. An establishment which has been licensed by the Delaware Alcoholic Beverage Control Commission as a 'taproom' as that term is defined in Title 4 of the Delaware Code, shall be considered a 'bar' for purposes of the application of the provisions of this Chapter.

(c) 'Employer' means any person, partnership, association, corporation or nonprofit entity that employs one or more persons, including the legislative, executive, and judicial branches of state government; any county, city, town, village or any other political subdivision of the state, public improvement or special district, public authority, commission, agency or public benefit corporation; or any other separate corporate instrumentality or unit of state or local government.

(d) 'Food service establishment' means any indoor area open to the public or portion thereof in which the principal business is the sale of food for on-premises consumption and that has an indoor seating capacity of greater than fifty persons including, but not limited to restaurants, cafeterias, coffee shops, diners, sandwich shops or short order cafes. A food service establishment shall not include the bar area of such establishment. An establishment which has been licensed by the Delaware Alcoholic Beverage Control Commission as a 'restaurant' as that term is defined in Title 4 of the Delaware Code, shall be considered a 'food service establishment' for purposes of the application of the provisions of this Chapter.

(e) 'Indoor area open to the public' means any indoor area or portion thereof generally accessible to the public.

(f) 'Place of employment' means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services but that is not generally accessible to the public.

(g) 'Public building' means any building owned or operated by the state, including the legislative, executive, and judicial branches of state government; any county, city, town, village or any other political subdivision of the state, public improvement or special district, public authority, commission, agency or public benefit corporation; or any other separate corporate instrumentality or unit of state or local government.

(h) 'Public meeting' means all meetings open to the public pursuant to the laws of Delaware and its political subdivisions.

(i) 'Smoke-free work area' means an indoor area in a place of employment where no smoking occurs. Such area shall be clearly designated and separate from any smoking area.

(j) 'Smoking' means the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco.

(k) 'Smoking area' means an enclosed indoor area in which smoking is permitted. Such smoking area shall be clearly designated and separate from any area in which smoking is not permitted. In a place of employment, the smoking area shall be separated from a smoke-free work area by walls or some other means equally effective in reducing the effects of smoke on the smoke-free work area, other than ventilation systems or air cleaning devices.

(l) 'Tobacco business' means a sole proprietorship, corporation, partnership or other enterprise engaged primarily in the sale, manufacture or promotion of tobacco, tobacco products and accessories either at wholesale or retail, and in which the sale, manufacture or promotion of other products is merely incidental.

(m) 'Work area' means an area in a place of employment where one or more employees are routinely assigned and perform services for their employer.

§2903. Smoking restrictions.

(a) Smoking shall not be permitted and no person shall smoke in the following public places:

- (1) public meetings;
- (2) elevators;
- (3) government owned and/or operated means of mass transportation when occupied by passengers, including buses, vans, trains, taxicabs, and limousines;
- (4) public indoor areas of grocery stores with greater than 5,000 square feet;
- (5) gymnasiums;
- (6) jury waiting and deliberation rooms; and
- (7) courtrooms.
- (8) child day care facilities other than those located in a single family dwelling;
- (9) health care facilities including hospitals, health care clinics, doctor's offices, or other health-care-related facilities, other than a nursing home, boarding care facility, or a licensed residential facility.

(b) Smoking shall not be permitted and no person shall smoke in any public place, except in designated areas. 'Public place' is any indoor area open to the public, exclusive of lobbies, including but not limited to:

- (1) public buildings;

- (2) auditoria;
- (3) theaters;
- (4) museums;
- (5) libraries;
- (6) all public schools, exclusive of faculty lounges and private offices including elementary and secondary schools; except as modified by negotiated contract;
- (7) other educational and vocational institutions exclusive of faculty lounges and private offices, except as modified by negotiated contract;
- (8) food service establishments.

(c) The owner, operator or manager of an indoor area open to the public subject to subsection (b) of this section may designate a smoking area or areas. Such smoking area shall not include any of the indoor areas open to the public set forth in subsection (a) of this section.

(d) The owner, operator or manager of a food service establishment:

- (1) shall designate a nonsmoking area sufficient to meet customer demand and shall not determine that no such demand exists;
- (2) shall prominently post notice at each entrance advising that a nonsmoking section is available, and each patron shall be given an opportunity to state his preference; and,
- (3) may designate a separate enclosed room or rooms without a nonsmoking area.

(e) Each employer shall adopt and implement a written smoking policy that contains at least the following:

- (1) that employers shall provide a work area where no smoking occurs for each employee who requests one;
- (2) that employers may set aside a work area for smoking;
- (3) that employers shall provide for nonsmoking areas in employee cafeterias, lunch rooms and lounges. The nonsmoking areas in employee cafeterias and lunchrooms shall be sufficient to meet employee demand.

§2904. Smoking restrictions inapplicable.

This chapter shall not apply to:

- (a) Private homes, private residences, and private automobiles;
- (b) Any indoor area where private social functions are being held when seating arrangements are under the control of the sponsor of the function and not the owner, operator, manager or person in charge of such indoor area;
- (c) Limousines under private hire;
- (d) Enclosed private boxes in indoor arenas;
- (e) A hotel or motel room rented to one or more guests;
- (f) Bars; and
- (g) Tobacco businesses.

§2905. Posting of signs.

'Smoking' or 'No Smoking' signs, or the international 'No Smoking' symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it, shall be prominently posted and properly maintained where smoking is regulated by this Chapter, by the owner, operator, manager or other person having control of such indoor area.

§2906. Implementation; rules and regulations.

(a) The Department of Labor shall adopt rules and regulations as are necessary and reasonable to implement the provisions of this Chapter as they apply to employers, employees, places of employment and the work place.

(b) The State Board of Public Health shall adopt rules and regulations as are necessary and reasonable to implement the remaining provisions of this Chapter not affecting employers, employees and the work place.

(c) The Department of Labor and the State Board of Health shall in the effectuation and implementation of the provisions of this Chapter balance and accommodate the legitimate health concerns of nonsmokers with the privacy and freedom of choice concerns of consumers of tobacco products. The State Board of Health and the Department of Labor may upon request waive the provisions of this Chapter if they determine there are compelling reasons to do so, and such waiver will not significantly affect the health and comfort of nonconsumers of tobacco products.

§2907. Administrative Penalties.

Any person who violates any provision of this Chapter or any rule or regulation promulgated pursuant thereto shall be subject to an administrative penalty of \$25 for a first violation and not less than \$50 for each subsequent violation.

§2908. Preemption.

"(a) The provisions of this Chapter shall preempt and supersede any provisions of any municipal or county ordinance or regulation on the subject of this Chapter enacted or adopted after the effective date of this Chapter."

Section 2. If any provision of this Act or any portion thereof or the application or method of implementation is held invalid, the remainder of the Act or portion of any provision thereof to other persons or circumstances, shall not be affected by such holding and shall remain in full force and effect.

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

Approved June 28, 1994.

CHAPTER 288

FORMERLY

HOUSE BILL NO. 475
AS AMENDED BY HOUSE AMENDMENT NOS. 6, 7, 8 AND 9

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

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

Section 1. Amend §§2101 (a) and (b), Chapter 21, Title 24 of the Delaware Code by striking said subsections in their entirety and by substituting in lieu thereof new subsections (a) and (b) to read as follows:

"(a) The 'practice of optometry' is a learned profession and the same privileges, powers and duties shall attach thereto as the other learned professions. For purpose of this Chapter, the 'practice of optometry' is defined as the examination, measurement (by subjective or objective means), diagnosis, treatment and prevention of conditions of the human eye, lid, adnexa and visual system. The 'practice of optometry' includes but is not limited to the adapting and fitting of all types of lenses or devices, including contact lenses; the determination of refractive error and/or visual, muscular, or anatomical anomalies of the eye; the use of prescription of pharmaceutical agents for the diagnosis and treatment of ocular disease; the removal of superficial foreign bodies from the human eye and its appendages (appendages shall include cornea, conjunctiva lid, adnexa or lacrimal system); and the providing of vision, developmental and perceptual therapy, and shall include the utilization of any method or means which the optometrist is educationally qualified to provide as established by the Delaware State Board of Examiners in Optometry; provided that the 'practice of optometry' does not include surgery or the use of narcotics, or therapeutic lasers.

"(b) For purpose of this Chapter, the classifications of the practice of optometry' shall be defined as:

"(1) Non-diagnostically certified optometrist shall be permitted to practice optometry as defined in (a) of this subsection. However, a non-diagnostically certified optometrist may not utilize any diagnostic or therapeutic pharmaceutical agent or remove superficial foreign bodies from the eye and its appendages.

"(2) Diagnostically certified optometrists shall be permitted or perform the duties of a non-diagnostically certified optometrist. In addition, he/she may use the following drug groups:

"i. Topical anesthetics.

"ii. Mydriatics.

"iii. Cycloplegics.

"iv. Miotics.

"(3) Therapeutically certified optometrists shall be permitted to perform the duties of a diagnostically certified optometrist. In addition, a therapeutically certified optometrist may use and/or prescribe the following pharmaceutical agents for the treatment of ocular diseases and conditions:

"i. Topical and oral administration:

(a) Antihistamines and decongestants.

(b) Antiglaucoma.

(c) Analgesics (non-controlled).

(d) Antibiotics.

"11. Topical administration only:

- (a) Autonomics.
- (b) Anesthetics.
- (c) Anti-infectives, including antivirals and antiparasitics.
- (d) Anti-inflammatories.

"In administering this Chapter, the State Board shall, by rule or regulation, specify those acts, services, procedures, and practices which constitute the 'practice of optometry' within the definitions of this Section.

Section 2. Amend §2102(b), Chapter 21, Title 24 of the Delaware Code by striking the first sentence of §2102(b) and substitution in lieu thereof the following:

"The Board shall be appointed by the Governor and shall consist of 3 therapeutically certified optometrists engaged in the actual practice of optometry and residing in the state. However, any current Board member who is not therapeutically certified when this act becomes effective, shall serve out the remainder of his/her term. The Board shall also contain 2 public members who shall also be residents of the State."

Section 3. Amend §2107, Chapter 21, Title 24 of the Delaware Code by striking §2107 in its entirety and substituting in lieu thereof a new §2107 to read:

"§2107. Qualifications.

Any applicant for a license as an optometrist must meet the following requirements:

(a) Have received a degree of 'Doctor of Optometry' from a legally incorporated and accredited optometric college or school which has been approved by the appropriate accrediting body of the American Optometric Association.

(b) Have submitted to the Board a sworn statement by the applicant that he/she has not been convicted of a felony, been professionally penalized or convicted of drug addiction, violated the optometric practices act of another state, engaged in the practice of optometry without a license, prescribed pharmaceuticals unlawfully, willfully violated the confidence of a patient or has been professionally penalized or convicted of fraud.

(c) Have submitted to the Board an application in writing in such form as shall be required by the Board, accompanied by an examination fee of \$75.00.

(d) Pass the professional examination administered by the State Division of Professional Regulation pursuant to §2108 of this Chapter.

(e) Possess current CPR certification."

Section 4. Amend §2108, Chapter 21, Title 24 of the Delaware Code by striking it in its entirety and substituting in lieu thereof a new §2108 to read as follows:

"§2108. Examinations.

(a) Examinations shall be given at least once each year.

(b) The examination shall be in the English language and shall consist of tests in practical optics, theoretical optics, physiological optics, orthoptics, ocular anatomy, physiology and pathology, general anatomy, general physiology, pathology, and hygiene.

(c) Any optometrist licensed prior to July 10, 1975, may not use diagnostic pharmaceutical agents until he/she shall have completed a course in pharmacology as it relates to the use of diagnostic drugs in

the practice of optometry, given by an institution accredited by a regional or professional accrediting organization which is recognized by the Delaware State Board of Examiners in Optometry.

(d) In addition to the requirements set forth in subsections (b) and (c) of this Section, each diagnostically certified optometrist licensed when this Act becomes effective and desiring to be certified in the use and prescription of therapeutic pharmaceutical agents for the treatment of eye disease shall:

(1) Pass a nationally recognized, standardized test on the diagnosis, treatment, and management of ocular diseases that is approved by the State Division of Professional Regulation and complete 40 hours of clinical experience in the treatment and management of ocular disease supervised by a therapeutically certified optometrist, M.D. or D.O..

(e) After the examination, the Board shall promptly determine whether or not each applicant has qualified for licensure."

Section 5. Amend §2110, Chapter 21, Title 24 of the Delaware Code by adding a new paragraph to be added between the first and second paragraphs to read as follows:

"All newly licensed optometrists shall be required to be therapeutically certified. Their six month internship should be done with a therapeutically certified optometrist, M.D. or D.O.. However, if a therapeutically certified optometrist, M.D. or D.O. is not available, the intern may do an internship with a nontherapeutically certified optometrist provided, the intern complete an additional 100 hours of clinical experience in the treatment and management of ocular disease, supervised by a therapeutically certified optometrist, M.D. or D.O. during their internship and pass a nationally recognized standardized test on diagnosis, treatment and management of ocular disease that is approved by the State Board. A therapeutically certified optometrist is not to be held to any lesser standard of care than is applicable to a physician prescribing the same therapeutic agents. In any case where the prescribing of therapeutic drugs is an issue, the testimony of an ophthalmologist practicing in Delaware shall be admissible."

Section 6. Amend §2111, Chapter 21, Title 24 of the Delaware Code by striking it in its entirety and substitution in lieu thereof a new §2111 to read as follows:

"§2111. Certification and registration for successful applicants.

All persons successfully passing the examinations, for licensure as required by the Chapter shall be registered in the Board Register, which shall be kept by the Division of Professional Regulation, as licensed to practice optometry and shall also receive a certificate of such registration. Any optometrist who shows proof of qualifying for therapeutic drug use and prescription as described in 2108 of this Chapter shall receive and endorsement to such certificate stating that the optometrist is certified in therapeutic drug use and prescription for the treatment of ocular disease. Notwithstanding the requirements of §2108 of this Chapter, an optometrist holding a Delaware certificate or license who is a licensed Delaware M.D. or D.O. shall qualify for the endorsement as described in this section. The certificate of endorsement, if any, shall be signed by the President and Secretary of the Board and shall be filed as provided in this Chapter."

Section 7. Amend §2112, Chapter 21, Title 24 of the Delaware Code by inserting after the second sentence of the second paragraph, the following:

"Optometrists who are authorized to use and prescribe therapeutic pharmaceutical agents shall be required to attend 12 additional hours of courses in ocular pharmacology, diagnosis, or treatment of ocular disease, approved by the Board, in each two year period.

All therapeutically certified optometrists must submit to the Board a copy of current CPR certification."

Section 8. Amend §2116, Chapter 21, Title 24 of the Delaware Code by striking said Section in its entirety, and by renumbering the remaining subsections accordingly.

Approved June 30, 1994.

CHAPTER 289

FORMERLY

HOUSE BILL NO. 627

AN ACT TO AMEND TITLES 7 AND 30 OF THE DELAWARE CODE AND CHAPTER 80, VOLUME 68 OF THE LAWS OF DELAWARE RELATING TO TAXES ON GROSS RECEIPTS.

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

Section 1. Amend Section 14 of Chapter 80, Volume 68 of the Laws of Delaware by striking the date "July 1, 1995" wherever it appears in said section and substituting in lieu thereof the date "January 1, 1995".

Section 2. Amend § 2301(d), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$750,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$45,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due."

Section 3. Amend § 2301(d), Title 30 of the Delaware Code, by striking paragraph (3) of said subsection in its entirety.

Section 4. Amend § 2502(c), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$750,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$36,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due."

Section 5. Amend § 2702(b), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$90,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the

quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$1,800,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due."

Section 6. Amend § 2902(c), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$650,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$60,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due."

Section 7. Amend § 2903(c), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$750,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$39,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due."

Section 8. Amend § 2904(c), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$750,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$39,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement

on such forms as the Department of Finance shall require in computing this fee due."

Section 9. Amend § 2905(b), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$105,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due."

Section 10. Amend § 2906(c), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$105,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due."

Section 11. Amend § 2907(c), Title 30 of the Delaware Code, by striking paragraph (2) of said subsection in its entirety and substituting in lieu thereof a new paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) of this subsection, if the taxable gross receipts prescribed by paragraph (1) of this subsection during the lookback period as defined in § 2122 of this title do not exceed \$750,000, the return and payment of the additional license fee imposed for such month shall be due on or before the 20th day of the 1st month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$39,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due."

Section 12. Amend Chapter 21, Title 30 of the Delaware Code, by adding to said chapter a new § 2122 to read as follows:

"§ 2122. Definitions. For purposes of this Part, the term 'lookback period' shall refer to the twelve month period between July 1 and June 30 immediately preceding the taxable year for

which the filing frequency is determined by reference to the lookback period. Persons who were, during the entirety of the lookback period, not required to be licensed under a specific chapter of Part III, shall be deemed to have had no taxable gross receipts during the lookback period with regard to that chapter.

Section 13. Amend § 534, Title 30 of the Delaware Code, by adding to said section a new subsection (k) to read as follows:

"(k) For purposes of subsection (a) of this section, reasonable cause shall be deemed established in the case of failure to file a return in the time prescribed by Part III of this title, where the taxpayer filed within the time prescribed in a written notification by the Director that the taxpayer is eligible to file returns on a basis less frequent than is actually the case."

Section 14. Amend Chapter 21, Title 30 of the Delaware Code by adding to said chapter a new § 2123 to read as follows:

"§ 2123. Annual Filing Requirements. The Director may, by regulation, to include by means of instructions accompanying returns, waive quarterly filing of returns relative to taxes on gross receipts in the case of taxpayers who have had no taxable gross receipts within the quarter. In no event shall taxpayers required to report gross receipts be permitted to file any less frequently than annually."

Section 15. Amend § 9114(d), Title 7 of the Delaware Code, by striking the phrase "and before April 1, 1994" as it appears in said subsection.

Section 16. Sections 1 through 14 of this Act shall be effective for returns reflecting gross receipts received after December 31, 1994. Section 15 of this Act shall be effective

April 1, 1994.

Section 17. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of 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 1, 1994.

CHAPTER 290

FORMERLY

SENATE BILL NO. 447

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE PUBLIC UTILITY TAX.

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

Section 1. Amend § 5502, Title 30 of the Delaware Code, by designating existing subsection (b) of said section as paragraph (1) of said subsection (b) by striking the period (".") at the end of said paragraph and by substituting in lieu of said period (".") the phrase "other than electricity commodities or services subject to taxation under paragraph (2) of this subsection."

Section 2. Amend § 5502(b), Title 30 of the Delaware Code, by adding thereto a new paragraph (2) to read as follows:

"(2) A tax is imposed upon any distributor of electricity commodities or services to business locations used primarily for the manufacture (as 'manufacturing' is defined in § 2701 of this title and shall not include scientific, agricultural or industrial research, development or testing) of goods within this State, which tax shall be at the rate of 2% of the gross receipts or tariff charges received by the distributor for said commodities or services distributed within this State. For purposes of this paragraph, in order for a business location to be 'used primarily for the manufacture of goods within this State,' more than 70% of the employees employed at the business location must be employed in the manufacture of goods exclusively within this State. Employees employed, by way of example and not limitation, in the management or administrative support of facilities other than or in addition to a Delaware manufacturing facility are not employed exclusively in the manufacture of goods within this State. For purposes of this paragraph, 'the business location' means all contiguous real property in which the manufacturer or any of its affiliates has an interest, including a possessory interest."

Section 3. This Act shall be effective for electricity services or commodities distributed after September 30, 1994.

Approved July 1, 1994.

CHAPTER 291

FORMERLY

SENATE BILL NO. 420

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1995; 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, 1995, 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 1995, 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, 1995

(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				2,705.7
3				Travel				
4			21.0	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				60.0
11			21.0	TOTAL - General Assembly - House				3,454.9
12								
13				(01-02-01) General Assembly - Senate				
14				Personnel Costs				1,707.6
15			14.0	Travel				
16				Mileage - Legislative				38.5
17				Other - Travel				35.0
18				Contractual Services				170.0
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			14.0	TOTAL - General Assembly - Senate				2,283.2
25								
26				(01-05-01) Commission on Interstate Cooperation				
27				Travel				18.0
28				Legislative Travel				100.0
29				Contractual Services				30.0
30				Contractual Services - Appalachian Compact				58.3
31				Supplies and Materials				0.5
32				Council of State Governments				57.0
33				Delaware River Basin Commission				300.0
34				National Conference of State Legislatures				63.2
35				TOTAL - Commission on Interstate Cooperation				627.0
36								
37								
38								
39								
40								
41								

Year ending June 30, 1995

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(01-08-00) Legislative Council				
2				(01-08-01) Division of Research				
3				Personnel Costs			704.9	
4				Travel			9.6	
5			17.0	Contractual Services			65.1	
6				Supplies and Materials			43.5	
7				Capital Outlay			17.3	
8				Sunset Committee Expenses			40.9	
9				Printing - Laws and Journals			9.0	
10			17.0	TOTAL -- Division of Research			890.3	
11								
12				(01-08-02) Office of the Controller General				
13				Personnel Costs			815.1	
14			13.0	Travel			13.5	
15				Contractual Services			123.5	
16				Supplies and Materials			25.0	
17				Capital Outlay			2.0	
18				Family Law Commission Expenses			4.7	
19				Contingency - Legal Fees			500.0	
20				Contingency - Juvenile Detention Oversight Committee			15.0	
21				Contingency - JFC/CIP			13.1	
22				Contingency - Internship			10.0	
23				Contingency - Legislative Council			20.0	
24			13.0	TOTAL -- Office of the Controller General			1,541.9	
25								
26				(01-08-03) Code Revisers				
27				Travel			0.5	
28				Contractual Services			165.8	
29				Supplies and Materials			1.0	
30				TOTAL -- Code Revisers			167.3	
31								
32				(01-08-06) Commission on Uniform State Laws				
33				Travel			8.5	
34				Contractual Services			8.6	
35				Supplies and Materials			0.1	
36				TOTAL -- Commission on Uniform State Laws			17.2	
37								
38								
39			30.0	TOTAL -- Legislative Council			2,616.7	
40								
41								
42			65.0	TOTAL -- LEGISLATIVE			8,981.8	
43								

(02-00-00) JUDICIAL

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
(02-01-00) Supreme Court								
Personnel Costs			26.0					1,710.7
Travel							8.0	12.7
Contractual Services							28.0	90.3
Supplies and Materials							4.5	40.6
Capital/Equipment							4.5	
Court on the Judiciary								1.0
TOTAL -- Supreme Court			26.0				45.0	1,855.3
(-10) Supreme Court			26.0		45.0	1,855.3		
TOTAL -- Internal Program Unit			26.0		45.0	1,855.3		
(02-02-00) Court of Chancery								
Personnel Costs			24.0					1,598.8
Travel								6.9
Contractual Services								57.9
Supplies and Materials								23.5
Capital/Equipment								2.5
TOTAL -- Court of Chancery			24.0					1,689.6
(-10) Case Processing			24.0			1,689.6		
TOTAL -- Internal Program Unit			24.0			1,689.6		
(02-03-00) Superior Court								
Personnel Costs			256.0					10,329.4
Travel								32.8
Contractual Services								507.9
Supplies and Materials								123.9
Capital/Equipment								37.0
TOTAL -- Superior Court			256.0					11,031.0
(-10) Case Management			168.0			8,288.5		
(-20) Prothonotaries			88.0			2,742.5		
TOTAL -- Internal Program Units			256.0			11,031.0		
(02-06-00) Court of Common Pleas								
Personnel Costs			75.0					3,108.8
Travel								2.8
Contractual Services								102.4
Supplies and Materials								47.1
Capital/Equipment								
TOTAL -- Court of Common Pleas			75.0					3,261.1
(-10) Court Operations			75.0			3,261.1		
TOTAL -- Internal Program Unit			75.0			3,261.1		

Year ending June 30, 1995

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2				(02-08-00) Family Court				
3				Personnel Costs			1,930.4	9,348.3
4	4.6	64.0	233.0	Travel			13.0	20.4
5				Contractual Services			135.9	461.7
6				Supplies and Materials			61.1	99.0
7				Capital/Equipment			46.3	
8	4.6	64.0	233.0	TOTAL -- Family Court			2,186.7	9,929.4
9								
10				(-10) Court Activities	2,186.7	9,929.4		
11	4.6	64.0	233.0	TOTAL -- Internal Program Unit	2,186.7	9,929.4		
12	4.6	64.0	233.0					
13								
14				(02-13-00) Justices of the Peace Courts				
15				Personnel Costs				7,814.4
16			217.0	Travel				92.3
17				Contractual Services				593.2
18				Energy				85.7
19				Supplies and Materials				93.4
20				Capital/Equipment				12.5
21				Debt Service				164.6
22			217.0	TOTAL -- Justices of the Peace Courts				8,856.1
23								
24				(-10) Case Processing		8,222.3		
25			203.0	(-20) Support Service Unit		633.8		
26			14.0	TOTAL -- Internal Program Units		8,856.1		
27			217.0					
28								
29				(02-17-00) Administrative Office of the				
30				Courts - Court Services				
31				Personnel Costs				2,002.3
32			43.0	Travel				17.3
33				Contractual Services				2,994.0
34				Energy				1.6
35				Supplies and Materials				269.7
36				Capital/Equipment				20.9
37				Retired Judges				6.0
38				Continuing Judicial Education				37.3
39				Debt Service				14.6
40				TOTAL -- Administrative Office of the				5,363.7
41			43.0	Courts - Court Services				
42								
43				(-01) Office of the Director		3,397.6		
44			16.0	(-03) Central Collections		253.2		
45			6.0	(-04) Judicial Information Center		1,306.1		
46			16.5	(-05) Law Libraries		406.8		
47			4.5	TOTAL -- Internal Program Units		5,363.7		
48			43.0					

Year ending June 30, 1995

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2				(02-18-00) Administrative Office of the				
3				Courts - Non-Judicial Services				
4								
5		8.0	13.5	Personnel Costs			332.2	506.3
6				Travel			19.3	20.6
7				Contractual Services			56.9	49.4
8				Energy			3.0	
9				Supplies and Materials			7.7	10.9
10				Capital/Equipment			3.2	1.6
11				Special Needs Fund				8.0
12				Violent Crime Grants			1,700.0	
13				Revenue Refund			0.8	
14				TOTAL -- Administrative Office of the				
15		8.0	13.5	Courts - Non-Judicial Services			2,123.1	596.8
16								
17			6.5	(-01) Office of the Public Guardian		293.1		
18				(-02) Violent Crimes Compensation				
19		8.0		Board	2,123.1			
20			6.0	(-03) Foster Care Review Board		248.7		
21				(-04) Educational Surrogate Parent				
22			1.0	Program		55.0		
23		8.0	13.5	TOTAL -- Internal Program Units	2,123.1	596.8		
24								
25								
26	4.6	72.0	887.5	TOTAL -- JUDICIAL			4,354.8	42,583.0

(10-00-00) EXECUTIVE

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(10-01-01) Office of the Governor			
	1.0	24.0			43.8	1,392.8
						17.6
					74.4	176.6
						21.7
						40.0
						8.7
	1.0	24.0			118.2	1,657.4
			TOTAL -- Office of the Governor			
			(10-02-00) Office of the Budget			
3.0	15.0	186.6			644.3	9,370.6
					43.4	54.0
					2,829.1	6,729.3
						268.1
					40.5	276.5
					77.5	5.3
						2,000.0
						50.0
						100.0
						48,124.3
						400.0
						2,100.0
						1,400.0
						100.0
						15.0
						13,609.5
						100.0
					2.5	130.0
						50.0
						100.0
						100.0
						200.0
						450.0
						4,814.9
						2,233.6
						113.0
					20,000.0	
						1,181.2
3.0	15.0	186.6			23,637.3	94,075.3
			TOTAL -- Office of the Budget			
	7.0	24.0			1,017.6	4,777.3
					20,002.5	74,040.3
						100.0
3.0		4.5			100.0	1,825.9
		64.0			707.5	5,570.4
	8.0	10.1			1,126.2	1,382.0
		7.0			276.0	892.8
		59.0			87.5	3,720.8
		11.0				734.0
		7.0			320.0	1,031.8
3.0	15.0	186.6			23,637.3	94,075.3
			TOTAL -- Internal Program Units			

Year ending June 30, 1995

Personnel		
NSF	ASF	GF

		11.0
		11.0

		8.0
		8.0

	4.0	30.0
	4.0	30.0

(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
Capital Outlay
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

S Program		S Line Item	
ASF	GF	ASF	GF

	550.0
	7.0
	35.0
	32.7
	5.0
	2.0
	157.1
	788.8

	299.2
	24.0
	415.0
	11.0
	2.0
	0.5
	0.8
	0.8
	753.3

177.1	1,443.5
20.0	34.0
510.7	656.9
1.5	
10.0	28.0
10.0	
200.0	344.6
	65.6
850.0	
	150.0
	65.0
	2,397.2
1,779.3	5,184.8

Year ending June 30, 1995

Personnel		
NSF	ASF	GF
6.3	55.7	
6.3	55.7	
6.3	59.7	49.0

(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

TOTAL -- Delaware Development Office

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		2,118.5	
		36.3	
		837.4	
		21.6	
		90.0	
		99.0	
		85.0	
		85.0	
		125.0	
		31,054.4	
		840.0	
		1,157.3	
			449.6
		36,549.5	449.6
		38,328.8	7,176.5

(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

TOTAL -- Office of State Personnel

2,610.4	1,399.6
37.8	12.7
8,791.3	561.0
76.8	59.2
48.0	
	276.1
	1.5
	121.7
	12.6
135.0	
12,608.4	
	1,945.6
	15.6
300.0	
	203.2
24,607.7	4,608.8

1.7	16.0	46.3
	2.0	3.0
	3.0	
	50.0	
1.7	71.0	49.3

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

703.5	1,876.5
257.2	242.9
12,608.4	528.2
11,038.6	1,961.2
24,607.7	4,608.8

Year ending June 30, 1995

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(10-05-00) Delaware Health Care Commission				
2				Personnel Costs				169.1
3				Travel				4.0
4			3.0	Contractual Services				160.0
5				Supplies and Materials				5.0
6				Capital/Equipment				13.0
7				Pilot Programs				2,013.4
8				Educational Programs				400.0
9				Program Evaluation				230.1
10				TOTAL -- Delaware Health Care Commission				2,994.6
11			3.0					
12				(-01) Delaware Health Care Commission		2,994.6		
13			3.0	TOTAL -- Internal Program Unit		2,994.6		
14			3.0					
15								
16								
17				(10-07-00) Criminal Justice				
18				(10-07-01) Criminal Justice Council				
19				Personnel Costs				582.5
20	11.7		11.3	Travel				4.2
21				Contractual Services				33.0
22				Supplies and Materials				3.8
23				Capital Outlay				2.1
24				SENTAC				9.5
25				Other Grants		60.0		75.0
26				TOTAL -- Criminal Justice Council		60.0		710.1
27	11.7		11.3					
28								
29				(10-07-02) Delaware Justice Information System				
30			7.0	Personnel Costs				350.1
31				Travel				3.5
32				Contractual Services				471.9
33				Supplies and Materials				12.0
34			7.0	TOTAL -- Delaware Justice Information System				837.5
35								
36				(10-07-03) Statistical Analysis Center				
37	3.0		4.5	Personnel Costs				216.5
38				Travel				3.8
39				Contractual Services				12.1
40				Supplies and Materials				4.4
41	3.0		4.5	TOTAL -- Statistical Analysis Center				236.8
42								
43	14.7		22.8	TOTAL -- Criminal Justice		60.0		1,784.4
44								
45								
46	25.7	146.7	334.7	TOTAL -- EXECUTIVE			86,752.0	112,297.0

(12-00-00) OTHER ELECTIVE OFFICES

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(12-01-01) Lieutenant Governor				
			6.0	Personnel Costs			262.2	
				Travel			5.5	
				Contractual Services			13.3	
				Supplies and Materials			1.4	
			6.0	Expenses - Lieutenant Governor			7.7	
				TOTAL -- Lieutenant Governor			290.1	
				(12-02-01) Auditor of Accounts				
		16.0	35.0	Personnel Costs			623.0	1,636.1
				Travel			3.6	4.2
				Contractual Services			529.1	171.7
				Supplies and Materials			20.9	12.6
				Capital Outlay			6.8	
		16.0	35.0	TOTAL -- Auditor of Accounts			1,183.4	1,824.6
				(12-03-00) Insurance Commissioner				
			16.0	(12-03-01) Regulatory Activities				
				Personnel Costs			658.0	
				Travel			3.7	
				Contractual Services			133.1	
				Supplies and Materials			2.4	
				Malpractice Review			5.4	
				Arbitration Program			30.0	
			16.0	TOTAL -- Regulatory Activities			30.0	802.6
				(12-03-02) Bureau of Examination, Rehabilitation and Guaranty				
		36.0		Personnel Costs			1,675.3	
				Travel			60.0	
				Contractual Services			524.0	
				Supplies and Materials			26.2	
				Capital Outlay			80.0	
				Contract Examiners - New			8,000.0	
		36.0		TOTAL -- Bureau of Examination, Rehabilitation and Guaranty			10,365.5	
		36.0	16.0	TOTAL -- Insurance Commissioner			10,395.5	802.6

Year ending June 30, 1995

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
Flexible Benefits Administration
Blood Bank Membership Dues
TOTAL -- Administration

(12-05-03) Debt Management

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

TOTAL -- State Treasurer

TOTAL -- OTHER ELECTIVE OFFICES

S Program		S Line Item	
ASF	GF	ASF	GF

316.2	732.8
14.7	2.5
35.8	92.6
8.1	8.2
15.5	
985.0	
62.0	
	60.0
	85.0
1,437.3	981.1

	231.9
	1,625.0
	21.5
	5,581.7
	263.1
	2,745.1
	70.0
	10,538.3

1,437.3	11,519.4
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13,016.2	14,436.7
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(15-00-00) LEGAL

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(15-01-00) Office of Attorney General						
(15-01-01) Office of Attorney General						
20.0	24.6	196.4			33.1	8,988.0
						12.2
						1,026.3
						8.5
						54.8
						34.5
						55.0
					75.0	283.8
					30.0	
					299.4	
					15.0	
					612.1	
20.0	24.6	196.4			1,064.6	10,463.1
TOTAL -- Office of Attorney General						
(15-01-02) Consumer Protection						
		11.0				444.8
					0.1	1.7
					0.1	18.8
					0.1	2.5
					1.1	
	4.0				300.0	
	4.0	11.0			301.4	467.8
TOTAL -- Consumer Protection						
20.0	28.6	207.4			1,366.0	10,930.9
TOTAL -- Office of Attorney General						
(15-02-01) Public Defender						
		93.0				4,336.4
						1.9
						456.8
						3.5
						34.9
						3.8
		93.0				4,837.3
TOTAL -- Public Defender						
(15-03-01) Board of Parole						
		7.0				285.4
						6.2
						15.5
						2.7
		7.0				309.8
TOTAL -- Board of Parole						
20.0	28.6	307.4			1,366.0	16,078.0
TOTAL -- LEGAL						

3,716.0	1,798.2
3,716.0	1,798.2

Year ending June 30, 1995

	Personnel				S Program		S-Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(20-06-00) Historical and Cultural Affairs				
2				Personnel Costs			170.9	2,295.8
3				Travel			3.6	3.0
4	4.7	6.0	64.8	Contractual Services			34.4	218.3
5				Energy				150.5
6				Supplies and Materials			21.5	106.7
7				Capital/Equipment			2.5	14.8
8				Delaware Heritage Commission				85.0
9				Archival Grants			25.0	
10				Conference Centers			35.0	
11				Coastal Heritage Project			10.0	
12				Other Items:				
13				Museum Operations			23.0	
14				Museum Gift Shops			40.0	
15				Museum Grounds			4.0	
16				Museum Exhibits			10.0	
17				Conference Center Operations			60.0	
18				Conference Center Grounds			21.6	
19				Debt Service				1,110.7
20	4.7	6.0	64.8	TOTAL -- Historical and Cultural Affairs			461.5	3,984.8
21								
22								
23								
24			5.0	(-01) Office of Administration	10.0	624.9		
25		5.0	26.0	(-02) Delaware State Archives	276.0	1,004.4		
26				(-03) Delaware State Historic				
27	4.7	0.5	2.8	Preservation Office	16.8	143.7		
28		0.5	31.0	(-04) Delaware State Museums	158.7	2,211.8		
29	4.7	6.0	64.8	TOTAL -- Internal Program Units	461.5	3,984.8		
30								
31								
32				(20-07-00) Arts				
33	3.0		5.8	Personnel Costs				212.5
34				Travel				2.5
35				Contractual Services				70.8
36				Supplies and Materials				2.5
37				Delaware Art				1,000.0
38				Art for the Disadvantaged				10.0
39	3.0		5.8	TOTAL -- Arts				1,298.3
40								
41	3.0		5.8	(-01) Office of the Director		1,298.3		
42	3.0		5.8	TOTAL -- Internal Program Unit		1,298.3		

Year ending June 30, 1995

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2				(20-08-00) Libraries				
3				Personnel Costs			333.2	
4	9.0		9.0	Travel			1.0	
5				Contractual Services			118.0	
6				Energy			21.3	
7				Supplies and Materials			40.0	
8				Library Standards			1,021.6	
9				Debt Service			260.6	
10				TOTAL -- Libraries			1,795.7	
11	9.0		9.0					
12				(-01) Libraries		1,795.7		
13	9.0		9.0	TOTAL -- Internal Program Unit		1,795.7		
14	9.0		9.0					
15								
16				(20-15-00) State Banking Commission				
17		43.0		Personnel Costs			1,855.4	
18				Travel			44.1	
19				Contractual Services			407.7	
20				Supplies and Materials			34.1	
21				Capital/Equipment			38.2	
22				Revenue Refund			2.0	
23		43.0		TOTAL -- State Banking Commission			2,381.5 *	
24								
25				(-01) State Banking Commission	2,381.5			
26		43.0		TOTAL -- Internal Program Unit	2,381.5			
27		43.0						
28								
29				* Special Funds total budget appropriated per				
30				Chapter 1, Title 5, Delaware Code.				
31								
32								
33	18.7	106.5	132.1	TOTAL -- DEPARTMENT OF STATE			7,001.4	10,248.9

(25-00-00) DEPARTMENT OF FINANCE

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(25-01-00) Office of the Secretary			
		16.0				913.0
						15.7
						151.1
						8.5
						6.0
						2.0
		16.0			575.0	
TOTAL -- Office of the Secretary					575.0	1,096.3
			(-01) Office of the Secretary			
		16.0	575.0	1,096.3		
		16.0	575.0	1,096.3		
TOTAL -- Internal Program Unit						
			(25-05-00) Accounting			
		41.0				1,696.0
						5.0
						452.8
						52.3
						10.0
						33.0
		41.0				2,249.1
TOTAL -- Accounting						
			(-01) Accounting			
		41.0		2,249.1		
		41.0		2,249.1		
TOTAL -- Internal Program Unit						
			(25-06-00) Revenue			
		208.0				8,060.7
						45.8
					695.5	1,385.0
						2.2
						98.4
						50.5
					195.0	
						214.4
		208.0			890.5	9,857.0
TOTAL -- Revenue						
			(-01) Revenue			
		208.0	890.5	9,857.0		
		208.0	890.5	9,857.0		
TOTAL -- Internal Program Unit						

Year ending June 30, 1995

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(25-07-00) State Lottery Office				
2				Personnel Costs			972.0	
3				Travel			20.0	
4		24.0		Contractual Services			7,400.6	
5				Supplies and Materials			48.7	
6				Capital/Equipment			103.3	
7				TOTAL -- State Lottery Office			8,544.6 *	
8		24.0						
9				(-01) State Lottery Office	8,544.6			
10				TOTAL -- Internal Program Unit	8,544.6			
11		24.0						
12		24.0						
13				* Special Funds appropriated under Chapter 48,				
14				Title 29, Delaware Code				
15								
16								
17								
18		24.0	265.0	TOTAL -- DEPARTMENT OF FINANCE			10,010.1	13,202.4

(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

	Personnel				S Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
3				(30-01-00) Administration				
4				Personnel Costs			39.0	892.2
5				Travel			1.0	6.1
6	3.0	1.0	18.0	Contractual Services			0.3	62.6
7				Supplies and Materials			2.0	11.6
8				Capital/Equipment			21.2	179.5
9				Payment in Lieu of Taxes				60.0
10				Debt Service				24.9
11				TOTAL -- Administration			63.5	1,236.9
12	3.0	1.0	18.0					
13				(-10) Administration	63.5	936.8		
14				(-20) Handicapped Services		80.8		
15				(-40) Public Employee Relations Board		219.3		
16				TOTAL -- Internal Program Units	63.5	1,236.9		
17	3.0	1.0	18.0					
18								
19				(30-02-00) Capitol Police				
20				Personnel Costs			115.9	1,015.8
21		4.0	29.0	Travel				0.3
22				Contractual Services			0.9	255.0
23				Supplies and Materials				28.3
24				TOTAL -- Capitol Police			116.8	1,299.4
25		4.0	29.0					
26				(-10) Capitol Police	116.8	1,299.4		
27				TOTAL -- Internal Program Units	116.8	1,299.4		
28		4.0	29.0					
29		4.0	29.0					
30								
31				(30-03-00) Regulation and Licensing				
32				Personnel Costs			2,274.6	68.2
33		49.0	1.0	Travel			119.9	3.0
34				Contractual Services			1,647.8	
35				Supplies and Materials			39.1	5.3
36				Capital/Equipment			35.1	
37				Real Estate Guaranty Fund			10.0	
38				Examination Costs			75.0	
39				Revenue Refunds			352.0	
40				Motor Vehicle Franchise Fund			18.9	
41				TOTAL -- Regulation and Licensing			4,572.4	76.5
42		49.0	1.0					
43				(-20) Professional Regulation	1,586.2			
44		22.0		(-30) Public Service Commission	2,775.7			
45		2.0	1.0	(-50) Public Advocate	210.5	76.5		
46		49.0	1.0	TOTAL -- Internal Program Units	4,572.4	76.5		
47								

Year ending June 30, 1995

Personnel		
NSF	ASF	GF
0.3	40.7	18.0
0.3	40.7	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
	18.0	8.0
0.3	22.7	
0.3	40.7	18.0

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

TOTAL -- Internal Program Units

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		1,272.5	463.8
		18.3	
		8,481.0	49.7
		12.9	3.5
		634.0	7.4
		896.5	
		535.9	
		11,851.1	524.4

1,446.3	291.1
5,850.6	233.3
1,705.8	
2,848.4	
11,851.1	524.4

(30-05-00) Facilities Management

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

TOTAL -- Facilities Management

5.0	5.0	75.0
5.0	5.0	75.0

95.8	2,548.8
2.7	
395.2	1,955.7
	2,058.3
15.5	181.1
392.6	
182.9	1,975.0
	103.1
1,156.0	
	150.0
	11,313.6
2,240.7	20,285.6

5.0	5.0	75.0
5.0	5.0	75.0

(-10) Facilities Management

TOTAL -- Internal Program Units

2,240.7	20,285.6
2,240.7	20,285.6

(30-06-00) Purchasing

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

TOTAL -- Purchasing

2.0	10.0	18.0
2.0	10.0	18.0

300.7	692.2
10.1	1.8
89.6	60.3
6.7	22.1
87.2	27.8
292.8	
112.0	
899.1	804.2

	4.0	14.0
2.0	6.0	4.0
2.0	10.0	18.0

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

TOTAL -- Internal Program Units

55.0	631.3
371.4	
472.7	172.9
899.1	804.2

TOTAL -- DEPARTMENT OF
ADMINISTRATIVE SERVICES

10.3	109.7	159.0
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19,743.6	24,227.0
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(30-00-00) DEPARTMENT OF ADMINISTRATIVE SERVICES

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(30-01-00) Administration						
3.0	1.0	18.0			39.0	892.2
					1.0	6.1
					0.3	62.6
					2.0	11.6
					21.2	179.5
					60.0	60.0
3.0	1.0	18.0			24.9	24.9
TOTAL -- Administration					63.5	1,236.9
	1.0	13.0	63.5	936.8		
3.0		1.0		80.8		
		4.0		219.3		
3.0	1.0	18.0	63.5	1,236.9		
TOTAL -- Internal Program Units						
(30-02-00) Capitol Police						
	4.0	29.0			115.9	1,015.8
						0.3
					0.9	255.0
	4.0	29.0				28.3
TOTAL -- Capitol Police					116.8	1,299.4
	4.0	29.0	116.8	1,299.4		
	4.0	29.0	116.8	1,299.4		
TOTAL -- Internal Program Units						
(30-03-00) Regulation and Licensing						
	49.0	1.0			2,274.6	68.2
					119.9	3.0
					1,647.8	
					39.1	5.3
					35.1	
					10.0	
					75.0	
					352.0	
					18.9	
49.0		1.0			4,572.4	76.5
TOTAL -- Regulation and Licensing						
	22.0		1,586.2			
	25.0		2,775.7			
	2.0	1.0	210.5	76.5		
49.0		1.0	4,572.4	76.5		
TOTAL -- Internal Program Units						

Year ending June 30, 1995

1	Personnel				\$ Program		\$ Line Item	
2	NSF	ASF	GF		ASF	GF	ASF	GF
3				(30-04-00) Support Operations				
4	0.3	40.7	18.0	Personnel Costs			1,272.5	463.8
5				Travel			18.3	
6				Contractual Services			8,481.0	49.7
7				Energy			12.9	3.5
8				Supplies and Materials			634.0	7.4
9				Capital/Equipment			896.5	
10				Gas Card Expense			535.9	
11	0.3	40.7	18.0	TOTAL -- Support Operations			11,851.1	524.4
12								
13			10.0	(-10) Mail/Courier Services	1,446.3	291.1		
14			8.0	(-20) Telephone Services	5,850.6	233.3		
15		18.0		(-30) Graphics and Printing	1,705.8			
16	0.3	22.7		(-40) Fleet Management	2,848.4			
17	0.3	40.7	18.0	TOTAL -- Internal Program Units	11,851.1	524.4		
18								
19				(30-05-00) Facilities Management				
20	5.0	5.0	75.0	Personnel Costs			95.8	2,548.8
21				Travel			2.7	
22				Contractual Services			395.2	1,955.7
23				Energy				2,058.3
24				Supplies and Materials			15.5	181.1
25				Capital/Equipment			392.6	
26				Real Estate Acquisition Program (REAP)			182.9	1,975.0
27				Public Building				103.1
28				USTRE			1,156.0	
29				Other				150.0
30				Debt Service				11,313.6
31	5.0	5.0	75.0	TOTAL -- Facilities Management			2,240.7	20,285.6
32								
33	5.0	5.0	75.0	(-10) Facilities Management	2,240.7	20,285.6		
34	5.0	5.0	75.0	TOTAL -- Internal Program Units	2,240.7	20,285.6		
35								
36				(30-06-00) Purchasing				
37				Personnel Costs			300.7	692.2
38	2.0	10.0	18.0	Travel			10.1	1.8
39				Contractual Services			89.6	60.3
40				Energy			6.7	22.1
41				Supplies and Materials			87.2	27.8
42				Capital/Equipment			292.8	
43				Food Processing			112.0	
44	2.0	10.0	18.0	TOTAL -- Purchasing			899.1	804.2
45								
46			14.0	(-10) Contracting	55.0	631.3		
47		4.0		(-20) Surplus Property	371.4			
48	2.0	6.0	4.0	(-30) Food Distribution	472.7	172.9		
49	2.0	10.0	18.0	TOTAL -- Internal Program Units	899.1	804.2		
50								
51				TOTAL -- DEPARTMENT OF				
52				ADMINISTRATIVE SERVICES			19,743.6	24,227.0
53	10.3	109.7	159.0					
54								
55								

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

NSF	ASF	GF
-----	-----	----

55.9	20.7	140.6
55.9	20.7	140.6

(35-01-00) Administration

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

TOTAL -- Administration

		7.0
55.9	20.7	133.6
55.9	20.7	140.6

(-10) Office of the Secretary

(-20) Management Services

TOTAL -- Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF

543.7	6,039.6
18.5	17.8
390.0	809.5
	39.0
44.4	44.4
77.6	45.4
240.0	
153.8	
25.0	
	2,849.4
1,493.0	9,845.1

32.0	414.9
1,461.0	9,430.2
1,493.0	9,845.1

(35-04-00) Medical Examiner

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

TOTAL – Medical Examiner

		35.0
		35.0

(-01) Medical Examiner

TOTAL -- Internal Program Unit

	2,660.5
	2,660.5

Year ending June 30, 1995

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(35-05-00) Public Health				
2				Personnel Costs				42,159.3
3				Travel				30.7
4	210.5	27.5	1,336.8	Contractual Services			201.8	5,079.5
5				Energy				1,311.2
6				Supplies and Materials			23.3	2,834.5
7				Capital/Equipment				156.1
8				Other Items:				
9				School Based Health Centers				1,486.0
10				Treatment of Handicapped				98.0
11				AIDS				158.2
12				Animal Bite Control				80.6
13				Office of Narcotics & Dangerous Drugs				30.0
14				Child Health			760.0	
15				Vanity Birth Certificate			15.0	
16				Public Water			50.0	
17				Medicaid Enhancements			945.0	
18				Infant Mortality			900.0	
19				Medicaid AIDS Waiver			337.6	
20				Children with Special Needs			75.0	
21				Family Planning			600.0	
22				Newborn			75.0	
23				Indirect Costs			200.0	
24				Vaccines			70.0	
25				Food Inspection			24.5	
26				Debt Service				1,079.3
27				TOTAL - Public Health			4,277.2	54,503.4
28	210.5	27.5	1,336.8					
29								
30								
31	3.5	5.5	43.0	(-10) Director's Office/Support Services	352.8	2,238.2		
32	204.0	22.0	318.5	(-20) Community Health	3,924.4	17,109.1		
33	1.0		3.0	(-30) Office of Paramedic Administration		979.3		
34				(-40) Delaware Hospital for the				
35			620.7	Chronically Ill		21,676.1		
36	2.0		204.6	(-50) Emily Bissell		7,257.6		
37			147.0	(-60) Governor Bacon		5,243.1		
38	210.5	27.5	1,336.8	TOTAL - Internal Program Units	4,277.2	54,503.4		

2	NSF	ASF	GF
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(35-06-00) Alcoholism, Drug Abuse and Mental Health

ASF	GF	ASF	GF
-----	----	-----	----

5	26.8	1.0	861.1
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17	26.8	1.0	861.1

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Other Items:
 Gambler's Addiction Program
 Sheltered Workshop
 Residential Detox
Debt Service
TOTAL – Alcoholism, Drug Abuse and Mental Health

59.7	29,098.8
	16.2
350.0	14,115.1
	830.5
100.0	2,179.1
	124.0
	120.0
	9.9
	1,208.5
	1,049.5
509.7	48,751.6

9	14.0		16.0
0	3.0		134.2
1	0.8	1.0	700.9
2	9.0		10.0
3	26.8	1.0	861.1

(-10) Administration - Mental Health
 (-20) Community Mental Health
 (-30) Inpatient Mental Health
 (-40) Alcoholism & Drug Abuse
TOTAL - Internal Program Units

	929.6
450.0	12,999.2
59.7	29,577.3
	5,245.5
509.7	48,751.6

7	303.2	2.0	277.8
8			
9			
0			
1			
2			
3			
4			
5			
6			
7			
8			
9			
0			
1			
2			
3			
4			
5	303.2	2.0	277.8

(35-07-00) Social Services
Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Other Items:
 Early Intervention
 General Assistance - Health Insurance
 General Assistance
AFDC
SSI Supplement
Child Care
Emergency Assistance
First Step
Medicaid - State
Medicaid - Non-State
Renal
TOTAL -- Social Services

67.8	9,590.0
	14.9
60.2	3,247.5
	41.1
1.2	106.6
4.0	87.6
	1,412.2
	3,460.6
	3,206.1
	21,168.1
	841.0
	8,046.2
	500.0
	1,700.5
	23,884.8
8,500.0	120,457.3
	458.8
8,633.2	198,223.3

7	303.2	2.0	277.8
8	303.2	2.0	277.8

(-01) Social Services
TOTAL -- Internal Program Unit

8,633.2	198,223.3
8,633.2	198,223.3

Year ending June 30, 1995

Personnel		
NSF	ASF	GF
30.9	3.0	25.1
30.9	3.0	25.1

(35-08-00) Visually Impaired

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

TOTAL -- Visually Impaired

30.9	3.0	25.1
30.9	3.0	25.1

(-01) Visually Impaired Services

TOTAL -- Internal Program Unit

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		87.0	1,051.3
			2.3
		0.5	187.1
			40.8
			38.6
		4.0	29.1
		850.0	
		941.5	1,349.2

941.5	1,349.2
941.5	1,349.2

106.9	16.4	38.7
106.9	16.4	38.7

(35-10-00) Child Support Enforcement

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

TOTAL -- Child Support Enforcement

106.9	16.4	38.7
106.9	16.4	38.7

(-01) Child Support Enforcement

TOTAL -- Internal Program Unit

410.1	1,242.0
2.4	2.7
476.2	362.3
	11.7
38.1	12.5
	2.1
926.8	1,633.3

926.8	1,633.3
926.8	1,633.3

3.0		870.8
3.0		870.8

(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
Wheelchairs
Debt Service

TOTAL -- Mental Retardation

3.0		27.0
		704.0
		139.8
3.0		870.8

(-10) Administration - Mental Retardation

(-20) Institutional Services

(-30) Community Services

TOTAL -- Internal Program Units

	26,551.6
	9.6
1,000.0	2,524.1
	597.7
	1,133.7
	232.1
	9.6
	9,831.2
	3,168.0
60.0	
	38.0
1,060.0	44,095.6

	1,295.4
60.0	24,007.8
1,000.0	18,792.4
1,060.0	44,095.6

Year ending June 30, 1995

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(35-12-00) State Service Centers				
2				Personnel Costs			16.6	2,539.4
3				Travel			4.3	7.9
4	39.4		68.2	Contractual Services			1,141.5	1,573.3
5				Energy			84.2	414.6
6				Supplies and Materials			76.5	59.4
7				Capital/Equipment			9.8	6.0
8				Kent County RSVP				29.4
9				Community Food Program				85.5
10				Emergency Assistance				647.0
11				Debt Service				77.9
12	39.4		68.2	TOTAL -- State Service Centers			1,332.9	5,440.4
13								
14	26.8		29.4	(-10) Family Support		1,142.5		
15			19.5	(-20) Service Center Management	1,316.1	2,123.0		
16	9.0		2.0	(-30) Community Services		881.3		
17	3.6		17.3	(-40) Volunteer Services	16.8	1,293.6		
18	39.4		68.2	TOTAL -- Internal Program Units	1,332.9	5,440.4		
19								
20				(35-14-00) Services for Aging and Adults				
21				with Physical Disabilities				
22				Personnel Costs				1,418.8
23	41.2		39.0	Travel			170.9	7.8
24				Contractual Services				2,346.9
25				Energy				6.9
26				Supplies and Materials				8.5
27				Capital/Equipment				0.6
28				Nutrition Program				382.2
29				Long Term Care				175.0
30	41.2		39.0	TOTAL -- Services for Aging and Adults			170.9	4,346.7
31				with Physical Disabilities				
32								
33	41.2		39.0	(-01) Services for Aging and Adults	170.9	4,346.7		
34				with Physical Disabilities				
35	41.2		39.0	TOTAL -- Internal Program Unit	170.9	4,346.7		
36								
37				TOTAL -- DEPARTMENT OF HEALTH			19,345.2	370,849.1
38				AND SOCIAL SERVICES				
39	817.8	70.6	3,693.1					
40								
41								
42								

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

Personnel		
NSF	ASF	GF

17.1	18.5	104.5
17.1	18.5	104.5

(37-01-00) Management Services

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
MIS Development
Indirect Costs
Other Items:
Services Integration
Contingency Fees
Emergency Assistance Match
Murphy Cottage Expansion
Debt Service

TOTAL -- Management Services

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

663.6	5,205.1
11.9	11.5
290.2	482.6
18.7	79.1
294.5	37.1
	362.3
187.0	
1,100.0	
3,500.0	
210.0	
500.0	
	1,815.9
6,775.9	7,993.6

		4.0
		3.0
6.3	1.5	10.2
2.0	14.0	14.0
		13.0
		54.0
8.8	3.0	6.3
17.1	18.5	104.5

(-10) Office of the Secretary
(-15) Office of the Director
(-20) Fiscal Services
(-25) Planning and Evaluation
(-30) Human Resources
(-40) Education Services
(-50) Management Information Systems
TOTAL -- Internal Program Units

1,112.2	567.2
4,263.1	1,934.3
310.5	509.4
720.7	567.5
35.6	683.3
0.8	2,980.0
333.0	751.9
6,775.9	7,993.6

36.8	23.0	279.2
36.8	23.0	279.2

(37-02-00) Family Services

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Child Welfare/Contractual Services
Emergency Material Assistance
Other Items:
DFS Decentralization

TOTAL -- Family Services

702.1	10,164.3
3.5	29.5
1,350.2	1,795.7
13.8	34.8
132.4	85.5
	60.8
	5,777.3
	30.0
283.3	
2,485.3	17,977.9

10.8		42.2
1.0	11.0	51.0
1.0		84.4
5.0	12.0	57.7
		14.9
4.5		9.5
5.0		9.0
9.5		10.5
36.8	23.0	279.2

(-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

617.8	2,290.3
574.0	2,148.8
150.0	3,138.4
1,143.5	7,114.0
	1,305.0
	420.2
	1,020.0
	541.2
2,485.3	17,977.9

Year ending June 30, 1995

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(37-03-00) Child Mental Health Services				
2				Personnel Costs			689.5	7,907.3
3				Travel			9.8	19.4
4	0.8	19.0	179.8	Contractual Services			840.0	11,427.7
5				Energy				182.1
6				Supplies and Materials			60.0	197.7
7				Capital/Equipment			274.1	38.5
8				Other Items				0.6
9				MIS Maintenance			31.0	
10	0.8	19.0	179.8	TOTAL -- Child Mental Health Services			1,904.4	19,773.3
11								
12								
13								
14	0.8	11.0	24.3	(-10) Clinical/Administrative Office	532.6	1,184.9		
15		4.0	19.0	(-15) Consultation & Assessment Services	151.1	983.6		
16		3.0	16.5	(-20) Terry Outpatient Treatment	205.8	940.9		
17			22.5	(-30) Terry Day Hospital Treatment		1,151.4		
18		1.0	47.0	(-40) Terry Inpatient Treatment	65.2	2,341.0		
19			1.0	(-50) Outpatient Treatment	505.0	2,216.5		
20			45.5	(-60) Residential Treatment	194.7	5,816.4		
21			2.0	(-70) Adolescent Hospital Treatment		4,255.6		
22			2.0	(-80) Alcohol and Drug Treatment Services	250.0	883.0		
23	0.8	19.0	179.8	TOTAL -- Internal Program Units	1,904.4	19,773.3		
24								
25								
26				(37-05-00) Youth Rehabilitative Services				
27	0.8		243.8	Personnel Costs				9,707.4
28				Travel				21.1
29				Contractual Services			137.6	9,304.8
30				Energy				334.5
31				Supplies and Materials			120.0	467.6
32				Capital/Equipment				26.9
33				Debt Service				8.3
34	0.8		243.8	TOTAL -- Youth Rehabilitative Services			257.6	19,870.6
35								
36	0.8		13.3	(-10) Office of the Director		578.4		
37			39.0	(-30) Community Based Services		1,649.9		
38			13.5	(-40) Alternatives to Incarceration		8,791.6		
39			178.0	(-50) Secure Care	257.6	8,850.7		
40	0.8		243.8	TOTAL -- Internal Program Units	257.6	19,870.6		
41								
42								
43				TOTAL -- DEPARTMENT OF				
44				SERVICES FOR CHILDREN,				
45	55.5	60.5	807.3	YOUTH AND THEIR FAMILIES			11,423.2	65,615.4

(38-00-00) DEPARTMENT OF CORRECTION

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(38-01-00) Administration						
	11.0	252.0			421.9	11,034.4
					6.6	12.4
					409.0	1,249.7
					5.2	54.2
					779.0	5,417.7
					96.3	30.4
						8,743.8
						80.0
						15.4
						580.0
						946.2
						599.2
	11.0	252.0			1,718.0	28,763.4
TOTAL -- Administration						
		31.0	25.0	2,137.4		
		37.0		1,617.1		
		27.0		1,113.8		
		41.0		6,163.9		
				8,823.8		
		38.0		4,181.4		
		33.0		1,903.4		
	8.0	12.0	688.7	622.8		
	3.0	6.0	1,003.3	242.2		
		17.0	1.0	1,168.1		
		10.0		789.5		
	11.0	252.0	1,718.0	28,763.4		
TOTAL -- Internal Program Units						
(38-04-00) Prisons						
		984.0				36,369.4
						4.2
					8.0	1,853.2
						2,063.9
						1,388.6
						14.0
						9,179.1
		984.0			8.0	50,872.4
TOTAL -- Prisons						
		6.0		671.6		
		25.0	1.0	1,096.4		
		412.0	1.0	18,245.0		
		165.0		7,306.1		
		64.0	1.0	5,186.5		
		286.0	1.0	17,189.5		
		26.0	4.0	1,177.3		
		984.0	8.0	50,872.4		
TOTAL -- Internal Program Units						

Year ending June 30, 1995

Personnel		
NSF	ASF	GF

(38-06-00) Community Custody and Supervision

		298.0
		298.0

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Debt Service
TOTAL - Community Custody and Supervision

		56.0
		105.0
		60.0
		9.0
		6.0
		33.0
		29.0
		298.0

(-01) Office of the Bureau Chief
(-02) Probation and Parole
(-03) Intensive Supervision
(-04) House Arrest
(-05) Administrative Supervision
(-06) Plummer Halfway House
(-07) Sussex Halfway House
TOTAL - Internal Program Units

	11.0	1,534.0
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TOTAL - DEPARTMENT OF CORRECTION

S Program		S Line Item	
ASF	GF	ASF	GF

	10,260.5
	12.0
26.0	2,222.9
	122.8
25.0	129.8
	12.0
	49.6
51.0	12,809.6

	2,893.8
	4,213.0
	2,052.3
	409.2
	178.0
1.0	1,930.1
50.0	1,133.2
51.0	12,809.6

1,777.0	92,445.4
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30

Year ending June 30, 1995

Personnel		
NSF	ASF	GF
1.0	57.5	75.5
1.0	57.5	75.5

(40-06-00) Parks and Recreation

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

TOTAL -- Parks and Recreation

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		3,336.7	2,663.3
		16.4	
		782.9	18.5
		20.9	230.9
		997.2	16.7
		683.2	
		61.5	5.0
			2,231.1
		5,898.8	5,165.5

	6.0	6.0
	38.5	47.5
1.0	7.0	8.0
	6.0	14.0
1.0	57.5	75.5

(-01) Management & Support -

Parks and Recreation
(-02) Operations & Maintenance
(-03) Cultural and Recreational Services
(-04) Planning, Preservation and Development

TOTAL -- Internal Program Units

230.6	248.6
4,206.7	2,073.8
702.8	280.4
758.7	2,562.7
5,898.8	5,165.5

10.5		47.5
10.5		47.5

(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

7.4	2,042.8
5.0	5.8
1,625.5	599.0
	4.2
30.0	202.4
39.0	
	225.0
850.0	
150.0	
	225.0
	1,232.8
2,706.9	4,537.0

7.5		4.5
		9.0
		27.0
3.0		7.0
10.5		47.5

(-01) Management & Support -

Soil & Water
(-02) Drainage
(-03) Shoreline and Waterway Management
(-04) District Operations

TOTAL -- Internal Program Units

90.0	334.0
	1,485.8
2,591.3	1,900.7
25.6	816.5
2,706.9	4,537.0

*Pursuant to Section 3921, Title 7, Delaware Code

Year ending June 30, 1995

Personnel		
NSF	ASF	GF
36.0	77.0	60.0

(40-08-00) Water Resources

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

TOTAL - Water Resources

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		2,288.5	2,807.1
		19.6	12.1
		442.2	956.8
			15.3
		162.5	96.4
		15.0	3.0
		50.0	100.0
			83.0
			3,271.0
		2,977.8	7,344.7

1.0	4.0	5.0
	34.0	17.0
31.0	20.0	18.0
4.0	19.0	20.0
36.0	77.0	60.0

(-01) Management & Support -

Water Resources

(-02) Water Resources Technical

Services

(-04) Surface Water Management

(-05) Ground Water Management

TOTAL - Internal Program Units

292.1	1,549.3
1,041.0	1,053.6
998.0	3,779.9
646.7	961.9
2,977.8	7,344.7

74.0	79.3	38.7
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(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 State Agency Tanks
Stage II Vapor Recovery
Right-to-Know
Debt Service

TOTAL - Air and Waste Management

2,573.0	2,070.0
31.5	7.8
408.2	189.0
	44.9
79.7	68.1
78.4	18.1
250.0	
734.5	
4,260.0	
300.0	
410.5	
	1,000.0
85.0	
	14.4
	176.4
9,210.8	3,588.7

5.0	13.0	9.0
17.0	40.0	13.0
52.0	26.3	16.7
74.0	79.3	38.7

(-01) Management & Support -

Air & Waste

(-02) Air Quality Management

(-03) Waste Management

TOTAL - Internal Program Units

1,519.2	574.4
2,221.2	829.1
5,470.4	2,185.2
9,210.8	3,588.7

TOTAL - DEPARTMENT OF
NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL

150.3	264.3	312.9
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27,347.7	27,745.7
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33

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(45-06-00) State Police				
2				Personnel Costs			29.3	33,881.7
3				Travel				33.3
4	9.2	1.0	706.8	Contractual Services			220.0	2,032.1
5				Energy				255.9
6				Supplies and Materials			60.0	1,326.1
7				Capital/Equipment				698.9
8				Pension - 20 Year Retirees				13,275.0
9				Crime Reduction Fund				75.0
10				Career Development				35.0
11				Debt Service				298.6
12				TOTAL - State Police			309.3	51,911.6
13	9.2	1.0	706.8					
14								
15								
16			56.0	(-01) Executive	150.0	16,781.4		
17			6.0	(-02) Building Maintenance & Construction		351.4		
18	4.0		325.0	(-03) Patrol		17,311.2		
19			89.0	(-04) Criminal Investigation		4,970.7		
20			30.0	(-05) Special Investigation		1,741.4		
21			18.0	(-06) Aviation		1,789.1		
22	4.2		19.8	(-07) Traffic		1,017.6		
23			41.0	(-08) State Bureau of Identification	130.0	1,723.7		
24			9.0	(-09) Training		512.8		
25		1.0	73.0	(-10) Communications	29.3	3,117.2		
26			15.0	(-11) Transportation		1,427.4		
27	1.0		25.0	(-12) Community Relations		1,167.7		
28	9.2	1.0	706.8	TOTAL - Internal Program Units	309.3	51,911.6		
29								
30								
31				(45-07-00) Licenses, Taxes & Registrations				
32			202.0	Personnel Costs			30.3	6,111.6
33				Travel				10.0
34				Contractual Services				528.9
35				Supplies and Materials				393.7
36				Capital/Equipment				0.1
37				CDL Fees			177.0	
38				Motorcycle Safety			104.5	
39				Debt Service				4.2
40			202.0	TOTAL - Licenses, Taxes & Registrations			311.8	7,048.5
41								
42				(-01) Administration - Licenses,				
43			28.0	Taxes & Registrations	104.5	1,261.5		
44			68.0	(-10) Driver Services	207.3	2,252.3		
45			106.0	(-20) Vehicle Services		3,534.7		
46			202.0	TOTAL - Internal Program Units	311.8	7,048.5		
47								
48								
49				TOTAL - DEPARTMENT OF				
50	36.3	3.0	974.2	PUBLIC SAFETY			877.8	62,124.0

(55-00-00) DEPARTMENT OF TRANSPORTATION

Personnel				\$ Line Item	
NSF	TFO	TFC	GF	TTF	GF
(55-01-00) Office of the Secretary					
(55-01-01) Office of the Secretary					
	9.0	1.0		586.1	
				28.7	
	9.0	1.0		614.8	
TOTAL -- Office of the Secretary					
(55-01-02) Office of Financial Management and Budget					
	29.0			1,405.4	
				766.3	
	29.0			2,171.7	
TOTAL -- Office of Financial Management and Budget					
(55-01-03) Office of External Affairs					
	8.0			422.7	
				71.9	
	8.0			494.6	
TOTAL -- Office of External Affairs					
	46.0	1.0		3,281.1	
TOTAL--Office of the Secretary					
(55-02-00) Office of Administration					
(55-02-01) Office of Administration					
	2.0	54.0	1.0	2,321.2	
				8.3	
				1,065.9	
				232.7	
				12.0	
	2.0	54.0	1.0	3,640.1	
TOTAL -- Office of Administration					
(55-02-02) Motor Fuel Tax					
	1.0	21.0		819.1	
				838.6	
	1.0	21.0		1,657.7	
TOTAL -- Motor Fuel Tax					
	3.0	75.0	1.0	5,297.8	
TOTAL--Office of Administration					
(55-03-01) Office of Planning					
	49.0	3.0		2,492.5	
				835.6	
	49.0	3.0		3,328.1	
TOTAL -- Office of Planning					

Year ending June 30, 1995

	Personnel					\$ Line Item	
	NSF	TFO	TFC	GF		TTF	GF
1					(55-04-00) Division of Highway Operations		
2					(55-04-01) Office of the Director		
3					Personnel Costs	483.1	
4		10.0			Operations/Capital	128.0	
5					TOTAL -- Office of the Director	611.1	
6		10.0					
7					(55-04-40) Bureau of Construction		
8					Personnel Costs	3,117.9	
9		73.0	77.0		Operations/Capital	17.0	
10					TOTAL -- Bureau of Construction	3,134.9	
11		73.0	77.0				
12					(55-04-50) Bureau of Traffic		
13					Personnel Costs	3,869.3	
14		98.0	7.0		Energy	690.6	
15					Capital Outlay	27.0	
16					Contractual/Supplies	2,390.5	
17		98.0	7.0		TOTAL -- Bureau of Traffic	6,977.4	
18							
19					(55-04-60) Field Services		
20					Personnel Costs	1,647.8	
21		35.0	56.0		Operations/Capital	98.5	
22					TOTAL -- Field Services	1,746.3	
23		35.0	56.0				
24					(55-04-70) Bureau of Maintenance		
25					Personnel Costs	16,634.2	
26		535.0			Energy	493.7	
27					Capital Outlay	487.2	
28					Contractual/Supplies	5,826.7	
29					Snow/Storm Contingency	2,000.0	
30		535.0			TOTAL -- Bureau of Maintenance	25,441.8	
31							
32					(55-04-80) Bureau of Expressways Construction		
33					Personnel Costs	78.5	
34		1.0	7.0		Operations/Capital	9.9	
35					TOTAL -- Bureau of Expressways Construction	88.4	
36		1.0	7.0				
37					(55-04-90) Turnpike Administration		
38					Toll Facilities Operations	6,030.3	
39		166.0			Turnpike Operating Reserve *		
40					Turnpike Improvements	600.0	
41					Interstate Operations	2,754.1	
42					Interstate Improvements	200.0	
43		166.0			TOTAL -- Turnpike Administration	9,584.4	
44							
45							
46							
47					* The Cumulative Turnpike Operating Reserve Fund		
48					is established at \$ 728.0		
49							
50		918.0	147.0		TOTAL -- Division of Highway Operations	47,584.3	

S Line Item	
TTF	GF

4			
5		15.0	
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19		15.0	

- Delaware Transportation Authority Operations
- Commuter Services
- DART Operations "Public"
- DAST Operations "E & H"
- Rail Operations
- Aviation
- Contingencies
- Taxi Services Support "E & H"
- Newark Transportation
- Kent and Sussex Transportation "E & H"
- Debt Service
 - Motor Fuel Tax Bonds
 - General Obligations
 - Transportation Trust Fund

3,223.4
995.6
10,520.8
4,554.7
3,366.1
127.2
15.0
114.9
75.8
510.0
4,462.0
7,709.7
64,004.0
99,679.2

(55-07-10) Office of Pre-Construction
Personnel Costs
Operations/Capital
One-Time - Metric System Recalibration
TOTAL -- Office of Pre-Construction

4.0	63.0	82.0
4.0	63.0	82.0

3,218.5	
189.6	
175.0	
3,583.1	

7.0	1,166.0	234.0	
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162,753.6	
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(60-00-00) DEPARTMENT OF LABOR

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
14.0	48.6	5.4			1,872.3	266.5
					21.8	6.7
					605.0	23.6
					110.4	2.4
					47.8	
14.0	48.6	5.4			2,657.3	299.2
	12.6	1.4	806.1	107.4		
14.0		1.0		53.3		
	36.0	3.0		138.5		
14.0	48.6	5.4	1,851.2			
			2,657.3	299.2		
121.0	5.0				156.7	
					0.5	
					73.8	
					1.2	
					18.8	
					1.2	
					104.7	
121.0	5.0				356.9	
121.0	5.0		356.9			
121.0	5.0		356.9			
9.5		44.5				1,609.9
						28.1
						185.3
						34.9
						2.0
					7,441.8	
9.5		44.5			7,441.8	1,860.2
4.5		29.5	7,441.8	1,268.1		
5.0		15.0		592.1		
9.5		44.5	7,441.8	1,860.2		

Year ending June 30, 1995

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(60-08-00) Vocational Rehabilitation				
2				Personnel Costs				29.0
3				Travel				2.0
4	112.9		2.0	Contractual Services			400.0	1,308.6
5				Supplies and Materials				39.9
6				Sheltered Workshop				310.4
7				Governor's Committee				8.0
8	112.9		2.0	TOTAL -- Vocational Rehabilitation			400.0	1,697.9
9								
10								
11								
12	83.0		2.0	(-10) Vocational Rehabilitation Services	400.0	1,697.9		
13	29.9			(-20) Disability Determination Services				
14	112.9		2.0	TOTAL -- Internal Program Units	400.0	1,697.9		
15								
16								
17				(60-09-00) Employment and Training				
18	96.9	3.0	14.1	Personnel Costs			145.2	491.5
19				Travel			0.9	3.7
20				Contractual Services			42.3	108.2
21				Supplies and Materials			2.0	3.8
22				Capital/Equipment				3.0
23				Women's Vocational Services				40.0
24				Dislocated Workers' Program				16.6
25				Summer Youth Program				135.2
26				Blue Collar Projects			725.2	
27	96.9	3.0	14.1	TOTAL -- Employment and Training			915.6	802.0
28								
29	67.9		4.0	(-10) Placement Services		171.5		
30	29.0	3.0	10.1	(-20) Training Services	915.6	630.5		
31	96.9	3.0	14.1	TOTAL -- Internal Program Units	915.6	802.0		
32								
33								
34	354.3	56.6	66.0	TOTAL -- DEPARTMENT OF LABOR			11,771.6	4,659.3

(65-00-00) DEPARTMENT OF AGRICULTURE

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(65-01-00) Agriculture						
16.8	19.3	79.0			837.3	3,049.5
					21.8	37.9
					85.4	281.1
					12.3	81.8
					95.5	97.0
					28.3	
						150.0
						23.0
						9.5
						15.0
						39.0
						40.0
						127.2
						26.5
16.8	19.3	79.0	TOTAL -- Agriculture		1,080.6	3,977.5
	1.0	13.0	(-01) Administration	141.0	692.0	
		5.0	(-02) Agriculture Compliance Lab	11.1	226.2	
7.0	12.0	7.0	(-03) Food Products Inspection	537.1	318.1	
5.8	1.8	15.5	(-04) Forest Service	140.7	572.7	
			(-05) Harness Racing Commission		163.7	
		4.5	(-06) Pesticides	14.9	184.5	
4.0	0.5	8.0	(-07) Planning, Promotion and Marketing	11.7	609.0	
	4.0	11.0	(-08) Plant Industries	224.1	585.0	
		7.0	(-09) Poultry & Animal Health		340.8	
			(-10) Thoroughbred Racing Commission		23.9	
		8.0	(-11) Weights & Measures		261.6	
16.8	19.3	79.0	TOTAL -- Internal Program Units		1,080.6	3,977.5
TOTAL -- DEPARTMENT OF AGRICULTURE					1,080.6	3,977.5

(75-00-00) FIRE PREVENTION COMMISSION

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
			(75-01-01) Office of the State Fire Marshal			
	20.3	18.7			744.1	822.9
					24.0	
					95.0	55.8
						27.1
					48.5	27.5
					57.5	5.8
					1.5	
						2.0
						1.1
	20.3	18.7	TOTAL -- Office of the State Fire Marshal			
					970.6	942.2
			(75-02-01) State Fire School			
		17.0				689.4
					20.0	70.0
						98.4
					10.0	
					50.0	
						5.0
						173.3
		17.0	TOTAL -- State Fire School			
					80.0	1,036.1
			(75-03-01) State Fire Prevention Commission			
		1.0				46.2
						17.6
						20.6
						1.7
						75.0
						20.0
						124.0
		1.0	TOTAL -- State Fire Prevention Commission			
						305.1
			TOTAL -- FIRE PREVENTION COMMISSION			
	20.3	36.7			1,050.6	2,283.4

(76-00-00) DELAWARE NATIONAL GUARD

1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									

Personnel			\$ Program		\$ Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
73.6		30.7				1,156.8
						0.7
						291.9
						357.2
						60.7
						37.8
						7.0
						5.2
						7.9
						306.7
73.6		30.7				2,231.9

(76-01-01) Delaware National Guard	
Personnel Costs	
Travel	
Contractual Services	
Energy	
Supplies and Materials	
Educational Assistance	
Sick-Leave Entitlements	
Unit Fund Allowance	
Widows Compensation Fund	
Debt Service	
TOTAL - DELAWARE NATIONAL GUARD	

Year ending June 30, 1995

(77-00-00) ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS

1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							

Personnel

NSF	ASF	GF
-----	-----	----

\$ Program

ASF	GF
-----	----

\$ Line Item

ASF	GF
-----	----

(77-01-01) Advisory Council For
Exceptional Citizens

		2.0
		2.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials

	67.7
	2.7
	4.8
	0.7
	75.9

TOTAL - ADVISORY COUNCIL FOR
EXCEPTIONAL CITIZENS

(90-00-00) HIGHER EDUCATION

Personnel			\$ Program		\$ Line Item	
	NSF	ASF	GF	ASF	GF	GF
(90-01-00) University of Delaware						
(90-01-01) University of Delaware						
Operations						66,245.2
Scholarships						4,566.4
Agricultural Programs						1,090.2
Other Programs						2,609.5
The College School						67.3
Medical Technology						30.9
Debt Service						6,531.0
TOTAL -- University of Delaware						81,140.5
(90-01-02) Delaware Geological Survey						
Operations						973.8
River Master Program						79.5
TOTAL -- Delaware Geological Survey						1,053.3
TOTAL -- University of Delaware						82,193.8
(90-02-01) Delaware Institute of Medical Education and Research						
Operations						1,593.6
TOTAL -- Delaware Institute of Medical Education and Research						1,593.6
(90-03-00) Delaware State University						
(90-03-01) Operations						
Operations						17,921.4
Administrative Computing						125.0
Work Study						169.5
Summer School for Teachers						86.0
Faculty Development						100.0
Mishoe Scholarships						50.0
Cooperative Extension						15.1
Cooperative Research						88.6
Title VI Compliance						120.0
Academic Incentive						50.0
General Scholarships						184.0
Athletic Grant						83.1
Aid to Needy Students						120.0
Energy						985.8
Debt Service						3,652.6
TOTAL -- Operations						23,751.1
(90-03-05) Sponsored Programs and Research						
Personnel Costs						
TOTAL -- Sponsored Programs and Research						
TOTAL -- Delaware State University						23,751.1

Year ending June 30, 1995

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(90-04-00) Delaware Technical and				
2				Community College				
3				(90-04-01) Office of the President				
4				Personnel Costs				1,781.7
5				Travel				6.5
6	10.0		36.0	Contractual Services				152.2
7				Capital Outlay				2.0
8				Energy				16.1
9				Supplies and Materials				29.7
10				Occupational Teacher Program				36.8
11				Academic Incentive				50.0
12				Dental Program				78.8
13				Day Care Training				40.0
14				Salary Plan A & D				621.7
15				Parallel Program - Operations				243.4
16				Parallel Program - Academic				1,133.6
17				Debt Service				92.9
18				TOTAL -- Office of the President				4,285.4
19	10.0		36.0					
20				(90-04-02) Southern Campus				
21				Personnel Costs				8,361.6
22				Contractual Services				39.8
23	40.7		157.0	Energy				355.3
24				Supplies and Materials				4.0
25				NDSL Match				6.6
26				Aid-to-Needy Students				122.8
27				Work Study				16.5
28				Debt Service				2,129.7
29				Capital/Books				42.4
30				TOTAL -- Southern Campus				11,078.7
31	40.7		157.0					
32				(90-04-04) Wilmington Campus				
33				Personnel Costs				6,296.2
34				Contractual Services				81.1
35	30.0		120.0	Energy				300.8
36				Capital Outlay				76.1
37				Aid-to-Needy Students				89.8
38				Work Study				20.0
39				Debt Service				1,405.5
40				TOTAL -- Wilmington Campus				8,269.5
41	30.0		120.0					
42				(90-04-05) Stanton Campus				
43				Personnel Costs				8,412.9
44				Contractual Services				113.2
45	38.0		157.0	Energy				159.5
46				Capital Outlay				9.0
47				Aid-to-Needy Students				74.8
48				Work Study				21.0
49				Debt Service				1,001.6
50				TOTAL -- Stanton Campus				9,792.0
51	38.0		157.0					
52								

(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						66,245.2	
Scholarships						4,566.4	
Agricultural Programs						1,090.2	
Other Programs						2,609.5	
The College School						67.3	
Medical Technology						30.9	
Debt Service						6,531.0	
TOTAL -- University of Delaware						81,140.5	
(90-01-02) Delaware Geological Survey							
Operations						973.8	
River Master Program						79.5	
TOTAL -- Delaware Geological Survey						1,053.3	
TOTAL -- University of Delaware						82,193.8	
(90-02-01) Delaware Institute of Medical Education and Research							
Operations						1,593.6	
TOTAL -- Delaware Institute of Medical Education and Research						1,593.6	
(90-03-00) Delaware State University							
(90-03-01) Operations							
Operations						17,921.4	
Administrative Computing						125.0	
Work Study						169.5	
Summer School for Teachers						86.0	
Faculty Development						100.0	
Mishoe Scholarships						50.0	
Cooperative Extension						15.1	
Cooperative Research						88.6	
Title VI Compliance						120.0	
Academic Incentive						50.0	
General Scholarships						184.0	
Athletic Grant						83.1	
Aid to Needy Students						120.0	
Energy						985.8	
Debt Service						3,652.6	
TOTAL -- Operations						23,751.1	
(90-03-05) Sponsored Programs and Research							
Personnel Costs							
TOTAL -- Sponsored Programs and Research							
TOTAL -- Delaware State University						23,751.1	

Year ending June 30, 1995

Personnel		
NSF	ASF	GF

10.0		36.0
10.0		36.0

40.7		157.0
40.7		157.0

30.0		120.0
30.0		120.0

38.0		157.0
38.0		157.0

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

(90-04-01) Office of the President

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

(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

(90-04-04) Wilmington Campus

Personnel Costs
Contractual Services
Energy
Capital Outlay
Aid-to-Needy Students
Work Study
Debt Service

TOTAL -- Wilmington Campus

(90-04-05) Stanton Campus

Personnel Costs
Contractual Services
Energy
Capital Outlay
Aid-to-Needy Students
Work Study
Debt Service

TOTAL -- Stanton Campus

S Program		S Line Item	
ASF	GF	ASF	GF

			1,781.7
			6.5
			152.2
			2.0
			16.1
			29.7
			36.8
			50.0
			78.8
			40.0
			621.7
			243.4
			1,133.6
			92.9
			4,285.4

			8,361.6
			39.8
			355.3
			4.0
			6.6
			122.8
			16.5
			2,129.7
			42.4
			11,078.7

			6,296.2
			81.1
			300.8
			76.1
			89.8
			20.0
			1,405.5
			8,269.5

			8,412.9
			113.2
			159.5
			9.0
			74.8
			21.0
			1,001.6
			9,792.0

Year ending June 30, 1995

Personnel		
NSF	ASF	GF
45.5		99.0
45.5		99.0

(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

TOTAL -- Delaware Technical and
 Community College

164.2 569.0

(90-07-01) Delaware Institute of
 Veterinary Medical Education
 No Appropriation in FY 1995
 TOTAL -- Delaware Institute of Veterinary
 Medical Education

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

164.2 569.0

TOTAL -- HIGHER EDUCATION

S Program		S Line Item	
ASF	GF	ASF	GF

			4,945.3
			106.9
			144.5
			20.8
			55.0
			1.0
			100.0
			8.0
			1,186.3
			51.8
			6,619.6

40,045.2

	100.0
	100.0

147,683.7

(95-00-00) PUBLIC EDUCATION

Personnel			S Program		S Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(95-01-00) State Board of Education and State Board for Vocational Education and Department of Public Instruction						
61.6		80.5				5,469.4
						23.4
						153.7
						32.6
						37.6
						71.9
						33.8
						2.0
						1.0
						46.5
						20.0
						100.0
	4.9				268.4	372.8
						500.0
						120.0
					3.8	
					2.5	
					34.0	
					27.5	
					15.0	
	1.0				88.3	
					40.0	
TOTAL - State Board of Education and State Board for Vocational Education and Department of Public Instruction						
61.6	5.9	80.5			479.5	6,984.7
(-01) State Board and Superintendent and Department of Public Instruction						
61.6	5.9	80.5			479.5	6,984.7
TOTAL - Internal Program Units						
61.6	5.9	80.5			479.5	6,984.7

Year ending June 30, 1995

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(95-02-00) School District Operations				
2				Division I Units (6,277)				
3				Formula Salaries			225,495.2	
4			9,768.0	Cafeteria Funds			2,748.8	
5				Other Employment Costs			85,596.2	
6				Division II Units (7,163)				
7				All Other Costs			19,748.5	
8				Energy			9,380.7	
9				Division III				
10				Equalization			41,679.8	
11				Other Items				
12				General Contingency			6,815.4	
13				Other Items			334.9	
14				Delmar Tuition			550.0	
15				Debt Service				
16				State Board			3,863.3	
17				School Districts			9,673.8	
18			9,768.0	TOTAL -- School District Operations			405,886.6	
19								
20								
21								
22			9,768.0	(-01) Division Funding		384,649.2		
23				(-02) Other Items		7,700.3		
24				(-03) Debt Service		13,537.1		
25			9,768.0	TOTAL -- Internal Program Units		405,886.6		

Year ending June 30, 1995

	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				3,608.1
5				Professional Accountability and Instructional				
6		3.0	6.0	Advancement Fund			500.0	4,513.2
7				Academic Excellence Block Grant				19,696.9
8				K-12 Pass Throughs				
9				Delaware Nature Society				9.9
10				Beach House				70.0
11				Read Aloud				110.0
12				Strive				70.0
13				Summer School - Gifted & Talented				116.2
14				Center for Economic Education				131.2
15				Educational Resources				171.9
16				DE Institute for Arts in Education				90.0
17				Advanced Studies				97.2
18				Youth Organizations				148.2
19				Parent Early Education Center				496.7
20				Pregnant Students				221.7
21				Delaware Teacher Center				269.9
22				Project Assist				13.0
23				Delaware Principals Academy				100.0
24				Special Needs Programs				
25				Early Childhood Assistance				900.0
26			1.0	Program for Children with Disabilities				1,885.4
27				Unique Alternatives				1,404.6
28				Exceptional Student Unit - Vocational				760.6
29				Related Services for the Handicapped				1,544.1
30				Adolescent Day Program				36.0
31			1.0	Children Services Cost Recovery Project				600.3
32				Sterck Summer Program				40.0
33				Tech-Prep 2 + 2				195.4
34			1.5	Student Discipline Program				3,633.4
35				Driver Training				
36				Driver's Education				808.5
37		3.0	9.5	TOTAL - Block Grants and Pass Through Programs			500.0	41,742.4
38								
39								
40								
41		3.0	6.0	(-10) Education Block Grants	500.0	27,818.2		
42				(-15) K-12 Pass Throughs		2,115.9		
43			3.5	(-20) Special Needs Programs		10,999.8		
44				(-30) Driver Training		808.5		
45		3.0	9.5	TOTAL - Internal Program Units	500.0	41,742.4		

Year ending June 30, 1995

	Personnel			S Program		S Line Item	
	NSF	ASF	GF	ASF	GF	ASF	GF
1							
2							
3							
4							38,324.0
5							3,000.0
6							41,324.0
7							
8							
9					41,324.0		
10					41,324.0		
11							
12							
13							
14							
15	1.5		3.5				116.2
16							6.8
17							1.0
18							2.0
19							
20	1.5		3.5				126.0
21							
22	1.5		3.5				126.0
23	1.5		3.5				126.0
24							
25							
26	63.1	8.9	9,861.5			979.5	496,063.7

Year ending June 30, 1995

Personnel				
TFO	TFC	NSF	ASF	GF

\$		
TTF	ASF	GF

TOTALS

1,166.0	234.0	1,591.9	1,053.1	9,789.6	TOTAL - DEPARTMENTS	162,753.6	216,917.8	875,668.2
		164.2		569.0	TOTAL - HIGHER EDUCATION			147,683.7
		63.1	8.9	9,861.5	TOTAL - PUBLIC EDUCATION		979.5	496,063.7
1,166.0	234.0	1,819.2	1,062.0	20,220.1	GRAND TOTAL	162,753.6	217,897.3	1,519,415.6

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, 1995.

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 1995, except as otherwise specified in this Act.

Section 7. The abbreviations set forth in this Act for special fund authorized positions mean funding from the following:

ASF - Appropriated Special Funds
NSF - Non-appropriated Special Funds
TFO - Trust Fund Operations
TFC - Trust Fund Capital

SECTION 8. MERIT SYSTEM AND MERIT COMPARABLE SALARY SCHEDULES.

(a) The General Assembly of the State of Delaware supports the state-wide policy that the pay plan for Merit System employees be developed in accordance with the results of valid surveys of salaries provided by a defined labor market. The Director of State Personnel shall conduct such surveys on a yearly basis and report the findings of such surveys by December 15 to the Governor and members of the General Assembly who will be responsible for recommending and approving yearly adjustments as are necessary to maintain the competitive posture of the plan. As the Director of State Personnel has conducted the required surveys for the fiscal year ending June 30, 1995, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1994, 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	80% of Midpoint	100% of Midpoint	120% of Midpoint
1	13,000**	15,583	18,700
2	13,338	16,673	20,008
3	14,274	17,842	21,410
4	15,270	19,088	22,905
5	16,342	20,427	24,512
6	17,486	21,857	26,228
7	18,706	23,383	28,060
8	20,017	25,021	30,025
9	21,419	26,774	32,129
10	22,919	28,649	34,379
11	24,521	30,651	36,781
12	26,238	32,798	39,357
13	28,075	35,094	42,113
14	30,038	37,548	45,058
15	32,142	40,178	48,214
16	34,394	42,993	51,591

17	36,802	46,002	55,202
18	39,374	49,218	59,061
19	42,133	52,666	63,199
20	45,084	56,355	67,626
21	48,238	60,298	72,358
22	51,615	64,519	77,423
23	55,229	69,036	82,843
24	59,097	73,871	88,645
25	63,232	79,040	94,848
26	67,658	84,573	101,487

* 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	80% of Midpoint	100% of Midpoint	120% of Midpoint
1	13,297	16,621	19,945
2	14,227	17,784	21,341
3	15,223	19,029	22,835
4	16,289	20,361	24,433
5	17,430	21,788	26,146
6	18,650	23,312	27,974
7	19,954	24,943	29,932
8	21,352	26,690	32,028
9	22,846	28,557	34,268
10	24,446	30,557	36,668
11	26,154	32,693	39,232
12	27,987	34,984	41,981
13	29,946	37,433	44,919
14	32,043	40,054	48,065
15	34,286	42,857	51,428
16	36,688	45,860	55,032
17	39,254	49,068	58,881
18	42,000	52,500	63,000
19	44,942	56,178	67,414
20	48,090	60,112	72,134
21	51,455	64,319	77,183
22	55,058	68,822	82,586
23	58,910	73,638	88,365
24	63,036	78,795	94,554
25	67,448	84,310	101,172
26	72,168	90,210	108,252

* Annual Salary in \$

- (i) Merit Rule 5.0200 notwithstanding, the standard work week for employees in positions within the Correctional Officer class series, Correctional Security Superintendent class and Warden class series assigned to the Department of Correction, Meat Inspectors and Meat and Poultry Inspection Coordinators in the Department of Agriculture and Emergency Services Training Administrator class assigned to the State Fire School shall be 40 hours.
- (ii) During the fiscal year ending June 30, 1995, 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) LABOR MARKET SURVEY.

- (i) The defined labor market survey in Section 8(a) for Fiscal Year 1995 shall be limited to those governments and institutions of higher education as follows:

Delaware

New Castle County
Kent County

Other Counties and Municipalities

Cecil County, Maryland
Caroline County, Maryland

Sussex County
 Wilmington
 Newark
 Dover
 University of Delaware

Salisbury, Maryland
 Chester County, Pennsylvania
 Delaware County, Pennsylvania
 Salem County, New Jersey

Other States

Maryland
 Pennsylvania
 New Jersey
 North Carolina
 Massachusetts
 New York
 Virginia

- (ii) The findings of the survey in Section 8(a) for Fiscal Year 1996 shall be calculated in the same manner as Fiscal Year 1995, using the same weighting formula and other components.

(c) **SELECTIVE MARKET VARIATIONS.**

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, 1994, 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. For the purposes of this section, the minimum value of the salary scale shall remain at 75 percent of midpoint and the maximum value shall remain at 125 percent unless the minimum value under the selective market range for a class is less than the minimum value of the merit system pay range. The minimum for the class on selective market shall be no less than the merit system pay range minimum value. No further increases shall be applied to the scale and/or the midpoints.
- (6) Employees assigned to job classifications approved under the selective market variation program shall have their salaries adjusted in accordance with the following:
 - (i) The salary of employees in positions added to the selective market variation program on or after July 1, 1994, prior to application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1994, 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.

(ii) The salary of employees in positions added to the selective market variation program before June 30, 1994, after the application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1994, 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.

(7) During Fiscal Year 1995 all classes currently assigned to selective market variations and the process itself shall be reviewed. This review shall include but not be limited to the criteria and qualifications by which job classes become eligible for selective market variation, minimum and maximum values, future midpoint raises and the process by which job classes are moved from selective market variations back to the regular State of Delaware Pay Plan. This review shall be coordinated between the State Personnel Office, Office of the Budget and the Office of the Controller General, and recommendations will be submitted to the Joint Finance Committee January 1, 1995.

(d) **SALARY INCREASES FOR FISCAL YEAR 1995.**

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, 1994, the salary of each employee shall be increased by 3.0 percent, unless otherwise noted in this Section.

(ii) The salary of employees whose salary in effect as of June 30, 1994, is near or above the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1994, shall be increased by a percentage amount which would place the salary at the maximum or 1.5 percent, whichever is greater.

(iii) Salaries of employees employed in accordance with Title 29, Section 5903(17), Delaware Code, shall be excluded from Subsection (d)(1)(i) of this Section and may receive a salary increase at the discretion of the agency.

(2) After application of the general pay increase in Section 8(d)(1), the salaries of employees whose current salaries fall below the minimum for the assigned pay grade of the pay plan shall be raised to the minimum.

(3) Effective September 1, 1994, the salary of each Merit System employee and each exempt employee whose position has been given a comparable pay grade pursuant to Section 11 of this Act and was employed in state service on or before June 30, 1994, and whose salary as of August 31, 1994, is below the midpoint of the assigned pay grade, shall be increased by the lesser of an amount equal to the dollar value of four percent of the midpoint for the assigned pay grade or by an amount which would increase the employee salary to the midpoint for the assigned pay grade.

(4)(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 University and members and employees of the Delaware National Guard, excluding the Adjutant General. Funds have been appropriated in Section 1 of this Act for Delaware State University 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), (2), (3) 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.

(e) **MAINTENANCE REVIEWS.**

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, 1995, 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) **CRITICAL RECLASSIFICATIONS.**

(1) 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, 1995, or July 1, 1995, 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.

(2) **OTHER RECLASSIFICATIONS.**

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, 1995.

(g) **STATE AGENCY TEACHERS AND ADMINISTRATORS.**

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 \$16,822.00 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.

(h) **ADMINISTRATIVE REGULATIONS.**

(1) The administrative regulation and procedures necessary to implement this Section shall be promulgated by the State Personnel Director, Budget Director and Controller General.

(2) **MERIT PAY.**

During the fiscal year ending June 30, 1995, paragraph 5.1100 of the Merit Rules for a Merit System of Personnel Administration shall be null and void.

(3) **REVIEW DATE.**

The review date for employees of the classified service shall be December 31 of each fiscal year.

SALARY PLAN - PUBLIC EDUCATION

(i) 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(a), Delaware Code, by striking said subsection as it appears therein and substituting in lieu thereof the following:

"(a) The annual salaries of employees paid under this Section and who are employed on a ten-month contract, shall be based on the following indexed schedule:

Years of	No	Bach.	Bach.		Mast.		Mast.		Doctor's
			Degree	Degree	Degree	Degree	Degree	Degree	
			Plus 15	Plus 30	Plus 15	Plus 30	Plus 45		
Exp.	Degree	Degree	Credits	Credits	Degree	Credits	Credits	Credits	Degree
0	.960	1.000	1.040	1.080	1.140	1.180	1.220	1.260	1.300
1	.985	1.025	1.065	1.105	1.165	1.205	1.245	1.285	1.325
2	1.010	1.050	1.090	1.130	1.190	1.230	1.270	1.310	1.350
3	1.110	1.150	1.190	1.230	1.290	1.330	1.370	1.410	1.450
4	1.150	1.190	1.230	1.270	1.330	1.370	1.410	1.450	1.490
5	1.190	1.230	1.270	1.310	1.370	1.410	1.450	1.490	1.530
6	1.230	1.270	1.310	1.350	1.410	1.450	1.490	1.530	1.570
7	1.270	1.310	1.350	1.390	1.450	1.490	1.530	1.570	1.610
8	1.310	1.350	1.390	1.430	1.550	1.590	1.630	1.670	1.710
9			1.430	1.470	1.590	1.630	1.670	1.710	1.750
10			1.470	1.510	1.630	1.670	1.710	1.750	1.790
11				1.550	1.670	1.710	1.750	1.790	1.830
12				1.590	1.710	1.750	1.790	1.830	1.870
13					1.750	1.790	1.830	1.870	1.910
14							1.870	1.910	1.950

In addition to the indices specified in the schedule contained in this subsection, the following shall apply to certain individuals paid in accordance with this schedule who were employed by a school board in Delaware on June 30, 1994:

(1) An employee with no degree who was paid in accordance with the eight-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.35 for the fiscal year ending June 30, 1995, and at an index of 1.39 for the fiscal year ending June 30, 1996 and for subsequent fiscal years.

(2) An employee with no degree who was paid in accordance with the nine-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.39 for the fiscal year ending June 30, 1995, and for subsequent fiscal years.

(3) An employee with no degree who was paid in accordance with the ten-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.39 for the fiscal year ending June 30, 1995, and for subsequent fiscal years.

(4) An employee with a Bachelor's Degree who was paid in accordance with the eight-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.39 for the fiscal year ending June 30, 1995, and at an index of 1.43 for the fiscal year ending June 30, 1996, and for subsequent fiscal years.

(5) An employee with a Bachelor's Degree who was paid in accordance with the nine-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.43 for the fiscal year ending June 30, 1995, and for subsequent fiscal years.

(6) An employee with a Bachelor's Degree who was paid in accordance with the ten-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.43 for the fiscal year ending June 30, 1995, and for subsequent fiscal years.

(7) An employee with a Bachelor's Degree plus 15 credits who was paid in accordance with the ten-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.51 for the fiscal year ending June 30, 1995, and for subsequent fiscal years.

(8) An employee with a Bachelor's Degree plus 15 credits who was paid in accordance with the 11-year step for the fiscal year ending June 30, 1994, shall be paid at an index of 1.51 for the fiscal year ending June 30, 1995, and for subsequent fiscal years."

(2) Amend Title 14, Subsection 1305(b), Delaware Code, by striking the words, "1989, shall be \$16,332.00." as it appears therein and by substituting in lieu thereof the value, "1995, shall be \$16,822.00."

(3) 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	\$ 9,036	\$10,273	\$10,991	\$11,410	\$12,106
1	9,488	10,742	11,463	11,884	12,586
2	9,939	11,212	11,935	12,359	13,068
3	10,392	11,683	12,406	12,833	13,548
4	10,843	12,152	12,878	13,308	14,029
5	11,295	12,622	13,351	13,782	14,510
6	11,746	13,091	13,823	14,256	14,991
7	12,199	13,561	14,295	14,731	15,471
8	12,650	14,032	14,767	15,205	15,952
9	13,102	14,501	15,238	15,680	16,433
10	13,554	14,971	15,710	16,154	16,914
11	14,006	15,441	16,182	16,628	17,394
12	14,457	15,910	16,654	17,103	17,876
13	14,909	16,381	17,126	17,577	18,356
14	15,361	16,851	17,597	18,052	18,836
15	15,813	17,320	18,070	18,526	19,318
16	16,264	17,790	18,542	19,000	19,798
17	16,717	18,260	19,014	19,475	20,279
18	17,168	18,730	19,486	19,949	20,759
19	17,620	19,200	19,958	20,424	21,241
20	18,071	19,670	20,429	20,898	21,721"

(4) Amend Title 14, Section 1309(b) by striking the subsection in its entirety and including in lieu thereof the following Section 1309(b).

"(b) An administrative secretary, financial secretary, senior secretary, secretary or clerk shall receive as a salary the amount for which the employee qualifies under §1308(a) of this title, plus an annual amount for additional training as defined by the State Board of Education as follows:

Professional Secretary Certificate.....	\$662
(Completion of two years of college or successful completion of a national examination or equivalent certification program approved by the State Board of Education.)	
Certified Secretary Certificate.....	\$991
(Eligibility for Professional Secretary Certificate plus completion of 12 semester hours of college courses specified by the State Board of Education and five years of successful experience.)	
Bachelor's Degree Certificate.....	\$1,320
(Completion of a Bachelor's Degree from an accredited college.)"	

(5) 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	Fireman	Custodian 5 or Fewer Custodians	Chief Custodian Supervising 6 or More Custodians	Maintenance Mechanic	Building & Grounds Supervisor or Skilled Craftsmen
0	\$11,560	\$12,033	\$12,273	\$13,222	\$13,662	\$14,050
1	11,916	12,390	12,630	13,580	14,025	14,528
2	12,273	12,745	12,986	13,935	14,490	15,003
3	12,629	13,103	13,342	14,290	14,904	15,478
4	12,986	13,458	13,700	14,648	15,265	15,953

5	13,342	13,813	14,052	15,005	15,731	16,429
6	13,700	14,173	14,410	15,359	16,145	16,903
7	14,052	14,530	14,766	15,716	16,559	17,379
8	14,410	14,884	15,121	16,072	16,973	17,852
9	14,766	15,241	15,478	16,429	17,386	18,330
10	15,121	15,598	15,835	16,785	17,801	18,804
11	15,478	15,955	16,192	17,140	18,216	19,280"

(6) Amend Title 14, Subsection 1311(b), Delaware Code, by striking the annual supplement amounts contained in said subsection and by substituting in lieu thereof the following:

"Supervisor and Chief Custodian	\$883
Fireman and Custodian-Fireman	\$662
Custodian	\$439"

(7) Amend Title 14, Subsection 1322(a), Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"(a) School food service managers who have the qualifications required by the State Board of Education and who work on a program of at least seven (7) hours per day of the 10-month school year (185 days) shall receive annual salaries in accordance with the following schedule:

"SCHOOL FOOD SERVICE MANAGERS

<u>Number of Pupils in School Served by Cafeteria</u>							
Yrs. of Exp.	Below 351	351-500	501-800	801-1200	1201-1600	1601-2000	2000+
0	\$10,421	\$11,190	\$11,959	\$12,727	\$13,499	\$14,265	\$15,037
1	10,805	11,573	12,345	13,114	13,882	14,652	15,421
2	11,190	11,959	12,727	13,499	14,265	15,037	15,806
3	11,573	12,345	13,114	13,882	14,652	15,421	16,191
4	11,959	12,727	13,499	14,265	15,037	15,806	16,577
5	12,345	13,114	13,882	14,652	15,421	16,191	16,963
6	12,727	13,499	14,265	15,037	15,806	16,577	17,346
7	13,114	13,882	14,652	15,421	16,191	16,963	17,731
8	13,499	14,265	15,037	15,806	16,577	17,346	18,117
9	13,882	14,652	15,421	16,191	16,963	17,731	18,502
10	14,265	15,037	15,806	16,577	17,346	18,117	18,885
11	14,652	15,421	16,191	16,963	17,731	18,502	19,270
12	15,037	15,806	16,577	17,346	18,117	18,885	19,656
13	15,421	16,191	16,963	17,731	18,502	19,270	20,041
14	15,806	16,577	17,346	18,117	18,885	19,656	20,428
15	16,191	16,963	17,731	18,502	19,270	20,041	20,814

Salaries provided for in this schedule shall be paid to the school food service manager of a single cafeteria. A food service manager responsible for the preparation of food for more than one (1) cafeteria shall receive \$400 for each additional cafeteria. A manager of satellite cafeteria(s) shall receive the salary provided for in this schedule less \$200. A satellite cafeteria is defined as one where no basic food preparation takes place. A manager who manages more than one (1) cafeteria shall receive the salary provided in this scale using the total school enrollments of all cafeterias managed. The salaries listed in this schedule for school food service managers shall be increased for additional training as defined by the State Board of Education as follows:

One Year of College	\$ 439
Two Years of College	\$ 662
Bachelor's Degree	\$1,320"

(8) 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:

<u>"SCHOOL LUNCH COOKS AND GENERAL WORKERS</u>		
<u>Years of Experience</u>	<u>General Worker</u>	<u>Cook/Baker</u>
0	\$6.00	\$6.66
1	6.11	6.76
2	6.22	6.86
3	6.30	6.95
4	6.41	7.06
5	6.54	7.20
6	6.65	7.29
7	6.73	7.36
8	6.80	7.44
9	6.88	7.53
10	6.98	7.65
11	7.12	7.77
12	7.23	7.87
13	7.33	7.97
14	7.43	8.06
15	7.53	8.18
16	7.66	8.31
17	7.78	8.40 "

(9) 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:

<u>Years of Experience</u>	<u>Service Aides</u>	<u>Instructional Aides</u>
0	\$ 8,388	\$10,257
1	8,666	10,600
2	8,947	10,941
3	9,227	11,284
4	9,507	11,625
5	9,785	11,968
6	10,065	12,309
7	10,345	12,651
8	10,624	12,992
9	10,905	13,335
10	11,184	13,676
11	11,463	14,019
12	11,744	14,360
13	12,022	14,703
14	12,302	15,044
15	12,582	15,387
16	12,862	15,728
17	13,141	16,071
18	13,420	16,412
19	13,701	16,754
20	13,980	17,096"

(10) 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 - \$60.37 per day
 Class B - \$48.76 per day
 Class C - \$37.13 per day"

(j) 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.

(k) Effective July 1, 1994, the State shall pay 39 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 35 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.

(l) 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.

(m) 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 (Appropriation 0186) which may be charged for local contractual obligations before local current operating funds are used.

SALARY PLAN - DELAWARE TECHNICAL AND COMMUNITY COLLEGE

(n) 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 1995 salary paid to any Salary Plan A employee shall be determined as follows:

(1) Placement on the index for Fiscal Year 1995 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, 1994. Advancement in any of these areas after that date will become effective for salary purposes on July 1, 1995.

(2) For Fiscal Year 1995, the minimum increase for a Plan A employee shall be 1.5 percent of the employee's Fiscal Year 1994 salary."

(o) During Fiscal Year 1995, 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 1995, and salary adjustments shall be granted under the same conditions as listed in Section 8(d)(1) (i) (i), 8(d)(2), 8(d)(3) 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.

(p)(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 value 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 1995, the minimum increase for a Plan D employee shall be 1.5 percent of the employee's Fiscal Year 1994 salary.

(2) The following provisions shall apply during Fiscal Year 1995:

(a) Placement on the Plan A index for the Fiscal Year 1995 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 employee's 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, 1995, the salaries displayed below represent the salary effective on July 1, 1994, and the salary effective on September 1, 1994, with the movement to midpoint implementation.

Budget Unit	Line Item	July 1, 1994,		Sept. 1, 1994,	
		General Funds (\$)	All Other Funds	General Funds (\$)	All Other Funds
(01-01-01)	Representative	26.2		26.2	
(01-02-01)	Senator	26.2		26.2	
(02-01-00)	Chief Justice - Supreme Court	112.1		112.1	
(02-01-00)	Justice - Supreme Court	108.3		108.3	
(02-02-00)	Chancellor - Court of Chancery	106.8		106.8	
(02-02-00)	Vice Chancellor - Court of Chancery	102.9		102.9	
(02-03-00)	President Judge - Superior Court	106.8		106.8	
(02-03-00)	Associate Judge - Superior Court	102.9		102.9	
(02-03-00)	Commissioner - Superior Court	55.0		55.0	
(02-03-00)	New Castle County Prothonotary	45.2		45.2	
(02-03-00)	Kent County Prothonotary	36.7		36.7	
(02-03-00)	Sussex County Prothonotary	33.0		34.4	
(02-06-00)	Chief Judge - Court of Common Pleas	105.6		105.6	
(02-06-00)	Judge - Court of Common Pleas	100.2		100.2	
(02-06-00)	Commissioner - Court of Common Pleas	55.0		55.0	

(02-08-00)	Chief Judge - Family Court	105.6		105.6
(02-08-00)	Associate Judge - Family Court	100.2		100.2
(02-08-00)	Commissioner - Family Court	55.0		55.0
(02-13-00)	Chief Magistrate - Justice of the Peace Courts	73.7		73.7
(02-13-00)	Magistrate - Justice of the Peace Courts	41.8		41.8
(02-17-00)	Director - Administrative Office of the Courts	73.0		73.9
(02-18-00)	Public Guardian	43.4		45.2
(02-18-00)	Executive Secretary - Violent Crimes Compensation Board	40.3		42.0
(02-18-00)	Executive Director - Foster Care Review Board	39.9		41.9
(10-01-01)	Governor	95.0		95.0
(10-02-00)	Budget Director	89.0		89.0
(10-02-00)	Executive Director - Higher Education Commission	56.2		56.2
(10-02-00)	Executive Director - Information Systems	84.2		88.1
(10-03-01)	Director - Delaware Development Office	83.1		83.1
(10-03-04)	Director - State Housing Authority		69.9	72.9
(10-04-00)	Personnel Director	83.1		83.1
(10-07-01)	Executive Director - CJC	61.5		64.1
(10-07-02)	Executive Director - DELJIS	54.2		56.6
(10-07-03)	Executive Director - SAC	63.4		63.4
(12-01-01)	Lieutenant Governor	39.5		39.5
(12-02-01)	Auditor	68.0		68.0
(12-03-01)	Insurance Commissioner	68.0		68.0
(12-05-01)	State Treasurer	73.7		73.7
(15-01-01)	Attorney General	91.6		91.6
(15-01-02)	Director - Consumer Protection	49.5		51.6
(15-02-01)	Public Defender	73.7		73.7
(15-03-01)	Parole Board Chairman	56.8		56.8
(20-01-00)	Secretary - State	83.1		83.1
(20-02-00)	Director - Human Relations	48.1		50.1
(20-05-00)	Director - Corporations	32.2	32.2	33.5
(20-06-00)	Director - Historical and Cultural Affairs	60.6		63.3
(20-07-00)	Director - Arts	45.3		47.3
(20-08-00)	State Librarian	48.7		50.2
(20-15-00)	State Banking Commissioner		76.8	76.8
(25-01-00)	Secretary - Finance	89.0		89.0
(25-05-00)	Director - Accounting	68.8		71.7
(25-06-00)	Director - Revenue	79.8		83.7
(25-07-00)	Director - State Lottery		65.5	65.5
(30-01-00)	Secretary Administrative Services	77.5		77.5
(30-01-00)	Director - Administration	59.7		62.3
(30-01-00)	Executive Director - Public Employment Relations Board	49.2		51.3
(30-03-00)	Public Advocate	52.0		52.0
(30-03-00)	Director - Public Service Commission		52.1	54.3
(30-03-00)	Director - Professional Regulation		53.9	56.3
(30-04-00)	Director - Support Operations		52.2	54.5
(30-05-00)	Director - Facilities Management	61.6		64.3
(30-05-00)	Executive Secretary - Architectural Accessibility Board	28.5		29.7
(30-06-00)	Director - Purchasing	54.6		57.2
(35-01-00)	Secretary - Health and Social Services	89.0		89.0
(35-01-00)	Director - Management Services	59.0	6.6	61.8
(35-04-00)	Chief Medical Examiner	109.8		109.8
(35-05-00)	Director - Public Health	109.7		114.4
(35-06-00)	Director - Alcoholism, Drug Abuse and Mental Health	94.0		98.2

(35-07-00)	Director - Social Services	38.9	36.1	40.9	37.8
(35-08-00)	Director - Visually Impaired	47.1		49.5	
(35-10-00)	Director - Child Support Enforcement	20.3	37.0	24.4	35.4
(35-11-00)	Director - Mental Retardation	75.0		78.7	
(35-12-00)	Director - State Service Centers	55.4		58.0	
(35-12-00)	Director - Community Services	48.5		50.7	
(35-14-00)	Director - Services for Aging and Adults with Physical Disabilities	54.6		57.2	
(37-01-00)	Secretary - Services for Children, Youth, and Their Families	89.0		89.0	
(37-01-00)	Director - Management Services	65.9		68.7	
(37-02-00)	Director - Family Services	73.7		77.4	
(37-03-00)	Director - Child Mental Health Services	86.9		88.7	
(37-05-00)	Director - Youth Rehabilitative Services	70.8		74.1	
(38-01-00)	Commissioner - Correction	83.1		83.1	
(38-04-00)	Bureau Chief - Prisons	75.0		78.7	
(38-06-00)	Bureau Chief - Community Custody and Supervision	63.0		66.1	
(40-01-00)	Secretary - Natural Resources and Environmental Control	83.1		83.1	
(40-01-00)	Deputy Secretary - Natural Resources and Environmental Control	67.5		70.5	
(40-05-00)	Director - Fish and Wildlife	30.8	30.8	32.2	32.2
(40-06-00)	Director - Parks and Recreation	65.3		68.0	
(40-07-00)	Director - Soil and Water Conservation	60.6		64.8	
(40-08-00)	Director - Water Resources	69.6		72.5	
(40-09-00)	Director - Air and Waste Management	75.3		75.3	
(45-01-00)	Secretary - Public Safety	77.5		77.5	
(45-01-00)	Director - Boiler Safety	41.3		43.0	
(45-01-00)	Director - Delaware Emergency Management Agency	25.0	25.1	26.3	26.3
(45-04-00)	Executive Secretary - Alcoholic Beverage Control Commission	53.5		55.7	
(45-06-00)	Superintendent - State Police	76.4		80.1	
(45-06-00)	Assistant Superintendent - State Police	70.0		70.0	
(45-07-00)	Director - Motor Vehicles	64.2		67.0	
(55-01-01)	Secretary - Transportation		83.1		83.1
(55-02-01)	Director - Administration		59.7		62.3
(55-03-01)	Director - Transportation Planning		76.7		80.2
(55-04-01)	Director - Highway Operations		76.7		80.2
(55-06-01)	Director - Delaware Transportation Authority		73.5		76.8
(55-07-10)	Director - Pre-construction		76.7		80.2
(60-01-00)	Secretary - Labor	7.8	69.7	7.8	69.7
(60-06-00)	Director - Unemployment Insurance		62.1		65.2
(60-07-00)	Director - Industrial Affairs	54.7		57.3	
(60-08-00)	Director - Vocational Rehabilitation		62.1		65.2
(60-09-00)	Director - Employment and Training	4.0	58.1	4.0	61.2
(65-01-00)	Secretary - Agriculture	71.4		71.4	
(65-01-00)	Deputy Secretary - Agriculture	55.5		58.2	
(70-01-01)	Commissioner - Elections	44.5		46.4	
(70-02-01)	Administrative Director - New Castle County Elections	43.4		43.4	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	42.8		42.8	
(70-03-01)	Administrative Director - Kent County Elections	43.4		43.4	

(70-03-01)	Deputy Administrative Director - Kent County Elections	42.8		42.8	
(70-04-01)	Administrative Director - Sussex County Elections	43.4		43.4	
(70-04-01)	Deputy Administrative Director - Sussex County Elections	42.8		42.8	
(75-01-01)	State Fire Marshal	35.3	17.6	37.1	18.2
(75-02-01)	Director - State Fire School	52.9		55.3	
(76-01-01)	Adjutant General	68.3		60.3	
(95-01-00)	Superintendent - State Board of Education	105.0		105.0	
(95-06-00)	Executive Secretary - Advisory Council on Career and Vocational Education	31.9	32.0	31.9	32.0
(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), (iii) and (iv).					

(ii) If a position in Section 10(a) becomes vacant during the fiscal year, the appointing authority shall submit a request with appropriate justification to the State Personnel Director to establish the salary commensurate with the qualifications of the proposed incumbent and within the positions evaluated pay range. 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 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 subsection, 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. The appointing authority may request a promotional increase in excess of five percent based upon the qualifications of the selected candidate. The request and appropriate justification shall be submitted to the State Personnel Director. 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.

If an employee is offered an appointment to a division level manager position that has an equivalent value equal to or less than the pay grade assigned to the position the employee is vacating, the employee may retain his/her current salary provided it does not exceed the midpoint of the evaluated pay range for the division level manager position. The appointing authority may request the retention of salary in excess of the midpoint of the evaluated pay range for the division level manager position by submitting appropriate justification to the State Personnel Director. 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.

(iv) Positions designated in Section 10(a) of this Act may be paid a salary which is less than the designated salary if the position is filled in an "acting" basis.

(v) Employees in positions contained in Section 10(a), except the Governor; Chief Justice and Justices of the Supreme Court; Chancellor and Vice Chancellors of the Court of Chancery; President Judge and Associate Judges of the Superior Court; Chief Judge and Judges of the Court of Common Pleas; and Chief Judge and Associate Judges of the Family Court shall be entitled to receive on January 13, 1995, an amount equal to one twenty-fourth of the base pay in effect on December 31, 1994. This one-time adjustment is not intended as a salary increase but shall be paid in addition to the salaries authorized in Section 10(a).

(vi) An agency may request a dual incumbency for a Division Director or equivalent position in Section 10(a) for a maximum period of six months for cases involving extended disability or terminal leave, provided that the State Budget Director and the Controller General determine that the position is essential to fill during the interim period it would otherwise be vacant. The agency shall submit a request to the Office of State Personnel. The State Personnel Director shall review this request and seek the advice and written consent of the Budget Director and the Controller General.

(c) Effective May 1, 1995, 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 1995 and the number of points of any recommended changes for any position for Fiscal Year 1996.

(d) For the fiscal year ending June 30, 1995, 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
(15-01-02)	Board Members - Consumer Protection	3.5	
(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 - Professional Regulations		71.5
(30-03-00)	Board Members - Public Service Commission		80.0
(30-05-00)	Board Members - Architectural Accessibility Board	2.3	
(38-04-00)	Board Members - Institutional Classification	12.0	
(45-04-00)	Board Members - Alcoholic Beverage Control Commission	8.6	
(60-07-00)	Board Members - Industrial Accident Board	120.0	
(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	\$10,712.00
(2) Speaker of the House of Representatives	10,712.00
(3) Majority and Minority Leader of the Senate	8,343.00
(4) Majority and Minority Leader of the House	8,343.00
(5) Chairperson and Vice Chairperson of the Joint Finance Committee	7,725.00
(6) Majority and Minority Whip of the Senate	5,253.00
(7) Majority and Minority Whip of the House	5,253.00
(8) Members of the Joint Finance Committee	6,489.00

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 University,

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) 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, 1994, 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 an approved comparability has been assigned to the position. No reclassification/regrading, change in paygrade comparability of a filled or vacant exempt position, or change of a Merit System position to an exempt position otherwise permitted under Delaware Law shall become effective unless approved by the State Budget Director, State Personnel Director and the Controller General. 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.

(b) The salary of employees whose salary in effect as of June 30, 1994, 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 subject to the federal Single Audit Act shall:

(a) Include in program budgets an amount sufficient to cover actual program audit costs incurred by the Office of Auditor of Accounts. Such amount shall be based on estimated audit costs determined and provided by the Office of Auditor of Accounts.

(b) Process audit cost payment documents (Intergovernmental Vouchers) within 30 days of receipt of same from the Office of Auditor of Accounts.

Section 15. During Fiscal Year 1995, all energy use systems for new facilities, rental/leasing changes, and/or renovations to energy use systems must be coordinated with the Energy Office within the Department of Administrative Services, Division of Facilities Management and with the Executive Department, Office of the Budget.

Section 16. All State agencies and departments which own land shall inform the Budget Director, the Controller General, the Secretary of Administrative Services, 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 1995.

(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 11.41 percent. The components of the rate are approximately 6.09 percent for the pension liability, 3.8 percent for the retiree health insurance liability and 1.52 percent for the Post-retirement Benefit Fund. The 1991 Early Retirement Option (ERO) accounts for approximately .8 percent of the pension liability and 1.09 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 Delaware Emergency Management Agency (DEMA) shall continue in Fiscal Year 1995.

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. 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 28. (a) For the fiscal year ending June 30, 1994, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1995.

Fiscal Year Appropriation	Account Codes	Remarks
1991	(01-08-02-01-80)	Task force - Juvenile Detention
1993	(01-08-02-01-50)	Contractual
1994	(01-08-02-01-70)	Computer Equipment/Office Furniture
1994	(01-08-02-01-82)	Family Law Commission
1993/94	(01-08-02-01-84)	Contingency - N.C.S.L.
1994	(01-08-02-01-98)	One-Times
1991	(02-02-10-01-98)	Historical Records Reproduction - Kent County
1992	(02-08-10-01-00)	Civil Case Management
1993/94	(02-13-10-01-80)	Victims Notification
1993/94	(10-02-01-01-82)	Computer One-times
1992	(10-02-01-01-85)	Data Development
1993/94	(10-02-01-01-85)	Development Fund
1993/94	(10-02-01-01-91)	Budget Automation
1994	(10-02-04-01-85)	Legal Obligations
1994	(10-02-04-01-92)	Family Services
1990	(10-02-09-01-98)	Equipage-Expansion of Facilities
1993/94	(10-02-13-01-99)	Special Projects
1994	(10-03-03-01-85)	Other Items
1994	(10-04-05-01-83)	Self Insurance
1994	(10-05-01-01-81)	Education
1994	(10-05-01-01-80)	Pilot Projects
1994	(10-07-02-01-98)	Data Base Verification
1994	(12-01-01-01-81)	Personnel Task Force
1994	(15-02-01-01-98)	Computer Equip. & Polygraph Training

1992	(20-06-02-01-80)	Markers
1993	(20-06-02-01-98)	One-Times
1994	(20-06-02-01-98)	Markers and Legislative Tape Preservation
1994	(20-08-01-01-98)	SARA Title 3
1993/94	(25-06-01-01-85)	Systems Development
1994	(30-01-40-01-50)	Labor Negotiation Costs
1993	(35-01-20-01-85)	Information Systems
1994	(35-04-01-01-98)	DNA Testing Equipment
1994	(35-07-01-01-98)	Medicaid Hospital Reimbursement Methodology
1992	(37-08-20-01-85)	Information Systems
1994	(40-09-02-01-80)	Right to Know
1986	(45-01-01-03-81)	Hazardous Waste Revolving Fund
1994	(70-02-01-01-98)	One-Time Office Furniture
1994	(70-04-01-01-98)	One-Time Voting Machines
1994	(95-04-01-01-90)	Transportation
1992	(95-32-00-01-88)	Principal of the Year
1994	(95-01-01-01-90)	Special Education Study
1994	(95-03-10-01-83)	Professional Accountability Block Grant
1994	(95-03-10-01-84)	New Directions
1994	(95-03-20-01-53)	Program for Children with Disabilities
1994	(95-04-01-01-90)	Public School Pupil Transportation
1994	(95-13-00-01-48)	Teacher in Space
1994	(95-39-00-01-61)	Discipline Program

(b) The following appropriations shall be continued and shall not be subject to reversion until June 30, 1996:

<u>Fiscal Year</u>	<u>Account</u>	<u>Remarks</u>
<u>Appropriation</u>	<u>Codes</u>	
1994	30-05-10-0199	MCI/Equipment
1994	35-01-20-0199	MCI/Equipment
1994	90-03-01-0199	MCI/Equipment
1994	90-04-02-0198	MCI/Equipment
1994	90-04-04-0198	MCI/Equipment
1994	90-04-06-0199	MCI/Equipment

Section 29. Notwithstanding the provisions of Title 29, §5903(17), Delaware Code, effective July 1, 1994, temporary, casual and seasonal employees may be allowed to work for up to two years of consecutive service upon approval of the State Personnel Director, the Budget Director and the Controller General. Any agency wishing to create a new casual and seasonal position or that proposes to fill a vacant casual and seasonal position, shall do so subject to the approval of the State Personnel Director, the Budget Director and the Controller General. Departments may request classes of existing Casual and Seasonal positions for advance approval from the State Personnel Director, Budget Director and the Controller General.

All agencies (01-77, plus the Department of Public Instruction) shall submit by August 31, 1994, a list of all casual and seasonal positions. The State Personnel Director, the Budget Director and the Controller General shall recommend policies and procedures to manage the use of casual and seasonal employees. A progress report shall be submitted to the Governor and Joint Finance Committee on or about December 15, 1994, and a final report shall be due by April 30, 1995.

Section 30. Amend Section 5921, Chapter 29, Title 29 of the Delaware Code by deleting the words "highest 5 or the highest 15%," in the first sentence and substituting in lieu thereof the words "highest 15 or the highest 15%,".

Section 31. Amend Section 5905(a)(2), Chapter 59, Title 29 of the Delaware Code by deleting the words "90 days" and substituting in lieu thereof the words "675 hours".

Section 32. Amend Section 5905(b), Chapter 59, Title 29 of the Delaware Code by deleting the words "at the rate of 1 3/4 work days" and substituting in lieu thereof the words "13.25 hours."

Section 33. Amend Section 5905(c)(1), (2) and (3), Chapter 59, Title 29 by striking the subsections in their entirety and substituting in lieu thereof the following to read:

- "(1) Such employees shall be compensated at the rate of one hour's pay for each hour of unused annual leave. The maximum accrual carryover rate will be 318 hours and the maximum earned annual leave during any given year will be 159 hours annual accrual for a maximum 477 hours at termination of State service.
- (2) In the event of death of such employee, payment shall be made to the employee's estate at the rate of one hour's pay for each hour of unused sick leave up to a maximum of 675 hours.
- (3) Upon retirement under the State Pension Law, such employee shall be compensated at the rate of one hour's pay for every two hours of unused sick leave, with a maximum accrual of 675 hours for the purposes of cash payment."

Section 34. Amend Section 5202(a) and 5202(b)(1), Title 29 of the Delaware Code by striking the subsections in their entirety and substituting in lieu thereof the following to read:

"(a) The State shall pay premium or subscription charges for the following whichever is applicable:

- (1) The full cost of a basic individual contract of health care insurance coverage for all regular officers and employees of the State; or
- (2) One hundred percent of the cost of the basic subscriber and child contract or basic family contract for eligible officers and employees and dependents not eligible for federal Medicare; or
- (3) Beginning July 1, 1995, one hundred percent of the cost of the basic husband and wife contract for eligible officers and employees and their eligible spouse not eligible for federal Medicare.

(b)(1) For eligible pensioners who were first employed by the State on or before June 30, 1991, or who are receiving a disability pension, the State shall pay premium or subscription charges for the following, whichever is applicable:

- a. The full cost of a basic individual contract of health care insurance coverage for eligible pensioners of the State and their eligible dependents not eligible for federal Medicare; or
- b. One hundred percent of the cost of the basic subscriber and child contract or basic family contract for eligible pensioners of the State and their eligible dependents not eligible for federal Medicare; or
- c. Beginning July 1, 1995, one hundred percent of the cost of the basic husband and wife contract for eligible pensioners of the State and their eligible spouse not eligible for federal Medicare; or
- d. For eligible pensioners entitled to service, rights or benefits under the federal Medicare program, 100 percent of the cost of a contract(s), standard contract(s) or special contract(s) of health insurance coverage selected by such pensioner, which coverage may include coverage for such pensioner's eligible dependents."

Section 35. Chapters 5.0000 and 6.0000 of the Merit Rules notwithstanding, the State Personnel Director, in accordance with the Budget Director and the Controller General, shall have the authority to designate and approve pilot projects within specified agencies. Such pilot projects shall accrue to the mutual benefit of the State as an employer and its affected employees in the Department of Health and Social Services, the Department of Services for Children Youth and Their Families, and the Department of Correction. These pilot projects may include employee incentives which have the impact of reducing overtime usage in these Departments, and which are designed to achieve a net reduction in costs to the State. Such projects may include elimination of pre-employment testing for certain classifications, eliminating the cap on vacation carry-over, gain sharing, and the substitution of certain fixed State holidays by floating holidays. Such pilot projects shall not exceed a period of two years duration, subject to renewal on a six month basis, and shall include a written assessment to the Budget Director and the Controller General of their effectiveness at the end of each period.

Section 36. Amend Section 5208, Chapter 52, Title 29 of the Delaware Code by adding a new Section 5208 to read as follows:

Employees of Labor Organizations

"Any labor organization representing the State of Delaware employees may elect to participate in the health care insurance plans provided by the provisions of this Chapter for their regularly scheduled full-time regular employees who work in the State of Delaware. The full cost of such coverages shall be remitted to the State of Delaware by the labor organization no later than the first day of each calendar month for which coverage is being provided. The benefits provided to such employees and the cost of coverage shall be the same as provided to State employees covered by this Chapter. Any labor organization wanting to participate in the State Group Health Insurance program shall be governed by all provisions, rules and regulations of this Chapter.

Section 37. The Family Services Cabinet Council and the Interagency Resource Management Committee shall provide to the Governor, Speaker of the House and President Pro-Tempore of the Senate and members of the Joint Finance Committee, a recommendation as to the priorities and strategies for implementation of the service gaps identified in the report prepared by the Center for Assessment and Policy Development dated June 1, 1994, entitled "Improving Investments for Children and Families". This report should be completed by December 15, 1994.

Section 38. Amend Section 710(b), Title 29 of the Delaware Code by adding a new paragraph to read as follows:

"Effective January 1, 1995, each member of the Senate and the House of Representatives shall receive an annual salary for the period commencing on the first day of the eleventh month in the year in which the member is elected through the thirty-first day of the tenth month in the year in which the term expires. In any calendar month, the first payment of one half of the statutory or stipulated monthly salary or one twenty-fourth of the statutory or stipulated annual salary shall be made on the fifteenth day of such month and shall represent all wages earned during the period from the sixteenth day through and including the last day of the preceding month; the second payment of the remaining one half of the statutory or stipulated monthly salary or one twenty-fourth of the statutory or stipulated annual salary shall be made on the last day of each month and shall represent all wages earned during the period from the first day through and including the fifteenth day of the current month."

Section 39. Amend Section 711, Title 29 of the Delaware Code by adding a new paragraph to read as follows:

"Effective January 1, 1995, every member of the General Assembly shall receive annual expenses payable semi-monthly for the period commencing on the first day of the eleventh month in the year in which the member is elected through the thirty-first day of the tenth month in the year in which the term expires. In any calendar month, the first payment of one twenty-fourth of the statutory or stipulated annual expenses shall be made on the fifteenth day of such month for the period from the sixteenth day through and including the last day of the preceding month; the second payment of one twenty-fourth of the statutory or stipulated annual expenses shall be made on the last day of each month for the period from the first day through and including the fifteenth day of the current month."

Section 40. Amend Section 2712, Title 29 of the Delaware Code by adding a new section (b) and redesignating the remaining sections accordingly:

"(b)(1) Effective January 1, 1995, the salaries of State officials and employees except the Governor and employees in Higher Education and Public Education shall be paid semi-monthly, the fifteenth day of each calendar month and the last day of each calendar month. In any calendar month, the first payment of one half of the statutory or stipulated monthly salary or one twenty-fourth of the statutory or stipulated annual salary shall be made on the fifteenth day of such month and shall represent all wages earned during the period from the sixteenth day through and including the last day of the preceding month; and the second payment of the remaining one half of the statutory or stipulated monthly salary or one twenty-fourth of the statutory or stipulated annual salary shall be made on the last day of each month and shall represent all wages earned during the period from the first day through and including the fifteenth day of the current month.

(2) Effective January 1, 1995, the salaries of employees in Higher Education and Public Education shall be paid semi-monthly, the first payment to be made on the fifteenth day of each calendar month by the payment of one half of the statutory or stipulated monthly salary or one twenty-fourth of the statutory or stipulated annual salary for the period from the first day of that calendar month to and including the fifteenth day of that calendar month; and the second payment shall be made on the last day of each calendar month by payment of the remaining one half of the statutory or stipulated monthly salary or one twenty-fourth of the statutory or stipulated annual salary for the period from the sixteenth day of such calendar month to and including the last day of said calendar month.

(3) If any of the dates of payment specified herein should occur on a Saturday, Sunday or holiday, payment shall be made on the last working day prior to such Saturday, Sunday or holiday. The payment of wages, as outlined herein, shall be made from funds authorized for the period in which the payment is made."

Section 41. For purposes of implementation on the lag payroll as defined in Title 29, Sections 2712(b)(1), 710(b), and 711 of the Delaware Code, the semi-monthly compensation payable on January 13, 1995, for employees in Departments 01 - 77 shall be as follows:.

All State employees in Departments 01 - 77 with the exception of the Governor and employees in Department of Transportation who are paid on an hourly basis and are Merit System or merit comparable shall be entitled to receive on January 13, 1995, compensation equal to one twenty-fourth of their base pay in effect on December 31, 1994. For purposes of this section, base pay shall be defined as annual pay plus shift differential and hazardous duty pay.

All persons employed by the Department of Transportation who are paid on an hourly basis and are Merit System or merit comparable shall be entitled to receive on January 13, 1995, compensation up to one forty-eighth of their base pay in effect on December 31, 1994. For purposes of this section, base pay shall be defined as annual pay plus shift differential and hazardous duty pay.

Department of Transportation employees who are paid on an hourly basis and are Merit System or merit comparable shall receive their regular hourly compensation on January 6, 1995, for hours worked from December 16, 1994, through and including December 31, 1994.

All employees new to State service, except the Governor and employees in Public Education and Higher Education, hired between July 1, 1994, and December 31, 1994, who leave State service on or before June 30, 1995, shall reimburse the State in the amount of the January 13, 1995, payment. In addition only those employees who are actively employed on January 13, 1995, shall be eligible to receive the lag pay adjustment.

The Department of Finance shall develop a plan to implement a lag pay system in Public Education and Higher Education. The plan shall be submitted to the Budget Director and the Controller General by November 1, 1994.

LEGISLATIVE

Section 42. 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 43. 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 44. 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 45. The Hay points and the salary schedule for the Controller General shall be calculated in a manner comparable to division directors.

Section 46. Section 1 of this Act appropriates funds to Office of the Controller General (01-08-02) for Contingency - Legal Fees in the amount of \$500.0. These funds will be available to pay legal fees for the House of Representatives Desegregation Committee only if the Desegregation Committee is approved as an intervenor by the U.S. District Court in the case of Coalition to Save Our Children vs. State Board of Education, et al. If the House of Representatives Desegregation Committee is not approved as an intervenor, this appropriation will revert to the General Fund of the State of Delaware.

JUDICIAL

Section 47. Section 1 of this Act contains position authorizations and associated appropriations to the Superior Court and the Court of Common Pleas for Court Commissioners as follows:

Superior Court (02-03-10)

(3.0) Court Commissioners with \$169.6

Court of Common Pleas (02-06-10)

(1.0) Court Commissioner with \$54.8

Of the (3.0) new commissioner authorizations for Superior Court, (1.0) shall be permanently assigned to Sussex County and shall be shared by the Superior Court and the Court of Common Pleas in that county.

These position authorizations and appropriations are contingent upon enactment of enabling legislation during the 137th General Assembly. Should such legislation not be enacted, these position authorizations are rescinded and the associated appropriations shall revert to the General Fund.

Section 48. Section 1 of this Act provides 5.0 FTEs and \$125.6 to the Superior Court (02-03-10) for the purpose of establishing a one day/one trial jury system. Section 1 of this Act also appropriates \$216.6 to the Office of the Budget - Contingency - One Time Appropriations (10-02-04) for the Administrative Office of the Courts, Judicial Information Center (02-17-04) for the acquisition of hardware and software necessary to automate and implement the one day/one trial jury system. The use of these positions and appropriations is contingent upon the enactment of legislation enabling the courts to use a one day/one trial jury system and restructuring juror compensation. If this legislation is not enacted, the positions will be removed from the budget complement and the funds will revert to the General Fund.

Section 49. 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 50. 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 51. Section 1 of this Act appropriates General Funds for contractual services to the Administrative Office of the Courts - Office of the Director (02-17-01). This line item appropriation contains \$25.0 for the Senior Judge Program and is contingent upon enactment of House Substitute No. 1 for House Bill No. 36. Should this legislation not be

enacted during the 137th General Assembly, this appropriation shall revert to the General Fund.

Section 52. Section 1 of this Act appropriates \$1,588.9 to the Office of the Budget - Contingency and One-Time Appropriations (10-02-04) for the Administrative Office of the Courts, Judicial Information Center (02-17-04), labeled "Judicial Mainframe Buy Out". Of this amount, not more than \$843.5 is to be used to buy out the existing lease-purchase agreement that includes the existing IBM 9121-210 mainframe computer. The remaining \$745.4 shall be expended after the Administrative Office of the Courts, Judicial Information Center and the Office of Information Services complete an Information Systems and Technology Planning Process for the Judiciary, state-wide. This plan will be used to guide all information systems development and should provide the information to determine whether or not the existing mainframe computer is to be upgraded and/or supplemented with networking technology. The acquisition of an upgrade and/or networking technology is to be done through an outright purchase. Prior to entering any contract or agreement obligating these funds, the Administrative Office of the Courts, Judicial Information Center shall obtain the written approval of the Executive Director of the Office of Information Systems and the Budget Director. Such approval shall not be made unless the Office of Information Systems has received complete details, including information on machine and equipment configurations, programs to be processed, cost information, and any other data that the Executive Director may require.

Section 53. The five (5.0) General Fund positions transferred from the Department of Correction to Administrative Office of the Courts (02-17-03), 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.

EXECUTIVE

Section 54. (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:

DEPARTMENT/AGENCY

SERVICE NEEDED

Legislative	Information System Enhancements
Executive Office of the Budget	State-wide Maintenance/Enhancements
State	Corporation Imaging Contingency
Finance	Information System Enhancements
Health and Social Services	Child Support 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 55. 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 8111, Delaware Code.

Section 56. During Fiscal Year 1995, 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 57. (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 1994/1995. 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 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 1996 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 1995. 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 1995, 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 58. (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 adjustments to accommodate the new energy values while loading the Fiscal Year 1995 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 59. For Fiscal Year 1995, 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 60. 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 61. (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, 1995. It is the intent that the appropriation for One-Time Appropriations in the amount of \$48,124.3 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 the 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 54 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 base budget request for the FY 1996 Appropriation Bill.

Where applicable, the appropriations to Office of the Budget - Contingency - One-Time Appropriations (10-02-04), are subject to the following terms and conditions:

DDS	Amount	Purpose
01-08-01	6.0	Office Equipment
01-08-03	17.7	Printing Index
02-01-10	2.3	Office Equipment - Law Clerk
02-01-10	4.0	Office Equipment - Judicial Secretary
02-01-10	15.5	Office Equipment - Staff Attorney and Secretary
02-01-10	10.0	Court Security Equipment
02-02-10	20.0	Furnishings and Fixtures - Murphey House
02-03-10	25.0	Board of Canvass Election
02-06-10	3.0	Capital/Equipment - Clerk
02-08-10	34.6	Domestic Violence Assessment
02-08-10	72.8	Replace Courtroom Recording System
02-13-10	111.0	Court Security
02-17-03	25.0	Equipment - Central Collections Unit
02-17-04	1,588.9	Judicial Mainframe Buy Out
02-17-04	216.6	One Day/One Trial
02-18-03	27.6	Ivy Davis Scholarship Fund
10-01-01	150.0	Local Area Network
10-02-01	150.0	Local Area Network
10-02-01	250.0	Elections Employee Expenses
10-02-07	20.0	Technology for Grant Tracking
10-02-12	2,000.0	End-User Equipment
10-02-15	4,400.0	Voting Machines
10-03-02	12.0	Theatrical Exchange Program
10-03-02	50.0	Main Street Program
10-03-02	45.0	Flags and Pins
10-03-04	150.0	Security - Wilmington Housing Authority
10-03-04	5,000.0	Housing Development Fund
10-04-02	57.0	Automation
10-04-02	10.0	Ethics Commission
10-07-02	250.0	Family Court Case Management
10-07-03	8.5	Computer Equipment and Software
12-01-01	3.4	Computer Equipment
12-05-03	22.5	Audit Costs
15-01-01	105.9	Victim Services
15-01-01	110.0	Develop Workstation Network
15-02-01	100.0	Office Automation
15-02-01	2.3	Lateral Filing System
15-03-01	11.9	Computer Equipment - Workgroup Networking System
20-01-02	6.1	Fax Machine and Copier
20-01-02	10.0	Microfilm Reader/Printer
20-01-03	15.0	Bat-wing Mower
20-01-03	15.0	Mixer/Topdressing Machine
20-01-03	15.0	Wall Niche Compartments - Columbarium
20-05-01	125.0	Imaging System Upgrade
20-06-02	20.0	Historical Document Preservation
20-06-02	50.0	Old Microfilm Reels Preservation
20-06-02	16.0	Historical Markers
20-06-04	20.0	Museum Maintenance
25-01-01	10.0	Deferred Compensation Study
25-06-01	20.0	Workstations for Contractual Collections
30-01-10	20.0	Service and Information Guide
30-01-40	10.0	Computers/Office Equipment
30-01-40	60.0	Collaborative Bargaining
30-03-20	10.0	Magistrate Screening
30-04-10	38.4	Three Mail Vans
30-05-10	100.0	MCI - Generator for Townsend Building
30-05-10	11,139.8	MCI/Equipment
30-05-10	914.0	State-Match School Asbestos Abatement
30-05-10	795.0	MCI - Asbestos Abatement

35-01-20	212.3	Electronic Benefits Transfer
35-01-20	306.4	Vehicles - Direct Care Service
35-04-01	25.0	Emergency Response Vehicle
35-05-10	10.2	Computers - EMS Office
35-05-10	18.0	Station Wagon - EMS Office
35-05-10	2.5	Radios 800 Mhz - EMS Office
35-05-40	5.0	Cemetery Monument
35-08-01	18.4	Van
35-12-20	30.0	Kiosks - State Service Centers
35-12-40	5.0	Pins and Certificates - Delaware High School
		Students Volunteerism Awards
35-14-01	100.0	Systems Development
37-03-10	6.0	Office Furniture and Equipment
37-03-60	18.0	Office Furniture and Equipment
37-05-40	50.0	Electronic Monitoring Equipment
37-05-50	156.0	Ferris Retraining
38-01-01	44.0	Radio Equipment
38-01-60	48.0	Vehicle Analyzer
38-01-61	75.0	Low Income Housing Project
38-01-61	84.0	High Reach Truck
38-01-80	38.8	Vehicles
38-06-02	24.0	Network
38-06-02	12.3	Firearms - New Probation and Parole Officers
38-06-02	36.4	Computer Equipment - New Probation and Parole Officers
38-06-02	34.6	Office Furniture - New Probation and Parole Officers
38-06-02	126.0	Vehicles - New Probation and Parole Officers
38-06-04	200.0	Electronic Monitoring - SENTAC Level III
40-01-01	228.7	Technology Upgrades
40-06-02	18.0	Equipment - Fox Point State Park
40-06-02	24.0	Equipment - Killens Pond State Park
40-06-02	10.0	Electrical Connection for Fox Point State Park
40-06-02	18.0	Equipment - Fort DuPont State Park
40-06-02	17.0	Equipment - Cape Henlopen State Park
40-06-02	17.0	Special Purpose Vehicle
40-07-02	15.0	Special Purpose Vehicle
40-07-03	10.0	Fish Sampling and Lab Analysis
40-07-04	17.5	Special Purpose Vehicle
40-08-02	20.0	Special Purpose Vehicle
40-09-01	140.0	Emergency Response Vehicle
40-09-01	16.8	Special Purpose Vehicle
40-09-02	4.0	Computer
40-09-02	2.0	Pollen Sampler
40-09-02	200.0	Title V - Stationary Sources Clean Air
45-01-20	37.4	Training - 800 Mhz Communications
45-01-20	9.0	Tower Warning Lights
45-04-10	15.5	Van
45-06-01	148.0	Troop LANS - Uniform Crime Reporting
45-06-03	74.7	Training Costs - Additional Recruits
45-06-06	1,700.0	Helicopter Purchase
45-06-08	85.0	Records Management Application - Uniform Crime Reporting
45-06-08	77.0	AS400 Upgrade - Uniform Crime Reporting
45-06-10	94.0	Kent/Sussex Antenna Upgrade and Radio Purchase
45-06-11	514.2	Patrol Vehicles
60-01-10	.5	Moving Expenses
60-01-30	.8	Moving Expenses
60-01-30	20.0	Legal Handbook for Delaware Women
60-07-01	5.0	Moving Expenses
60-07-02	1.5	Moving Expenses
60-09-20	.8	Moving Expenses
65-01-04	25.0	Book - Delaware Trees
65-01-04	50.0	Plow Carrier
65-01-07	13.0	Automation
65-01-07	3.6	Graphics Printer

65-01-07	100.0	Agricultural Lands Preservation Foundation
65-01-07	6.0	Computer Equipment
65-01-08	19.0	Special Purpose Vehicle
65-01-08	46.0	Utility Vehicles
65-01-08	15.0	Pickup Truck
65-01-09	1.5	State Veterinarian Travel
65-01-11	7.0	Computer Equipment
65-01-11	13.0	Special Purpose Vehicle
70-01-01	199.9	Election Year Costs
70-01-01	18.2	Van for Motor Voter Program
70-02-01	8.3	Voter Hotline
70-02-01	1,229.6	Election Year Costs
70-03-01	152.6	Election Year Costs
70-04-01	119.5	Election Year Costs
75-01-01	112.1	Computer Network
75-01-01	85.0	Arson Van
75-01-01	61.8	Four Vehicles
75-01-01	46.5	Three Vehicles
75-03-01	.5	Computer Software
75-03-01	2.0	Conference Hosting Seed Fund
90-01-01	50.0	Video Link - Georgetown
90-01-01	1,000.0	MCI/Equipment
90-01-02	4.0	Vehicle
90-01-02	50.0	Geo Water Map Service Data System
90-03-01	100.0	Educational Equipment
90-03-01	1,000.0	MCI/Equipment
90-04-01	337.6	Library Automation
90-04-01	50.0	MCI/Equipment
90-04-02	350.0	MCI/Equipment
90-04-04	530.0	MCI/Equipment
90-04-06	350.0	MCI/Equipment
95-01-01	5,836.0	MCI/Equipment
95-01-01	1,110.2	Annual Maintenance
95-01-01	30.0	Furniture
95-01-01	250.0	Facility Inventory
95-01-01	75.0	Instructional Technology Planning
95-03-10	5.0	Recruitment Guide
95-03-10	10.0	PRAXIS Equation
95-03-10	100.0	Conversion - DPI Network
95-03-10	25.0	E-mail Link - Townsend Building
95-03-10	50.0	Equipment Relocation
95-03-20	100.0	LEP Assessment
95-04-01	651.3	School Buses

(b) Subsection (a) of this Section allocates \$11,139.8 to the Department of Administrative Services, Facilities Management (30-05-10). These funds shall be expended for minor capital improvements and equipment on behalf of the following state agencies and shall not be subject to reversion until June 30, 1997:

Department of State	\$ 692.3
Department of Administrative Services	4,147.0
Department of Health and Social Services	3,427.0
Department of Services for Children, Youth and Their Families	122.5
Department of Correction	2,000.0
Department of Natural Resources and Environmental Control	357.9
Department of Public Safety	139.8
Delaware National Guard	243.3

(c) Not more than \$250.0 of minor capital improvement and equipment funds authorized to the Department of Correction shall be used to begin renovation of cellblock space in the Hermann Courthouse. In addition, not more than \$100.0 of minor capital improvement and equipment funds authorized to the Department of Administrative Services shall be used to augment said renovations to the cellblock space.

(d) Not more than \$35.0 of the funds allocated to the Department of Public Instruction for minor capital improvements and equipment may be used for a school capacity study. Such study shall rate space capacities of existing assets and at a minimum, take into consideration population projections, technological advances, impacts of a longer school day and impacts of a longer school year. In addition, not more than \$50.0 may be used to update the school construction formula.

(e) None of the funds authorized to the Department of Administrative Services on behalf of the Department of Health and Social Services may be used for planning and design of new facilities.

(f) It is the intent of the General Assembly that the sum of \$5,836,000 allocated in Subsection (a) of this Section to the State Board of Education (95-01-01) be used for minor capital improvements to school buildings. These funds shall not be subject to reversion until June 30, 1997. 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	\$ 158,138	\$ 105,425	\$ 263,563
Brandywine	578,730	380,487	951,217
Special	24,623	-0-	24,623
Christina	943,635	629,090	1,572,725
Special	57,740	-0-	57,740
Colonial	513,229	342,153	855,382
Special	17,331	-0-	17,331
New Castle Vo-Tech	282,525	-0-	282,525
Red Clay	729,486	486,324	1,215,810
Special	30,007	-0-	30,007
Caesar Rodney	267,579	178,386	445,965
Special	10,896	-0-	10,896
Capital	324,307	216,205	540,512
Polytech	80,905	-0-	80,905
Lake Forest	178,678	119,119	297,797
Hilford	193,658	129,105	322,763
Smyrna	160,249	106,833	267,082
Cape Henlopen	200,916	133,944	334,860
Special	10,724	-0-	10,724
Delmar	33,151	22,101	55,252
Indian River	342,479	228,319	570,798
Special	13,642	-0-	13,642
Laurel	113,456	75,637	189,093
Seaford	182,384	121,589	303,973
Special	3,432	-0-	3,432
Sussex Vo-Tech	96,177	-0-	96,177
Woodbridge	<u>87,923</u>	<u>58,615</u>	<u>146,538</u>
MINOR CAPITAL IMPROVEMENTS	\$5,636,000	\$3,333,332	\$ 8,969,332
STATE BOARD OF EDUCATION	\$ 115,000	\$ 76,667	\$ 191,667
VOCATIONAL EQUIPMENT	\$ 85,000	\$ 56,667	\$ 141,667

LOCAL SCHOOL MATCH
ASBESTOS ABATEMENT

		\$ 609,333	\$ 609,333
<u>TOTAL</u>	\$5,836,000	\$4,075,999	\$10,216,666

Section 62. (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, 1995. It is the intent that the appropriation for Technology Initiatives in the amount of \$13,609.5 shall be non-recurring expenditure items. The funds shall be allocated in accordance with this section and shall not be subject to reversion until June 30, 1997. Allocations may be transferred among agencies and projects upon approval of the Budget Director and the Controller General. 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. The initiatives listed in this section shall also comply with the provisions of Section 38(b) through (f) of this Act.

Where applicable, the appropriation to Office of the Budget, Contingency and One-Time Items, Technology Initiatives is subject to the following terms and conditions:

<u>Department/Agency</u>	<u>Allocation</u>	<u>Initiative</u>
Judicial	192.3	Hardware - Family Court Case Management
Executive		
Budget Office	2,000.0	Internet Expansion/Routers
	350.0	Equipment Upgrades
	65.0	Remote Printing - Thomas Collins Building
	5,850.0	Integrated Management Systems
Delaware Development Office	300.0	Local Area Networks
State Personnel Office	170.0	Maintenance Review Automation
State	425.0	Library DELNET - Ten New Castle County Connections
Legal		
Attorney General	53.8	Consumer Protection
Health and Social Services	3,000.0	Delaware Client Information System
Services for Children, Youth and Their Families	222.0	Hardware for Caseworkers
Correction	351.4	Management Information Systems
Public Safety	480.0	DMV Computer Network Initiative
	150.0	Anti-Theft Application

(b) The allocation to the Department of Finance for Integrated Management Systems anticipates enhancements to the Delaware Financial Management System (OFMS) and acquisition of payroll, budget, human resource management and purchasing/contracting modules. Development activities will be coordinated by the steering committee comprised of the Secretary of Finance, the Secretary of Administrative Services, the Executive Director of the Office of Information Systems, the State Personnel Director and the Budget Director.

Section 63. Section 1 of this Act contains an appropriation in Office of the Budget, Contingencies and One-Time Items (10-02-04) entitled "Contingency: Employee Commute Option". These funds are to be used in support of the state's responsibility to meet the employer mandates under the federal Employee Commute Option program. These funds shall be used for surveys required to gauge State progress in meeting the mandates of ECO as well as marketing efforts to encourage State employees to commute using alternative means of transportation.

Section 64. Section 1 of this Act makes an appropriation to the Budget Office, One-Time Items and Contingencies (10-02-04) for 800 MHz radios. These funds shall be used for the purchase of 800 MHz end user equipment for state agencies. Each state agency requiring 800 MHz capability shall forward their projected equipment requirements to the Office of Telecommunications Management no later than September 30, 1994. The Director of

Office of Telecommunications Management shall purchase end user equipment for state agencies in accordance with the 800 MHz project implementation plan and proposed schedule.

Section 65. Section 1 of this Act appropriates \$100.0 to the Office of the Budget Contingency and One-Time Items (10-02-04), State Park Partnership for the development of a pilot inmate vocational training partnership program. The Departments of Natural Resources and Environmental Control, Correction, and Labor are to submit a proposed budget to the Budget Director and the Controller General for the purpose of administering this pilot program. This program will utilize inmate labor for the purpose of renovating specific State park facilities while providing inmates with vocational training.

Section 66. 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 continue development of 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.

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 University 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 67. (a) 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 No. 707 of the 133rd General Assembly; \$125.0 shall be used for the Engineering and Science Fund in accordance with Senate Substitute 1 for Senate Bill No. 334 of the 134th General Assembly; and \$45.0 shall be used for the B. Bradford Barnes Scholarship Program.

(b) \$39.0 shall be used to implement a Speech Pathologist Scholarship Program per the provisions of House Bill No. 324 of the 137th General Assembly. If House Bill No. 324 is not enacted into law, these funds shall revert to the General Fund.

(c) \$10.0 shall be used to implement the Herman M. Holloway Sr. Scholarship program per the provisions of Senate Bill No. 421 of the 137th General Assembly. If Senate Bill No. 421 is not enacted into law, these funds shall revert to the General Fund.

Section 68. Listed below are the allocations of Office of Information Systems services for Fiscal Year 1995.

Agency	FY 1995 Projections	
	General Funds	Other Funds
Legislative	\$ 55.0	\$
Judicial	300.0	
Executive	7,638.8	579.2
Other Elective Offices	225.0	
Legal	170.0	
State	1,160.0	85.0
Administrative Services	100.0	55.0
Health and Social Services (Dover)	240.0	45.0
Health and Social Services (Biggs)	1,272.0	1,126.2
Children, Youth and Their Families (Biggs)	110.0	
Children, Youth and Their Families (Dover)	20.0	
Correction	135.0	276.0
Natural Resources and Environmental Control	55.0	
Public Safety	800.0	
Transportation		350.8
Labor	115.0	
Agriculture	10.0	
Elections	700.0	
Fire Prevention Commission	3.0	
National Guard	1.0	
Higher Education	22.0	
Public Education	200.0	
Total	\$ 13,331.8	\$ 2,517.2
GRAND TOTAL	\$ 15,849.0	

Section 69. Section 1 of this Act makes an appropriation to the Budget Office, One-Time Items, Contingencies (10-02-04), for a Theatrical Exchange Program with Watford, England, to promote cultural and economic development ties under the Sister Cities Program.

Section 70. Section 1 of this Act appropriates \$65.0 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 71. Section 1 of this Act authorizes General Fund positions for the Delaware Economic Development Authority (10-03-03). Of this complement, position number 58670 shall maintain Merit System status. When this position becomes vacant, the 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.

Section 72. (a) Section 1 of this Act appropriates to the State Housing Authority (the "Authority") \$5,495.1 for its Fiscal Year 1995 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 73. Section 1 of this Act appropriates \$837.4 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 74. Section 1 of this Act makes an appropriation to Budget Office One Time Items and Contingencies (10-02-04) to the Delaware State Housing Authority for the purpose of contracting for security at the Wilmington Housing Authority. These funds shall be used

to provide enhanced entrance security at the six WHA high rise buildings for the elderly. It is the intent of the General Assembly that this funding be considered as a temporary, one-time solution until the WHA assumes the financial responsibility for these services. Prior to the disbursement of said funds to the WHA, the WHA shall submit a detailed plan of expenditure to the Budget Director, Controller General and Director of the Delaware State Housing Authority for approval.

Section 75. Section 1 of this Act appropriates \$276.1 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 No. 496 of the 132nd General Assembly and House Bill No. 136 of the 134th General Assembly.

Section 76. For the fiscal year ending June 30, 1995, Position #1061 shall be assigned to the State Personnel Office so long as it is occupied by the current incumbent.

Section 77. 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 state-wide training programs for State managers, supervisors and employees. It is the intent of this Act to support these state-wide 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 78. 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, 1995, to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, its findings and recommendations.

Section 79. 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 80. 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 81. Effective September 1, 1994, the incumbent in Position No. 6928 in the Department of Correction (38-00-00) shall be transferred to (10-04-02), Office of State Personnel Operations, and Position No. 6928 shall be de-authorized.

Section 82. 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 University and Delaware Technical and Community College.

OTHER ELECTIVE OFFICES

Section 83. Of the total positions authorized in Section 1 of this Act for the Auditor of Accounts (12-02-01), the position of Community Relations Officer shall be exempt from classified service.

Section 84. Section 1 of this Act reflects for the Auditor of Accounts (12-02-01) sufficient state-match funding for federally-mandated audit services. If during the first three months of Fiscal Year 1995, 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 Indirect Cost Account.

Section 85. 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 (12-03-02). Said authorizations and appropriations include an authorization for one (1.0) Director of Administration which shall be exempt.

Section 86. Section 1 of this Act provides a special fund appropriation of \$1,437.3 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 \$1,437.3 in interest income on bank deposits shall be coded as special fund revenue to provide funds for operation of the Cash Management Policy Board.

Section 87. 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 88. Section 1 of this Act authorizes an appropriation for contractual services for the Office of Attorney General (15-01-01). Of this amount, \$418.7 shall be used for the purpose of providing services covering family violence in New Castle County, and \$239.0 shall be used for the purpose of providing services covering family violence in Kent County and Sussex County.

Section 89. 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 90. Section 1 of this Act authorizes four (4.0) 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 91. 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 92. During Fiscal Year 1995, 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 93. 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, \$299.4 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 94. 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 95. Section 1 of this Act makes an appropriation of \$612.1 Appropriated Special Funds, \$294.4 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 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 96. Section 1 of this Act provides an appropriation for Personnel Costs to the Office of the Attorney General (15-01-01). Included in this appropriation is funding for 2.0 Deputy Attorneys General to 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. (a) Amend §§2736, 4203, 4222, 4405 and 7616 of Title 6 and §5113 of Title 25, Delaware Code by deleting the section number "B612" each time it appears and by inserting in lieu thereof the section number "2517".

(b) Amend §§2809 and 2829, Title 6, and §7020, Title 25, Delaware Code by deleting the citation "8612(b)(1)" each time it appears and by inserting in lieu thereof the citation "2517(c)(1)".

(c) Amend §§2809, 2829, 4202, 4204, 4222, 5007, 5009, 5009A, 7616, Title 6, §3814, Title 18, §1204, Title 24, §§5113, 5114, 5905, 6503, 7018, 7020, 7035, Title 25, §§8824 and 8825, Title 29, Delaware Code by deleting the phrase "Consumer Affairs" each time it appears and by inserting in lieu thereof the phrase "Consumer Protection".

Section 99. Section 1 of this Act provides funding for a Victim Notification Program in the Office of the Attorney General (15-01-01). The funding includes 9.0 General Fund positions, operating costs, and \$105.9 in one-time expenses. Should Senate Bill No. 309 of the 137th General Assembly not be enacted, the following transfers shall be made:

FROM	TO	AMOUNT
(15-01-01) Victims Rights	(02-13-20) Victim Services	\$120.0
(15-01-01) Victims Rights (5.0)	(02-06-10) Personnel (5.0)	163.8
(10-02-04) Contingency-One-time	(10-02-04) Contingency-One-time	105.9
(15-01-01) Vic.Rights	(02-06-10) Vic.Rights	

Section 100. Section 1 of this Act authorizes 1.0 Deputy Attorney and associated appropriations for the Office of Attorney General (15-01-01). This position is to be devoted exclusively to the handling of personnel related issues and is not intended to supplant existing Deputy Attorney General assignments in this area. The Attorney General, the Director of State Personnel and the Governor's Legal Counsel shall jointly develop specific responsibilities for this position and document current Attorney General assignments relating to personnel matters. This document shall be forwarded to the Budget Director.

STATE

Section 101. 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 102. Section 1 of this Act establishes a special fund appropriation entitled Technology Infrastructure Fund, in the Division of Corporations (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 103. 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, \$10.0 shall be used at the discretion of the Delaware Heritage Commission for scholar awards, challenge grants and publications.

Section 104. The Department of State, Historical and Cultural Affairs, Delaware State Archives (20-06-02) shall continue to provide microfilm services to the Department of Public Safety, Division of Licenses, Taxes & Registrations (LT&R) (45-07-00) until such time as the contract stipulated in Section 250 of this Act is executed. Additionally, State Archives shall provide assistance in preparing a Request for Proposal (RFP) for such services as requested by LT&R.

Section 105. Section 1 of this Act provides an appropriation to Executive, Office of the Budget, "Contingency & One-Time Items" (10-02-04) for the following historical markers:

History - Town of Felton
 Barberry's Berry - Home of Captain Caldwell
 Felton, De. - Geographical Central Location of Delaware
 Thomas' Chapel - Kent County
 Judges House - Georgetown
 Stanford Davis - Georgetown
 Blades United Methodist Church
 Dickerson Chapel - Millsboro

Section 106. 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 107. Section 1 of this Act provides an appropriation to Executive, Office of the Budget, Contingency & One-Time Items (10-02-04), Technology Initiatives. Of that amount, \$425.0 shall be used for the DELNET Project. This appropriation shall not revert until June 30, 1997.

First, public library automation projects will be funded up to 45 percent 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 45 percent of hardware and software costs from LSCA Title II represents approximately 40 percent of the total project cost excluding retrospective conversion and bar coding. Delaware currently has approximately \$914.0 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 percent of the remaining project costs (non-federal share). The funding of 60 percent of remaining project cost from the State represents approximately 35 percent of total project cost excluding retrospective conversion and bar coding. 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 percent of the remaining project cost (non-federal share). The remaining project from local funds represents approximately 25 percent of total project cost excluding retrospective conversion and bar coding.

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 percent - 20 percent of the total project, and local funds will cover retrospective conversion and bar coding cost which may represent up to 25 percent 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 bar coding 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.

FINANCE

Section 108. a) The Deferred Compensation Council or its successor shall commission a study of alternative administrative options for the Deferred Compensation Program including the options of contracting for the administration and/or placing the investments.

b) The basic plan shall provide for:

1. Immediate investment of funds;
2. Allocation of Mutual Fund shares to individual accounts;
3. Statements that provide more meaningful information concerning values, investments and shares.

c) The study shall be forwarded to the Joint Finance Committee by December 1, 1994.

Section 109. 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, 1995, pursuant to policy and procedures as established by the Secretary of Finance.

Section 110. The Department of Finance, Office of the Secretary, is authorized in Fiscal Year 1995 to maintain a special fund with the State Treasurer for the purposes of completing the acquisition of 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 \$575.0.

Section 111. 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 112. 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. Up to \$40.5 of the Contractual Services Appropriated Special Fund line may be used to pay for fees and expenses associated with the collection of taxes by credit cards.

Section 113. 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 114. 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. In addition, the Division is authorized to regulate payment of fees for collection of debts owed to claimant agencies. 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 115. (a) In the event that the gross sales of the State Lottery shall exceed the amount specified in Section 1 of this Act, the 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, 1995, 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 one resident auditor and additional audit services under the appropriation for contractual services. In addition to the duties of the resident auditor, other duties shall be performed as assigned by the Secretary of Finance.

ADMINISTRATIVE SERVICES

Section 116. Section 1 of this Act makes an appropriation of \$60.0 to Office of the Budget, Contingency and One-Time Appropriations (10-02-04) for the Public Employment Relations Board (PERB) (30-01-40) to support efforts by State agencies, public school employers and the exclusive bargaining representatives of their employees to improve their collective bargaining relationship. Authority for the administration of these funds shall be with PERB. The distribution of funds to employer/employee groups shall be based upon an evaluation of joint requests by the parties to enter into training and development opportunities which are directed toward building harmonious and cooperative labor management relationships and developing communication and problem solving skills necessary to effectively negotiate collective bargaining agreements, as well as resolve on-going problems. Based upon experience gained through funded programs and in cooperation with employers and bargaining representatives, PERB shall develop a collaborative bargaining program for future use, with the understanding that future expenses shall be the responsibility of parties.

Section 117. Section 1 of this Act appropriates funds to the Public Employment Relations Board (30-01-40) of the Dept. of Administrative Services. If Senate Bill No. 401 of the 137th General Assembly is not enacted into law, appropriations will revert to the General Fund of the State of Delaware as follows:

(10-02-04) Contingency and One-time Items	\$10.0 [Computers/ Office Equipment (30-01-40)]	
(30-01-40) Personnel Costs (2.0) positions	75.1	

Section 118. 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 of the Delaware Code. The Budget Director, with concurrence of the Controller General, is authorized to transfer up to \$210.5 from the Public Service Commission's Revolving Account (Appropriation 8600) to the Public Advocate's Appropriated Special Fund account.

Section 119. Section 1 of this Act recognizes that legislation establishing a state-wide Fleet Management System was 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 state-wide 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 120. 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 121. During Fiscal Year 1995, the Department of Administrative Services, Division of Facilities Management (30-05-10), 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 122. (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 1995, 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 123. For energy backcharge purposes, the Department of Administrative Services (host department) Fiscal 1995 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.

HEALTH AND SOCIAL SERVICES

Section 124. Section 1 of this Act provides for the transfer of the Capital Unit and 4.0 positions from the Department of Health and Social Services, Division of Management Services (35-01-20), to the Department of Administrative Services, Division of Facilities Management (30-05-10). Budget Position number 2579 from (35-05-20) and Budget Position number 4263 from (35-06-20), which are vacant positions, shall be transferred to the Department of Administrative Services, Division of Facilities Management (30-05-10), as of July 1, 1994. Budget Position numbers 5427 and 2300 in (35-01-20) which are part of the Fiscal Year 1994 positions of the Capital Unit shall be retained by the Department of Health and Social Services.

Section 125. Notwithstanding any other provisions of the Delaware Code, the following Merit System position in the Department of Health and Social Services, Office of the Secretary (35-01-10), shall become exempt at such time as the current incumbent vacates such position, thus increasing the number of exempt positions from 2.0 to 3.0 (BP #2263 Executive Assistant).

Section 126. Section 1 of this Act appropriates \$1,111.8 for overtime in Personnel Costs and 20.0 FTEs in Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Inpatient Mental Health (35-06-30); and \$536.1 and 9.0 FTEs in Mental Retardation, Institutional Services (35-11-20), for overtime in Personnel Costs. Additional unfunded positions that have been vacant on a long-term basis are also to be transferred from other APUs or IPUs in Section 1 of this Act to Inpatient Mental Health and Institutional Services. These new and transferred FTEs will be full-time positions and will aid the Department in alleviating its use of overtime in these institutions. The Department shall report quarterly to the Budget Director and the Controller General, in a format described by the Budget Director and the Controller General, on the hiring progress and implementation of the overtime initiative.

Section 127. 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 last 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 1 of this Act appropriates \$142.5 and 4.5 FTEs to the Audit, Recovery and Management Unit in Health and Social Services, Management Services (35-01-20). The Secretary of the Department of Health and Social Services shall amend the quarterly Audit, Recovery and Management Unit report to specify the amount of revenue that is deposited to the General Fund from each quarter's collections. This revenue shall be separate from recoupments, savings and cost avoidance savings.

Section 128. The Secretary of the Department of Health and Social Services shall submit a report to the Budget Director and the Controller General as to the status of the staffing of nurses in the Department. This report shall be made February 1, 1995, for the period ending December 31, 1994.

Section 129. 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 130. The Secretary of the Department of Health and Social Services shall submit a quarterly report to the Budget Director and the Controller General separating departmental revenue estimates into categories related to the \$8,500.0 ASF for the Medicaid program in Social Services, (35-07-00); the \$915.1 ASF for Child Support programs in Child Support Enforcement, (35-10-00); the \$4,277.2 ASF in Public Health (35-05-00); and the \$507.8 ASF in Alcohol, Drug Abuse and Mental Health, (35-06-00). This report will aid the Budget Director and the Controller General in determining if the projected revenue projections will support the Appropriated Special Fund accounts.

Section 131. 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 132. Section 1 of this Act appropriates \$144.4 in the Department of Health and Social Services, Administration, Management Services (35-01-20), and \$212.3 in Office of the Budget, Contingencies and One-Time Items (10-02-04), for a pilot project in Kent County to develop a laser card with a magnetic strip for Electronic Benefit Transfers for clients receiving Food Stamps and other entitlement program benefits. The Department shall report quarterly to the Budget Director and the Controller General on the progress of this pilot project. It is anticipated that the potential use of optical memory laser cards by clients will result in greater security and the reduction of fraud and abuse.

Section 133. Notwithstanding any other provision of the law, the Health Resources Management Council shall be reestablished with full powers and duties as set forth in Title 16, Chapter 93 of the Delaware Code until the effective date of House Bill No. 331 of the 137th General Assembly. Upon the effective date of House Bill No. 331 of the 137th General Assembly, the Health Resources Management Council shall be terminated.

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-07SI) 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-07SI account.

Section 135. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20), for personnel costs. Of that amount, \$12.0 and 1.0 position shall be used to provide a typist for the Office of Narcotics and Dangerous Drugs.

Section 136. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20) for Supplies and Materials. Of that amount, \$4.3 shall be used to fund laboratory testing associated with Senate Bill No. 69. These funds shall not be expended and therefore revert to the General Fund on June 30, 1995, unless Senate Bill No. 69 of the 137th General Assembly is enacted into law.

Section 137. The Department of Health and Social Services is encouraged to continue the work currently underway to explore the issue of assisted living for persons with disabilities, including those with brain and spinal injuries and to move forward with the plan for the development of quality of life options for such persons. The Secretary of the Department shall report to the Budget Director and the Controller General on the status of this project no later than December 15, 1994.

Section 138. The Division of Public Health, Community Health (35-05-20), is appropriated \$1,486.0 in "School-Based Health Centers" for planning, implementing and operating school-based health centers. In addition, funding for 2.0 General Fund positions related to the operation of school-based health centers is appropriated under Personnel Costs for the continued operation of the Middletown School-Based Health Center and for the administration and planning of all school-based health centers.

During Fiscal Year 1995, Community Health shall implement six new school-based health centers, one of which will open in the spring of 1995 and shall complete planning for at least five additional centers. Status reports shall be submitted to the Budget Director and the Controller General not later than December 15, 1994, and May 15, 1995.

Section 139. Notwithstanding any other provisions of the Delaware Code, the following merit positions shall become exempt at such time as the current incumbent vacates such position:

Hospital Director, Delaware State Hospital (B.P.4175)
 Hospital Director, Stockley Center (B.P.6429)
 Nursing Home Director I, Emily Blsset Hospital (B.P.3162)
 Nursing Home Director I, Governor Bacon Health Center (B.P.4554)
 Nursing Home Director II, Delaware Hospital for the Chronically Ill (B.P.3892)

When any of these positions become vacant, the State Personnel Director shall take the appropriate steps to carry out the provisions of this section.

Section 140. 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 141. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of Public Health, Director's Office/Support Services (35-05-10), for Contractual Services. Of that amount, \$159.8 shall be used for the purpose of providing school nursing services three days a week to non-public schools in New Castle County.

The Secretary of the Department of Health and Social Services will ensure that the contracts with the various schools in this program are executed no later than August 15 of each year. The Secretary will also ensure that timely payments are made to all contractors.

Section 142. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Public Health, Community Health (35-05-20), 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 143. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20), for Contractual Services. Of that amount, \$70.0 shall be available for medicine, equipment and part-time nursing services for a community-based adult health services clinic serving the Claymont area of New Castle County.

Section 144. A non-appropriated special fund revolving account is created in the Division of Public Health (35-05-20) for retention of contributions from private insurance companies to purchase immunization serum for the Universal Child Immunization Program. This shall be an interest bearing account.

Section 145. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Public Health, Community Health (35-05-20), for Contractual Services. Of that amount, \$100.0 shall be used to provide rat control on a statewide basis. Existing staff in the Division shall coordinate and manage such contract.

Section 146. Section 1 of this Act provides General Funds in the amount of \$2,800.0 in the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health. This equals the amount of disproportionate share revenues that are projected to be collected from the federal government during Fiscal Year 1995. The Department shall deposit this \$2,800.0 in revenues to the General Fund and shall continue to maintain its efforts to ensure that the State receives its allotted disproportionate share payments from the federal government. The Department shall report quarterly to the Budget Director and the Controller General on disproportionate share revenue received.

Section 147. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Community Mental Health (35-06-20), for Supplies and Materials. Of that amount, an additional \$112.0 shall be used to provide psychotropic drugs to clients residing in the community. The Secretary of the Department of Health and Social Services shall prepare a report to the Budget Director and the Controller General concerning the status of this initiative to include results and recommendations on the use of psychotropic drugs on or before December 15, 1994.

Section 148. 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 to 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 149. 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 150. The charges associated with food contracts between Inpatient Mental Health (35-06-30) and the Terry Children's Psychiatric Center for Fiscal Year 1996 shall be finalized by October 1, 1994.

Section 151. 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 152. 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 in non-psychiatric services at area hospitals 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 153. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40) in Contractual Services. In addition to this General Fund appropriation, the Director of the Division of Alcoholism, Drug Abuse and Mental Health, shall insure that the 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 154. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40) in Contractual Services. In addition to this General Fund appropriation, the Director of the Division of Alcoholism, Drug Abuse and Mental Health shall insure that the 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 155. Section 1 of this Act provides an appropriation for Contractual Services in the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism and 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.

Section 156. Section 1 of this Act includes an appropriation to increase Day Care Provider Rates for infants. It is the intent of this Section that the funds appropriated for this purpose be used to increase rates for both children aged 0 to 12 months and children aged 12 to 24 months with higher reimbursement rates for younger children. The Secretary of the Department of Health and Social Services is directed to develop a reimbursement schedule, to be approved by the Budget Director and the Controller General, that meets the intent of this Section.

Section 157. (a) The amount appropriated by Section 1 of this Act to the Department of Health and Social Services for Title XIX Federal Programs (Medicaid) - Other Than State Institutions shall be expended solely in accordance with the following conditions and limitations:

- (i) This appropriation shall be used for the purpose of continuing the program of medical assistance provided for within the State plan under Title XIX of the Social Security Act and the requirement of Section 121(a) of P.L. 89-97 enacted by the Congress of the United States and commonly known as Title XIX of the Social Security Act;
- (ii) The State Plan of Medical Care to be carried out by the Department of Health and Social Services shall meet the requirement for Federal Financial Participation under the aforementioned Title XIX, and the sums expended by the Department pursuant to this Act shall be limited to:
 - (1) 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:
- (i) Such appropriation shall be expended for the purpose of providing medical services to patients eligible under the Federal Title XIX Medicaid Program residing in various facilities of, or under the jurisdiction of, the Department of Health and Social Services;
 - (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 250 percent of the Federal Supplemental Security Income (SSI) monthly payment standard and if they meet other eligibility requirements.

(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 120 percent of the federal poverty level and resources less than two times SSI resource limits are eligible for Medicare Part B premiums.

Section 158. 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."

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. Those clients not Medicaid eligible will receive the same level of services as in previous years.

Section 159. 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 (CSCRCP). The Office of the Budget (10-02-00) will provide funding from CSCRCP recoveries, as the first priority for payment, to pay for the state's one-quarter share of the processing charges.

Section 160. 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 161. (a) Section 1 of this Act appropriates \$1,412.2 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 maintain up to 21 positions and establish or contract for an additional four 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 1995.

(b) 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 state-wide system of early intervention services in Subparts D and F.

(c) 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 162. Section 1 of this Act appropriates \$1,412.2 in Social Services (35-07-00) under Early Intervention for the Part H Birth to Three Program for children with disabilities and/or developmental delays and allows for hiring of staff to implement this program. These funds were appropriated based on projections of the number of children who will be screened for disabilities under this program and who will receive services until transitioned to the education system on or before their third birthday, if services are still required. The administrative component of the program is contained within the Department of Health and Social Services, Management Services (35-01-20). Management Services shall submit a monthly report to the Budget Director and the Controller General outlining the number of children screened and assessed by the program, the number of children receiving services, and the number of children transitioned out of the program.

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, 1994, 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 of Social Services (35-07-01), for the AFDC program. Children who are otherwise eligible for AFDC and who are students shall remain eligible for AFDC until they reach their 19th birthday (in accordance with the policies established by the Division of Social Services).

Section 165. Section 1 of this Act authorizes FTEs for the Division of Social Services (35-07-00). Social Services is permitted to exceed its authorized FTEs until the transfer of staff to the Division of Services for Aging and Adults with Physical Disabilities (35-14-00) is complete.

Section 166. Section 1 of this Act appropriates \$358.1 for administrative costs in support of implementation of a Medicaid managed care program in the Department of Health and Social Services, Social Services (35-07-01). The Department will plan the implementation of a managed care program during Fiscal Year 1996, with this implementation contingent upon the approval of a Medicaid waiver application submitted to the Health Care Financing Administration (HCFA) at the beginning of Fiscal Year 1995. The implementation of the managed care program may include a phasing in of the various eligibility groups over the five year waiver period in order to ensure optimal coordination and efficiency of the managed care program. The Department anticipates serving the following populations under the Medicaid waiver: all uninsured adults to 100% of poverty; the population currently eligible for the State General Assistance Health First program; and all categorically eligible Medicaid recipients, including some SSI eligible recipients. It is anticipated that the managed care program will exclude the long-term care population, including those at the Stockley Institution; Medicare recipients covered under Medicaid; eligibles covered by community and home based services waivers; and other special population groups, all of whom currently receive services under Medicaid guidelines and who will continue to receive these services under a fee for service or other arrangement so long as they meet eligibility criteria outlined in the Medicaid State Plan.

Section 167. Section 1 of this Act includes 1.0 NSF FTE in the Department of Health and Social Services, Social Services (35-07-01). This Medicaid Eligibility Specialist position will be funded through voluntary contributions from the Medical Center of Delaware, and from federal matching funds. This position will expedite the Medicaid eligibility application process for Medical Center clients, and will ensure that these clients apply

for services through Medicaid, if appropriate, thereby maximizing federal revenues for the State of Delaware.

Section 168. Section 1 of this Act includes funding to the Department of Health and Social Services, Division of Social Services (35-07-01), for the purpose of Medicaid Estate Recovery in the amount of \$21.5. These funds shall not be expended and therefore revert to the General Fund on June 30, 1995, unless House Bill No. 437 of the 137th General Assembly is enacted into law.

Section 169. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of Social Services (35-07-01) for Contractual Services. Of that amount, \$2.0 shall be used for the purpose of Earned Income Tax Notices to clients of this Division. These funds shall not be expended and therefore revert to the General Fund on June 30, 1995, unless House Bill No. 438 of the 137th General Assembly is enacted into law.

Section 170. 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 171. 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 172. Delete Title 29, Chapter 79, Section 7929(b), Delaware Code, referring to the Division for the Visually Impaired, and replace with the following:

"The Division Director shall be an exempt employee, knowledgeable and skilled in the field of services to the visually impaired and responsive to the needs and concerns of that population."

Section 173. Amend Title 16, Chapter 96, Delaware Code, by deleting reference to "Sheltered Workshop" and substituting therein "Delaware Industries for the Blind".

Section 174. 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 175. Section 1 of this Act provides an appropriation of \$926.8 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 1995 child support collections and federal incentive dollars will increase by an estimated \$1,000.0 over Fiscal Year 1993. This revenue shall fund this account and the related 16.4 ASF FTEs. The Department shall continue its efforts to maintain collections related to child support programs, and all revenue in excess of the Division's ASF authority shall be deposited as designated by Title 29, Section 6102 of the Delaware Code.

Section 176. 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 Community Services lines.

Section 177. 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, 1994. 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 1995.

The Division is encouraged, where appropriate, to provide supported employment opportunities for these clients within the appropriation limit.

Section 178. 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, \$375.0 shall be used for residential placements to be taken from the critical waiting list.

Section 179. 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 180. 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 181. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of Mental Retardation, Community Services (35-11-30) for "Other Items: Purchase of Care". Of that amount, an additional \$100.0 was funded for respite care. These funds shall be utilized to serve families on the current waiting list and to provide additional hours of service to those currently receiving services.

Section 182. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, State Service Centers (35-12-00), for Contractual Services. Of that amount, \$12.0 shall be used for homeless services.

Section 183. 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 184. 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 185. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of State Service Centers, Service Center Management (35-12-20), for personnel costs. Of that amount, \$37.6 and 2.0 positions shall be used to provide Public Information Clerks for the Georgetown and Bridgeville State Service Centers.

Section 186. Section 1 of this Act includes an appropriation to Executive, Office of the Budget, Contingency and One-Time Items (10-02-04), for Volunteerism-High School Students. This amount shall be used to purchase pins and certificates for high school students who have provided volunteer service in accordance with Senate Bill No. 308 of the 137th General Assembly. These funds shall not be expended and therefore revert to the General Fund on June 30, 1995, unless Senate Bill No. 308 of the 137th General Assembly is enacted into law.

Section 187. 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 188. If at any time during the fiscal year ending June 30, 1995, 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 189. 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 190. 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 191. The position of Director, Community Services, shall remain exempt from classified service until such time as the position becomes vacant.

Section 192. The Division of Services for Aging and Adults with Physical Disabilities (35-14-00) will receive Medicaid reimbursement for the administration of community based services for the Aging and Adults with Physical Disabilities population. Notwithstanding the provisions of Title 29, Section 6102, Delaware Code, the Division shall be allowed to collect and deposit the Medicaid reimbursement in an appropriated special fund account entitled "Community Based Services Reimbursement." Receipts in the account may be used to maintain existing services and provide additional services for adults with physical disabilities. Such services are not to exceed the estimated annualized revenue, and are subject to initial and on-going review by the Budget Director and the Controller General.

Section 193. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Services for Aging and Adults with Physical Disabilities (35-14-01), for Contractual Services. Of that amount, \$25.0 shall be used to provide a Nautilus Program.

Section 194. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of Services for Aging and Adults with Physical Disabilities (35-14-01), for Contractual Services. Of that amount, \$52.1 shall be utilized for the Joining Generations Program.

Section 195. Section 1 of this Act includes funding to the Department of Health and Social Services, Division of Services for Aging and Adults with Physical Disabilities (35-14-01), for the purpose of restructuring the Division of Aging to provide information and referral to adults with disabilities. The Division of Aging shall not be restructured and the associated funds shall not be expended and therefore revert to the General Fund on June 30, 1995, unless Senate Bill No. 293 of the 137th General Assembly is enacted into law.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 196. 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 197. Section 1 of this Act provides Appropriated Special Fund (ASF) authority in the amount of \$3,500.0 to a special line entitled "Contingency Fees" in the Department of Services for Children, Youth and Their Families, Division of Management Services, Office of the Director (37-01-15), for the purpose of consultant remuneration. The work of the consultant(s) will enable the Department to recover an estimated additional \$26,500.0 in federal financial participation (FFP) over a period of three years. Payment shall be made to the consultant only upon receipt of FFP funds. The unencumbered balance of such authorization and the associated ASF account shall be continuing in nature and shall not be subject to Delaware Financial Management System (DFMS) appropriation file maintenance until June 30, 1998, or until the consultant fees are paid in full, whichever is later. In the event recoveries collected under the contract cause the department's fee obligations to exceed the aforementioned authorization, the Budget Director and the Controller General may adjust the ASF authority accordingly.

Section 198. Amend Volume 69, Chapter 64, Section 186, Laws of Delaware, by adding at the end of such section the following:
"The Budget Director and the Controller General, with the approval of the Joint Finance

Committee, may authorize additional expenditures by the Department of Services for Children, Youth and Their Families from the aforementioned revenue sources during Fiscal Year 1994."

Section 199. 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". To the extent needed by the Children's Trust Fund, these funds shall be used as a match for available federal funds for the Children's Trust Fund in the proportion necessary. They will not be available to match any other federal funds during Fiscal Year 1995.

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 1995.

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 200. The Department of Services for Children, Youth and Their Families generates Federal Financial Participation (FFP) revenue from a number of federal entitlement programs, most notably Medicaid, Title IV-E Foster Care, and Supplemental Security Income (SSI) for its covered activities. Section 1 authorizes ASF spending authority allowing the Department to retain a portion of said funds to be used to support cost recovery activities and improve children's services. On an annual basis, the sums of \$1,420.0 and \$840.0, derived from Medicaid and Title IV-E, respectively, shall be deposited to the General Fund. Such deposits shall be made at regular intervals throughout the year as recovery revenues flow into the system.

On a regular basis, the Department shall transfer the required Medicaid State match related to Medicaid payments made in the preceding period to the Department of Health and Social Services. The Department shall be responsible for all claims processing costs and repayment of any audit disallowances, including any penalties and fees.

The Department is hereby authorized to use the aforementioned authority to pay consultant(s) fees, to support the required cost recovery infrastructure and to reinvest in the following program improvements:

- **Department-wide:** Assessment, services integration, MIS development, planning unit, client services and operational improvements.
- **Family Services:** Second and third shifts, parent aid services, well-equipped workers, trauma support, intensive reunification, New Castle County emergency services, foster care payment rate increase (up to 10%), hispanic foster care, family respite care, medical foster care, emergency foster care, shelter beds.
- **Child Mental Health Services:** Continue RTC upgrades, data/accountability infrastructure, clinical management augmentation, Sussex County service expansion, early intervention programming (Headstart/child care centers), EPSDT and follow-on, wraparound services.
- **Youth Rehabilitative Services:** Snowden programming
- **One-times:** Murphy cottage expansion, DFS decentralization

This spending plan, with the concurrence of the Budget Director and the Controller General, may be modified to address any unforeseen operating shortfalls or critical one-time needs. In addition, the Budget Director and the Controller General may adjust the ASF authority under Section 1 of this Act to enhance the department's cost recovery initiatives in the event that new cost recovery opportunities are identified. The Department shall ensure that the actual revenues are available to implement the above initiatives authorized in Section 1 of this Act to the Budget Director and the Controller General. The Budget Director and the Controller General shall approve the implementation of these new initiatives.

Section 201. For Fiscal Year 1995, the Department of Services for Children, Youth and Their Families, Division of Family Services (37-02-00), shall have 2.0 FTE exempt positions in addition to those authorized by Title 29, Section 5903, Delaware Code. Also, for Fiscal Year 1995, the Division of Management Services (37-01-00) shall have 1.0 FTE exempt position in addition to those authorized by Title 29, Section 5903, Delaware Code. As position #55138 and #56704 become vacant, each shall be classified by the Director of Personnel in accordance with the Merit System, Title 29, Chapter 54, Delaware Code.

Section 202. 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, Family 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, 1994, the goal will be 220 children. This goal statement is intended to satisfy the requirements of the Federal Adoption Assistance and Child Welfare Act (P.L. 96-272).

Section 203. Section 1 of this Act authorizes 9.0 NSF positions in the Department of Services for Children, Youth and Their Families, Division of Family Services, Office of the Director (37-02-10). These positions are authorized contingent upon federal approval of a cost allocation plan amendment to the Title IV-E Program and, as such, are subject to adjustment. The Budget Director, with the concurrence of the Controller General, may make such adjustments as appropriate.

Section 204. The Division of Family 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 205. 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 206. (a) During Fiscal Year 1995, the Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services (37-05-00), shall be implementing the Ferris School Restructuring Transition Plan. The intent of this plan is to implement a "normative culture" philosophy of treatment and operations which requires the current work force to undergo transition in order to do so. This may result in reclassification of positions upon vacancy, employee transfer to positions elsewhere in the Department or with other State agencies, assistance with placement outside of State employment, assistance in educational development for eligible employees and/or any combination of the above. Reclassification of these vacant positions shall become effective upon signature of the State Personnel Director, the Budget Director and the Controller General.

(b) It is understood that employees identified by the Division as eligible for educational development assistance toward acquiring a relevant bachelor degree shall provide treatment and security services to the Ferris School, and/or its successor facility, with compensation for the duration of their undergraduate studies. Continuance in affected positions shall be contingent upon successful completion of such bachelor degree. It is further understood that these individuals shall remain in the employ of Ferris School or its successor facility, for a minimum of one year for each year (30 credits of educational tuition) after successful completion of such bachelor degree program. Such employees terminating employment or dismissed for cause prior to this service requirement shall be required to reimburse the State for any and all education monies paid on their behalf. Such reimbursement(s) may be recouped through, but not limited to, withholdings from final separation payments. Employees receiving educational assistance as a result of this transition plan shall sign an agreement to the stipulations outlined in this subsection.

Section 207. 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 208. Section 1 of this Act includes an appropriation to Executive, Office of the Budget, Contingency and One-Time Items (10-02-04), for Salary Contingency - Overtime in the amount of \$113.0. 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.

Section 209. Section 1 of this Act provides an appropriation to Executive, Office of the Budget, Contingency & One-Time Items (10-04-02). Of that amount, \$50.0 shall be used to purchase equipment for electronic monitoring of adjudicated juveniles assigned to programs within the Alternatives to Incarceration (37-05-40) IPU in the Division of Youth Rehabilitation Services, Department of Services for Children, Youth and Their Families. These funds shall not be expended and shall revert to the General Fund on June 30, 1995, should House Bill No. 550 of the 137th General Assembly not be enacted into law.

CORRECTION

Section 210. 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 solicit comments on the use of the funds from the Treatment Access Committee established by Volume 68, Chapter 443, Laws of Delaware.

Section 211. 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 212. 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 1996 by October 30, 1994, to the Budget Director and the Controller General.

Section 213. 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 214. 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 215. Section 1 of this Act appropriates the sum of \$14.0 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 216. Section 1 of this Act provides an appropriation for the Prison Arts Program funded in the Office of the Bureau Chief - Prisons (38-04-01). Included in this appropriation is \$5.0 for Supplies and Materials and \$10.0 for casual/seasonal.

Section 217. 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 \$25.0 shall be used to employ an Attorney on a casual/seasonal basis to oversee the paralegal staff assigned to the Department of Correction.

Section 218. 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 219. 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 220. 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 1.0 position and Personnel Costs to allow the Department to oversee a program to manufacture reading materials in Braille for the visually impaired.

Section 221. (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), six 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.

(d) Section 1 of this Act also makes an appropriation for Contractual Services to Morris Correctional Institution (38-04-07). Of this amount, \$5.0 shall be used for "tipping" fees.

Section 222. 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, \$377.1 shall be used for the KEY program.

Section 223. 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 and 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 224. The Department of Correction will modify the Pre-Trial Annex from a Level V Institution to a Level V Special Purposes Institution. The goal is to provide drug and alcohol treatment and counseling for inmates in need of these special services.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 225. Amend Section B002(c), Title 29, Delaware Code by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(c) In the event of death, resignation, temporary incapacity or removal of the Secretary and prior to the appointment of his successor, the Governor may appoint the Deputy Secretary of the Department to serve as Acting Secretary. The Secretary may, during

his absence from the state, appoint the Deputy Secretary of the Department to serve as Acting Secretary during such absence. In either case, the Acting Secretary shall have all the powers and shall perform all the duties and functions of the Secretary during his absence or incapacity or until his successor is duly qualified and appointed."

Section 226. Amend Section 8003(2), Title 29, Delaware Code by striking the words "division directors" as they appear between the words "following" and "who" and substituting in lieu thereof the word "personnel,".

Section 227. Amend Section 8003, Title 29, Delaware Code by renumbering existing subsections (2)a through (2)e as (2)b through (2)f and by adding a new Section 8003 (2)a to read as follows:

"a. A Deputy Secretary position in the Department who shall be known as the Deputy Secretary and who shall be qualified by training and experience to perform the duties of the office;"

Section 228. Section 1 of this Act makes an appropriation for a Deputy Secretary in the Office of the Secretary. The Department shall reclassify the existing Deputy Principal Assistant to serve as the Deputy Secretary of the Department of Natural Resources and Environmental Control.

Section 229. Section 1 of this Act provides an appropriation to the Department of Natural Resources and Environmental Control, Parks and Recreation, Cultural and Recreational Services (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.

Section 230. a) Section 1 of this Act appropriates two new positions in Parks and Recreation, Cultural and Recreational Services (40-06-03). These positions are to be assigned as follows:

Park Interpreter at White Clay Creek State Park;
Nature Center Manager at Port Penn, Fort Delaware, Fort DuPont.

b) Section 1 of this Act appropriates funds to Parks and Recreation, Cultural and Recreational Services (40-06-03), for Contractual Services. Of the amount appropriated, the allocation of expenditures in each park shall be as follows:

White Clay Creek State Park	\$4.0
Port Penn, Fort Delaware, Fort DuPont	\$4.5

c) Section 1 of this Act appropriates funds to Parks and Recreation, Cultural and Recreational Services (40-06-03) for Supplies and Materials. Of the amount appropriated, the allocation of expenditures in each park shall be as follows:

White Clay Creek State Park	\$4.0
Port Penn, Fort Delaware, Fort DuPont	\$4.5

Section 231. Section 1 of this Act appropriates a new position to Soil and Water Conservation, Drainage (40-07-02). This position will be used to manage the program of wetlands identification, wetlands mitigation and restoration, and permit acquisition for tax ditch management projects.

Section 232. Section 1 of this Act appropriates \$10.0 to the Division of Soil and Water Conservation, Shoreline and Waterway Management (40-07-03), for fish sampling and lab analysis as a One-Time Appropriation. This appropriation will be used to sample fish in Wyoming Mill Pond and Moore's Lake.

Section 233. Section 1 of this Act makes an appropriation to the Division of Water Resources (40-08-00). The Division shall submit a proposal for reorganization of these resources to the Joint Finance Committee, the Budget Director and the Controller General by January 1, 1995. Upon review and approval, the Division will be allowed to implement the plan in Fiscal Year 1995.

Section 234. Section 1 of this Act appropriates \$100.0 to the Division of Water Resources, Surface Water Management (40-08-04) for Inland Bays Research/Stream Watch. This appropriation shall be used to support citizen monitoring activities including, but not limited to, the Stream Watch Program in the amount of \$65.3 and the Inland Bays Citizens Monitoring Program in the amount of \$34.7

Section 235. Section 1 of this Act appropriates funds to the Department of Natural Resources & Environmental Control, Surface Water Management (40-08-04), for the Recreation Water and Shellfish Program. If legislation transferring the duties and responsibilities of the Recreation Water & Shellfish Program to the Department of Natural Resources & Environmental Control from the Department of Health & Social Services is not enacted, the Budget Director and the Controller General are authorized to transfer the appropriation for this program from the Department of Natural Resources & Environmental Control to the Department of Health & Social Services.

Section 236. During FYs 1993, 1994, and 1995, 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 237. Section 1 of this Act appropriates funds to Air and Waste Management, Air Quality Management (40-09-02). Of the amounts appropriated, the amounts appropriated for Fiscal Year 1995 shall be increased over Fiscal Year 1994 as follows:

	<u>Contractual Services</u>	<u>Supplies</u>	<u>Total</u>
Community Odor Studies	1.7		1.7
Pollen Program	1.4		1.4
Emergency Response	30.0	10.0	40.0

Section 238. The Department shall provide the Budget Director and the Joint Finance Committee with quarterly reports containing revenue and expenditure projections and staffing levels for the Title V Major Stationary Source Permit Program. Included in these quarterly reports shall be the status of any loans made pursuant to Section 154 of this Act.

Section 239. Amend Title 7, Chapter 39, Section 3921 of the Delaware Code by deleting the figure "60,000" wherever it appears and substituting in lieu thereof the figure "\$75,000".

Section 240. Section 1 of this Act appropriates funds to the Budget Office, Contingency and One-Time Items (10-02-04), for \$200.0 (40-09-02) for Title V - Stationary Sources Clean Air Funds. If Senate Bill 296 is enacted into law, \$50.0 of this line will revert to the General Fund of the State of Delaware.

Section 241. Section 1 of this Act appropriates funds to the Division of Air and Waste Management (40-09-03), for the SARA III Program. Three (3.0) positions (Program Manager I, Data Entry Technician and Environmental Scientist I) were added in General Funds to pay for all administrative costs of this program. All ASF collected in this program shall be distributed to the Local Emergency Planning Committees.

PUBLIC SAFETY

Section 242. Should the State of Delaware fail to enact legislation complying with requirements for motorcycle helmet usage and should the federal government require the Department of Transportation to transfer construction funds to the Office of Highway Safety (45-01-40), the Office of Highway Safety shall submit a spending plan to the Budget Director and the Controller General and shall obtain approval from the Joint Finance Committee prior to disbursing any of these funds.

Section 243. The positions in the Office of the Secretary, Office of Highway Safety (45-01-40), classified as exempt prior to July 1, 1994, shall become classified in compliance with the Merit System, Title 29, Chapter 54, Delaware Code, by the Director of Personnel. Any incumbent occupying a position that is "classified" by the Director of Personnel pursuant to Title 29, Chapter 54, Delaware Code, shall be considered qualified without further testing and shall be continued in the position without loss of compensation.

Section 244. Amend Title 11, Chapter 83, Section 8301, Delaware Code, by deleting the figure "500" and substituting in lieu thereof the figure "525".

Section 245. In addition to the positions authorized in Section 1 of this Act for the Division of State Police (45-06-00), additional positions are authorized in Patrol (45-06-03) for the purpose of training State Police recruits. During recruit training, up to 20 positions will be made available to accommodate the class being trained.

Funding is authorized for initial use of these positions to accommodate an anticipated graduating class of 15 troopers. The Department shall fund additional recruits, for purposes of serving as alternates, etc., through salary savings. When calling for a larger recruit class, the Secretary of Public Safety shall demonstrate extenuating circumstances, such as unusually high attrition, anticipated grant award, etc., to the Budget Director. The Budget Director may authorize additional recruit positions accordingly. As attrition occurs and recruits move into permanent officer positions, the Budget Director shall deauthorize the vacated recruit positions.

Upon the conclusion of "academy-based" training, the Division of State Police shall submit a monthly report to the Budget Director as to the status of recruit positions until all recruits are placed into permanent officer positions.

Section 246. Upon signature of authorized representatives for the parties, the Department of Public Safety (45-00-00) is hereby authorized to execute the agreement between the Division of State Police (45-06-00) and Sussex County Council to provide up to 15 additional patrol officers in Sussex County. The mechanism for funding these positions shall either be 1) federal grant opportunities, wherein Sussex County and the State shall provide matching funds subject to the terms of said agreement; or 2) the county and State shall jointly build up to the aforementioned staffing level over time through cost sharing subject to the terms of said agreement. In the event that a federal grant is not awarded to the Division of State Police, the Budget Director, with the concurrence of the Controller General, may authorize up to 5.0 ASF positions to execute the joint-funded build-up provision of the agreement.

In Section 1 of this Act, ASF authority in the amount of \$150.0 has been provided to the Division of State Police, Patrol (45-06-03) in order to accommodate the match requirements stipulated by the agreement. In the event that the aforementioned agreement between the Division of State Police and Sussex County is not executed, this authority shall be deauthorized.

The Department may also pursue a similar arrangement with Kent County.

Section 247. 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 248. 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 249. Section 1 of this Act contains an appropriation in the Office of the Budget, Contingency and One-time Items (10-02-04), in the amount of \$1,700.0 for the acquisition of a replacement helicopter by the Division of State Police (45-06-06). In the event that 1) the cost of the base-model helicopter and required avionics exceeds this appropriation, and 2) with the concurrence of the Budget Director and the Controller General, the Division of State Police may use a portion of proceeds derived from the resale/trade of the helicopter to be replaced to make up any difference. Any residual balance of trade-in proceeds shall be deposited to the State Agency Bond Reversion Account (12-05-03-8101).

Section 250. Section 1 of this Act makes an appropriation to the Department of Public Safety, Division of Licenses, Taxes & Registrations (LT&R) (45-07-00) for Contractual Services. Of this appropriation, \$40.0 is intended to fund the microfilming of the registration documents. The Division will prepare a Request for Proposal (RFP) for this service, consulting the Department of State, Historical and Cultural Affairs, Delaware State Archives (20-06-02), as necessary. This Act requires State Archives to continue providing microfilming service to LT&R until such time as a contract is executed.

TRANSPORTATION

Section 251. All State agencies are directed to remit payment for services rendered by the Department of Transportation within (30) days after receipt of invoice. Services may include fuel billing, sign manufacturing, photocopies, specialized transit services, etc. Partial payments or estimated payments will not be permitted.

Section 252. 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 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) 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.

(e) 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.

(f) 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 253. (a) Section 1 of this Act appropriates \$3,223.4 to the Delaware Transportation Authority (55-06-01) for Delaware Transportation Authority Operations. Of this amount, \$50.0 shall be used for the Dover Senior Surrey to provide operating funds for the period July 1, 1994, to December 31, 1994.

(b) Prior to December 31, 1994, the Department shall notify the Co-Chairmen of the Joint Finance Committee as to the continued operation of the Surrey. If the Surrey is to continue operation, the Department shall provide up to \$60.0 in operating funds for the period January 1, 1995, to June 30, 1995.

Section 254. Section 1 of this Act appropriates \$835.6 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. The activities funded by this appropriation shall be approved by the Secretary of the Department of Transportation. Funding for this initiative is derived from Transportation Trust Fund revenues.

Section 255. Section 1 of this Act appropriates \$835.6 to the Office of Planning (55-03-01) for Operations/Capital. Of this amount, \$20.0 shall be used to administer and oversee a bicycle helmet bank for youthful cyclists in conjunction with the Delaware Bicycle Council.

Section 256. 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 257. 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 258. Section 1 of this Act authorizes disbursement of \$7,709.7 in Transportation Trust Funds for Debt Service, General Obligation.

Section 259. 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.

Section 260. Section 1 of this Act appropriates \$6,030.3 to the Division of Highway Operations, Delaware Turnpike Administration (55-04-90), to cover the cost of Toll Facility Operations during the fiscal year ending June 30, 1995. Of this amount, \$4,367.7 is appropriated for the operation of the Delaware Turnpike Toll Facilities, and \$1,662.6 is appropriated for the operation of the State Route 1 Toll Facility. Additionally, the Turnpike Operating Reserve Fund is authorized at \$728.0.

Section 261. Section 1 of this Act makes an appropriation to the Bureau of Maintenance in the amount of \$2,000.0 to establish a Special Line called "Snow/Storm Contingency." This fund will provide for the expenses of weather/emergency operations, up to its original balance of \$2,000.0 as set in Fiscal Year 1994. Notwithstanding any other provision of law to the contrary, any sums in this account not expended by the end of a fiscal year, including Fiscal Year 1994, shall be carried over for use in future fiscal years, with appropriate transfers to current fiscal year accounts. The Department shall be allowed to transfer funds from this account to divisions on an as needed basis, for expenditures incurred. The transfer of funds from this account shall not require the approval of the Budget Director or the Controller General. The Department must provide a semi-annual expenditure report on or before May 1st and November 1st of each fiscal year.

Section 262. Section 1 of this Act makes an appropriation of \$250.0 to the Department of Transportation, Office of Planning (55-03-01) for the 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 263. Section 1 of this Act provides an appropriation of \$99,679.2 for the Delaware Transportation Authority (55-06-01). Should Senate Bill No. 393 of the 137th General Assembly be enacted, the Department of Transportation shall submit a reorganization plan to the Budget Director, the Controller General and the Joint Finance Committee by August 15, 1994. The Department shall have the ability to make modifications to the plan with the approval of the Budget Director, the Controller General and the Joint Finance Committee through December 31, 1994.

Section 264. Amend Section 4504, Title 21, Delaware Code, by creating a new subsection (f) to read as follows:

"(f) The revenue from the fees imposed pursuant to this section shall be deposited no later than the close of the next business day following such receipt, to the credit of the Transportation Trust Fund, established pursuant to Chapter 14 of Title 2, as amended."

LABOR

Section 265. Section 1 of this Act contains General Fund appropriations and Special Fund authorizations to the Department of Labor within the line item, Contractual Services, for building lease expense. The General Fund appropriation share includes funding increases of \$75.1 in contemplation of consolidation of administrative resources into one location from current localities. Further, Section 1 contains General Fund moving expenses in anticipation of said consolidation within the Office of the Budget Contingencies - One-time Appropriations (10-02-04), totalling \$8.6.

It is the intent of the General Assembly that neither appropriation be expended prior to an objective analysis of competitive proposals from both current and prospective lessors. To this end, the Department of Labor and the Department of Administrative Services will submit a thorough objective analysis of final proposals from all concerned

parties to the Joint Finance Committee for review and consent prior to initiating any movement from current locations.

Section 266. (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, 1994. 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	<u>27.0</u>
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 267. 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 268. During Fiscal Year 1995, the Department of Agriculture is directed to pay the Thoroughbred Racing Commission members' annual salaries from the Personnel Costs line of the Administration IPU, 65-01-01.

Section 269. (a) Section 1 of this Act provides an appropriation to the Department of Agriculture, Promotion and Production Support, Harness Racing Commission (65-01-05). 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 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.

FIRE PREVENTION

Section 270. During the first six months of Fiscal Year 1995, the State Fire School may borrow a sum not greater than \$50.0 ASF from the State Fire Marshal's Office available ASF revenues. This will permit the State Fire School to operate during the beginning of the fiscal year when its revenue balance is low. The State Fire School shall repay the borrowed amount as revenues allow, but must fully reimburse the State Fire Marshal's Office by June 30, 1995.

Section 271. 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 State-wide Fire Safety Education Program.

Section 272. 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.

Section 273. Amend Section 6607(g)(7), Chapter 66, Title 16, Delaware Code, by deleting "Department of Finance" and inserting in lieu thereof "Budget Director".

Further amend Section 6607(g)(7), Chapter 66, Title 16, Delaware Code, by inserting "by September 15" after the words "two years".

NATIONAL GUARD

Section 274. 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 275. (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 \$2,034.4 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.

(c) Section 1 of this Act provides an appropriation for "Operations" of the University of Delaware (90-01-01). Included in that appropriation is the increased amount for library books of \$181.1.

Section 276. 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	\$	1,324.0
Scholarships		993.5
Title VI Compliance		981.9
Aid-to-Needy Students		830.1
Delaware Scholars Program		300.0
Student Employment Program		136.9
Total		\$ 4,566.4
Agricultural Programs:		
Agricultural Experimental Station	\$	116.6
Agricultural Cooperative Extension		422.9
Poultry Disease Research		302.4
Crop Extension		50.9
Agricultural Environmental Quality		39.8
Soil Testing and Pesticide Control		102.0
Diagnostic Poultry Program		55.6
Total		\$ 1,090.2
Other Programs:		
Academic Incentive	\$	106.0
Sea Grant		376.5
Summer School for Teachers		219.4
Urban Agent Program		101.5
Public Service and Applied Research Projects		124.5
Research Partnership Fund		1,035.2
Afro-American and Other Minority Person Recruitment		215.2
Pike Creek Greenway		50.0
Urban Journalism		4.1
Financial Services Center		26.1
Local Government Research and Assistance		21.0
Women's Basketball		36.0
Graduate Education (Southern Delaware)		60.0
Library Automation		50.0
Mats/Bals - Southern Delaware		52.0
Nurse Practitioner		50.0
Science, Engineering and Technology Service Program		32.0
Management Training and Technical Assistance		50.0
Total		\$ 2,609.5

Section 277. Section 1 of this Act appropriates \$1,035.2 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, the Budget Director, 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 278. 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 fully fund 3.0 Agricultural Extension Agents in New Castle County, 2.0 in Kent County and 2.5 in Sussex County.

Section 279. 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 280. Volume 69, Chapter 64 of the Laws of Delaware made a one-time appropriation to Delaware Geological Survey (90-01-02) for a chiller. Any funds remaining unspent may be utilized to purchase a vehicle for the State Geologist.

Section 281. Section 1 of this Act appropriates \$1,593.6 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	341.6
Academy of Medicine	<u>1.0</u>
	\$ 1,593.6

Any changes in this allocation must receive prior approval from the Budget Director and the Controller General.

The scholarship loan allocation of \$341.6 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 OIMER Board. Beginning July 1, 1993, persons receiving loans who had not previously received loans shall be required to repay those loans. Persons who first received scholarships before July 1, 1993, may voluntarily elect to participate in the loan program. 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, not including residency training, 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 282. Section 1 of this Act provides funds to the University of Delaware (90-01-01) and Delaware State University (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 283. Section 1 of this Act makes an appropriation to Delaware State University (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 284. Section 1 of this Act appropriates \$300.0 to Delaware State University, Operations (90-03-01) to enhance faculty salaries so that they are more in accordance with other comparable institutions in the region. Specifically, the ranks affected include Professor, Associate Professor, Assistant Professor and Instructor. This compensation initiative is intended to attract and retain qualified educational professionals for the University.

Section 285. For the period July 1, 1994, through June 30, 1995, 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 University 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 University checks, generated through the University Accounting System and drawn on a University 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 University 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 University shall cooperate fully with the Office of Auditor of Accounts to aid in any review or examination of the University'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 University will be provided reasonable time to revert to standard processes.

Section 286. 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 287. 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 288. 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 289. During the fiscal year ending June 30, 1995, the State Board of Education and the Department of Public Instruction will continue a comprehensive examination of the current special education classification and funding structure as provided for in the Fiscal Year 1994 Budget Act. 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 December 15, 1994.

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 290. At the end of Fiscal Year 1994, 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 \$250.00 in an individual appropriation line.

Section 291. Section 1 of this Act authorizes positions for Public Education, School District Operations, Formula Salaries (95-02-01). 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 258.5 FTE locally funded positions and 597.7 FTE federally funded positions in the school districts of the State in Fiscal Year 1995.

Section 292. 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. Included in Section 1 of this Act in State Board of Education, State Board for Vocational Education, and Department of Public Instruction (95-01-01) are sufficient funds to add .5 Education Associate in vocational programs and upgrade a Specialist position in vocational programs to Education Associate in vocational programs. The State Board of Education shall not upgrade or reallocate a position without the prior approval of the Budget Director and the Controller General.

Section 293. Amend Section 1509, Title 14, Delaware Code by striking the number "7.5" as it appears through and replacing it with the number "10.0".

Section 294. Section 1 of this Act makes an appropriation of \$120.0 to Public Education, State Board of Education and State Board for Vocational Education, Department and Superintendent and Department of Public Instruction (95-01-01). The Governor and the General Assembly recognize the need to commence implementation of the Professional Standards Council's "Educational Plan for Certification and Career Development". This initial investment of \$120.0 is intended for use in the following areas: \$15.0 for validation of PRAXIS I and II; \$55.0 for standard setting for PRAXIS I and II; and \$50.0 for the alternate route component, which includes \$20.0 for planning and \$30.0 for Contractual Services. As an initial step in the process, it is recognized that these components are precursors to the recertification process itself and for purposes of this appropriation, it is assumed the Educational Plan will provide for mandatory recertification of teachers and administrators on a five-year basis.

Section 295. Section 1 of this Act makes an appropriation of \$500.0 to Public Education, Department and Superintendent and Department of Public Instruction (95-01-01), for Staff/Professional Development. Of this appropriation, \$500.0 is to be utilized for curriculum planning and development grants for all school districts, subject to application by School Districts, to be reviewed and approved by the State Board. Grants for this purpose shall not exceed the amounts listed below:

K-12 Districts	\$30.0/district
Delmar (Grades 7-12)	\$20.0
Vo-Tech (Grades 9-12)	\$10.0/district

Section 296. The State Board of Education and the Department of Public Instruction shall undertake a study of the State salary policy for teachers and administrators to investigate professional and staff development factors, extra pay for extra responsibilities, and national certification to determine their appropriateness for inclusion in the State salary policy.

A committee will be established no later than August 1, 1994, comprised of one representative from the State Board of Education, Chief School Officers, Delaware School Boards Association, Delaware State Education Association, Delaware Association of School Administrators, Delaware Congress of Parents and Teachers, State Budget Office, Governor's Office and the Controller General's Office. DPI shall provide staff and information resources to support the committee's work.

Preliminary recommendations shall be presented to the State Budget Director and the Controller General by January 1, 1995. Final recommendations shall be presented to the Governor, President Pro Tempore, Speaker of the House, the State Budget Director and the Controller General by May 1, 1995.

Section 297. Section 1 of this Act provides an appropriation to Public Education (95-01-01). Included in that appropriation is money for a Education Associate for Library/Media/Technology. A primary responsibility of the person hired in this position shall be to report to the State Board of Education and the legislature by June 1, 1995, on the status of public school library materials, media, technology, facilities, services and staffing. The report shall also include recommendations for public school library standards, certification requirements for librarians and professional development for school library staff, funding formulas for upgrading public school libraries, and an assessment system for public school library programs and services.

Section 298. Section 1 of this Act makes an appropriation 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 299. Section 1 of this Act provides appropriations of \$225,495.2 for Formula Salaries and \$85,596.2 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 \$7.6 and \$85.9, respectively.

Section 300. Amend Section 1321(e), Title 14, Delaware Code by adding a new Subsection (11) that reads as follows:

"(11) School districts are authorized to receive cash for any official administrative position that the district qualifies for under the provisions of Subsections (e)(1), (2), (3), (4), (9) or (10) of this Section. 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."

Further amend Section 1321(e) by renumbering the remaining subsections as (12) through (17).

Section 301. The Delaware Code to the contrary notwithstanding, during Fiscal Year 1995, the Budget Director is authorized to continue funding for issues such as, but not limited to, number of administrative positions and activity busing for which the State was required to provide funding as a result of a 1978 Federal Court Order.

Section 302. Section 1 of this Act makes an appropriation of \$41,679.8 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 \$260.3 for hold-harmless allocations to school districts in which the equalization funding per unit for the fiscal year ending June 30, 1995, 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, 1994. The Fiscal Year 1995 per unit allocation for a school district, computed in accordance with the provisions of §1707(c), Title 14, Delaware Code but excluding the 95 percent provision in the last sentence of that section, shall be divided by the Fiscal Year 1995 effort index, as defined in §1707(b)(11), Title 14, Delaware Code. If this quotient exceeds the Fiscal Year 1994 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 1994 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 1994 and Fiscal Year 1995 per unit allocation shall be multiplied by the Fiscal Year 1995 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 1994.

Section 303. 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 304. 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, 1995. 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 305. 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 306. 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, 1995, 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 \$1,309.00. A Division II - All Other Costs Unit shall be valued at \$2,756.00. The Division II - All Other Costs 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 Department of Administrative Services.

Section 307. Section 1 of this Act provides an appropriation of \$3,608.1 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 1995, each program shall receive no less than the same allocation from this appropriation as its Fiscal Year 1994 allocation, except that the allocation for Delaware Skills Center and New Castle County Learning Center shall be increased by \$35.0 and \$20.0 respectively, and \$17.0 for Cities in Schools of New Castle County. In addition, the State Board of Education shall utilize \$5.4 from this appropriation to support the data collection and monitoring activities of the Inter-agency Council on Adult Literacy.

Section 308. Section 1 of this Act makes 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 Delaware Skills Center to the New Castle County Vocational Technical School District for Adult Education. 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. 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 309. 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, \$16,137.1 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 \$3,559.8 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 1994. 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; provide conflict resolution training; and provide extended day or extended year programs for students performing below the standard level. 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 310. Strike Section 1716, Chapter 17, Title 14 and substitute in lieu thereof the following:

"(a) 'Unit for Academic Excellence' is defined for funding purposes as one unit for each 250 full-time equivalent students in a school district, grades K through 12. Districts shall qualify for partial funding for a fractional part of 250 full-time equivalent pupils enrolled in grades K through 12.

(b) Each student may be counted only once, and for pupils who attend schools in more than one district during each school day, the pupil is to be counted in each district for the portion of the school day he or she is in attendance there. Kindergarten pupils shall be counted as one-half time for purposes obtaining the full-time equivalent enrollment.

(c) The unit for academic excellence may be used to provide educational services such as, but not limited to, the following: reading, communications skills, mathematics, science, social studies, elementary and secondary counseling, elementary and secondary foreign languages, elementary and secondary performing arts, elementary physical education, elementary music, elementary art, library services, career education in grades 7 and 8, paraprofessional such as service or instructional aides, programs for gifted and talented pupils, career placement counselors, programs for limited English proficient pupils, programs for children at risk as defined by the State Board of Education, programs to promote improved school climate and discipline, including but not limited to, employing intervention specialists, and programs to provide additional time for students who are performing below the standard level, including but not limited to, Saturday academies, extended day and year, and summer academies.

(d) Nothing contained in this section shall prohibit a school district from using pupil units provided under Section 1703 of this title to employ personnel to provide educational services authorized under Subsection (c) of this Section.

(e) The programs authorized under this section shall operate on a 185 day per school year basis, and personnel employed with funds authorized under this section shall be paid in accordance with Section 1305 of this title. Units may be used to fund extended year programs using a formula of one unit for each individual employed for 185 days. School districts are also authorized to employ two service aides or two instructional aides for each unit in lieu of one person employed under Section 1305 of this title, provided that such aides are paid in accordance with the salary schedule contained in Section 1324 of this title.

(f) One unit of funding shall include Division I funding for one person funded under Section 1305 of this title or two aides funded under Section 1324 of this title, as specified in Subsection (e) of this Section plus one unit of "Division II - All Other Costs" as contained in the Annual Appropriations Act.

(g) A school district may elect to take a cash option for up to 30 percent of the units to which it is entitled under this section in any fiscal year. Funds spent for extended time programs for children performing below the standard level shall not count against the cash option limit. In such case, the district may use the funds so derived for either Division I or Division II purposes; provided, however, that such funds must be used for educational services specified in Subsection (c) of this Section and may not be used to supplement State salaries authorized in Chapter 13 of this Title for any employee. The cash option shall provide \$35,000 per unit.

(h) Any school district wishing to use funds under any of the options set forth in this section shall make application to the State Board of Education. Such application

shall specify, as a minimum, the types of services to be provided and the use that will be made of the funds authorized by this section."

Section 311. The unit size for an Academic Excellence Unit is being reduced from 290 full-time equivalent students to 250 full-time equivalent students. Additional funds have been included for the purpose of addressing the concerns of the educational community regarding school discipline and climate issues as well as the need to provide additional instructional time for students achieving below the standard level. Although this increased funding has been placed in the flexible Academic Excellence line, school districts are strongly encouraged to use the additional resources for such programs and are encouraged to develop the plan for the utilization of resources with building administrators, instructional staff and parent organizations. School districts shall report to the State Board of Education regarding the process utilized to develop the plan and the use of the funds. The State Board of Education shall provide a summary copy of individual school district reports along with a report by district detailing the use of Fiscal Year 1995 Academic Excellence funds to the Budget Office and Office of the Controller General no later than January 15, 1995.

Section 312. Section 1 of this Act appropriates \$4,513.2 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. 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. It is the intent that the \$500.0 in Appropriated Special Funds and up to \$2,966.2 in General Funds appropriated in that line be used to continue the "New Directions for Education in Delaware" plan. The State Board of Education shall utilize up to \$100.0 of this \$2,966.2 to produce a guide to the "New Directions" program.

Section 313. Section 1 of this Act provides an appropriation Professional Accountability and Instructional Advancement Fund (95-03-10) for New Directions. Part of the New Directions program agenda is to support the development of curriculum standards, a comprehensive assessment system, and staff development activities at the building level. Framework Commissions have been established to develop curriculum standards in math, science, English/language arts, and social studies. It is the intent of the General Assembly that these curriculum standards shall be completed by May 15, 1995. The State Board of Education shall provide quarterly reports on September 30, 1994, December 30, 1994, and March 30, 1995, to the Controller General and Budget Director on the progress of the preparation of these content standards, the development of the comprehensive assessment system, and building level staff development activities.

Section 314. Section 1 of this Act makes an appropriation to Professional Accountability and Instructional Services Block Grant (95-03-10). Included in that appropriation is an amount sufficient to increase the Tuition Reimbursement Program by \$140.0.

Section 315. Section 1 of this Act provides an appropriation for the Professional Accountability and Instructional Advancement Fund (95-03-10). Included in that appropriation is \$50.0 to increase the Mentoring Program. The intention of this appropriation is to increase the use of Mentors. It is not intended to be utilized for a study.

Section 316. Section 1 of this Act makes an appropriation for K-12 Pass Throughs for Youth and Vocational Student Organizations (95-03-15). The appropriation includes an additional \$50.0 which is to increase services to vocational student organizations.

Section 317. 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 318. Section 1 of this Act provides an appropriation of \$110.0 to Public Education, Block Grants and Pass Through Programs, K-12 Pass Throughs (95-03-15) for the READ-ALUD Delaware Program. READ-ALUD 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-ALUD 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 319. 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 320. 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 321. 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 1995. The Department of Public Instruction shall determine, in coordination with the agency operating this program, 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 ensure 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 operating agency. All expenditures from this appropriation shall serve principals from the State of Delaware only.

Section 322. 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 323. 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 324. Section 1 of this Act makes an appropriation of \$600.3 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Children's Services Cost Recovery Project (CSCRCP).

All local school districts shall fully participate in the implementation and operation of the project for the fiscal year ending June 30, 1995. 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, 1995. 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 FTEs 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 FTEs 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 FTEs in the local school district 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 325. 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 326. Section 1 of this Act provides an appropriation of \$1,885.4 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 327. Section 1 of this Act provides an appropriation of \$1,885.4 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 1995. 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 PCO.

The IRMC may, at its discretion, apply for and allocate grant funds that will serve children eligible for the PCO 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, 1994, and the second report by April 15, 1995. 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 1995. These programs are required to present program proposals to the IRMC at the first IRMC meeting of Fiscal Year 1995. Upon IRMC approval, adjustments to the program allocations may be made.

The IRMC shall review the options that the State of Delaware has to insuring the long range viability of the Integrated Service Information System (ISIS) Project. Any review shall involve the concerns of the public and private sectors. A report shall be made to the Governor with copies to the Speaker of the House and President Pro-Tempore of the Senate on or before December 15, 1994.

Section 328. Section 1 of this Act appropriates \$900.0 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Early Childhood Assistance Program. Funds are to be used to provide early childhood programs for four-year olds in accordance with Title 14, Chapter 30, as proposed by House Substitute No. 1 to House Bill No. 483 of the 137th General Assembly. It is anticipated that for Fiscal Year 1995, approximately 136 additional four-year-old children will be served via this funding. Under the enabling legislation, the Interagency Resource Management Committee (IRMC) shall have administrative responsibility, including the review and disbursement of grant awards; ensuring program compliance; and providing an annual report to the Legislature and Family Services Cabinet Council regarding the activities of the program. The IRMC shall issue a Request for Proposal (RFP) for prospective providers as soon as practicable upon enactment of this legislation. The Department of Public Instruction shall assist with the implementation and ongoing administration of this program. Should House Substitute No. 1 to House Bill No. 483 of the 137th General Assembly, not be enacted, these funds shall be transferred to a Budget Office Contingency line (10-02-04).

Section 329. (a) Section 1 of this Act makes an appropriation of \$3,633.4 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for Student Discipline Programs. These funds shall be used to implement the provisions of House Bill No. 247, as amended, of the 137th General Assembly. Of this appropriation, the following allocations shall be made. The first component of House Bill No. 247, as amended, of the 137th General Assembly dealing with severe discipline programs, shall have \$1,560.0 allocated for the implementation state-wide of programs authorized in the legislation. Funds provided under this section shall only be used for costs associated

with the State share of salaries for teachers and aides, as provided for in Title 14, Section 1305, Delaware Code.

(b) \$1,620.0 is authorized for the disruptive student at school and district levels, component of House Bill No. 247. The incentive grants provided pursuant to that section shall be provided to all school districts in the State as follows:

Schools with less than 500 pupils in grades 6-12:	\$12.0
Schools with 500 to 799 pupils in grades 6-12:	\$20.0
Schools with 800 to 1,199 pupils in grades 6-12:	\$28.0
Schools with 1,200 or more pupils in grades 6-12:	\$36.0

Enrollment levels shall be computed utilizing September 30, 1993, enrollment counts. Funds provided under this section shall only be used for costs associated with the State share of salaries for teachers and aides, as provided for in Title 14, Section 1305, Delaware Code.

Funds remaining in the appropriation, after provision of all other student discipline initiatives has been considered, shall be allocated on a pro-rata basis among all districts in the State based on the number of students suspended during the 1993-1994 school year.

(c) \$375.0 is to be used for the prevention component of House Bill No. 247, as amended. A total of \$75.0 is provided for the planning phase, which calls for the Family Services Cabinet Council (FSCC) to identify three communities in which to develop comprehensive plans for delivering prevention services through a community-based, inter-agency collaborative effort. The Council, in conjunction with the Department of Public Instruction and the Department of Services for Children, Youth and Their Families, shall assist selective communities in developing appropriate pilot projects and may use the remaining \$300.0 to fund any project(s) which they deem likely to demonstrate effective and coordinated prevention strategies. Any pilot project funded pursuant to this section shall be a continuing appropriation.

(d) The Department of Public Instruction is authorized to utilize \$78.4 to support 1.5 FTEs, including 1.0 FTE Discipline Associate, and .5 FTEs clerical to administer the programs funded by this section.

Should House Bill No. 247, as amended, not be enacted, these funds shall be transferred to a Budget Office Contingency line (10-02-04).

Section 330. Section 1 of this Act provides an appropriation of \$1,404.6 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, 1995, 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, 1995, 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 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 331. Section 1 of this Act makes an appropriation to the Public Education, Block Grants and Pass Through Programs, Special Needs Programs, Unique Alternatives (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 OSCYF;
- Division Director, Family Services of OSCYF;
- 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, 1994, and May 15, 1995. 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 332. Section 1 of this Act provides an appropriation of \$760.6 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 (i), Delaware Code, shall not apply to the units authorized by this Section.

Section 333. 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, three in the Lake Forest School District and one in Caesar Rodney School District, Capital School District, Seaford School District and Woodbridge School District.

Section 334. 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, 1994, 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 335. 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, 1995. 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 336. 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, 1994.

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 of Education, 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, 1994. 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, 1995. The second one-half shall be prorated as described above among eligible employees who complete their courses prior to June 15, 1995. 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 337. 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 Superintendents of New Castle County Vocational-Technical School District, Kent County Vocational-Technical School District and 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 University 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 338. (a) Section 1 of this Act provides an appropriation of \$3,000.0 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, 1995, shall be allocated and shall not exceed \$38,324.0, 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 1995 operating allowance will not be adjusted for inflation.

(3) For the fiscal year ending June 30, 1995, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 1994 State bid price for new buses minus three percent for salvage value, plus ten 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 1994. 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, 1995, 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 three 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 339. (a) During the fiscal year ending June 30, 1995, 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 Waples 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 340. During the fiscal year ending June 30, 1995, 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.

Approved July 1, 1994.

CHAPTER 292

FORMERLY

SENATE BILL NO. 440

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 1995; 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	\$ 554,500
(35-05-30)	Office of Paramedic Administration Paramedic Program Operations	\$ 5,697,200
<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	\$ 117,638
	Brandywine Senior Center	88,891
	Bridgeville Senior Center	85,036
	Cape Henlopen Senior Center	138,166
	Chesapeake and Delaware Senior Center	55,412
	Clarence Fraim Senior Center of Delaware, Inc.	119,818
	Cornerstone United Methodist Church Senior Center	32,802
	DeLaHarr Senior Center	92,891
	Frederica Adult Center, Inc.	75,105
	Georgetown CHEER Center	35,853
	Greenwood CHEER Senior Center	35,853
	Harrington Senior Center, Inc.	69,157
	Harvest Years Senior Center, Inc.	38,557
	Howard J. Weston Community & Senior Center, Inc.	231,290
	Huling Cove CHEER Center	57,061
	Indian River Senior Center, Inc.	85,575
	Jewish Community Center, Senior Center	74,225
	Jimmy Jenkins Senior Center	69,499
	Julia Tallman Golden Age Center	65,206
	Laurel Senior Center, Inc.	144,559
	Lewes Senior Citizens Center, Inc.	42,186
	Los Abuelos Center	24,506
	M.O.T. Senior Citizen Center, Inc.	79,412
	Mamie A. Warren Maturity Center, Inc.	67,276
	Mid-County Senior Center, Inc.	145,650
	Milford Senior Center, Inc.	81,157
	The Modern Maturity Center, Inc.	202,836
	Nanticoke Indian Elder CHEER Center	28,085
	Nanticoke Senior Center, Inc.	119,623
	New Castle Senior Center	65,304
	Newark Senior Center, Inc.	119,360
	Northeast Senior Center, Inc.	68,358
	Oak Grove Senior Center, Inc.	141,481
	Oak Orchard CHEER Center	35,853
	Ocean View Leisure Center	18,692

Peoples Settlement - Senior Citizens Program		57,143
Roxana CHEER Senior Center	35,853	
St. Ann's Neighborhood Services, Inc.		89,326
St. Anthony's Senior Center	92,006	
St. Hedwig's Senior Center, Inc.	168,902	
St. Patrick's Center, Inc.	112,866	
St. Peter's Adult Center, Inc.	89,666	
St. Thomas Senior Center, Inc.	102,469	
Sellers Senior Center, Inc.	95,891	
Slaughter Neck CHEER Center	35,853	
Lillian Smith Senior Center	28,256	
South Wilmington Senior Adult Center	19,600	
West Center City Adult Center, Inc.	77,406	
Wilmington Senior Center, Inc.	148,454	

Department of Public Safety

(45-01-01)	Office of Secretary - Administration	
	Local Police Coordination	\$ 51,250
	Aid to Local Law Enforcement	450,000

TOTAL - Section 1 \$ 10,859,014

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
DELMAR Fire Department	3,120
Georgetown Fire Co.	3,120

Arts/Historical/Cultural/Tourism

Afro-American Historical Society of Delaware, Inc.	\$ 18,300
Associated Community Talents, Inc.	16,900
City of New Castle - Separation Day	12,200
Delaware Academy of Science, Inc.-Iron Hill Museum	10,000
Delaware Agricultural Museum Assoc., Inc.	38,000
Delaware Center for Horticulture, Inc.	20,000
Delaware City Day Committee	16,000
Delaware Humanities Council, Inc.	33,500
Delaware Nature Society, Inc.	15,000
Delaware State Fair, Inc.	190,000
Duck Creek Historical Society, Inc.	3,400
Georgetown Historical Society	10,000
Greater Harrington Historical Society	14,800
Historic Red Clay Valley, Inc.	
Wilmington & Western Railroad	12,200
The Historical Society of Delaware	65,000
Lenape Indian Tribe of Delaware	3,163
Millsboro Historical Society	10,000
Miss Delaware Scholarship Pageant, Inc.	7,000
Naamans Kill Questers, Inc.	5,700
Nanticoke Indian Association, Inc.	8,500
New Castle Historical Society	9,000
WHYY, Inc.	440,000

Aging - Other

Boys & Girls Clubs of Delaware, Inc.	\$ 35,000
Catholic Charities, Inc./HERO	35,640
Creative Grandparenting, Inc.	15,000
Delaware Senior Olympics	12,000
Geriatric Services of Delaware, Inc.	124,000
Meals on Wheels of Lewes and Rehoboth, Inc.	42,000
Sussex County Senior Services, Inc.	44,000
William "Hicks" Anderson Community Center - Senior Physical Fitness Program	7,500

Handicapped/Health/Labor

Adult Special Education Program, Inc.	\$ 47,250
AHEDD, Inc. - Dover	46,200
Alliance for the Mentally Ill in Delaware	55,000
American Diabetes Assoc. - Delaware Affiliate, Inc.	6,000
Arthritis Foundation, Delaware Chapter	17,000
Association for the Rights of Citizens with Mental Retardation in Delaware	9,000
Career Exploration Program, Inc.	38,325
Delaware Association for Blind Athletes	6,000
Delaware Association for the Blind	49,560
Delaware Center for Wellness, Inc.	50,000
Delaware Chapter Alzheimer's Association	8,600
Delaware Elwyn, Inc.	19,530
Delaware Epilepsy Association	10,500
Delaware Hospice, Inc.	200,000
Delaware Nursing Centers, Inc.	20,000
Delaware Paralyzed Veterans Prosthetic Foundation, Inc.	33,450
Delaware Special Olympics	14,700
Easter Seal Society of Del-Mar, Inc.	90,000
Institute for Development of Human Resources	24,000
Jobs for Delaware Graduates, Inc.	195,000
Kent/Sussex Industries, Inc.	57,000
Mancus Foundation	37,170
Mental Health Association in Delaware, Inc.	13,500
National Multiple Sclerosis Society	11,000
Opportunity Center, Inc.	10,000
Perinatal Association, Inc.	15,000

Family and Youth Services

Residential Treatment	
Aid-in-Dover, Inc.	\$ 48,400
Children's Home, Inc.	46,100
Diamond State Youth, Inc.	115,500
Home for Aged Women - Minquadale Home, Inc.	12,000
Independent Living, Inc.	95,600
Layton Home for Aged Persons	157,500
The Shepherd Place, Inc.	20,000

Other

Because We Care, Inc.	\$ 35,000
Big Brothers/Big Sisters of Delaware, Inc.	47,800
Boys & Girls Clubs of Delaware, Inc.	60,000
Camp Barnes, Inc.	22,500
Central Delaware Branch of YMCA	28,100
Child Care Connection, Inc.	100,000
Child, Inc.	82,100
Delaware Bay Marine Institute	10,000
Del. Guidance Services for Children & Youth, Inc.	168,700
Del. Parent Aide & Resource Mother Coalition	15,000
Del. State Parents Association, Inc.	17,000
Delawareans United To Prevent Child Abuse	33,800

Family & Children Services of Delaware, Inc.	182,280
Jewish Family Service of Delaware, Inc.	23,000
Lutheran Community Services, Inc.	10,500
National Council on Agricultural Life and Labor Research Fund, Inc.	36,500
New Hope Recreation and Development Center	15,000
Northern Delaware Youth for Christ, Inc.	10,000
People's Place II, Inc.	100,000
"Slam Dunk to the Beach" - National Holiday Basketball Invitational.	40,000
SOAR, Inc.	10,000
Supporting K.I.D.D.S.	10,250
Turnabout Counseling & Community Services, Inc.	193,700
United Cerebral Palsy of Delaware, Inc.	56,200
Youth Guidance Program	15,700

Alcohol/Drug Abuse

The 1212 Corporation	\$ 30,600
Addictions Coalition of Del., Inc.	22,500
ANKH, Inc.	28,000
Brandywine Counseling, Inc.	12,600
Center for Pastoral Care	37,000
City of Dover Police Department, Substance Abuse Prevention Program	24,000
Delaware Association for Children of Alcoholics	21,000
Georgetown DECCASA Youth & Recreation	15,000
Kent County Counseling	15,000
Limen House, Inc.	45,000
Open Door, Inc.	135,000
Peoples Settlement Association	17,500
Resource Center of the YMCA of Delaware	54,000
Sojourners' Place, Inc.	11,000

Neighborhood/Community Services

A Door of Hope, Inc.	\$ 30,000
American Red Cross, Delaware Chapter	13,000
Casa San Francisco	54,400
Chesapeake Bay Girl Scout Council, Inc.	34,000
Civil Air Patrol, Delaware Wing	16,000
Claymont Community Council, Inc.	250,000
Community Design Center	15,000
Community Legal Aid Society, Inc.	105,200
CONTACT Delaware, Inc.	70,000
Delaware Crime Stoppers, Inc.	15,800
Delaware Crop Improvement Association	2,500
Delaware Housing Coalition	25,000
Delaware Partners of the Alliance	4,000
Delaware Rural Water Association	10,000
Delaware Safety Council, Inc.	37,000
Delaware Teachers Academy for Service Learning	15,000
Delmarva Rural Ministries, Inc.	25,000
Eastlawn Area Human Services, Inc.	50,000
Eastside Citizens, Inc.	50,000
Edgemoor Community Center, Inc.	191,200
Elsmere Recreation, Inc.	156,000
First State Community Action Agency, Inc.	60,200
First State Resource Conservation & Dev. Council, Inc.	21,000
Food Bank of Delaware	132,000
Girls Inc. of Delaware	36,800
Hilltop Lutheran Neighborhood Center, Inc.	37,800
Hockessin Community Center, Inc.	85,000
Home of Divine Providence, Inc./Bayard House	41,700
Homeward Bound, Inc.	53,000
Ingleside Homes, Inc. - KAHIN	37,100
Ingleside Homes, Inc. - Project C.A.R.E.	27,500
Jewish Community Center	11,000
Latin American Community Center, Inc.	35,000
Ministry of Caring, Inc. - House of Joseph	34,500
Ministry of Caring, Inc. - Phase I	60,150

Neighborhood/Community Services (cont.)

Ministry of Caring, Inc. - Phases II and III	\$ 64,800
Ministry of Caring, Inc. - Emmanuel Dining Room	63,700
Ministry of Caring, Inc. - Job Placement Center	24,100
Methodist Action Program	38,900
Neighborhood House, Inc.	55,000
Neighborhood House, Inc.-Lower New Castle County Program	70,200
Neighborhood House/West Wilmington	15,000
Richardson Park Community Action Program, Inc.	18,938
Rose Hill Community Center, Inc.	162,000
The Salvation Army, Inc. - Emergency Housing	93,400
The Salvation Army, Inc. - Kent Co. Crisis Alleviation	32,600
The Salvation Army, Inc. - Sussex Co. Crisis Alleviation	5,830
Science Alliance, Inc.	15,000
Seamen's Center of Wilmington, Inc.	6,000
Slaughter Neck Community Action Agency, Inc.	43,000
Southbridge Medical Advisory Council, Inc.	100,000
Southwest Wilmington Community Center, Inc.	105,000
STEHM, Inc.	13,000
Sussex Community Crisis Housing Services, Inc.	25,000
The Sussex Family YMCA	23,000
Tri-State Bird Rescue and Research, Inc.	27,000
Union Baptist Community Services, Inc.	75,000
West End Neighborhood House, Inc.	40,000
Whatcoat Social Service Agency	57,250
Wilmington Public Alliance, National Office	7,000
YMCA of New Castle County, Delaware	205,000
TOTAL - Section 2	\$ 9,277,826

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	\$ 16,807
Belvedere Volunteer Fire Company	Belvedere	16,807
Brandywine Hundred Fire Co. No. 1	Bellefonte	16,807
Christiana Fire Co.	Christiana	16,807
Claymont Fire Co.	Claymont	16,807
Cranston Heights Fire Co.	Cranston Heights	16,807
Delaware City Fire Co.	Delaware City	16,807
Elsmere Fire Co.	Elsmere	16,807
Five Points Fire Co. No. 1	Richardson Park	16,807
Goodwill Fire Co. No. 1	New Castle	16,807
Hockessin Fire Co.	Hockessin	16,807
Holloway Terrace Fire Co.	Holloway Terrace	16,807
Mill Creek Fire Co.	Marshallton	16,807
Minquadale Fire Co.	Minquadale	16,807
Minquas Fire Co. No. 1	Newport	16,807
Odessa Fire Co., Inc.	Odessa	16,807
Port Penn Volunteer Fire Co., Inc.	Port Penn	16,807
Talleyville Fire Co., Inc.	Talleyville	16,807
Townsend Fire Co., Inc.	Townsend	16,807
Volunteer Hose Co., Inc.	Middletown	16,807
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	16,807

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	\$	16,807
Camden-Wyoming Fire Co.	Camden		16,807
Carlisle Fire Co.	Milford		16,807
Cheswold Volunteer Fire Co.	Cheswold		16,807
Citizens' Hose Co. No. 1, Inc.	Smyrna		16,807
Clayton Fire Co.	Clayton		16,807
Robbins Hose Co. (Dover Fire Dept.)	Dover		16,807
Farmington Volunteer Fire Co.	Farmington		16,807
Felton Community Fire Co.	Felton		16,807
Frederica Volunteer Fire Co.	Frederica		16,807
Harrington Fire Co.	Harrington		16,807
Hartly Volunteer Fire Co.	Hartly		16,807
Houston Volunteer Fire Co.	Houston		16,807
Leipsic Volunteer Fire Co.	Leipsic		16,807
Little Creek Volunteer Fire Co.	Little Creek		16,807
Magnolia Volunteer Fire Co.	Magnolia		16,807
Marydel Volunteer Fire Co., Inc.	Marydel		16,807
South Bowers Fire Co.	South Bowers		16,807

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	16,807
Blades Volunteer Fire Co., Inc.	Blades		16,807
Bridgeville Volunteer Fire Co.	Bridgeville		16,807
Dagsboro Volunteer Fire Co.	Dagsboro		16,807
Delmar Fire Department	Delmar		16,807
Ellendale Volunteer Fire Co.	Ellendale		16,807
Frankford Volunteer Fire Co.	Frankford		16,807
Georgetown Fire Co., Inc.	Georgetown		16,807
Greenwood Volunteer Fire Co.	Greenwood		16,807
Gumboro Volunteer Fire Co., Inc.	Gumboro		16,807
Indian River Volunteer Fire Co.	Indian River		16,807
Laurel Fire Department, Inc.	Laurel		16,807
Lewes Fire Department, Inc.	Lewes		16,807
Millsboro Fire Co.	Millsboro		16,807
Milton Volunteer Fire Co.	Milton		16,807
Millville Volunteer Fire Co.	Millville		16,807
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach		16,807
Roxanna Volunteer Fire Co.	Roxanna		16,807
Seaford Volunteer Fire Dept., Inc.	Seaford		16,807
Selbyville Volunteer Fire Co., Inc.	Selbyville		16,807
Slaughter Beach Memorial Fire Co.	Slaughter Beach		16,807

TOTAL

\$ 1,008,420

(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	\$	2,302
Blades Volunteer Fire Co., Inc.	Blades		2,302
Bridgeville Volunteer Fire Co.	Bridgeville		2,302
Bowers Volunteer Fire Co., Inc.	Bowers		2,302
Brandywine Hundred Fire Co., No. 1	Bellefonte		2,302
Camden-Wyoming Fire Co.	Camden		2,302
Carlisle Fire Co.	Milford		2,302
Cheswold Volunteer Fire Co.	Cheswold		2,302
Christiana Fire Co.	Christiana		2,302
Claymont Fire Co.	Claymont		2,302
Cranston Heights Fire Co.	Cranston Heights		2,302
Dagsboro Volunteer Fire Co.	Dagsboro		2,302
Delaware City Fire Co.	Delaware City		2,302
Delmar Fire Department	Delmar		2,302
Ellendale Volunteer Fire Co.	Ellendale		2,302
Elsmere Fire Co.	Elsmere		2,302
Felton Community Fire Co.	Felton		2,302
Five Points Fire Co. No. 1	Richardson Park		2,302

Frankford Volunteer Fire Co. No. 1	Frankford	2,302
Frederica Volunteer Fire Co.	Frederica	2,302
Goodwill Fire Co. No. 1	New Castle	2,302
Greenwood Volunteer Fire Co.	Greenwood	2,302
Gumboro Volunteer Fire Co., Inc.	Gumboro	2,302
Harrington Fire Co.	Harrington	2,302
Hartly Volunteer Fire Co., Inc.	Hartly	2,302
Holloway Terrace Fire Co.	Holloway Terrace	2,302
Hockessin Fire Co.	Hockessin	2,302
Laurel Fire Department, Inc.	Laurel	2,302
Leipsic Volunteer Fire Co.	Leipsic	2,302
Lewes Fire Department, Inc.	Lewes	2,302
Magnolia Volunteer Fire Co.	Magnolia	2,302
Mill Creek Fire Co.	Marshallton	2,302
Millville Volunteer Fire Co., Inc.	Millville	2,302
Milton Volunteer Fire Co.	Milton	2,302
Minquadale Fire Co.	Minquadale	2,302
Minquas Fire Co. No. 1	Newport	2,302
Port Penn Volunteer Fire Co.	Port Penn	2,302
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,302
Roxanna Volunteer Fire Co.	Roxanna	2,302
Seaford Volunteer Fire Co., Inc.	Seaford	2,302
Selbyville Volunteer Fire Co., Inc.	Selbyville	2,302
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,302
Talleyville Fire Co., Inc.	Talleyville	2,302
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	2,302
TOTAL	\$	101,288

(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	\$	2,302
Bethany Beach Volunteer Fire Co.	Bethany Beach		2,302
Blades Volunteer Fire Co.	Blades		2,302
Bowers Volunteer Fire Co., Inc.	Bowers		2,302
Brandywine Hundred Fire Co. No. 1	Bellefonte		2,302
Bridgeville Volunteer Fire Co.	Bridgeville		2,302
Camden-Wyoming Fire Co.	Camden		2,302
Carlisle Fire Co.	Millford		2,302
Cheswold Volunteer Fire Co.	Cheswold		2,302
Christiana Fire Co.	Christiana		2,302
Citizens' Hose Co. No. 1, Inc.	Smyrna		2,302
Claymont Fire Co.	Claymont		2,302
Clayton Fire Co.	Clayton		2,302
Cranston Heights Fire Co.	Cranston Heights		2,302
Dagsboro Volunteer Fire Co.	Dagsboro		2,302
Delaware City Fire Co.	Delaware City		2,302
Delmar Fire Department	Delmar		2,302
Robbins Hose Co. (Dover Fire Dept.)	Dover		2,302
Elsmere Fire Co.	Elsmere		2,302
Farmington Volunteer Fire Co.	Farmington		2,302
Felton Community Fire Co.	Felton		2,302
Five Points Fire Co. No. 1	Richardson Park		2,302
Frederica Volunteer Fire Co.	Frederica		2,302
Georgetown Fire Co.	Georgetown		2,302
Greenwood Fire Co. No. 1	Greenwood		2,302
Goodwill Fire Co. No. 1	New Castle		2,302
Gumboro Volunteer Fire Co., Inc.	Gumboro		2,302
Harrington Fire Co.	Harrington		2,302
Hartly Volunteer Fire Co., Inc.	Hartly		2,302
Hockessin Fire Co.	Hockessin		2,302
Holloway Terrace Fire Co.	Holloway Terrace		2,302
Indian River Volunteer Fire Co.	Indian River		2,302
Laurel Fire Dept., Inc.	Laurel		2,302
Leipsic Volunteer Fire Co.	Leipsic		2,302
Lewes Fire Department, Inc.	Lewes		2,302
Little Creek Volunteer Fire Co.	Little Creek		2,302
Magnolia Volunteer Fire Co.	Magnolia		2,302

Marydel Volunteer Fire Co.	Marydel	2,302
Mill Creek Fire Co.	Marshallton	2,302
Millsboro Fire Co.	Millsboro	2,302
Millville Volunteer Fire Co., Inc.	Millville	2,302
Milton Volunteer Fire Co.	Milton	2,302
Minquadales Fire Co.	Minquadales	2,302
Minquas Fire Co. No. 1	Newport	2,302
Odessa Fire Co., Inc.	Odessa	2,302
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,302
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,302
Roxanna Volunteer Fire Co.	Roxanna	2,302
Seaford Volunteer Fire Department, Inc.	Seaford	2,302
Selbyville Fire Co., Inc.	Selbyville	2,302
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,302
South Bowers Fire Co.	South Bowers	2,302
Ellendale Volunteer Fire Co.	Ellendale	2,302
Houston Volunteer Fire Co.	Houston	2,302
Talleyville Fire Co., Inc.	Talleyville	2,302
Townsend Fire Co., Inc.	Townsend	2,302
Volunteer Hose Co., Inc.	Middletown	2,302
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	2,302
TOTAL	\$	133,516

(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	\$	3,432
Brandywine Hundred Fire Co., No. 1	Bellefonte		3,432
Christiana Fire Co.	Christiana		3,432
Claymont Fire Co.	Claymont		3,432
Delaware City Fire Co.	Delaware City		3,432
Elsmere Fire Co.	Elsmere		3,432
Five Points Fire Co. No. 1	Richardson Park		3,432
Goodwill Fire Co. No. 1	New Castle		3,432
Hockessin Fire Co.	Hockessin		3,432
Mill Creek Fire Co.	Marshallton		3,432
Selbyville Volunteer Fire Co., Inc.	Selbyville		3,432
Volunteer Hose Co., Inc.	Middletown		3,432
Wilmington Manor Volunteer Fire Co.	Wilmington Manor		3,432

Kent County

Carlisle Fire Co.	Milford	\$	3,432
Citizens' Hose Co., No. 1, Inc.	Smyrna		3,432
Hartly Volunteer Fire Co., Inc.	Hartly		3,432
Robbins Hose Co., (Dover Fire Dept.)	Dover		3,432

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	3,432
Delmar Fire Department, Inc.	Delmar		3,432
Georgetown Fire Co., Inc.	Georgetown		3,432
Lewes Fire Department, Inc.	Lewes		3,432
Millsboro Fire Co.	Millsboro		3,432
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach		3,432
Seaford Volunteer Fire Co., Inc.	Seaford		3,432
TOTAL	\$		82,368

(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	\$	2,079
Citizens' Hose Co. No. 1, Inc.	Smyrna		2,079
Delaware City Fire Co.	Delaware City		2,079
Goodwill Fire Co. No. 1	New Castle		2,079
Holloway Terrace Fire Co.	Holloway Terrace		2,079
Leipsic Volunteer Fire Co.	Leipsic		2,079
Little Creek Volunteer Fire Co.	Little Creek		2,079
Milton Volunteer Fire Co.	Milton		2,079
Port Penn Volunteer Fire Co., Inc.	Port Penn		2,079
Roxanna Volunteer Fire Co.	Roxanna		2,079
Seaford Volunteer Fire Co., Inc.	Seaford		2,079
South Bowers Fire Co.	South Bowers		<u>2,079</u>
	TOTAL	\$	24,948

(f) There is appropriated to the Mayor and Council of Wilmington the following sums to be used for:

(i) The prevention and extinguishment 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.		\$	117,649
(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.		\$	6,864
(iii) The maintenance and operation of rescue boats in the public service.		\$	2,079
	TOTAL	\$	<u>126,592</u>

(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	\$	22,041
Blades Volunteer Fire Co., Inc.	Blades		22,041
Bowers Volunteer Fire Co., Inc.	Bowers		22,041
Bridgeville Volunteer Fire Co.	Bridgeville		22,041
Camden-Wyoming Fire Co.	Camden		22,041
Carlisle Fire Co.	Milford		22,041
Cheswold Volunteer Fire Co.	Cheswold		22,041
Citizens' Hose Co. No. 1, Inc.	Smyrna		22,041
Clayton Fire Co.	Clayton		22,041
Dagsboro Volunteer Fire Co.	Dagsboro		22,041
Delmar Fire Department	Delmar		22,041
Robbins Hose Co., (Dover Fire Dept.)	Dover		22,041
Ellendale Volunteer Fire Co.	Ellendale		22,041
Farlington Volunteer Fire Co.	Farlington		22,041
Felton Community Fire Co.	Felton		22,041
Frankford Volunteer Fire Co.	Frankford		22,041
Frederica Volunteer Fire Co.	Frederica		22,041
Georgetown Fire Co., Inc.	Georgetown		22,041
Greenwood Volunteer Fire Co.	Greenwood		22,041
Gumboro Volunteer Fire Co., Inc.	Gumboro		22,041
Harrington Fire Co.	Harrington		22,041
Hartly Volunteer Fire Co.	Hartly		22,041
Houston Volunteer Fire Co.	Houston		22,041
Indian River Volunteer Fire Co.	Indian River		22,041
Laurel Fire Department, Inc.	Laurel		22,041
Leipsic Volunteer Fire Co.	Leipsic		22,041
Lewes Fire Department, Inc.	Lewes		22,041
Little Creek Volunteer Fire Co.	Little Creek		22,041

Magnolia Volunteer Fire Co.	Magnolia	22,041
Marydel Volunteer Fire Co., Inc.	Marydel	22,041
Millsboro Fire Co.	Millsboro	22,041
Milton Volunteer Fire Co.	Milton	22,041
Millville Volunteer Fire Co.	Millville	22,041
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	22,041
Roxanna Volunteer Fire Co.	Roxanna	22,041
Seaford Volunteer Fire Dept., Inc.	Seaford	22,041
Selbyville Volunteer Fire Co., Inc.	Selbyville	22,041
Slaughter Beach Memorial Fire Co.	Slaughter Beach	22,041
South Bowers Fire Co.	South Bowers	22,041
TOTAL		\$ 859,599

(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	\$ 2,302
American Legion, Sussex Post #8	Georgetown	2,302
American Legion, Kent Post #14	Smyrna	2,302
Sussex Memorial Post #7422, V.F.W.	Millsboro	2,302
TOTAL		\$ 9,208

TOTAL - Section 3 \$ 2,345,939

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	\$ 29,629
Veterans of Foreign Wars, Department of Delaware	29,629
Disabled American Veterans, Department of Delaware	24,687
Vietnam Veterans of America, Department of Delaware	24,687
Paralyzed Veterans of America, Department of Delaware	24,687

(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	\$ 7,205
American Legion, Department of Delaware	7,205
Disabled American Veterans, Department of Delaware	7,205
Vietnam Veterans of America	7,205
Jewish War Veterans of the U.S., Department of Delaware	4,125
Delaware Veterans of World War I	3,080
Paralyzed Veterans of America, Department of Delaware	6,177

(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 \$5,823 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 \$5,823 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 \$2,327 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 \$ 189,494

Section 5. Section 2 of this Act appropriates \$190,000 to the Delaware State Fair. Of that amount, \$80,000 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 1995. The remaining \$110,000 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 1996 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 1996:

(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 1996.

(f) For Fiscal Year 1995, 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, 1994. 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, 1995, 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 1995 for the agencies as follows:

Association for the Rights of Citizens with Mental
Retardation in Delaware
City of New Castle - Separation Day
Delaware Academy of Science, Inc. - Iron Hill Museum
Delaware Association for Blind Athletes
Camp Barnes, Inc.
Delaware City Day Committee
Miss Delaware Scholarship Pageant, Inc.
National Multiple Sclerosis Society
New Castle Historical Society
Sojourner's Place, Inc.
William "Hicks" Anderson Community Center -
Senior 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 1995 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 1995.

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, 1995, 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, 1995, 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 1995, the remaining balance in the Fiscal Year 1994 account (35-05-30-01-81) shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 1995.

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. For F.Y. 1995, direct paramedic initial training, recertification training and testing for the Statewide paramedic program shall be offered at a single site.

Section 21. Section 1 of this Act appropriates funds to 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 22. Section 2 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 23. Section 2 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.

Approved July 1, 1994.

CHAPTER 293

FORMERLY

HOUSE BILL NO. 393
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO CRIMINAL HISTORY RECORD CHECKS FOR SALES OF FIREARMS.

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

Section 1. Amend Title 11, §1448A of the Delaware Code by striking existing subsection (d)(1) in its entirety and in lieu thereof substituting the following:

"(d)(1) Any records containing any of the information set forth in subsection (a)(1) pertaining to a potential buyer or transferee who is not found to be prohibited from receipt or possession of a firearm by reason of 11 Del.C. §1448 or federal law shall be confidential and may only be disclosed by any officer or employee of SBI to other law enforcement agencies. The SBI and any other law enforcement agencies shall destroy any such records after it communicates the corresponding approval number to the licensee and such records shall be destroyed within sixty (60) days after the day of receipt of the licensee's request."

Section 2. Amend Title 11, §1448A of the Delaware Code by adding the following at the end of existing subsection (d)(3):

"However, the SBI may retain whatever information it receives including, but not limited to, the identifying information of potential buyers or transferees, if SBI has probable cause to believe the potential buyer or transferee is committing a crime."

Section 3. Amend §1448A(a), Title 11 of the Delaware Code by deleting the words and symbol "and has inspected identification containing a photograph of the potential buyer or transferee;" as they appear in §1448A(a)(1), by inserting in lieu thereof the symbol and word "; and", and by renumbering paragraphs (1) through (3) as (2) through (4)."

Section 4. Amend §1448A(a), Title 11 of the Delaware Code by creating a new paragraph (1) to read as follows:

"(1) Obtained from the potential buyer or transferee a non-expired identification issued by a governmental agency indicating the address, sex and date of birth of the buyer or transferee and bearing a photograph of the transferee obtained from the potential buyer or transferee, a secondary form of identification which indicates the same name and address of the buyer or transferee as noted on the government issued identification, and has inspected said identifications and has determined that they accurately reflect the identify of the buyer or transferee. For purposes of this section, an original gas, electric, telephone or other utility bill may qualify as a secondary form of identification, if it contains the requisite information."

Section 5. Amend §1448A(a), Title 11 of the Delaware Code by adding thereto a new paragraph, said new paragraph to be designated as paragraph (5), which shall read as follows:

"(5) In the event that the potential buyer or transferee is prohibited from purchasing a firearm, within seven days of the notification of said prohibition, the licensee shall deliver to the State Bureau of Identification a copy of all consent forms executed by the potential buyer, along with the following information:

(1) the name, address and telephone number of the licensee, and of any agent or employee of the licensee who witnessed the prohibited attempted sale or transfer; and

(1) the number, type, descriptions and serial numbers of any firearms which the buyer or the transferee attempted to purchase or otherwise acquire.

Any information received by the State Bureau of Identification pursuant to this paragraph may be provided to any law enforcement agency for the purpose of investigating and prosecuting any criminal conduct."

Approved July 5, 1994.

CHAPTER 294

FORMERLY

SENATE BILL NO. 336
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO CHANGING CRIMINAL PENALTIES TO CIVIL PENALTIES FOR VIOLATIONS OF LABOR LAWS.

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

Section 1. Amend Section 116, Chapter 1, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"Any person who violates or fails or refuses to comply with §§101-115, inclusive, of this title, or any lawful order of the Department or any judgment or decree made by any court in connection with this chapter for which no penalty has been otherwise provided, shall be assessed a civil penalty of not less than \$1,000 nor more than \$5,000 for each such violation; and each day such violation, omission, failure or refusal continues after notification or entry of the decree of a court shall be deemed a separate violation. A civil penalty claim may be filed in any court of competent jurisdiction."

Section 2. Amend the title of Section 116, Chapter 1, Title 19 of the Delaware Code by deleting the words "; false evidence constitutes perjury".

Section 3. Amend Section 509, Chapter 5, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(a) It is unlawful to interfere with or hinder the Department of Labor in the performance of its duties under this chapter, or knowingly to give false information to the Department of Labor. Any person who is found to have violated the provisions of this subsection shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each such violation.

(b) Any employer who employs or permits a minor to work in violation of any provision of this chapter shall be subject to a civil penalty of \$10,000 for each such violation.

(c) Any employer who discharges or in any manner discriminates against any employee who has made a complaint or has given information to the Department pursuant to this chapter, or because he or she has caused to be instituted or is about to cause to be instituted any proceeding under this chapter, or has testified or is about to testify in any such proceedings shall be assessed a civil penalty of not less than \$1,000 nor more than \$5,000 for each such violation.

(d) A civil penalty claim may be filed in any court of competent jurisdiction."

Section 4. Amend Section 701(b), Chapter 7, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(b) Any employer, whether an individual, member of a firm, agent or officer of a corporation, who shall knowingly violate this section shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation. A civil penalty claim may be filed in any court of competent jurisdiction."

Section 5. Amend Section 702(b), Chapter 7, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(b) Every corporation or joint stock association or person carrying on such a business by lease or otherwise who knowingly does not pay the wages of all its or his or her employees in accordance with this section, and the officers of such corporation or joint stock association who knowingly permit a corporation or joint stock association to violate this section by failing to pay the wages of any of its employees, shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation. A civil penalty claim may be filed in any court of competent jurisdiction."

Section 6. Amend Section 703(b), Chapter 7, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(b) Whoever violates this section shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation. A civil penalty claim may be filed in any court of competent jurisdiction."

Section 7. Amend Section 704(c), Chapter 7, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(c) Whoever violates this section shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation. A civil penalty claim may be filed in any court of competent jurisdiction."

Section 8. Amend Section 707(b), Chapter 7, Title 19 of the Delaware Code by deleting the words "and be subject to an administrative penalty of not more than \$1,000 for each such violation" and by placing a period (".") at the end of the word "section".

Section 9. Further amend Section 707, Chapter 7, Title 19 of the Delaware Code by adding the following subsection (c):

"(c) Whoever violates this section shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation. Jurisdiction of violations of this subchapter shall be in any court of competent jurisdiction."

Section 10. Amend Section 718, Chapter 7, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"Any employer who shall violate the provisions of this subchapter or subchapter III shall be fined not less than \$1,000 nor more than \$5,000 for each violation, in addition to any liability for damages. Jurisdiction of violations of this subchapter and subchapter III shall be with the Equal Employment Review Board."

Further Amend Section 718, Chapter 7, Title 19 of the Delaware Code by deleting the title in its entirety and substituting in lieu thereof the following title:

"§718. Civil Jurisdiction."

Section 11. Amend Section 735, Chapter 7, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"Any employer who refuses an employee access to personnel files as provided in this subchapter shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each violation. A civil penalty claim may be filed in any court of competent jurisdiction."

Section 12. Amend Section 910, Chapter 9, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(a) Any employer who hinders or delays the Department in the performance of its duties or refuses to admit the Department to the premises or place of business or employment in violation of any court order, or fails to make, keep and preserve any books, registers, payrolls or other records or falsifies the same, or refuses to make the same accessible to the Department, or refuses to furnish a sworn statement of the same or any other information, or fails to post a summary of this chapter or of any applicable regulations published thereunder or summary thereof, or pays or agrees to pay wages at a rate less than the rate applicable, or otherwise violates this chapter or any regulation published thereunder shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each such violation.

(b) Any employer who discharges or who in any manner discriminates against an employee because that employee made a complaint or gave information to the Department pursuant to this chapter, or caused or is about to cause any proceedings to be instituted under this chapter, or has testified or is about to testify in any such proceedings shall be deemed in violation of this

chapter and shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each such violation.

Section 13. Further amend Section 910, Chapter 9, Title 19 of the Delaware Code by adding a new subparagraph (c) as follows:

"(c) A civil penalty claim may be filed in any court of competent jurisdiction."

Section 14. Amend Section 1112, Chapter 11, Title 19 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"(a) Any employer who violates or fails to comply with any requirement of this chapter or any regulation published thereunder shall be deemed in violation of this chapter and shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each such violation.

(b) Any employer who discharges or in any manner discriminates against an employee because that employee has made a complaint or has given information to the Department pursuant to this chapter, or because he or she has caused to be instituted or is about to cause to be instituted any proceedings under this chapter, or has testified or is about to testify in any such proceedings shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each such violation.

(c) Any employer who falsely makes, utters, draws or delivers any receipt or statement that credit to a bank account of any employee has been made in payment of wages due shall be subject to a civil penalty of not less than \$1,000 nor more than \$5,000 for each such violation.

(d) A civil penalty claim may be filed in any court of competent jurisdiction."

Approved July 5, 1994.

CHAPTER 295

FORMERLY

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

AN ACT TO AMEND SECTION 6912, TITLE 29 OF THE DELAWARE CODE, RELATING TO PREVAILING WAGE.

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

Section 1. Amend Section 6912, Title 29 of the Delaware Code, by striking in its entirety and substituting in lieu thereof the following:

"§ 6912. Wage Provisions in Public Construction Contracts; Failure to Pay Prevailing Wage Rates; Penalty.

(a) The specifications for every contract or aggregate of contracts relating to a public works project in excess of \$100,000 for new construction (including painting and decorating) or \$15,000 for alteration, repair, renovation, rehabilitation, demolition or reconstruction (including painting and decorating of buildings or works) to which this State or any subdivision thereof is a party and for which the State appropriated any part of the funds and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Delaware Department of Labor, Division of Industrial Affairs, to be prevailing in the county in which the work is to be performed. The prevailing wage shall be the wage paid to a majority of employees performing similar work as reported in the Department's annual prevailing wage survey or in the absence of a majority, the average wage paid to all employees reported.

(b) Every contract based upon these specifications shall contain a stipulation that the employer shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the specifications, regardless of any contractual relationship which may be alleged to exist between the employer and such laborers and mechanics. The specifications shall further stipulate that the scale of wages to be paid shall be posted by the employer in a prominent and easily accessible place at the site of the work, and that there may be withheld from the employer so much of accrued payments as may be considered necessary by the Department of Labor to pay to laborers and mechanics employed by the employer the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and rates of wages received by such laborers and mechanics to be remitted to the Department of Labor for distribution upon resolution of any claims.

(c) Every contract based upon these specifications shall contain a stipulation that sworn payroll information, as required by the Department of Labor, be furnished weekly.

(d) The Department of Labor shall investigate all claims that the prevailing wage rates as provided for under this section are not being or have not been paid. Upon finding that an employer has not paid or is not paying the prevailing wage rates, the Department of Labor shall notify the employer of the violations by certified mail and make an effort to obtain compliance. Upon failure to obtain compliance within 15 days of receipt of said certified mail, the Secretary may terminate all rights of the employer to proceed with the work under the public construction contract, and the employer shall be responsible for all damages resulting therefrom.

"(e) Any employer who knowingly fails or refuses to pay the prevailing wage rates provided for under this Section, or who fails to submit payroll reports or post notice of the wage rates which apply to the project shall, for each such violation, be subject to a Civil Penalty of not less than \$1,000 nor more than \$5,000 for each violation. No public construction contract in this State shall be bid on, awarded to, or received by any

contractor or subcontractor, or any person, firm, partnership or corporation in which such employer has an interest who, within two years after entry of a judgment pursuant to this chapter, is adjudicated in violation of this chapter in a subsequent proceeding, until three years have elapsed from the date of the subsequent penalty judgment. A Civil Penalty claim may be filed in any court of competent jurisdiction.

(f) Any laborer or mechanic employed by any employer, or the Department of Labor on behalf of any laborer or mechanic employed by any employer, who is paid in a sum less than the prevailing wage rates provided for under this section shall have a right of action against the employer in any court of competent jurisdiction to recover up to treble the difference between the amount so paid and the prevailing wage rate. Such action may be brought by the Department of Labor in the name and for the benefit of the laborer or mechanic with or without an assignment of the claim from the employee and upon notice to the aggrieved employee, the Department of Labor shall have the power to settle and adjust any such claim to the same extent as would the aggrieved employee. It shall not be a defense to such action that the underpayment was received by the laborer or mechanic without protest. Upon the filing of an action under this section, the employer shall post suitable bond approved by the court for the damages which may be recoverable thereunder. Any judgment entered for plaintiff shall include an award for reasonable attorney's fees and costs of prosecution.

(g) Any wages collected under this chapter, but not claimed by the employee within 1 year from the date of collection, shall be retained by the Department of Labor for enforcement purposes.

(h) No action to recover wages and damages under this section shall be brought after the expiration of 2 years from the accruing of the cause of action.

(i) Whenever any person shall contract with another for the performance of any work which the contracting person has undertaken to perform, he or she shall become civilly liable to employees engaged in the performance of work under such contract for the payment of wages, exclusive of treble damages, as required under this section, whenever and to the extent that the employer of such employees fails to pay such wages, and the employer of such employees shall be liable to such person for any wages paid by him under this Section. If pursuant to this Subsection (i) a person becomes civilly liable to employees of another, such liability shall not constitute a violation of this Section for purposes of the termination, civil penalty and debarment provisions of Subsections (d) and (e) of this Section.

(j) A contract manager shall be responsible for monitoring compliance with this Section, but shall not become civilly liable to the same extent as the contracting person. For purposes of this Section, 'contract manager' means any person who performs the function of the contracting person without becoming a party to the contract of performance, but rather contracts with the recipient of the goods or services to act as his/her agent. A contract manager who knowingly fails or refuses to monitor compliance with this Section shall, for each such failure or refusal, be subject to a Civil Penalty of not less than \$100 nor more than \$500. A Civil Penalty claim under this subsection may be filed in any court of competent jurisdiction. A contract manager's liability for a Civil Penalty pursuant to this Subsection (j) shall not constitute a violation of this section for purposes of the termination, civil penalty and debarment provisions of Subsections (d) and (e) of this Section."

Approved July 5, 1994.

CHAPTER 296

FORMERLY

HOUSE BILL NO. 435
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 8, TITLE 13 OF THE DELAWARE CODE RELATING TO PATERNITY, AND INCLUDING PROVISIONS FOR THE VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY; AND TO AMEND CHAPTER 31, TITLE 16 OF THE DELAWARE CODE, RELATING TO VITAL STATISTICS, TO PROVIDE FOR AN IN-HOSPITAL PROCEDURE FOR VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY; AND TO AMEND CHAPTER 13, TITLE 13 OF THE DELAWARE CODE RELATING TO ILLEGITIMATE CHILDREN.

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

Section 1. Amend § 803, Chapter 8, Title 13 of the Delaware Code by adding the following new subsections (4) and (5):

"(4) The natural father may be established by an acknowledgement of paternity executed according to § 804(a)(5) of this Title or § 3121 of Title 16, subject to the provisions of § 804(c) of this Title.

(5) The natural father may be established by proof of a determination of paternity, whether by Court or administrative order, acknowledgement of paternity, or similar document, executed or issued according to the law of another state, so long as such determination established paternity according to the law of such state."

Section 2. Amend § 804(a)(3), Chapter 8, Title 13 of the Delaware Code by striking subparagraph a thereof in its entirety and redesignating the remaining subparagraphs of subsection 804(a)(3).

Section 3. Amend § 804, Chapter 8, Title 13 of the Delaware Code by striking the present paragraph (a)(5) in its entirety and inserting in lieu thereof the following:

"(a)(5) He acknowledges his paternity of the child in a writing signed under oath by him and the mother and filed with the Office of Vital Statistics, which acknowledgement contains:

(i) the mother's address and social security number, her statement that the putative father is the only possible father and her consent to the acknowledgement of paternity;

(ii) the putative father's address and social security number and his statement

that he is the biological father of the child;

(iii) subject to the provisions of § 804(c) of this Title, their acknowledgement of a right to blood, tissue, or other genetic testing to determine paternity or non-paternity and of the right to otherwise dispute paternity in any subsequent action in which the paternity of the child by the putative father is an element of the claim for relief or a defense;

(iv) a statement of the presumptive effect of the acknowledgement of paternity under § 804(c) this Title;

(v) a statement of the rights and responsibilities of acknowledging paternity, including that the acknowledgement of paternity establishes the duty of both parties to support the child, is the basis for the entry of a child support order without further proceedings to establish paternity, may be the basis for the putative father establishing custody and visitation rights, establishes inheritance rights, and may be the basis for requiring notice to the putative father prior to an adoption; and

(vi) instructions for filing the acknowledgement with the Office of Vital Statistics."

Section 4. Amend § 804(a), Chapter 8 of Title 13 of the Delaware Code by adding a new paragraph (6) as follows:

"(6) Blood, tissue, or other genetic testing performed by order of the Court, or at the request of the man or the mother, establishes that the probability of paternity of the man being the father of the child is at least ninety-nine percent (99%) and the laboratory providing genetic testing is certified or accredited by the Parentage Testing Committee of the American Association of Blood Banks (AABB) and/or the American Society of Histocompatibility and Immunogenetics (ASHI) or other similar scientifically recognized certifying or accrediting body. A laboratory meeting the requirements of this paragraph shall be included within the meaning of "expert" as that term is used in this Chapter with regard to testing to determine paternity or nonpaternity."

Section 5. Amend § 804(b), Chapter 8, Title 13 of the Delaware Code by adding after the word "under" and before the word "this" in the first sentence thereof the following: "paragraphs (a)(1) - (a)(4) and (a)(6) of ".

Section 6. Amend § 804, Chapter 8, Title 13 of the Delaware Code by adding thereto a new subsection to read as follows:

"(c) An acknowledgement of paternity made and filed pursuant to § 804(a)(5) of this Title or § 3121 of Title 16 shall be presumptive evidence of the paternity of the subject child, rebuttable only by clear and convincing evidence in an action in which the paternity or nonpaternity of the child is an element of the claim for relief or a defense, but only if such action has been filed in the Family Court within two years from the date the acknowledgement of paternity was signed by the parents.

(1) Commencing two years from the date on which an acknowledgement of paternity was signed by the parents, the presumption of paternity arising therefrom shall thereafter be final, binding, conclusive, and determinative of the child's paternity for all purposes and not subject to rebuttal.

(2) If a party was under 18 years of age on the date that party signed the acknowledgement of paternity, the presumption of paternity arising therefrom shall be final, binding, conclusive and determinative of the child's paternity for all purposes, as described in § 804(c)(1) of this section, commencing two years from the date such person has reached 18 years of age.

(3) Subject to the provisions of § 804(c)(1) and (2), the acknowledgement of paternity shall provide the basis for the entry of a child support order without any further proceedings to establish paternity."

(4) Notwithstanding the provisions of this Chapter, neither the child nor any person who has not properly filed an acknowledgement of paternity pursuant to §804 shall be subject to the final, binding, conclusive and determinative paternity designation created herein.

(5) Notwithstanding the provisions of this Chapter and in the event the Family Court determines that a person other than one who acknowledged paternity pursuant to his section is the natural father of the child or children, the Family Court shall declare the prior acknowledgement of paternity void.

Section 7. Amend § 805(a), Chapter 8, Title 13 of the Delaware Code by adding to the beginning of said subsection the following: "Subject to the limitations of § 804(c) of this Title, and except as otherwise provided by law,".

Section 8. Amend § 809(b), Chapter 8, Title 13 of the Delaware Code by adding after the word "other" and before the word "tests" in the first sentence thereof the following: "genetic".

Section 9. Amend § 810(e), Chapter 8, Title 13 of the Delaware Code by adding after the word "other" and before the word "tests" in the first sentence thereof the following: "genetic"; and by striking the second sentence thereof in its entirety and adding in lieu thereof the following: "The tests

shall be performed by a laboratory meeting the qualifications described in § 804(a)(6) of this Title."

Section 10. Amend § 810(f)(4), Chapter 8, Title 13 of the Delaware Code by adding after the word "blood" and before the word "tests" the following: ", tissue, or other genetic".

Section 11. Amend § 810(f)(5), Chapter 8, Title 13 of the Delaware Code by adding after the word "blood" and before the word "samples" the following: ", tissue, or other genetic test".

Section 12. Amend § 810(f), Chapter 8, Title 13 of the Delaware Code by adding a new subsection (7) as follows and renumbering the remaining subsection:

"(7) A copy of an acknowledgement of paternity, as provided in § 803(4) and (5) or § 804(a)(5) of this Title. A reproduction prepared pursuant to 16 Del. C. § 3107 or a duplicate copy is admissible to the same extent as the original to prove paternity without foundation testimony, unless an objection raising a genuine question as to the authenticity of the original is made prior to or at the hearing at which the acknowledgement will be submitted as evidence."

Section 13. Amend § 810(h), Chapter 8, Title 13 of the Delaware Code by adding after the word "blood" and before the word "tests" the following: ", tissue, or other genetic".

Section 14. Amend § 811(a), Chapter 8, Title 13 of the Delaware Code by deleting the portion thereof beginning with the subsection (a) designation and ending with the phrase "provided that:" and by inserting in lieu thereof the following:

"(a) Notwithstanding the Delaware Uniform Rules of Evidence, the results of any blood, tissue, or other genetic testing ordered under this Chapter, or any blood, tissue, or other genetic testing requested by or voluntarily submitted to by the parties, whether before or after the commencement of an action under this Chapter or Chapter 5 of this Title, performed by a laboratory meeting the requirements of subsection 804(a)(6) of this Title, shall be admissible in Court as substantive evidence of the paternity or nonpaternity of the alleged father. Such admission may be accomplished by filing in Family Court the results of the test performed by the expert, provided that:".

Section 15. Amend § 811(a), Chapter 8, Title 13 of the Delaware Code by adding a new paragraph to read as follows:

"(4) Any objection to the admission of the blood, tissue, or other genetic test results must be made with particularity and filed in writing within seven days prior to the hearing at which the test results will be submitted as evidence. If no such objection is made, the test results shall be admissible as evidence of paternity or nonpaternity without foundation testimony or other proof of authenticity or accuracy."

Section 16. Amend § 812, Chapter 8, Title 13 of the Delaware Code by striking the present subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) A judgment and order of the Court determining the existence or non-existence of the parent-and-child relationship, whether based upon an admission or an adjudication after disputed paternity proceedings, and regardless of whether made in an action brought under this Chapter or Chapter 5 of this Title, or after an acknowledgement of paternity as described in § 803 and § 804 of this Title or § 3121 of Title 16, is determinative of the child's paternity for all purposes and shall be final, binding, and conclusive on all parties to the proceeding and shall operate as a final adjudication on the merits as to the issue of paternity in any subsequent action for determination of paternity, child support, custody, visitation, or any other civil or criminal action in which the paternity or nonpaternity of the child by the putative father is an element of the claim for relief or a defense."

Section 17. Amend § 812(c), Chapter 8, Title 13 of the Delaware Code by adding between the words "order" and "may" the following: "determining the existence of the parent-and-child relationship or which includes a finding that the parent-and-child relationship has been established pursuant to § 803 or § 804 of this Title".

Section 18. Amend § 812, Chapter 8, Title 13 of the Delaware Code by adding a new subsection (d) to read as follows:

"(d) A man found not to be the father by judgment and order of the Court determining the non-existence of the parent-and-child relationship shall have no right of reimbursement for any child support or medical expenses paid prior to the date on which notice of the action in which he was found not to be the father was served on the other party or public agency to which the payments were or are being made.

This subsection shall not apply where, prior to a finding of paternity and entry of a final child support order, the putative father asserts non-paternity as a defense in the initial action brought for entry of an order of child support or medical support."

Section 19. Amend § 813, Chapter 8, Title 13 of the Delaware Code by adding after the word "other" and before the word "tests" in the first sentence thereof the following: "genetic".

Section 20. Amend § 817, Chapter 8, Title 13 of the Delaware Code by striking the first sentence thereof in its entirety and substituting in lieu thereof the following: "Upon order of a court of this State, upon request of a court of another state, or upon receipt of a properly executed acknowledgement of paternity or administrative order, executed or issued in this State or any other state, which establishes paternity or creates a presumption of paternity under the law of the state in which it was issued or executed, the State Registrar of Births shall prepare an amended birth registration or new certificate of birth as the case may be, consistent with the document received."

Section 21. Amend § 1301, Chapter 13, Title 13 of the Delaware Code by striking the phrase "Prothonotary's office of any county of the State" as it appears at the end of said section and inserting in lieu thereof the following: "Office of Vital Statistics according to Section 804 of this Title or Section 3121 of Title 16."

Section 22. Amend § 3121, Chapter 31, Title 16 of the Delaware Code by adding new subsections (c) and (d) as follows and renumbering the remaining subsections:

"(c) When a child is born to an unmarried woman in an institution, the person responsible for completing the birth certificate, or his or her designated representative, shall:

(1) Provide written information prepared by the Division of Child Support Enforcement to the mother and the putative father, if he is present, explaining the rights and responsibilities of acknowledging paternity;

(2) Provide the mother and the putative father the opportunity to sign an acknowledgement of paternity as described in subsection (d) of this section and provide notary public services for this purpose;

(3) Provide the mother and the putative father with a copy of the signed and notarized acknowledgement; and

(4) File the signed and notarized acknowledgement with the Office of Vital Statistics within ten days after execution. The Office of Vital Statistics shall send a copy of the acknowledgement to the Division of Child Support Enforcement within seven days after it receives the acknowledgement.

(d) The acknowledgement provided for in subsection (c) of this section shall contain:

(i) the mother's address and social security number, her statement that the putative father is the only possible father and her consent to the acknowledgement of paternity;

(ii) the putative father's address and social security number and his statement that he is the biological father of the child;

(iii) subject to the provisions of § 804(c) of Title 13, their acknowledgement of a right to blood, tissue or other genetic testing to determine paternity or nonpaternity and of the right to otherwise dispute paternity in any civil or criminal action in which the paternity of the child by the putative father is an element of the claim for relief or a defense;

(iv) a statement of the presumptive effect of the acknowledgement of paternity under § 804(c) of Title 13;

(v) a statement of the rights and responsibilities of acknowledging paternity, including that the acknowledgement of paternity establishes the duty of both parties to support the child, is the basis for the entry of a child support order without further proceedings to establish paternity, may be the basis for the putative father establishing custody and visitation rights, establishes inheritance rights, and may be the basis for requiring notice to the putative father prior to an adoption; and

(vi) instructions for filing the acknowledgement with the Office of Vital Statistics."

Section 23. Amend former paragraph (e)(2), now renumbered paragraph (g)(2), § 3121, Chapter 31, Title 16 of the Delaware Code by striking the period [.] at the end thereof and adding the following: "or an acknowledgement of paternity which is signed by both parents and their signatures notarized."

Section 24. Amend § 3127, Chapter 31, Title 16 of the Delaware Code by striking the first sentence of said section in its entirety and inserting in lieu thereof the following: "In cases of acknowledgement or establishment of paternity, the State Registrar, upon receipt of a court order, an administrative order, or a properly executed acknowledgement of paternity, executed or issued in this State or any other state, which establishes paternity or creates a presumption of paternity under the law of the state in which it was executed or issued, shall prepare an amended or new certificate of birth, as the case may be, consistent with the document."

Section 25. Amend § 3127, Chapter 31, Title 16 of the Delaware Code by striking the period [.] at the end of said section and adding the following: "or upon application of the Division of Child Support Enforcement certifying that the child for whom information is sought is the subject of a child support case administered by the Division under Title IV-D of the Federal Social Security Act [42 U.S.C. Section 651 et seq.]."

Section 26. The provisions of this Act amending Chapter 31 of Title 16 of the Delaware Code shall become effective on January 1, 1995. All other provisions of this Act shall become effective the day that it is enacted into law.

Section 27. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Approved July 5, 1994.

CHAPTER 297

FORMERLY

HOUSE BILL NO. 537

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF §107(a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF ROBERT CHRISTIAN ACKERMAN AND KAREN SMOLSKIS.

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

Section 1. Robert Christian Ackerman and Karen Smolskis 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 Peace for Sussex County shall issue to Robert Christian Ackerman and Karen Smolskis one official marriage license pursuant to this Act, the provisions of 13 Del.C. §107(a) to the contrary notwithstanding.

Approved July 5, 1994.

CHAPTER 298

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 234

AN ACT TO AMEND TITLE 11, CHAPTER 92, RELATING TO LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS.

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

Section 1. Amend Section 9200(b), Title 11, Delaware Code, by inserting the following language after the phrase "city or town within this State," and before the words "provided, however,":

" or who is a sworn uniformed police or enforcement officer of the Department of Natural Resources and Environmental Control or of the Delaware State Capital Police,"

Approved July 7, 1994.

CHAPTER 299

FORMERLY

HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 332

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMES AND CRIMINAL PROCEDURE.

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 5, §1441 by adding a new subsection (h) to read as follows:

"(h) Notwithstanding any provision to the contrary, anyone retired as a police officer, as that term is defined by §1911 of Title 11, who is retired by having served at least 20 years in any law enforcement agency within this State, may be licensed to carry a concealed deadly weapon for the protection of his person or property after his retirement when the following conditions have been strictly complied with:

(1) if he applies for the license within 90 days of the date of his retirement, he shall pay a fee of \$34.50 to the Prothonotary in the county where he resides and present to the Prothonotary both (i) a certification from the Attorney General's office, in a form prescribed by the Attorney General's office verifying that the retired officer is in good standing with the law enforcement agency from which he is retired and (ii) a letter from the Chief of the retired officer's agency verifying that the retired officer is in good standing with the law enforcement agency from which he is retired; or

(2) if he applies for the license more than 90 days, but within 10 years, of the date of his retirement, he shall pay a fee of \$34.50 to the Prothonotary in the county where he resides and present to the Prothonotary certification forms from the Attorney General's office, in a form prescribed by the Attorney General's office, that (i) the retired officer is in good standing with the law enforcement agency from which he is retired, (ii) the retired officer's criminal record has been reviewed and that he has not been convicted of any crime greater than a violation since the date of his retirement and (iii) that no record can be located which indicates that the retired officer has been committed to a psychiatric facility since the date of his retirement."

Approved July 7, 1994.

CHAPTER 300

FORMERLY

SENATE BILL NO. 362
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 92, TITLE 10 DELAWARE CODE RELATING TO THE ORGANIZATION AND OPERATION OF THE JUSTICE OF THE PEACE COURTS AND CHAPTER 66, TITLE 18, DELAWARE CODE RELATING TO LINE-OF-DUTY DEATH BENEFITS.

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

Section 1. Amend Subchapter II, Chapter 92, Title 10 Delaware Code by adding thereto a new Section 9223 to read as follows:

"§9223 Security Personnel.

All security personnel of the court shall have the full powers of a justice of the peace court constable, including the power of arrest, while performing court related functions throughout the State."

Section 2. Amend Subsection (1)(q) of Section 6601, Chapter 66, Title 18 of the Delaware Code, by deleting the phrase "and Family Court;" after the words "Court of Common Pleas" of said subsection and substituting in lieu thereof the following: " Family Court and the Justice of the Peace Courts; or"."

Approved July 7, 1994.

CHAPTER 301

FORMERLY

SENATE BILL NO. 363
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 11, DELAWARE CODE TO GRANT JUSTICE OF THE PEACE COURTS JURISDICTION TO HEAR, TRY AND FINALLY DETERMINE ADDITIONAL MISDEMEANORS THAN THEY PRESENTLY HAVE JURISDICTION TO HEAR, TRY AND FINALLY DETERMINE.

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 2702, Subchapter I, Chapter 27, Title 11, Delaware Code by striking Section 2702 in its entirety and substituting in lieu thereof a new section 2702 to read as follows:

"2702. Jurisdiction of Justice of the Peace Courts of offenses contained in this Criminal Code.

The Justices of the Peace shall have original jurisdiction to hear, try and finally determine the following misdemeanors, and any attempt, conspiracy or solicitation to commit the following misdemeanors:

- (1) Section 501 (criminal solicitation in the third degree; Class A misdemeanor);
- (2) Section 511 (conspiracy in the third degree; Class A misdemeanor) when the conspiracy relates to a misdemeanor over which justices of the peace have jurisdiction to hear, try and finally determine;
- (3) Section 531 (attempt to commit a crime; an offense which is of the same grade and degree as the most serious offense which the accused is found guilty of attempting) when the attempt relates to a misdemeanor over which justices of the peace have jurisdiction to hear, try and finally determine;
- (4) Section 601 (offensive touching; unclassified misdemeanor);
- (5) Section 602 (menacing; unclassified misdemeanor);
- (6) Section 603 (reckless endangering in the second degree; Class A misdemeanor);
- (7) Section 611 (assault in the third degree; Class A misdemeanor);
- (8) Section 621 (terroristic threatening; Class A misdemeanor);
- (9) Section 811 (criminal mischief) only if punishable as a misdemeanor;
- (10) Section 820 (trespassing with intent to peer or peep into a window or door of another; Class B misdemeanor);
- (11) Section 822 (criminal trespass in the second degree; unclassified misdemeanor);
- (12) Section 823 (criminal trespass in the first degree; Class A misdemeanor);
- (13) Section 840 (shoplifting) only if punishable as a Class A misdemeanor;
- (14) Section 841 (theft) only if punishable as a Class A misdemeanor;
- (15) Section 842 (theft; lost or mislaid property) only if punishable as a Class A misdemeanor;
- (16) Section 843 (theft; false pretense) only if punishable as a Class A misdemeanor;

- (17) Section 844 (theft, false promise) only if punishable as a Class A misdemeanor;
- (18) Section 845 (theft of services) only if punishable as a Class A misdemeanor;
- (19) Section 848 (misapplication of property) only if punishable as a Class A misdemeanor;
- (20) Section 851 (receiving stolen property) only if punishable as a Class A misdemeanor;
- (21) Section 853 (unauthorized use of a vehicle; Class A misdemeanor);
- (22) Section 861 (forgery in the third degree; Class A misdemeanor);
- (23) Section 893 (interference with levied-upon property; Class A misdemeanor);
- (24) Section 900 (issuing a bad check; Class A misdemeanor);
- (25) Section 903 (unlawful use of credit card) only if punishable as a Class A misdemeanor;
- (26) Section 907 (criminal impersonation; Class A misdemeanor);
- (27) Section 1107 (endangering children; unclassified misdemeanor);
- (28) Section 1221 (perjury in the third degree; Class A misdemeanor);
- (29) Section 1233 (making a false written statement; Class A misdemeanor);
- (30) Section 1241 (refusing to aid a police officer; Class B misdemeanor);
- (31) Section 1243 (obstructing fire - fighting operations; Class A misdemeanor);
- (32) Section 1244 (hindering prosecution; Class A misdemeanor);
- (33) Section 1245 (falsely reporting an incident; unclassified misdemeanor);
- (34) Section 1251 (escape in the third degree; Class A misdemeanor);
- (35) Section 1257 (resisting arrest; Class A misdemeanor);
- (36) Section 1271 (criminal contempt; Class A misdemeanor; Class B misdemeanor);
- (37) Section 1301 (disorderly conduct; unclassified misdemeanor);
- (38) Section 1311 (harassment; unclassified misdemeanor);
- (39) Section 1312 (aggravated harassment; Class B misdemeanor);
- (40) Section 1313 (malicious obstruction of emergency telephone calls; Class B misdemeanor);
- (41) Section 1322 (criminal nuisance; unclassified misdemeanor);
- (42) Section 1325 (cruelty to animals; Class A misdemeanor);
- (43) Section 1331 (desecration; Class A misdemeanor);
- (44) Section 1341 (lewdness; Class B misdemeanor);
- (45) Section 1342 (prostitution; Class B misdemeanor);
- (46) Section 1343 (patronizing a prostitute; unclassified misdemeanor);

(47) Section 1355 (permitting prostitution; Class B misdemeanor);

(48) Section 1443 (carrying a concealed dangerous instrument; Class A misdemeanor);

(49) Section 1446 (unlawfully dealing with a switchblade knife; unclassified misdemeanor)."

Section 2. This Act shall become effective with respect to all crimes which are committed thirty days after its enactment into law, or thereafter.

Approved July 7, 1994.

CHAPTER 302

FORMERLY

HOUSE BILL NO. 512
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 7, 16, AND 29 OF THE DELAWARE CODE RELATING TO THE TRANSFER OF CERTAIN RESPONSIBILITIES FROM THE STATE BOARD OF HEALTH TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

WHEREAS, the State Board of Health has the general responsibility for understanding the relative importance of environmental risk to human health and for conducting studies to evaluate risks to human health, and for identifying opportunities to protect the public from such risks; and

WHEREAS, DNREC has the general responsibility for the measurement of harmful substances in the environment, for the identification of pathways likely to lead to human exposure to such harmful substances, and for controlling and preventing such hazards; and

WHEREAS, the State Board of Health and DNREC agree that transferring the recreational water program from the State Board of Health to DNREC would allow the State Board of Health and DNREC to better utilize their resources in carrying out their respective responsibilities; and

WHEREAS, the Committee on Governmental Reorganization and Effectiveness has recommended the transfer of the recreational water program from the State Board of Health to DNREC.

NOW, THEREFORE:

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

Section 6. Amend §6002, Title 7 of the Delaware Code by adding a new definition to read as follows:

"(60) 'Water Supply System' means all plants, systems, facilities, or properties used or useful, or having the present capacity for future use, in connection with the supply or distribution of water, and any integral part thereof, including water distribution systems, mains, laterals, pumping stations, stand pipes, filtration plants, purification plants, hydrants, meters, valves and equipment, appurtenances and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient by the authority for the operation thereof. Except as otherwise provided in this chapter, the term water supply system shall not mean a dam, reservoir, surface water intake, water obstruction or well."

Section 7. Amend §122(3), Title 16 of the Delaware Code by deleting subparagraph §122(3)d. in its entirety and substituting in lieu thereof a new paragraph to read as follows:

"(d) Provide for the sanitary control of public swimming pools."

Section 8. Amend Chapter 60, Title 7 of the Delaware Code by adding a new section 6037B to read as follows:

"6037B Recreational Water.

(a) The Secretary shall provide for the sanitary control of natural swimming and bathing places.

(b) The Secretary shall consult with the Director of the Division of Public Health prior to making any recommendations on swimming or bathing conditions that pose a significant risk to the public health."

Approved July 7, 1994.

CHAPTER 303

FORMERLY

HOUSE BILL NO. 570

AN ACT TO AMEND TITLE 29, DELAWARE CODE, ESTABLISHING A WASTEWATER FACILITIES ADVISORY COUNCIL AND PRESCRIBING ITS DUTIES AND FISCAL RESPONSIBILITIES.

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

Section. Amend Chapter 80, Title 29, of the Delaware Code, by adding a new §8011 thereto to read as follows:

§8011. Wastewater Facilities Advisory Council.

(a) There is hereby established a Wastewater Facilities Advisory Council.

(b) Definitions.

(1) 'Wastewater facility' shall mean any property, easement, equipment, pipe, pump, plant, or appurtenance used in any way to collect, transport, store, handle, treat or dispose of wastewater.

(c) The Wastewater Facilities Advisory Council shall serve in an advisory capacity to the Governor, the Secretary of the Department and the Director of Water Resources. The Wastewater Facilities Advisory Council shall be composed of 7 members appointed by the Governor with the advice and consent of the Senate. The Governor shall designate a chairperson who shall serve an unlimited term at the pleasure of the Governor. There shall be at least 1 member who is a resident of New Castle County, 1 member who is a resident of Kent County, 1 member who is a resident of Sussex County, and 1 member who is a resident of the City of Wilmington. Those members registered in either major political party shall not exceed the other major political party by more than 1. At least 4 members shall have technical or financial expertise on wastewater facility issues. The term of each member, excluding the chairperson who serves at the pleasure of the Governor, shall be for 3 years except that for the initial members of the Council, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 2 years, and 2 members shall be appointed for a term of 3 years.

(d) Members of the Council shall serve without compensation except that they shall be reimbursed for reasonable and necessary expenses incidental to their duties as members of the Council.

(e) Any appointment, pursuant to provisions hereof, to replace a member whose position becomes vacant prior to the expiration of his term, shall be filled only for the remainder of that unexpired term.

(f) The Council's duties and responsibilities shall include the following:

(1) to evaluate, establish, recommend, and adopt a long-term plan for funding wastewater facility capital projects that shall cover a period of not less than 6 years. The plan shall be updated and prioritized on an annual basis and incorporated in the Department's annual capital budget request to the Governor. A copy of the adopted plan shall be submitted to members of the General Assembly on or before November 15 of each year beginning in calendar year 1995;

(2) to establish standards and procedures for persons to obtain funding for the construction, repair, renovation, or expansion of wastewater facilities and to recommend specific grants or loans, or both, in accordance with such standards and procedures using funds authorized for such purposes by Act of the General Assembly or funds approved by the Delaware State Clearinghouse Committee. The Council shall develop and recommend to the General Assembly projects for the planning, construction, repair, renovation, or expansion of wastewater facilities to be funded in whole or in part by the Delaware Water Pollution Control Revolving Fund and

any other related special revolving loan fund so authorized by the General Assembly;

(3) to develop and periodically update a comprehensive, statewide wastewater facilities assessment to be presented in 3 sections, 1 for each county. The Council may retain the services of necessary professionals and may enter into agreements in order to prepare such an assessment. Each of the counties may, at its option, designate a county agency responsible for preparing the assessment for such county, provided however, that the assessments shall be prepared in a uniform manner pursuant to criteria established by the Council. In the absence of such a designation, the Department shall be the lead agency in coordinating preparation of the assessment. The assessment shall include, but not be limited to, a description of the status of existing wastewater facilities, the current usage thereof, the adequacy of existing wastewater facilities, projected long range requirements for wastewater facilities, the compatibility of existing land use plans with existing and long range requirements of wastewater facilities, and recommendations for improvements to existing wastewater facilities;

(4) to recommend long term strategies for financing the construction, repair, renovation, or expansion of wastewater facilities. Such strategies shall reflect the goals of establishing fair rates that equitably distribute the costs of wastewater facilities based upon usage and relying upon private firms to provide wastewater services if it is economical and in the public interest to do so;

(5) to adopt standards and procedures for the audit of program expenditures, the performance of program evaluations to ensure conformance to the law, and the monitoring of the progress of wastewater facility projects funded in whole or in part by the State. The Council shall review, recommend, and approve payment of administrative and operating expenses of the Council to the Department.

(f) The Council shall adopt all motions and approve the 6 year capital plan, the assessment, and all programs, loans or grants only by a majority vote of the entire membership of the Council. All voting shall be done in person and at regular or special meetings of the Council. The Council shall conduct a public meeting in each county prior to annual adoption of the 6 year capital plan. The Council is subject to the applicable provisions of the Administrative Procedures Act.

(g) The Council shall work in concert with the Department, the Department of Transportation, the Delaware Development Office, the Department of Agriculture, the Delaware Geological Survey, the Public Service Commission, the Department of Health and Social Service, the Department of Finance, the Cabinet Committee on State Planning Issues and any other appropriate department, agency, or committee focusing on statewide planning issues and each shall provide reasonable staff time and resources as may be required by the Council to fulfill its duties and responsibilities. The Council shall also work in concert with the Water Resources Agency of New Castle County and any other appropriate agency designated by the counties. The Department shall be the lead agency in coordinating support for the Council."

Section 2. Amend §8003(11) a.1., Title 29, of the Delaware Code, by deleting said subsection in its entirety and substituting in lieu thereof the following: "1. 'Council' shall mean the Wastewater Facilities Advisory Council."

Section 3. Amend §8003(11) d.1., Title 29, of the Delaware Code, by deleting from said subsection the words: "on Environmental Control".

Section 4. Amend §8003(12) c., Title 29, of the Delaware Code, by deleting from said subsection the words "Delaware Revolving Loan Fund" and substituting in lieu thereof the following: "Delaware Water Pollution Control Revolving Fund" and adding at the end of said subsection the words: "Standards and procedures specified under this subsection shall provide for a final approval by the Wastewater Facilities Advisory Council of any loan from the Delaware Water Pollution Control Revolving Fund and the 'project priority' list."

Approved July 7, 1994.

CHAPTER 304

FORMERLY

HOUSE BILL NO. 363
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 5, TITLE 22 OF THE DELAWARE CODE RELATING TO PARKING
AUTHORITIES.

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

Section 1. Amend §508, Chapter 5, Title 22 of the Delaware Code by striking the word 'or' as it appears after the words 'place of public worships' in the first paragraph of said section and substituting in lieu thereof the following:

" , in a municipality whose population is greater than 50,000 people".

Section 2. Amend §508, Chapter 5, Title 22 of the Delaware Code after the words 'facilities so taken' and before the period '.' as they appear at the end of the fourth sentence of the first paragraph of said section by adding the following:

"or in a municipality whose population is 50,000 people or less property used as a facility or facilities for parking of motor vehicles unless said property has been leased by the municipality or authority and used as a parking facility by said lessee within the preceding 3 years."

Approved July 8, 1994.

CHAPTER 305

FORMERLY

HOUSE BILL NO. 436

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

AN ACT TO AMEND CHAPTER 5, TITLE 16 OF THE DELAWARE CODE RELATING TO TUBERCULOSIS CONTROL.

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

Section 1. Amend Chapter 5, Title 16 of the Delaware Code by redesignating §§501 - 08 as "Subchapter I: General Guidelines" and by adding a new Subchapter to read as follows:

"SUBCHAPTER II: TUBERCULOSIS CONTROL

§520. Definitions.

As used in this Title, unless otherwise provided or the context requires a different meaning:

(1) 'Division' means the Division of Public Health or its authorized representatives, which includes therein all of the responsibilities afforded the State Board of Health as it appears elsewhere in this title.

(2) 'Director' means the Director of the Division of Public Health, or such persons as may be designated by the Director.

(3) 'County Public Health Administrator' means the Division of Public Health employee responsible for managing the operations of all public health programs within an assigned county.

(4) 'Tuberculosis (TB)' means a disease caused by Mycobacterium Tuberculosis that is in the active stage as demonstrated by clinical, bacteriologic and/or radiographic evidence. Such persons who have not completed a course of anti-TB treatment are considered to have active TB and might be infectious.

(5) 'Voluntary treatment' means a person voluntarily taking medications as prescribed and following the recommendations of the attending physician or the Division for the management of tuberculosis.

(6) 'Directly Observed Therapy (DOT)' means treatment in which health-care providers or other designated persons observe patients ingesting anti-TB medications.

(7) 'Peace officer' means any public officer authorized by law to make arrests in a criminal case.

(8) 'Designated transport personnel' means such personnel as designated by the Director to transport persons with tuberculosis to and from treatment and/or detention facilities, and other sites as ordered by the Director.

§521. Reporting by health care providers.

(a) Physicians, pharmacists, nurses, hospital administrators, medical examiners, morticians, laboratory administrators, and others who provide health-care services to persons with tuberculosis or suspected tuberculosis shall report the following to the Division within two working days of its occurrence:

(1) Confirmed or suspected tuberculosis;

(2) The results for any person whose sputa, gastric contents, or other specimens submitted for examination reveal the presence of tubercle bacilli;

(3) The occurrence of drug-resistant tuberculosis, even if the confirmed or suspected tuberculosis had been previously reported;

(4) Persons with tuberculosis who have demonstrated an inability to or an unwillingness to adhere to a prescribed treatment regimen, who refuse medication, or who show other evidence of not taking medications as prescribed.

(b) Physicians, pharmacists, nurses, hospital administrators, medical examiners, morticians, laboratory administrators, and others who provide health-care services to tuberculosis patients shall make their records available to the inspection of the Division when so requested in order to carry out the provisions of this title.

§522. Division investigates reported cases of tuberculosis.

Whenever the Division shall discover, as a result of its own investigation or, as a result of any report required by this Chapter that any person may have tuberculosis, the Division shall investigate or further investigate the circumstances and, if after investigation, the Division is of the opinion that a case of tuberculosis has been found, the Division shall interview, or cause to be interviewed said person in order to investigate the source and spread of the disease and in order to require said person to submit to examination and treatment as necessary. The Division shall keep record of all interventions with said persons.

§523. Voluntary treatment.

Whenever the Division shall discover as a result of its own investigation or as a result of any report required by this Chapter that any person has tuberculosis, the Division shall encourage the person to take voluntary treatment to meet the minimum requirements prescribed by the Division.

§524. Public health power to examine and order treatment.

(a) Subject to the provisions of §526 of this subchapter, a person with tuberculosis or a person reasonably suspected of being diseased with or exposed to tuberculosis shall report for a complete examination or treatment, as appropriate, to a physician licensed under Title 24, or shall submit to an examination or treatment as appropriate, at a public health facility. When a person has been diagnosed as having tuberculosis or has been determined to have been exposed to tuberculosis, said person shall continue to be prescribed treatment until such time as that treatment is no longer required as determined by the Director.

(b) Subject to the provisions of §526 of this subchapter, the Division shall examine or cause to be examined, or treat or cause to be treated, any person who will not respond to voluntary treatment for tuberculosis. The County Public Health Administrator shall go before the Director for a Director's order for involuntary examination and/or treatment of said person.

§525. Types of involuntary treatment: outpatient examination and treatment, directly observed therapy, hospitalization, and residential isolation.

(a) Subject to the provisions of §526 of this subchapter, the Director shall order, as medically appropriate, a person with tuberculosis to undergo outpatient examination and treatment, directly observed therapy, hospitalization, or isolation from the general public in the home, as a result of the threat of harm to the person and the probable spread of tuberculosis, until such time as the disease is cured or the risk of infection to the general public is eliminated or reduced in such a manner that a substantial threat to the public's health and welfare no longer exists.

(b) Subject to the provisions of §526 of this subchapter, a person who is infected with tuberculosis but is not infectious to others, and is a danger to himself or herself by resistance to treatment, and who refuses to adhere to a treatment regimen or to complete treatment, may be ordered by the Director to undergo outpatient examination and treatment, directly

observed therapy, hospitalization, or isolation from the general public in the home, as a result of the increased risk that said persons will develop drug-resistant tuberculosis, which may pose a serious threat to the person and the general public.

§526. Conditions under which orders can be issued by Director.

(a) No person may be ordered to undergo outpatient examination and treatment, directly observed therapy, hospitalization, or isolation from the general public in the home, except upon the order of the Director following a hearing where it is proven by clear and convincing evidence:

(1) That there is a danger to the health of the person or that the public health and welfare are substantially endangered by the person;

(2) That the person has been counseled about tuberculosis, the significant threat tuberculosis poses to the public, and methods to minimize the risk to the public, and, despite said counseling, indicates an intent by words or action to endanger himself or herself and/or expose the public to infection from tuberculosis; and

(3) That all other reasonable means of achieving voluntary compliance with the treatment have been exhausted and no less restrictive alternative exists.

(b) The hearing required under subsection (a) of this section shall provide the person with the rights to present evidence, to cross-examine witnesses, and to be represented by legal counsel. If the person is unable to employ counsel, the Division shall petition the Superior Court to forthwith appoint legal counsel for representation in proceedings authorized by this subchapter. Further, the person shall be given at least 5 working days prior written notification of the time and place of hearing, a copy of documentary evidence to be presented, a list of the proposed actions to be taken, and the reasons for each said action; and shall be given a verbatim transcript of the hearing on request for appeal purposes.

(c) The Director shall order isolation in an alternative facility, if in the Director's judgement isolation in the person's usual residence is inappropriate because of the possible infection of other persons living in or around that residence.

(d) The Division, as appropriate, shall consult with legal counsel, designated transport personnel, and peace officers concerning any necessary infection control procedures to be taken during any interviews, hearings, transports, or detention.

(e) An order requiring outpatient examination and treatment, directly observed therapy, hospitalization, or isolation from public in the home shall be maintained until in the opinion of the attending physician or the County Public Health Administrator, the person is cured or said person is no longer a substantial threat to him or herself or to the public health. Once the County Public Health Administrator finds the person no longer needs treatment, the County Public Health Administrator will petition the Director to dismiss the order. Once the matter is dismissed, said order cannot be reinstated unless the person is afforded all of the rights conferred in subsection (a) of this section.

(f) Any person who undergoes outpatient examination and treatment, directly observed therapy, hospitalization, or isolation from public in the home, or confinement, as a result of an order entered under this subchapter, may at any time petition the Director for immediate release and termination of the order.

(g) Any person petitioning the Director for immediate release and termination of the order entered under the authority of this subchapter shall show that he/she is entitled to relief from the original order, or that:

(1) He or she no longer poses an imminent and substantial threat to himself or herself or the public's health and welfare; and

(2) He or she will voluntarily continue with prescribed medications and treatment, if medically necessary, to reduce the risk of infection to the public.

(h) When considering a petition for imminent and substantial threat and prior to making any said release, the Director shall consult the County Public Health Administrator and the patient's physician, if any, concerning the patient's medical condition and other related factors that may affect the present and future danger to himself or herself or the public that may be caused by the release of the patient.

(i) Upon granting a petition for immediate release, the Director shall advise the County Public Health Administrator and other persons as may be appropriate about those conditions he or she believes reasonably necessary to protect the patient or public from tuberculosis infection and disease.

(j) The Director shall, for a period not exceeding three months, review the patient's medical status provided to him or her by written report of the health care provider and determine whether a further hearing should be held for additional involuntary treatment within 14 working days of receipt of a written report of the medical status, and all rights pursuant to §526(b) will apply.

(k) No peace officer, public health employee, or medical doctor shall be subject to civil damages or criminal penalties for any harm resulting from his or her functions under this section unless such harm was intentional or the result of willful and wanton misconduct on his or her part.

§527. Order for emergency treatment.

(a) The County Public Health Administrator shall file a petition before the Director requesting that emergency treatment be ordered for a person infected with, or reasonably suspected of having tuberculosis when the County Public Health Administrator has clear and convincing evidence, documented as facts in the petition, that:

(1) The person has tuberculosis or is reasonably suspected of having tuberculosis;

(2) The person poses an imminent and substantial threat to himself or herself or the public health and welfare and;

(3) The person is unable, for whatever reason, to sufficiently protect his or her own health or that of the public or there is evidence that a person will act in such a way as to recklessly disregard his or her own health or the public's health; and

(4) The person is not likely to appear at a hearing scheduled pursuant to §526 of this subchapter; or

(5) The person provides evidence by words or action that he/she is likely to leave the jurisdiction prior to the hearing date; or

(6) The person is likely to continue to expose the public to the risk of tuberculosis and, therefore, a hearing pursuant to §526 of this subchapter does not protect the public.

(b) No emergency treatment order shall be issued unless the Director finds that:

(1) The County Public Health Administrator has also requested in the emergency treatment petition a hearing pursuant to §526 of this subchapter, as well as its subparts, to consider the examination, treatment, or placement of the person with tuberculosis or reasonably suspected to have tuberculosis, providing all due process rights as stated in §526;

(2) The County Public Health Administrator presents clear and convincing evidence that a substantial threat to the person or the

public's health and welfare exists unless the emergency treatment order is issued;

(3) The County Public Health Administrator has no other reasonable alternative means of reducing the threat to the individual or public's health and welfare.

(c) When issuing an emergency treatment order, the Director shall direct a peace officer or other designated transport personnel to immediately transport the person with tuberculosis as so ordered by the Director. The peace officer shall take into custody and isolate the person in such a manner as required by the Director. The Division will notify the peace officer or other designated transport personnel concerning any necessary infection control procedures to be taken.

(d) In no case shall an emergency treatment order continue for more than five working days.

§528. Service of notice and processes; duties of the peace officer.

(a) All notices required to be given, warrants, petitions, processes issued, and orders entered pursuant to this subchapter shall be served by a peace officer of proper jurisdiction.

(b) The Director, in ordering directly observed therapy, hospitalization, or isolation pursuant to this subchapter shall when necessary direct the peace officer to take the person into their custody and immediately deliver them to the director of the facility named on the order. The Division shall consult with the peace officer concerning any necessary infection control procedures to be taken.

§529. Right to appeal.

Any person who is aggrieved by the entry of an order pursuant to this subchapter shall have 15 days within which to appeal the order to Superior Court. The Court shall convene a hearing as soon as practicable, but no later than fifteen (15) working days from the filing of the appeal. The Court shall receive the records of the administrative hearing, hear additional evidence at the request of either party, and conduct a de novo review of the order. An appeal does not stay treatment.

§530. Exercise of religious freedom.

Nothing in this subchapter shall be construed to authorize or empower the medical treatment of any person who desires treatment by prayer or spiritual means, in the exercise of religious freedom; provided, however, that said person shall be isolated or quarantined, or both, at the patient's expense, and while so quarantined or so isolated, or both, shall comply with all applicable sanitary rules, laws, and regulations.

§531. Confidentiality.

All information held by the Division relating to known or suspected cases of tuberculosis or exposure to tuberculosis shall be strictly confidential. Said information shall not be released or made public upon subpoena or otherwise, except that release may be made under the following circumstances:

(a) Release is made of medical or epidemiological information for statistical purposes so that no person can be identified; or

(b) Release is made of medical or epidemiological information with the consent of all persons identified in the information released; or

(c) Release is made of medical or epidemiological information to medical personnel, appropriate State agencies or State courts to the extent required to enforce the provisions of this chapter and related rules and regulations concerning the control and treatment of tuberculosis; or

(d) Release is made of medical or epidemiological information to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party or group of persons; or

(e) Release is made during the course of civil or criminal litigation to a person allowed access to said records by a court order which is issued in compliance with the following provisions:

(1) No court of this State shall issue such order unless the court finds that the person seeking the records and information has demonstrated a compelling need for such records which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the subject and the public interest which may be disserved by disclosure which deters future testing and treatment or which may lead to discrimination.

(2) Pleadings pertaining to disclosure of such records shall substitute a pseudonym for the true name of the subject of the records. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court.

(3) Before granting any such order, the court shall provide the subject whose records are in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a party.

(4) Court proceedings as to disclosure of such records shall be conducted in camera unless the subject agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(5) Upon issuance of an order to disclose such records, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibition on future disclosures."

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

Approved July 8, 1994.

CHAPTER 306

FORMERLY

HOUSE BILL NO. 479

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

AN ACT TO AMEND TITLES 24 AND 29 OF THE DELAWARE CODE RELATING TO OCCUPATIONS AND PROFESSIONS AND PROVIDING FOR THE CERTIFICATION OF DIETITIANS/NUTRITIONISTS.

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

Section 1. Amend Title 24 of the Delaware Code by adding thereto a new Chapter, designated as Chapter 38, which new Chapter shall read as follows:

"CHAPTER 38. DIETITIAN/NUTRITIONIST CERTIFICATION ACT

§ 3801. Statement of Purpose.

The intent of this Chapter is to establish minimum standards of education, experience and examination for professional dietitians/nutritionists so that the public can readily identify those who meet these minimum standards. It is also the intent of this Chapter to provide a certification process for professional dietitians/nutritionists and to establish "Certified Dietitian/Nutritionist" as the State-recognized legal title for professional dietitians/nutritionists. It is also the intent of this Chapter to assure consumers the right to choose from whom they receive information and advice. Recognition of these goals will protect the health of the public by broadening access to nutrition services.

§ 3802. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (1) 'Committee' shall mean the State Committee of Dietetics/Nutrition.
- (2) 'Dietetics/Nutrition' shall mean the integration and application of principles derived from the sciences of food, nutrition, biochemistry, physiology and management and behavioral sciences as an integral part of health care delivery to achieve and maintain a person's health throughout the life cycle. Its application to health care is both preventive and in response to an illness, injury or condition. The application of dietetics/nutrition to health care shall be called Nutrition Services. The terms 'dietetics' and 'nutrition' are used interchangeably in this Chapter.
- (3) 'Nutrition Services' shall mean the scope of services utilized in the delivery of preventive nutrition services and/or nutrition therapy.
- (4) 'Preventive Nutrition Services' shall mean the use of specific nutrition interventions to promote health and prevent disease. It involves an assessment to determine the individual's/group's specific nutritional needs and the development and implementation of an intervention plan. The intervention plan can include nutrition education, counseling, and/or referrals for additional services.
- (5) 'Nutrition Therapy' shall mean the use of specific nutrition interventions to treat an illness, injury or condition. It involves an assessment of the individual's specific nutritional needs and the development and implementation of an intervention plan. The intervention plan can include nutrition education, counseling, administration, and monitoring of specialized nutrition support, and/or referrals for additional services.
- (6) 'Dietitian and/or Nutritionist' shall mean a person who engages in the provision of nutrition services. The terms 'nutritionist' and 'dietitian' are used interchangeably in this Chapter.

(7) 'Certified Dietitian/Nutritionist' shall mean a person holding a current certificate under this Chapter.

(8) 'C.D.N.' shall be the abbreviation for the title Certified Dietitian/Nutritionist.

(9) 'Certificate' shall mean any document which indicates that a person is currently certified by the Committee of Dietetics/Nutrition.

(10) Notwithstanding any other provision of this Chapter, a dietitian registered by the Commission on Dietetic Registration shall have the right to use the title Registered Dietitian and the designation R.D., and a nutritionist certified by the Certification Board for Nutrition Specialists shall have the right to use the title Certified Nutrition Specialist and the designation C.N.S..

(11) Notwithstanding any other provision of this Chapter, nothing in this Chapter shall be construed to restrict, limit or control the use of the word nutritionist or the provision of nutrition services by any persons with education and/or credentials different from those specified in this Chapter.

§ 3803. Committee of Dietetics/Nutrition: Appointment; Composition; Qualifications; Term of Office; Suspension or Removal; Compensation.

(a) Appointment.

The Committee of Dietetics/Nutrition shall consist of five members who are residents of this State and shall be appointed by the Governor. Members of the initial Committee shall be appointed so that the terms of three members shall expire two (2) years after the initial appointment and that the terms of the remaining two members shall expire three (3) years after the initial appointment. Thereafter, appointments shall be made for a term of three (3) years. A member of the Committee shall be eligible for reappointment, but a member shall not be appointed to serve more than two consecutive terms. Each term of office shall expire on a date specified in the appointment except that each member shall serve until his or her successor is duly appointed. A member who was initially appointed to fill a vacancy may succeed himself or herself for only one addition full term.

(b) Composition and Provisions.

Three (3) members shall be certified dietitians/nutritionists, certified in this State. The remaining two (2) members shall be from the general public, who are not certified Dietitians/Nutritionists and are not in any way, connected to the provision of nutrition services either monetarily, through business activity, through educational activity, or by their immediate family relations. No member of the Committee, while serving on the Committee, shall be a president, chair or other elected official of any State professional association for dietitians or nutritionists. The provisions set forth for "employees" in Chapter 58 of Title 29 shall apply to all members of the Committee, and to all appointed by or otherwise employed by the Committee.

(c) Suspension or Removal.

A member of the Committee shall be suspended or removed by the governor for misfeasance, nonfeasance or malfeasance. A member subject to disciplinary proceedings shall be disqualified from Committee business until the charge is adjudicated, or the matter is otherwise concluded. A Committee member may appeal any suspension or removal to the Superior Court.

(d) Compensation.

Each member of the Committee shall receive not more than \$500 in any calendar year for this or her services as a member of the Committee, including not more than \$50 for each meeting which such member attends during that year.

§ 3804. Officers; Meetings; Quorum.

(a) The Committee shall elect annually from its membership a chair, vice-chair, and secretary.

(b) The Committee shall hold a regularly scheduled business meeting at least once each quarter and at such other times as the Chair deems necessary or at the request of a majority of Committee members.

(c) A majority of members shall constitute a quorum; and no action shall be taken without the affirmative vote of at least three members. Any member who fails to attend three consecutive meetings, or who fails to attend at least half of all regular business meetings during any calendar year, shall automatically, upon such occurrence, be deemed to have resigned from office and a replacement shall be appointed.

(d) Minutes of all meetings shall be recorded, and copies of the minutes shall be maintained by the Division of Professional Regulation. At any hearing in which evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The expense of preparing any transcript shall be incurred by the person requesting it.

§ 3805. Powers and Duties.

The Committee of Dietetics/Nutrition shall have the authority to:

(1) Promulgate rules and regulations governing the certification of dietitians/nutritionists to carry out the intent of this Chapter.

(2) Grant or deny certification to an applicant in accordance with the qualifications criteria set forth in this Chapter.

(3) Refer all complaints from practitioners and from the public concerning practitioners to the Division of Professional Regulation for investigation pursuant to § 8810 of Title 29.

(4) Hold hearings and take such actions as are permitted under the provisions of Chapter 101 of Title 29.

(5) Where it has been determined after a disciplinary hearing, that disciplinary action should be imposed, to designate and impose appropriate disciplinary action after time for appeal has lapsed.

(6) Prepare and maintain a registry of certified dietitians/nutritionists.

§ 3806. Qualifications of Applicants.

(a) An applicant who is applying for certification under this Chapter shall have the following qualifications:

(1) Have satisfactorily completed academic requirements for the field of dietetics/nutrition as established by the American Dietetic Association or completed a major in human nutrition, food and nutrition, dietetics, or an equivalent course of study approved by the Committee and have received a Baccalaureate or higher degree from a college or university. The qualifying academic requirements and degree must be from a college or university accredited through a regional accrediting agency recognized by the U.S. Department of Education. Applicants who have obtained their education outside the U.S. and its territories must have their academic degree(s) validated by an agency authorized to validate foreign academic degree(s) as equivalent to the Baccalaureate or Master's Degree conferred by a regionally accredited college or university in the U.S.; and

(2) Have satisfactorily completed the registration examination administered by the Commission on Dietetic Registration of the American Dietetic Association or another national examination acceptable to the Committee and approved by the Director of Professional Regulation; and

(3) Shall submit proof to the Committee of completion of a professional practice experience of:

(A) Not less than 900 hours supervised by a registered dietitian, licensed dietitian, certified dietitian/nutritionist or certified nutrition specialist in this State or any other State who meet minimal standards of education, experience and examination as outlined in this Chapter. The 900 hours may also be supervised by an individual who qualifies for certification as defined by this Chapter or by a licensed physician who has expertise in human nutrition as demonstrated by academic, clinical, or professional credentials; or

(B) Not less than three (3) years of documented work experience in the past ten (10) years in the provision of nutrition services as defined by this Chapter and approved by the Committee.

(b) Persons who provide evidence of current registration as a Registered Dietitian by the Commission on Dietetic Registration of the American Dietetic Association shall be considered to have met the qualifications for certification under this Chapter in lieu of subsection (a) of this Section.

(c) Persons who provide evidence of certification by the American Board of Nutrition or the Certification Board for Nutrition Specialists shall be considered to have met the qualifications for certification under this Chapter in lieu of subsection (a) of this Section.

(d) Persons who provide evidence of a Masters or Doctorate Degree from a college or university accredited through a regional accrediting agency, recognized by the U.S. Department of Education, with a major in nutrition, nutrition education, nutrition science, or a major closely related to human nutrition approved by the Committee shall be considered to have met the qualifications for certification under this Chapter in lieu of subsection (a) of this Section.

(e) Each applicant shall provide such information as may be required on an application form designed and furnished by the Committee. No application form shall require a picture of the applicant, require information relating to citizenship, place of birth, or length of State residency, nor shall it require personal references.

(f) The Committee may refuse or reject an applicant if, after hearing, the Committee finds that the applicant meets any of the conditions or actions as specified in § 3811(a) of this Chapter.

(g) Where the Committee 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.

(h) Where the application of a person has been refused or rejected and such applicant feels that the Committee has acted without justification, has imposed higher or different standards for him or her than for other applicants, or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§ 3807. Reciprocity.

Reciprocity will be provided for registered, certified or licensed dietitians or registered, certified or licensed nutritionists from other states provided that the standards for registration, certification and/or licensure in that state are reasonably equivalent to those set forth in § 3806 of this Chapter. Reciprocity applicants must follow the rules and regulations for application established under § 3809 of this Chapter.

§ 3808. Continuing Education.

In order to maintain eligibility for certification, renewal applicants must submit proof of continuing education. Thirty (30) hours of continuing education is required during the two (2) year certification period. Continuing education hours must meet the requirements of the American Dietetic Association to be valid.

§ 3809. Certification.

(a) Application.

A person who desires to be certified as a dietitian/nutritionist shall apply to the Committee in writing on a form furnished by the Committee, accompanied by payment of a fee reasonably necessary to defray costs as determined by the Division of Professional Regulation.

(b) Renewal/Reinstatement.

(1) Certificates shall be renewed every two (2) years in such manner as determined by the Division of Professional Regulation upon completion of the renewal form and payment of the required fee established by the Division pursuant to 29 Del. C. § 8810(d), provided the renewal applicant completes the requirements for continuing education set forth in § 3808 of this Chapter.

(2) Certificates which have lapsed shall be reinstated if the applicant meets the requirements of paragraph (1) of this Section and pays the late renewal fee, established by the Division pursuant to 29 Del. C. § 8810(d). An applicant for reinstatement shall not be required to pay renewal fees for years during which the certification has lapsed.

§ 3810. Certification Required.

No person shall represent himself or herself as a certified dietitian/nutritionist in this State or use the title certified dietitian, certified nutritionist or certified dietitian/nutritionist or use the letters C.D.N. unless such a person is certified under this Chapter.

§ 3811. Violations; Discipline.

(a) The following conditions and actions of an applicant or C.D.N. may result in disciplinary action as set forth in § 3811(b) of this Chapter if, after a hearing, the Committee finds that an applicant or C.D.N.:

(1) Has employed or knowingly cooperated in fraud or material deception in order to be certified; or

(2) Has engaged in illegal, incompetent or negligent conduct in the provision of nutrition services; or

(3) Has as a dietitian/nutritionist or otherwise, in the practice of his or her profession, knowingly engaged in an act of consumer fraud or deception, or engaged in the restraint of competition, or participated in price-fixing activities; or

(4) Has, violated the Code of Ethics as established by the Committee; or

(5) Has violated a lawful provision of this Chapter or any lawful rule or regulation established hereunder; or

(6) Has been convicted of a felony within the last five (5) years; or

(7) Has had any other registration, license or certification related to the practice of nutrition services revoked.

(b) Persons regulated under this Chapter who have been determined to be in violation of this Chapter shall be subject to the following disciplinary actions:

(1) Issuance of a letter of reprimand.

(2) Censorship.

(3) Placement on probationary status.

(4) Denial of Certification.

(5) Suspension of Certification.

(6) Revocation of Certification.

(c) As a condition to reinstatement of a suspended certificate or removal from probationary status, the Committee may impose such disciplinary or corrective measures as are authorized under this Chapter.

§ 3812. Administrative Procedures.

All procedures under this Chapter shall be governed by the Delaware Administrative Procedures Act, Chapter 101, Title 29 of the Delaware Code."

Section 2. Amend § 8810(a), Title 29 of the Delaware Code by adding a new paragraph and by redesignating the subsequent existing paragraphs, which new paragraph shall read as follows:

"(28) Committee of Dietetics/Nutrition as set forth in Chapter 38 of Title 24;".

Section 3. Amend § 10161(a), Chapter 101, Title 29 of the Delaware Code, by adding a new paragraph and by redesignating the subsequent existing paragraph, which new paragraph shall read as follows:

"(42) Committee of Dietetics/Nutrition,".

Approved July 8, 1994.

CHAPTER 307

FORMERLY

SENATE BILL NO. 44
 AS AMENDED BY SENATE AMENDMENT NOS. 2 AND 4 AND
 HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE, RELATING TO INCREASED FINES FOR ALTERED OR FICTITIOUS VEHICLE REGISTRATIONS AND/OR REGISTRATION PLATES AND VIOLATIONS OF REGISTRATION 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 §2116, Chapter 21, Title 21 of the Delaware Code by re-designating present subsection (b) as new subsection (c); by re-designating present subsection (c) as new subsection (d); and by adding thereto a new subsection (b) which shall read as follows:

"(b)(1) Notwithstanding the provisions of subsection (a) of this section, whoever violates subsections (1) through (5) of Section 2115 shall, for the first offense, be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), be imprisoned not less than thirty days nor more than ninety days, or be penalized by both fine and imprisonment. For each subsequent like offense, such person shall be fined not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00), be imprisoned not less than ninety days nor more than six months, or be penalized by both fine and imprisonment.

(2) Any owner or operator of a vehicle which requires a registration fee which is calculated upon the gross weight of the vehicle, and any load thereon, and who violates subsections (1) through (5) of §2115 of this Chapter, shall be fined at a rate double that which is set forth in this subsection, or be imprisoned as provided herein, or be both fined and imprisoned. In addition, such person shall also be fined an amount which is equal to the costs of registering the vehicle either at its gross weight at the time of the offense, or at the maximum legal limit, whichever is less. Such fine shall be suspended if, within five days of the offense, the Court is presented with a valid registration card for the actual gross weight of the vehicle at the time of the offense."

Section 3. Amend §2116(a), Chapter 21, Title 21, Delaware Code, by striking the word "therein" as it appears in the second sentence of §2116(a), after the phrase "as provided" and before the phrase "or both", and substituting in lieu thereof the word "herein".

Section 4. Amend §2116(a), Chapter 21, Title 21, Delaware Code, by striking the word "or" as it appears in the last sentence of §2116(a), after the phrase "at the time of the offense" and before the phrase "the maximum legal limit", and substituting in lieu thereof the word "for".

Approved July 8, 1994.

CHAPTER 308

FORMERLY

SENATE BILL NO. 152
AS AMENDED BY HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO CONDEMNATION PROCEDURES.

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

Section 1. Amend Section 6111, Chapter 61, Title 10 of the Delaware Code by deleting the period '.' at the end of the second sentence of said section and inserting in lieu thereof the following:

", except as follows:

(a) At any time prior to the day before the compensation trial of a condemnation proceeding begins, the plaintiff shall serve upon the defendant(s) an offer to allow judgment to be taken against the plaintiff, in accordance with the terms of the offer, exclusive of court costs and interest. If the defendant(s) accept the offer by serving a written notice of acceptance upon the plaintiff, either party may then file the offer and notice of acceptance with the Court, together with proof of service thereof, and thereupon the Prothonotary shall enter the notice of acceptance as if it were the final award pursuant to Section 6108 of this Chapter. An offer not accepted prior to the swearing of the commissioners pursuant to Section 6108(C) of this Chapter shall be deemed withdrawn, and evidence thereof is not admissible except in a later proceeding to determine costs pursuant to this section. The fact that an offer is made but not accepted shall not preclude a subsequent offer.

(b) If the award of just compensation, exclusive of interest, is closer to the highest valuation evidence provided at trial on the defendant's behalf than the plaintiff's offer made under subsection (a) of this section, the defendant may apply for an order for the plaintiff to pay the defendant's reasonable litigation expenses, including reasonable attorney, appraisal, engineering, or other expert witness fees actually incurred because of the compensation trial, by serving on the plaintiff and filing with the Prothonotary a verified application therefor within fifteen days after the final confirmed condemnation award. The application shall show cause why the defendant is entitled to an award pursuant to this subsection; state the amount sought; and include an itemized statement under oath from an attorney or expert witness representing or appearing at trial on behalf of the defendant stating the fee charged, the basis therefor, the actual time expended, and all actual expenses for which the recovery is sought. If requested by any party, or upon its own motion, the court may hear the parties with respect to the matters raised by the application and determine the amount of litigation expenses to be awarded. Any order of the court awarding expenses pursuant to this subsection shall be filed with the Prothonotary and, unless appealed within thirty days, shall be a final order. Any expenses awarded by the court pursuant to this subsection shall be paid within thirty days of the court's final order. The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny such award, to the extent that the defendant, during the course of the proceeding, engaged in conduct which unduly and unreasonably protracted the final resolution of the action, or to the extent the court finds that the position of the plaintiff was substantially justified, or that special circumstances make an award of expenses unjust. In no event shall the amount of the expenses awarded pursuant to this subsection exceed the amount awarded as just compensation.

(c) If the award of just compensation, exclusive of interest, is lower than the plaintiff's offer made under subsection (a) of this section, the plaintiff may apply for an order for the defendant to pay the plaintiff's reasonable litigation expenses incurred after the service of the offer, excluding attorney fees but including reasonable appraisal, engineering, or other expert witness fees actually incurred because of the condemnation trial, by serving on the defendant and filing with the Prothonotary a verified application therefor within fifteen days after the final confirmed condemnation award. The application shall show cause why the plaintiff is

entitled to an award pursuant to this subsection; state the amount sought; and include an itemized statement under oath from an attorney or expert witness representing or appearing at trial on behalf of the plaintiff stating the fee charged, the basis therefor, the actual time expended, and all actual expenses for which the recovery is sought. If requested by any party, or upon its own motion, the court may hear the parties with respect to the matters raised by the application and determine the amount of litigation expenses to be awarded. Any order of the court awarding expenses pursuant to this subsection shall be filed with the Prothonotary and, unless appealed within thirty days, shall be a final order. Any expenses awarded by the court pursuant to this subsection may be deducted from the award of just compensation, unless payment of the expenses awarded is otherwise made within thirty days of the court's final order. The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny such award, to the extent that the plaintiff, during the course of the proceeding, engaged in conduct which unduly and unreasonably protracted the final resolution of the action, or to the extent the court finds that the position of the defendant was substantially justified, or that special circumstances make an award of expenses unjust. In no event shall the amount of the expenses awarded pursuant to this subsection exceed the amount awarded as just compensation."

Section 2. This provision of this Act shall become effective for all condemnation proceedings filed after August 1, 1994.

Approved July 8, 1994.

CHAPTER 309

FORMERLY

SENATE BILL NO. 351
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO CHILD CUSTODY AND VISITATION IN CASES OF DOMESTIC VIOLENCE.

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

Section 1. Amend Section 721(e), Chapter 7, Title 13 of the Delaware Code by striking the first sentence of said section in its entirety and inserting in lieu thereof the following:

"A custody proceeding between parents shall be determined in accordance with Section 722, Section 729 and the provisions of Chapter 7A of this Title, whichever shall apply."

Section 2. Amend Section 721(e), Chapter 7, Title 13 of the Delaware Code by striking subsection (2) in its entirety and substituting in lieu thereof the following:

"(2) That the application of the standards set forth in Section 722, Section 729, and the provisions of Chapter 7A of this Title, whichever shall apply, lead the Court to conclude that the child should not be placed in the custody of one of his or her parents."

Section 3. Amend Section 722(a), Chapter 7, Title 13 of the Delaware Code by striking the "and" at the end of subsection 722(a)(5), by striking the period (".") at the end of subsection 722(a)(6) and adding "; and" at the end of that subsection, and by adding a new subsection (7) to read as follows:

"(7) Evidence of Domestic Violence as provided for in Chapter 7A of this Title."

Section 4. Amend Title 13 of the Delaware Code by adding a new Chapter 7A thereto to read as follows:

"Chapter 7A. Child Protection From Domestic Violence Act.

Section 701A. Title.

Section 702A. Purpose.

Section 703A. Definitions.

Section 704A. Fleeing from domestic violence.

Section 705A. Rebuttable presumption against custody or residence of minor child to perpetrator of domestic violence.

Section 706A. Evidence of domestic violence.

Section 707A. Counselling.

Section 708A. Visitation.

Section 709A. Modification of orders.

Section 710A. Sexual abuse.

Section 711A. Ordered mediation prohibited.

Section 701A. Title.

This Chapter shall be known as and may be cited as the Child Protection From Domestic Violence Act.

Section 702A. Purpose.

The purpose of this Chapter is to protect children from domestic violence and the harm caused by experiencing domestic violence in their homes.

Section 703A. Definitions.

(a) "Domestic Violence" includes but is not limited to physical or sexual abuse or threats of physical or sexual abuse and any other offense against the person committed by one parent against the other parent, against any child living in either parent's home, or against any other adult living in the child's home. "Domestic Violence" does not include reasonable acts of self-defense by one parent in order to protect himself or herself or his or her child from abuse or threats of abuse by the other parent or other adult living in the child's home.

(b) "Perpetrator of Domestic Violence" means any individual who has been convicted of committing any of the following criminal offenses in the State, or any comparable offense in another jurisdiction, against the child at issue in a custody or visitation proceeding, against the other parent of the child, or against any other adult or minor child living in the home:

- (1) Any felony level offense;
- (2) Assault in the Third Degree;
- (3) Reckless Endangering in the Second Degree;
- (4) Reckless Burning or Exploding;
- (5) Unlawful Imprisonment in the Second Degree;
- (6) Unlawful Sexual Contact in the Third Degree; or
- (7) Criminal Contempt of Family Court Protective Order based on an assault or other physical abuse, threat of assault or other physical abuse, or any other actions placing the petitioner in immediate risk or fear of bodily harm.

Section 704A. Fleeing From Domestic Violence.

For purposes of this Title, it shall not be considered evidence of abandonment in any child custody or visitation proceeding if a parent flees from domestic violence and temporarily leaves his or her child behind, as long as that child is not left in immediate danger of serious physical injury.

Section 705A. Rebuttable Presumption Against Custody Or Residence of Minor Child To Perpetrator of Domestic Violence.

(a) Notwithstanding other provisions of this Title, there shall be a rebuttable presumption that no Perpetrator of Domestic Violence shall be awarded sole or joint custody of any child.

(b) Notwithstanding other provisions of this Title, there shall be a rebuttable presumption that no child shall primarily reside with a Perpetrator of Domestic Violence.

(c) The above presumptions shall be overcome if there have been no further acts of Domestic Violence and the Perpetrator of Domestic Violence has: (1) successfully completed a program of evaluation and counselling designed specifically for perpetrators of family violence and conducted by a public or private agency or a certified mental health professional; and (2) successfully completed a program of alcohol or drug abuse counselling if the Court determines that such counselling is appropriate; and (3) demonstrated that giving custodial or residential responsibilities to the Perpetrator of Domestic Violence is in the best interests of the child. The presumption may otherwise be overcome only if a judicial officer finds extraordinary circumstances that warrant the rejection of the presumption, such as evidence demonstrating that there exists no significant risk of future violence against any adult or minor child living in the home or any other family member, including any ex-spouse.

(d) In those cases in which both parents are Perpetrators of Domestic Violence, the case shall be referred to the Division of Family

Services of the Department of Services for Children, Youth and their Families for investigation and presentation of findings. Upon consideration of such presentation, and all other relevant evidence, including but not limited to, evidence about the history of abuse between the parents and evidence regarding whether one parent has been the primary aggressor in the household, the Court shall decide custody and residence pursuant to the best interests of the child.

Section 706A. Evidence of Domestic Violence.

(a) Any evidence of a past or present act of Domestic Violence, whether or not committed in the presence of the child, is a relevant factor that must be considered by the Court in determining the legal custody and residential arrangements in accordance with the best interests of the child.

(b) If sole or joint custody is awarded to, or if primary residence of a child is placed with, a party notwithstanding evidence that the party has committed acts of Domestic Violence against the other parent, against the child, or against any other person living in the child's household, the Court shall make specific written findings in support of the decision to award custody or primary residence to that party.

Section 707A. Counselling.

If the Court awards sole or joint custody or primary residence to a parent who has a history of committing acts of Domestic Violence, that parent shall be ordered to complete a program of evaluation and counselling designed specifically for perpetrators of family violence and conducted by a public or private agency or a certified mental health professional. That parent may also be ordered to attend alcohol or drug abuse treatment and any other counselling that may be appropriate.

Section 708A. Visitation.

Notwithstanding the other provisions of this Title, in all cases in which the Court finds by a preponderance of the evidence that one of the child's parents has committed an act of Domestic Violence against the child, against the other parent, or against any other person living in the child's household the Court shall determine a schedule, location, and conditions for visitation that best protects the child and the victim of Domestic Violence from further violence.

Section 709A. Modification of orders.

Notwithstanding other provisions of this Title,

(a) An order concerning visitation may be modified at any time if necessary to protect the safety of the child or the child's parent in light of acts of Domestic Violence that have occurred since the entry of the most recent visitation order.

(b) A custody order may be modified at any time if a parent who has sole or joint custody has committed acts of Domestic Violence since the entry of the most recent custody order.

(c) In determining whether a custody award should be modified, the Court shall not consider non-compliance with an existing custody or visitation order or non-compliance with the duties and responsibilities under Section 727 of this Title if such non-compliance was caused by the parent's attempt to protect himself or herself or the child from acts of Domestic Violence committed since the entry of the Court's most recent custody or visitation order.

Section 710A. Sexual Abuse.

If the Court finds by a preponderance of the evidence that a parent has sexually abused his or her child, the Court shall prohibit all visitation and contact between the abusive parent and his or her child until such time as the Court finds, after a hearing, that supervised visitation would not harm, endanger, or impair the child's physical, psychological, or emotional well-being. In determining whether such visitation may be appropriate, the Court should consider all relevant factors, including:

(1) whether the abusive parent has successfully completed a treatment program of evaluation and counselling that is specifically designed for sexual abusers and is conducted by a public or private agency or a certified mental health professional;

(2) whether the abusive parent has successfully completed a program of alcohol or drug abuse counselling;

(3) any testimony by a mental health professional who is the therapist for the abused child;

(4) any testimony by a mental health professional who is the therapist for the abusive parent; and

(5) whether supervised visitation is in the child's best interests. Nothing in this section shall preclude the Court from denying visitation under other appropriate circumstances, including denying such visitation under an ex parte or other emergency order.

Section 711A. Ordered Mediation Prohibited.

Notwithstanding any other provision of law to the contrary, Family Court mediation conferences shall be prohibited in any child custody or visitation proceeding in which one of the parties has been found by a court, whether in that proceeding or in some other proceeding, to have committed an act of Domestic Violence against the other party or if either party has been ordered to stay away or have no contact with the other party, unless a victim of domestic violence who is represented by counsel requests such mediation."

Section 5. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable."

Approved July 8, 1994.

CHAPTER 310

FORMERLY

SENATE BILL NO. 78
 AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2 AND
 HOUSE AMENDMENT NO. 4 AS AMENDED BY HOUSE AMENDMENT NO. 2 TO
 HOUSE AMENDMENT NO. 4

AN ACT TO AMEND TITLE 16 AND TITLE 18 OF THE DELAWARE CODE PROVIDING FOR A CHILDHOOD LEAD POISONING PREVENTION ACT RELATING TO MANDATORY LEAD POISONING TESTING AND HEALTH INSURANCE COVERAGE.

WHEREAS: Lead poisoning is the foremost environmental problem and preventable disease in children, leading to morbidity, mortality, mental retardation and learning disabilities; and

WHEREAS, three of four houses built in Delaware prior to 1980, a total of 143,493 homes, have been painted with lead-based paint; and

WHEREAS, hazardous blood-lead levels are estimated to affect as many as 1 of every 7 children under seven years of age in Delaware; and

WHEREAS, some public health experts estimate that the rate of lead poisoning among children at risk now exceeds the rate of paralytic polio at the height of the polio epidemic of the 1950's; and

WHEREAS, symptoms of lead poisoning in children are often difficult to detect unless lead blood level screening is conducted in accordance with guidelines set forth by the Centers For Disease Control; and

WHEREAS, the monetary and social costs of lead poisoning in children far exceed the costs of monitoring and preventing the disease.

NOW, THEREFORE:

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

Section 1. Amend Part II, Title 16, Delaware Code by adding thereto a new chapter, designated as Chapter 26, which new chapter shall read as follow:

"CHAPTER 26. CHILDHOOD LEAD POISONING

PREVENTION ACT

§2601 Short Title

This Act shall be known and may be cited as the Childhood Lead Poisoning Prevention Act.

§2602 Physicians and Health Care Facilities to Screen Children

(a) Every health care provider who is the primary health care provider for a child shall order screening of that child, in accordance with standards promulgated by the Division of Public Health, at or around twelve months of age for lead poisoning.

(b) For a child who is deemed by the primary health care provider, pursuant to guidelines promulgated by the Division of Public Health, to be at high risk for lead poisoning, that health care provider shall order screening of that child for lead poisoning in accordance with guidelines and criteria set forth by the Division of Public Health.

(c) Unless the child is at high risk for lead poisoning, as determined by the primary health care provider, pursuant to guidelines promulgated by the Division of Public Health, screening shall not be required for any child who is over twelve (12) months of age on the effective date of this legislation.

(d) All laboratories involved in lead level analysis will participate in a universal reporting system as established by the Division of Public Health.

(e) Nothing in this section shall be construed to require any child to undergo a lead blood level screening or test whose parent or guardian objects on the grounds that the screening or test conflicts with his or her religious beliefs.

(f) All laboratories involved in blood lead level analysis will participate in a universal reporting system as established by the State Board of Health.

§ 2603. Screening prior to child care or school enrollment.

For every child born on or after the effective date of this statute and who has reached the age of twelve months, child care facilities and public and private nursery schools, preschools, and kindergartens, shall require screening for lead poisoning for admission or continued enrollment. A statement shall be provided from the child's primary health care provider that the child has been screened for lead poisoning or in lieu thereof a certificate signed by the parent or guardian stating that the screening is contrary to that person's religious beliefs.

§ 2604. Reimbursement by Third Party Payers.

Screening, screening-related services and diagnostic evaluations as required by subsection 2602 shall be reimbursable under health insurance contracts and group and blanket health insurance as provided by Chapter 33 and Chapter 35, respectively, of Title 18."

Section 2. Amend Chapter 33, Title 18 of the Delaware Code by adding thereto a new section to read:

"§ 3337

All individual health insurance policies which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance organization, or any health services and facilities reimbursement program operated by the State and which provide a benefit for outpatient services shall also provide a benefit for a baseline lead poisoning screening test for children at or around 12 months of age. Benefits shall also be provided for lead poisoning screening and diagnostic evaluations for children under the age of six years who are at high risk for lead poisoning in accordance with guidelines and criteria set forth by the Division of Public Health. Such testing shall be deemed to be a covered service, notwithstanding any policy exclusions for services which are part of or related to annual or routine examinations. Nothing in this Section shall prevent the operation of such policy provisions as deductibles, coinsurance allowable charge limitations, coordination of benefits or provisions restricting coverage to services rendered by licensed, certified or carrier-approved providers or facilities. Nothing in this Section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or other limited health insurance policies.

This section shall apply to all policies, contracts, certificates or programs issued, renewed, modified, altered, amended, or reissued on or after March 1, 1995."

Section 3. Amend Chapter 35, Title 18 of the Delaware Code by adding thereto a new section to read:

"§3554. Lead Poison Screening Reimbursement.

All group and blanket insurance policies, which are delivered or issued for delivery in this State by any health insurer, health service corporation, health maintenance organization or any health services and facilities reimbursement program operated by the State which provide a benefit for outpatient services shall also provide a benefit for a baseline lead poisoning screening test for children at or around 12 months of age. Benefits shall also be provided for lead poisoning screening and diagnostic

evaluations for children under the age of six years who are at high risk for lead poisoning in accordance with guidelines and criteria set forth by the Division of Public Health. Such testing shall be deemed to be a covered service, notwithstanding any policy exclusions for services which are part of, or related to, annual or routine examinations. Nothing in this Section shall prevent the operation of such policy provisions as deductibles, coinsurance allowable charge limitations, coordination of benefits or provision restricting coverage to services rendered by licensed, certified or carrier-approved providers or facilities. Nothing in this Section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or other limited health insurance policies.

This section shall apply to all policies, contracts, certificates or programs issued, renewed, modified, altered, amended, or reissued on or after March 1, 1995."

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

Section 5. The provisions of this Act shall become effective on March 1, 1995.

Approved July 8, 1994.

CHAPTER 311

FORMERLY

SENATE BILL NO. 294

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

AN ACT TO AMEND CHAPTER 42, OF TITLE 11, DELAWARE CODE RELATING TO THE EARLY RELEASE FROM INCARCERATION OF CONVICTED OFFENDERS.

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

Section 1. Amend §4217 (d) of Title 11 of the Delaware Code by striking said subsection in its entirety, and substituting in lieu thereof the following:

"(d)(1) Any application filed by the Department of Correction under this Section shall be filed with the Board of Parole. The Board of Parole shall have the authority to promulgate reasonable regulations concerning the form and content of said applications. The Board of Parole may require the Department of Corrections to provide it with any information in the possession of the Department reasonably necessary for the Board to assess such applications.

(2) Following the receipt of any application for modification filed by the Department of Corrections which conforms with any regulations and requirements of the Board of Parole promulgated pursuant to paragraph (1) of this subsection, the Board of Parole shall hold a hearing under the provisions of §4350 (a) of this Title for the purpose of making a recommendation to the trial court as to the approval or disapproval of the application. This hearing shall not be held unless written notice of the hearing is provided to the Attorney General's Office at least 30 days prior to scheduled hearing date. A copy of the Department of Correction's application for modification shall be provided to the Attorney General's Office along with written notice of the hearing date.

(3) Following the hearing described in paragraph (2) of this subsection, the Board of Parole may reject an application for modification if it determines that the defendant constitutes a substantial risk to the community, or if it determines that the application is not based on good cause. Notwithstanding any provisions of this Section to the contrary, any application rejected pursuant to this paragraph shall not be forwarded to the Superior Court, and any offender who is the subject of such rejected application shall not be the subject of a subsequent application for modification for at least one year, except in the case of serious medical illness or infirmity of said offender.

(d)(4) Only in those cases where the Board by a majority vote recommends a modification of the sentence shall the application be submitted to the Court for consideration."

Section 2. Amend §4217 (e) of Title 11 of the Delaware Code by adding after the last sentence thereof the following:

"The Court shall not act upon the application without first providing the Attorney General's Office with a reasonable period of time to be heard on the matter. Should the Court deny the application because of a determination that the defendant constitutes a substantial risk to the community, or because it determines that the application lacks good cause, the defendant who is the subject of the denied application shall not be the subject of a subsequent application for modification for at least one year, except in the case of serious medical illness or infirmity of the defendant."

Section 3. Amend §4217 of Title 11 of the Delaware Code by redesignating the existing subsection (f) thereof as subsection (g), and by adding to said Section a new subsection (f) to read as follows:

"(f) Notwithstanding any provision of this Section to the contrary, in the case of any offender who is serving a sentence of incarceration at Level V imposed pursuant to a conviction for any crime, the Court may order

that said offender shall be ineligible for sentence modification pursuant to this Section until a specified portion of said Level V sentence has been served, except that no offender who is serving a sentence of incarceration at Level V imposed pursuant to a conviction for a violent felony in Title 11 of this Code shall be eligible for sentence modification pursuant to this Section until he or she has served at least one-half of the originally imposed Level V sentence, and no offender who is serving a statutory mandatory term of incarceration at Level V imposed pursuant to a conviction for any offense set forth in Title 11 of this Code shall be eligible for sentence modification pursuant to this Section during the mandatory portion of said sentence. Nothing in this paragraph shall preclude a sentence modification pursuant to this Section which is based solely upon serious medical illness or infirmity of the offender."

Approved July 8, 1994.

CHAPTER 312

FORMERLY

HOUSE BILL NO. 412

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

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO THE UNLAWFUL TRANSFER OF FIREARMS AND DANGEROUS WEAPONS.

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

Section 1. Amend § 1445, Title 11 of the Delaware Code by striking to subsection (2) thereof, and substituting in lieu thereof the following:

"(2) He sells, gives or otherwise transfers to a child under 16 years of age a B.B. or air gun or spear gun or B.B. shot, unless he is that child's parent or guardian, or unless he first receives the permission of said parent or guardian; or"

Section 2. Amend § 1445, Title 11 of the Delaware Code by adding thereto the following new subsections, said new subsections to read as follows:

"(4) He sells, gives or otherwise transfers to a child under 18 years of age a firearm or ammunition for a firearm, unless he is that child's parent or guardian, or unless he first receives the permission of said parent or guardian.

(5) He sells, gives or otherwise transfers a firearm to any person knowing that said person intends to commit any felony, Class A misdemeanor or drug related criminal offense while in possession of said firearm."

Section 3. Amend § 1445, Title 11 of the Delaware Code by striking the last paragraph thereof, and by replacing said paragraph with the following:

"Unlawfully dealing with a firearm or dangerous weapon is an unclassified misdemeanor, unless the person is convicted under paragraph (4) of this Section, in which case it is a Class G felony, or unless the person is convicted under paragraph (5) of this Section, in which case it is a Class E felony."

Approved July 8, 1994.

CHAPTER 313

FORMERLY

HOUSE BILL NO. 524

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE POSSESSION OF FIREARMS BY CERTAIN PROHIBITED INDIVIDUALS.

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

Section 1. Amend Section 1448, Title 11, Delaware Code by adding to subsection (c) thereof the following:

" , unless said deadly weapon is a firearm, in which case it is a class D Felony."

Section 2. Amend Section 1448, Title 11, Delaware Code by adding thereto a new subsection, said new subsection to be designated as subsection (e) to read as follows:

"(e) Any person who is a prohibited person as described in this section because of a conviction for a felony involving physical injury or violence to another, or because of a conviction for a felony involving conduct as described in paragraph (3) of subsection (a) of this section, and who knowingly possesses, purchases, owns or controls a firearm while so prohibited shall receive a minimum sentence of 1 year of Level V. Any sentence imposed pursuant to this subsection shall not be subject to the provisions of sections 4205(b) and 4215 of this title."

Approved July 8, 1994.

CHAPTER 314

FORMERLY

HOUSE BILL NO. 523

AN ACT TO AMEND TITLES 4 AND 29 OF THE DELAWARE CODE RELATING TO THE TRANSFER OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO THE DEPARTMENT OF PUBLIC SAFETY.

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

Section 1. Amend §304(b), Title 4, Delaware Code, by striking the words "Administrative Services" wherever they appear therein and substituting in lieu thereof the words "Public Safety".

Section 2. Amend §305, Title 4, Delaware Code, by striking the words "Administrative Services" and substituting in lieu thereof the words "Public Safety".

Section 3. Amend §306, Title 4, Delaware Code, by striking the words "Administrative Services" wherever they appear therein and substituting in lieu thereof the words "Public Safety".

Section 4. Amend Title 29, Delaware Code, by redesignating existing §8803(2)d. of Title 29 as new §8203(2)e. of Title 29.

Section 5. Amend Title 29, Delaware Code, by redesignating existing §8812 of Title 29 as new §8204 of Title 29.

Section 6. Amend Title 29, Delaware Code, by redesignating existing §8815(5) of Title 29 as new §8214(6) of Title 29.

Section 7. Amend §8816, Title 29, Delaware Code, by deleting the words "Division of Alcoholic Beverage Control" as they appear therein.

Section 8. 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 any division, office, council, board or commission shall be transferred to the Department, division, subdivision or office to which each such function is transferred by this Act. Each such appeal shall be perfected in the same manner as heretofore provided by law.

Section 9. All property including all books, records, papers, maps, charts, plans and other material including but limited to any equipment and other materials owned by or in the possession of any agency of the State and used in connection with any function transferred by this Act shall, on July 1, 1994, be delivered into the custody of the department or division, subdivision or office to which the agency is transferred. All investigations, petitions, hearings and legal proceedings pending before, instituted by, any agency, board or commission from which functions are transferred by this Act and which are not concluded by July 1, 1994, shall continue unabated and remain in full force and effect, notwithstanding the passage of this Act and, where necessary, may be completed before, by or in the name of the department, or the division, subdivision or office to which the agency, board or commission is transferred. All orders, rules and regulations made by any agency, board or commission from which functions are transferred by this Act and which govern such functions, and which are in effect on July 1, 1994, shall remain in full force and effect until revoked or modified in accordance with law by the department, or the division, subdivision or office to which the agency, board or commission is transferred. All contracts and obligations of any agency made or undertaken in the performance of a function transferred by this Act to the Department and being in force on July 1, 1994, shall, notwithstanding this Act, remain in full force and effect and be performed by the department, or the division, subdivision or office to which the function is transferred.

Section 10. Employees of any commission, board, council or agency whose functions are consistent with this Act and which have been transferred by this Act shall continue and be deemed to be the employees of the Department, or the Division, subdivision, or office to which they have been transferred on July 1, 1994, and, where applicable, with all the benefits accrued as merit employees as of July 1, 1994.

Section 11. All definitions and references to any commission, board, department, council or agency which appear in any other Act or law shall, to the extent they are consistent with this Act and in connection with the function transferred by this Act, are to be construed as referring or relating to the department, division, office or subdivision to which the function is transferred.

Section 12. All definitions and reference to any director, commissioner, commission, board or council member or other similar person which appear in any other act or law shall, to the extent they are consistent with this Act, and in connection with the function transferred by this Act, be construed as referring or relating to such person or persons and his or her powers, duties and functions as transferred by this Act.

Section 13. Any misnomer shall not defeat or annul any grant, gift, 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 any commission, board, department, authority, council, or agency, to which, by this Act, the powers, duties and functions have been transferred, the estate or interest therein expressed or described.

Section 14. All funds heretofore awarded by federal grantor agencies or heretofore authorized in capital improvements or budget acts of the State and appropriated to the Alcoholic Beverage Control Commission or the Division of Alcoholic Beverage Control, which remain unexpended or unencumbered on July 1, 1994, and which are not otherwise specially transferred by other laws which may be enacted prior or subsequent to July 1, 1994, are hereby transferred to the departments or to any subdivision thereof to which the function or functions of the Alcoholic Beverage Control Commission or the Division of Alcoholic Beverage Control, as the case may be, are transferred by this Act.

Section 15. All other laws or parts of laws now in effect inconsistent with this Act are hereby repealed, superseded, modified or amended so far as necessary to conform to, and give full force and effect to, this Act.

Section 16. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other

provisions or applications of this Act or the Delaware Cod which shall be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 17. This Act shall be effective July 1, 1994, or upon enactment, whichever is later.

Approved July 8, 1994.

CHAPTER 315

FORMERLY

HOUSE BILL NO. 505

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE, RELATING TO CRIMES AND CRIMINAL PROCEDURE.

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

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by adding the following to existing §841 as follows:

"Upon conviction, the sentencing judge shall require full restitution to the victim for any monetary losses suffered and shall consider the imposition of community service and/or an appropriate curfew for a minor."

Approved July 8, 1994.

CHAPTER 316

FORMERLY

HOUSE BILL NO. 316

AN ACT TO AMEND SUBCHAPTER V, CHAPTER 85, TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMINAL BACKGROUND CHECKS FOR CHILD CARE PROVIDERS.

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

Section 1. Amend §8561(a), Subchapter V, Chapter 85, Title 11 of the Delaware Code by striking the period "." which appears at the end of the last sentence of §8561(a) and substituting in lieu thereof the following:

", and the provision of such other information as may be necessary to obtain a report of the person's entire criminal history record from the State Bureau of Identification and a report of the person's entire Federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544."

Approved July 8, 1994.

CHAPTER 317

FORMERLY

SENATE BILL NO. 252
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER II, CHAPTER 29, TITLE 24, DELAWARE CODE RELATING TO REGULATION OF REAL ESTATE APPRAISERS.

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

Section 1. Amend Section 2930, Subchapter II, Chapter 29, Title 24 of the Delaware Code by adding thereto new subsections (e) and (f) to read as follows:

"(e) This Subchapter shall not invalidate appraisals done for municipal or county governments for real estate tax assessments or re-assessments for tax years commencing prior to August 1, 2004.

"(f) This Subchapter shall apply to appraisals done after August 1, 2004 for municipal or county governments for real estate tax assessments or re-assessments."

Approved July 8, 1994.

CHAPTER 318

FORMERLY

SENATE BILL NO. 309
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 94, TITLE 11 OF THE DELAWARE CODE RELATING TO VICTIMS' BILL OF RIGHTS.

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

Section 1. Amend Chapter 94 of Title 11, Delaware Code, by striking the phrase "to the extent practicable" as it appears in Sections 9405; 9410; 9411(a) and (b); 9413(a); 9416(a) and (b).

Section 2. Amend Section 9417, Title 11, of the Delaware Code by adding the following sentence after the sentence ending with "Criminal Justice Council."

"Unless prevented by the failure of a victim to cooperate by furnishing a current address and telephone number, an agency shall make all reasonable efforts to provide notification and participation rights to victims."

Section 3. Amend Section 9407(b) of Title 11, Delaware Code, by striking it in its entirety and by inserting in lieu thereof:

"(b) 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, unless a victim requests that notice of proceedings not be provided under this chapter."

Section 4. Amend Section 9410(3) of Title 11, Delaware Code, by striking the language after "Initial incident report" and by inserting a semi-colon ";".

Section 5. Amend subsections (a) and (b) of Section 9411 of Title 11, Delaware Code, by striking out the words "who has requested notification" after the word "victim."

Section 6. Amend subsection (a) of Section 9412 of Title 11, Delaware Code by deleting the phrase "in a case prosecuted by the Attorney General, the prosecutor shall promptly inform any victim who has requested notice" and by inserting in lieu thereof the phrase "from any court except the Municipal Court, the Attorney General shall promptly inform any victim."

Section 7. Amend subsection (a) of Section 9413 of Title 11, Delaware Code, by striking out the words "who have requested such notice" after the word "victims" and amend subsection (b) of Section 9413 by striking out the words "who has requested such notice" after the word "victim."

Section 8. Amend Section 9411(b) of Title 11, Delaware Code, by striking the phrase "In all other courts, the court shall", by inserting in lieu thereof "In all other courts except the Municipal Court, the Attorney General shall" and by adding the following sentence:

"In the Municipal Court the notice required by this section shall be provided by the Court."

Section 9. Amend Section 9411(c) of Title 11, Delaware Code, by striking subparagraph (c) in its entirety.

Section 10. Amend Section 9412(b) of Title 11, Delaware Code, by striking subparagraph (b) in its entirety.

Approved July 8, 1994.

CHAPTER 319

FORMERLY

HOUSE BILL NO. 427
AS AMENDED BY HOUSE AMENDMENT NO. 4

AN ACT TO AMEND TITLES 18 AND 24 OF THE DELAWARE CODE RELATING TO NURSING BY CHANGING THE QUALIFICATIONS AND AUTHORIZATION TO PRACTICE OF ADVANCED NURSES.

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

Section 1. Amend Subsection 2318, Title 18 of the Delaware Code by deleting the words "advanced registered nurses" in the title and inserting in lieu thereof the words "advanced practice nurses" and by deleting the words "advanced registered nurse practitioner" and inserting in lieu thereof the words "advanced practice nurse" wherever the same appear in said Subsection 2318.

Section 2. Amend Subsection 1901, Title 24 of the Delaware Code by deleting the last three sentences of said section in their entirety.

Section 3. Amend Subsection 1902(b) (6), Title 24 of the Delaware Code by deleting the word "or" and inserting a comma after the word "dentist" and by inserting the words "or advanced practice nurse" after the word "podiatrist."

Section 4. Amend Subsection 1902(b) of Title 24 of the Delaware Code by adding the following:

"(8) Nothing contained in this Chapter shall be deemed to permit acts of surgery or medical diagnosis; nor shall it be deemed to permit dispensing of drugs, medications or therapeutics independent of the supervision of a physician who is licensed to practice medicine and surgery, or those licensed to practice dentistry or podiatry."

Section 5. Amend Subsection 1902(c) (5), Title 24 of the Delaware Code by deleting the word "or" and inserting a comma after the word "dentist" and inserting the words "or advanced practice nurse" after the word "podiatrist."

Section 6. Amend Subsection 1902(c), Title 24 of the Delaware Code by adding the following:

"(7) Nothing contained in this Chapter shall be deemed to permit acts of surgery or medical diagnosis; nor shall it be deemed to permit dispensing of drugs, medications or therapeutics independent of the supervision of a physician who is licensed to practice medicine and surgery, or those licensed to practice dentistry or podiatry."

Section 7. Amend Subsection 1902(d), Title 24 of the Delaware Code by deleting said subsection in its entirety and inserting in lieu thereof a new subsection (d) as follows:

"(d) (1) "Advanced Practice Nurse" means an individual whose education and certification meet criteria established by the Board of Nursing who is currently licensed as a registered nurse and has a Master's degree or a post-basic program certificate in a clinical nursing specialty with national certification. When no national certification at the advanced level exists, a Master's degree in a clinical nursing specialty will qualify an individual for advanced practice nurse licensure. "Advanced Practice Nurse" shall include, but not be limited to, nurse practitioners, certified registered nurse anesthetists, certified nurse midwives, or clinical nurse specialists. Advanced practice nursing is the application of nursing principles, including those described in subsection §1902(b) of this section, at an advanced level and includes:

(a) For those Advanced Practice Nurses who do not perform independent acts of diagnosis or prescription, the authority as granted within the scope of practice rules and regulations promulgated by the Board of Nursing; and

(b) For those Advanced Practice Nurses performing independent acts of diagnosis and/or prescription with the collaboration of a licensed physician, dentist, podiatrist or licensed Delaware health care delivery system without written guidelines or protocols and within the scope of practice as defined in the rules and regulations promulgated by the Joint Practice Committee and approved by the Board of Medical Practice.

(c) Nothing in this Act is to be construed to limit the practice of nursing by Advanced Practice Nurses as is currently being done or allowed including nursing diagnosis as pursuant to Section 1902(b)(2)."

Advanced Practice Nurses shall operate in collaboration with a licensed physician, dentist, podiatrist, or licensed Delaware health care delivery system to cooperate, coordinate, and consult with each other as appropriate pursuant to a collaborative agreement defined in the Rules and Regulations promulgated by the Board of Nursing, in the provision of health care to their patients. Advanced Practice Nurses desiring to practice independently or to prescribe independently must do so pursuant to Section 1906(20) of Title 24 of the Delaware Code.

(2) Those individuals who wish to engage in independent practice without written guidelines or protocols and/or wish to have independent prescriptive authority shall apply for such privilege or privileges to the Joint Practice Committee and do so only in collaboration with a licensed physician, dentist, podiatrist or licensed Delaware health care delivery system. This does not include those individuals who have protocols and/or waivers approved by the Board of Medical Practice."

Section 8. Amend Subsection 1906(7), Title 24 of the Delaware Code by deleting the words "advanced registered nurse practitioner" and inserting in lieu thereof the words "advanced practice nurse."

Section 9. Amend Section 1906, Title 24 of the Delaware Code by adding thereto new subsections as follows:

"(20) Create a regulatory committee entitled 'Joint Practice Committee' to develop rules and regulations regarding the independent practice and prescriptive authority of 'Advanced Practice Nurses.' The Committee shall consist of nine members and shall be as follows:

a. The Board of Nursing shall appoint one public member and five Advanced Practice Nurses.

b. The Board of Pharmacy shall appoint one pharmacist.

c. The Board of Medical Practice shall appoint two physicians.

(21) The 'Joint Practice Committee' with the approval of the Board of Medical Practice shall have the authority to grant, restrict, suspend or revoke practice or independent prescriptive authority and the Joint Practice Committee with the approval of the Board of Medical Practice shall be responsible for promulgating rules and regulations to implement the provisions of this Chapter regarding 'Advanced Practice Nurses' who have been granted authority for independent practice and/or independent prescriptive authority.

(22) The rules and regulations and the granting, restricting, suspension or revocation of the independent practice and/or independent prescriptive authority shall be subject to the approval of the Board of Medical Practice."

Section 10. Amend Subsection 1909, Title 24 of the Delaware Code by deleting said section in its entirety and inserting in lieu thereof a new section as follows:

"No unlicensed person, except those persons issued a temporary permit by the Board, shall practice advanced practice, professional, or practical nursing. Upon request, any person engaged in the practice of advanced practice, professional, or practical nursing shall exhibit a license authorizing such practice."

Section 11. Amend Subsection 1918(a), Title 24 of the Delaware Code by inserting the words "advanced practice nurse", after the word "Every" in the first sentence of this subsection and by inserting the following new sentence immediately after the first sentence of said subsection.

"The Advanced Practice Nurses' independent practice and/or independent prescriptive authority shall be subject to biannual renewal upon application made to the 'Joint Practice Committee.'"

Section 12. Amend Subsection 1920(b), Title 24 of the Delaware Code by deleting said subsection in its entirety and inserting in lieu thereof a new subsection 1920(b) as follows:

"(b) no person shall engage in practice as an advanced practice nurse without a Board-issued license as an advanced practice nurse."

Section 15. The Board of Nursing and the Board of Medical Practice shall issue a report to the General Assembly three years from the date of the passage of this legislation which shall set forth the impact of this legislation on the health care delivery systems in this State."

Section 13. Amend Section 1902 of Title 24 by adding a new subsection as to read as follows:

"(k) Independent practice by an Advanced Practice Nurse shall include those advance practice nurses who practice and prescribe without written guidelines or protocols but with a collaborative agreement with a licensed physician, dentist, podiatrist, or licensed Delaware health care delivery system and with the approval of the Joint Practice Committee."

Approved July 8, 1994.

CHAPTER 320

FORMERLY

HOUSE BILL NO. 495

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE STATE APPROPRIATIONS.

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

Section 1. Amend Title 14, § 1703(g) of the Delaware Code by inserting, after "enrolled in" and before "the Kent County", the following language:

"the New Castle County Vocational-Technical School District,".

Approved July 8, 1994.

CHAPTER 321

FORMERLY

HOUSE BILL NO. 473

AN ACT TO AMEND CHAPTER 74, TITLE 7 OF THE DELAWARE CODE RELATING TO THE DELAWARE UNDERGROUND STORAGE TANK ACT.

WHEREAS, leaking underground storage tanks (USTs) have been identified as a significant source of contamination to groundwater supplies; and

WHEREAS, industry studies indicate that a major cause of contamination from USTs is improper installation, maintenance and closure; and

WHEREAS, proper installation, retrofit, relining, and closure require specialized knowledge; and

WHEREAS, to protect the groundwaters of Delaware, it is the intention of this Act to limit installation, repair, relining, and removal or abandonment of USTs to persons who have demonstrated their competence, training and experience by obtaining a certification.

NOW, THEREFORE:

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

Section 1. Amend Chapter 74, Title 7 of the Delaware Code by adding a new Subchapter thereto to read as follows:

"Subchapter III. Contractor Certification.

Section 7424. Certification of Underground Storage Tank Contractors.

(a) The Department shall adopt regulations for certification of businesses and individuals to install, retrofit, remove, abandon, or reline underground storage tank systems used to store regulated substances.

(b) As a prerequisite for certification, the Department shall conduct written examinations within the State for the purpose of determining ability to perform installation, retrofit, relining, removal, or abandonment of underground storage tank systems. The Department may waive the examination for persons who possess a valid certificate from another state, provided such certification is for similar work to be performed in Delaware.

(c) An underground storage tank system shall be installed, repaired, retrofitted, relined, removed, or abandoned only in the presence and under the direction of an individual possessing a valid certificate issued by the Department. Certification requirements for contractors shall commence six months after adoption of regulations.

(d) Certification will not be required for owners of farm or residential underground storage tanks who wish to remove or abandon their own non-regulated underground storage tanks.

(e) Certification shall be valid for two years. The fee for certification shall be \$250 for companies and \$100 for on-site supervisors. Fees collected are appropriated to the Department to carry out the purposes of the Underground Storage Tank program."

Approved July 8, 1994.

CHAPTER 322

FORMERLY

HOUSE BILL NO. 520

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF FELTON", BEING CHAPTER 349, 63 LAWS OF DELAWARE.

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

Section 1. Amend Section 15 ("Ordinances Defined") Chapter 349, 63 Laws of Delaware by deleting the words "(f) authorize the borrowing of money" and re-designating former subsections "(g) and "(h)" as "(f)" and "(g)" respectively.

Section 2. Add a new Section 58 "Borrowing Powers" to Chapter 349, 63 Laws of Delaware as follows:

"Borrowing Powers.

58(a) Short-Term Borrowings by Town Commissioners Without Voter Approval. The Commissioners of the Town shall have the power to borrow money on the full faith and credit of the Town, without approval of the voters and without regard to the provisions of Section 58(b) of this Charter, such sum or sums not exceeding in the aggregate One Hundred Fifty Thousand Dollars (\$150,000.00) for general purposes when, in the opinion of the Commissioners of the Town, the needs of the Town require it; provided, however, that any new borrowings under this Section 58(a) made after the effective date of this act shall, by their terms, be repayable in full within five (5) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the Town of Felton duly authorized by Resolution of the Commissioners of the Town and signed by the President and attested by the Treasurer of the Town of Felton with the town seal affixed. No Commissioner shall be liable for the payment of any such note or any other evidence of indebtedness because it is signed by him or her as a Commissioner, provided that he is so authorized by Resolution of the Commissioners of the Town. Such notes or evidences of indebtedness and the interest thereon shall be exempt from all taxation by the State of Delaware, its agencies and political subdivisions. Any sum(s) of money borrowed on the full faith and credit of the Town shall be paid from the general funds of the Town. The aggregate amount of outstanding principal from any such borrowing or borrowings under this §58(a) shall at no time exceed One Hundred Fifty Thousand Dollars (\$150,000.00).

58(b) Long-Term Borrowings: Voter Approval Required. In addition to other borrowing powers granted to the Town under this Charter or by special act, the Commissioners of the Town 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 Town, or such other security or securities as the Commissioners of the Town shall elect, for the payment of principal thereof and interest due thereon.

58(b)(1) Proper Municipal Purpose. By way of illustration and not in limitation, "any proper municipal purpose" includes, but is not limited to:

(A) refunding any or all outstanding bonds or other indebtedness of the Town at the maturity thereof or in accordance with any callable feature or provision contained therein.

(B) erecting, extending, enlarging, improving, maintaining, or repairing any plant, building, machinery, or equipment for the manufacture, supply, or distribution of gas, water, electricity, sewerage, or drainage system, or any of them, and the condemning or purchasing of any lands, easements, and right-of-ways which may be required therefor.

(C) constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying-out, widening, extending, repairing, and maintaining of curbing and gutters, including storm sewers, along the same, and the condemning or purchasing of lands, easements or rights of ways which may be required therefor.

(D) constructing, laying out, widening, extending, repairing and maintaining boardwalks, bulkheads, sidewalks, cross walks, or embankments, or any of them, and the condemning or purchasing of any lands, easements, or rights of way which may be required therefor.

(E) defraying the costs to the Town of any other municipal improvement provided for or authorized or implied by the provisions of this Charter.

(F) paying all expenses deemed necessary by the Commissioners of the Town for the issuance of said bonds or certificates of indebtedness, including bond discount, bond insurance, and legal expenses of bond counsel.

58(b)(2) Exempt From Taxation. All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the Town 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.

58(b)(3) Limit of Aggregate Long-Term Indebtedness. In no event shall the indebtedness of the Town of Felton, authorized by this Section 58(b), at any time exceed, in the aggregate, fifteen percent (15%) of the assessed valuation of all taxable real property within the corporate limits of the Town of Felton.

58(b)(4) Procedure: Notice, Hearing, Election. In order to proceed under the power granted in this section, the Commissioners of the Town shall authorize such borrowing in the following manner:

(A) The Commissioners of the Town by resolution shall give notice to the residents and property owners of the Town that the Commissioners of the Town propose to borrow a sum of money, not to exceed a stated amount, for a stated municipal purpose or purposes. The resolution shall state the amount of money desired to be borrowed (which may be stated as a "not to exceed" amount as to each purpose), the purpose(s) for which the amount(s) is/are desired, the manner of securing same, and such other facts relating to the borrowing which are deemed pertinent by the Commissioners of the Town 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.

(B)(i) Notice of the time, date, and place of the hearing on the resolution authorizing said loan shall be published in two newspapers or general circulation in the Town not less than 10 days, nor more than 60 days, prior to the date set for the public hearing. Such notice shall be in bold print or bordered in black so as to call attention thereto. In addition to the time, date, and place of the public hearing such notices shall contain the same information as required under §58(b)(4)(A) above.

(ii) In addition to publication as herein provided, the Commissioners of the Town shall, not less than 10 days nor more than 60 days prior to the date set for the hearing, cause a public notice containing the information required above to be posted in at least five public places in the Town. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

(C) If, at any time following the public hearing, the Commissioners of the Town determine to proceed with the proposed borrowing, they shall pass a second resolution ordering a special election to be held, upon not less than 10 nor more than 60 days

public notice, for the purpose of voting for or against the proposed borrowing. The passage of the second Resolution shall ipso facto be considered a determination by the Commissioners of the Town to proceed with the matter in issue; provided however, that the Commissioners of the Town may, at any time subsequent thereto, and based upon a significant change in the relevant circumstances, act by resolution to cancel the Special Election and abandon the proposed borrowing.

(D)(1) The notice of the time and place of holding the said Special Election shall be printed in two newspapers of general circulation in the Town, not less than 10 days nor more than 60 days prior to the date set for the Special Election. In addition to the time, date and place of the election, such notice shall contain the same information as required under §58(b)(4)(A). Such notice shall be in bold print or bordered in black so as to call attention thereto.

(1) In addition to such publication as herein provided, the Commissioners of the Town shall, not less than 10 days nor more than 60 days before the date set for the election, cause public notice, containing the information set out in subsection (D)(1) above, to be posted in at least 5 public places in the Town. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

(E) At such special election, any person who is entitled to vote in the annual town 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 annual town election.)

Any Special Election held pursuant to the provisions of this section shall be conducted by voting machines, electronic voting systems, or printed ballots as permitted by law which shall have the following designation:

[] For the proposed borrowing

[] Against the proposed borrowing

If the borrowing is for more than one project, each separate project, and the not-to-exceed amount proposed to be borrowed for that project, shall be separately stated, and the voter shall be afforded the opportunity to vote "for" or "against" the proposed borrowing for each individual project.

The voter shall be instructed to mark the box(es) for which he casts his vote.

The President of The Town of Felton, by and with the advice and consent of a majority of the Commissioners of the Town shall appoint three (3) persons to act as a Board of Special Election. The polling places shall be opened for a minimum of six hours as specified by resolution of the Commissioners of the Town. Persons in the polling place at the time appointed for closing of the polls shall be entitled to vote.

(F) 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 Commissioners of the Town which said certificate shall be retained by the Commissioners of the Town with the other papers of the Town.

(G) If a majority of the votes cast at such special election shall be in favor of such borrowing(s), the Commissioners of the Town shall proceed with the issuance of the said bonds or

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

58(b)(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 Commissioners of the Town after said Special Election.

58(b)(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) therefor after advertisement in a manner to be prescribed by the Commissioners of the Town.

58(b)(7) Provision for Payment: Special Tax, Sinking Fund. The Commissioners of the Town shall provide for the payment of interest on and principal of the said bonds or certificates of indebtedness at the maturity thereof. The said Commissioners of the Town are authorized and empowered, at their discretion, to levy a special tax upon all the real estate within the Town or only upon such real estate as is directly benefited by the improvements paid for by the proceeds of such borrowing to pay interest on said bonds and/or principal; and at their 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 58(b)(7) shall be collected from the owners of real estate in the same manner as the other taxes levied by the said Commissioners of the Town are collected. Said Commissioners of the Town may also appropriate and set aside for such sinking fund so much of the general funds of said town as they may from time to time think advisable. The sinking fund provided for by this Section 58(b)(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.

58(b)(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 Town of Felton 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.

58(b)(9) Statute of Limitations, 60 days. No action contesting any proceedings conducted, or action taken, by the Commissioners of the Town hereunder regarding the authorization of any bonds or certificates of indebtedness issued under this Section 58(b) shall be brought after the expiration of sixty days from the publication of a notice in at least two newspapers, one of which shall be of general circulation in the Town of Felton and one of which shall be of general circulation in the State of Delaware, which notice shall announce the following information:

(A) That the Commissioners of the Town have determined to borrow a certain sum of money and to issue bonds or certificates of indebtedness therefore.

(B) That the proposal has been approved by a majority of those casting votes at a special election in the Town called for the purpose of voting for or against the borrowing.

(C) The amount of money to be borrowed.

(D) The purpose(s) for which it is to be borrowed.

(E) That any person desiring to challenge the authorization of such bond(s) or certificate(s) of indebtedness must bring his or her action within 60 days from the date of publication of such notice or forever be barred from doing so.

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

Approved July 8, 1994.

CHAPTER 323

FORMERLY

HOUSE BILL NO. 474

AN ACT TO AMEND CHAPTER 72, TITLE 18 OF THE DELAWARE CODE RELATING TO SMALL EMPLOYER HEALTH INSURANCE.

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

Section 1. Amend § 7202(15), Chapter 72, Title 18 of the Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(15) 'Health benefit plan' means any hospital or medical policy or certificate, major medical expense insurance, health service corporation subscriber contract, or health maintenance organization subscriber contract. Health benefit plan does not include accident-only, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, or automobile medical payment insurance.

'Health benefit plan' shall not include policies or certificates of specified disease, hospital confinement indemnity or limited benefit health insurance, provided that the carrier offering such policies or certificates complies with the following:

(a) The carrier files on or before March 1 of each year a certification with the Commissioner that contains the statement and information described in Paragraph (b) of this Subsection.

(b) The certification required in Paragraph (a) of this Subsection shall contain the following:

(i) A statement from the carrier certifying that policies or certificates described in this Subsection are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.

(ii) A summary description of each policy or certificate described in this Subsection, including the average annual premium rates (or range of premium rates in cases where premiums vary by age, gender or other factors) charged for such policies and certificates in this State.

(c) In the case of a policy or certificate that is described in this Subsection and that is offered for the first time in this State on or after the effective date of the Act, the carrier files with the Commissioner the information and statement required in Paragraph (b) of this Subsection at least thirty (30) days prior to the date such a policy or certificate is issued or delivered in this State."

Approved July 8, 1994.

CHAPTER 324

FORMERLY

HOUSE BILL NO. 561
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 11 AND 24 OF THE DELAWARE CODE RELATING TO THE TRANSFER OR SALE OF FIREARMS BY UNLICENSED PERSONS.

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

Section 1. Amend Chapter 9 of Title 24 of the Delaware Code by adding thereto a new section, said new section to be designated as §904A, to read as follows:

"904A. Criminal History Checks for Sales Between Unlicensed Persons.

(a) For purposes of this section:

(1) 'Licensed firearm dealer' means any person licensed as a deadly weapons dealer pursuant to Chapter 9, Title 24 of the Delaware Code and 18 U.S.C. §921 et seq.

(b) As a condition of its license, any dealer holding a license pursuant to this Chapter shall facilitate the transfer of a firearm, as that term is defined in §222 of Title 11, from any person who is not so licensed, upon the request of said unlicensed seller pursuant to the following procedure:

(1) The prospective buyer and seller shall jointly appear at the place of business of the dealer, during said dealer's regular hours of business, and shall inform the dealer of their desire to avail themselves of the advantages of the procedure set forth herein.

(2) The dealer shall then subject the prospective buyer to a criminal history record check pursuant to the terms of §1448A of Title 11.

(3) In the event that said record check reveals that the prospective buyer is prohibited from possessing, purchasing, or owning a firearm pursuant to §1448 of Title 11, the dealer shall so inform both parties of that fact and the transfer shall not take place.

(4) Any dealer who is asked to facilitate the transfer of a firearm

pursuant to the terms of this section, may charge a reasonable fee for said service, said fee not to exceed \$20.00 per criminal history check performed pursuant to this procedure.

(5) Failure or refusal on the part of the dealer to facilitate the transfer of a firearm pursuant to the procedures set forth herein shall be adequate cause to suspend the license of said dealer for a period not to exceed 30 days per occurrence."

Approved July 8, 1994.

CHAPTER 325

FORMERLY

HOUSE BILL NO. 466

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

AN ACT TO AMEND CHAPTER 35, TITLE 11 AND CHAPTER 41 OF TITLE 21 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 35, Title 11 of the Delaware Code by deleting Section 3505 in its entirety.

Section 2. Amend §4177 Subchapter IX, Chapter 41, Title 21 of the Delaware Code by creating a new subsection, to be designated as subsection (g), to read as follows:

"(g) In any proceeding for a violation of subsection (a) of this section, evidence may be admitted concerning the amount of alcohol in the blood, breath or urine of such person taken within four (4) hours of the alleged offense. Evidence that there was 0.05 of one percent, or less, by weight of alcohol in the blood, is prima facie evidence that the person was not under the influence of alcohol liquor within the meaning of the statutory definition of the offense. Evidence that there was at the time more than 0.05 of one percent but less than 0.10 of one percent by weight of alcohol in the blood shall not give rise to any presumption that the person was or was not under the influence of alcohol liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol liquor. Evidence that there was at the time 0.10 of one percent, or more, by weight of alcohol in the blood is prima facie evidence that the person was under the influence of alcohol liquor within the meaning of the statutory definition of the offense. A jury shall be instructed by the court in accordance with this subsection."

Section 3. Amend §4177 Subchapter IX, Chapter 41, Title 21 of the Delaware Code by creating a new subsection, to be designated as subsection (h), to read as follows:

"(h) For the purpose of introducing evidence as defined in subsection (g) of this section, 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 blood delivered was properly tested under procedures approved by the Forensic Sciences Laboratory, Office of the Chief Medical Examiner, that those procedures are legally reliable, that the blood was delivered by the officer or persons stated in the report, and that the blood contained the alcohol 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 Forensic Sciences Laboratory, Office of the Chief Medical Examiner, or any county or municipal police department employing medical analysis of blood, as qualified under standards approved by the Forensic Sciences Laboratory, Office of the Chief Medical Examiner to analyze the blood. The report must state that the chemist made an analysis of the blood under the procedures approved by the Forensic Sciences Laboratory, Office of the Chief Medical Examiner and also state that the blood, in his or her opinion, contains the amount of alcohol liquor within the meaning of 21 Del. C. §4177. 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. For purposes of establishing the chain of physical custody or control of evidence defined by subsection (g) of this section, 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, in accordance with the same procedures outlined in 10 Del. C. §4331(c). In a criminal proceeding, the prosecution shall, upon written demand of a defendant filed in the proceedings at least fifteen (15) 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."

Approved July 8, 1994.

CHAPTER 326

FORMERLY

HOUSE BILL NO. 401

AN ACT TO AMEND CHAPTER 97, TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE EMERGENCY MEDICAL SERVICE ADVISORY COUNCIL.

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

Section 1. Amend Chapter 97, Section 9703, Title 16 of the Delaware Code by striking existing subsection (c) in its entirety, and in lieu thereof substituting the following:

"(c) The Council shall consist of members appointed by the Governor from among agencies and organizations who have commitments to and are concerned with improvements in emergency medical services, including, but not limited to:

- (1) The Delaware State Fire School.
- (2) The Bureau of Health Planning and Resources Management.
- (3) The Association of Delaware Hospitals.
- (4) President of Delaware Volunteer Firemen's Association (DVFA).
- (5) President of State Ambulance Association.
- (6) The Division of State Police of the Department of Public Safety.
- (7) The Office of Highway Safety.
- (8) Delaware Emergency Management Agency.
- (9) The Medical Society of Delaware.
- (10) The State Fire Prevention Commission.
- (11) The Delaware Chapter of the American College of Emergency Physicians.
- (12) Medical Center of Delaware.
- (13) The New Castle County Emergency Medical Service Council.
- (14) The Kent County Emergency Medical Service Council.
- (15) The Sussex County Emergency Medical Service Council.
- (16) The Ambulance Standards Committee of the Delaware Volunteer Fireman's Association.
- (17) The Emergency Nurse's Association.
- (18) The State Paramedic Medical Director.
- (19) Consumer."

Approved July 8, 1994.

CHAPTER 327

FORMERLY

HOUSE BILL NO. 271
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE RELATING TO LICENSE QUALIFICATIONS.

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

Amend §2710(e) by striking the current first sentence of said subsection in its entirety and replacing it with: "(e) The Department upon receiving proper notice that a person is currently enrolled in a driver's education course and successfully completed the minimum class hours of actual driving experience and in-the-car observation as approved by the State Board of Education, may issue a temporary instruction permit to such person for up to two (2) months prior to the person's 16th birthday, provided the person meets all other Department requirements."

Approved July 8, 1994.

CHAPTER 328

FORMERLY

HOUSE BILL NO. 387
AS AMENDED BY HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLES 10 and 22, DELAWARE CODE, AUTHORIZING THE FORMATION OF MUNICIPAL BUSINESS IMPROVEMENT DISTRICTS.

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 22, Delaware Code, by adding thereto a new Chapter, which Chapter shall read in its entirety as follows:

"Chapter 15. Municipal Business Improvement Districts.

§1501. Findings and Declaration of Policy. The General Assembly hereby finds and declares that:

(a) preserving and enhancing commercial enterprise in the traditional business centers of the cities and towns of Delaware are critical to the long-term financial well-being of the State;

(b) the availability of enhanced municipal services within Delaware's urban commercial centers, which result in significantly improved street and sidewalk sanitation, facilities and infrastructure maintenance, and public security, serve as a magnet to the consuming public;

(c) numerous cities and towns throughout the United States, including Philadelphia, Baltimore, Buffalo and Allentown, have successfully funded and witnessed the benefit of such enhancements through the creation of Business Improvement Districts as authorized by State legislative enactment;

(d) the cost of the enhanced municipal services provided for within a Business Improvement District is funded exclusively by the principal beneficiaries thereof, the commercial enterprises within each such District, thereby avoiding further demand on the strained public treasury.

§1502. Definitions.

(a) "Assessable Property" means all property owned or used by a commercial enterprise which is located within a Business Improvement District (whether or not it is subject to a real property tax abatement) and which is not part of a class of property which is exempted from assessment pursuant to subparagraph (a) of §1503 of this Chapter.

(b) "Assessment Base" means any tax or license fee lawfully imposed by a Municipality relating to real property or the operation of a commercial enterprise.

(c) "Assessment Zone" means an area of a Business Improvement District designated by the Municipality to fund a certain percentage of the District's annual budget within which the assessment rate is uniform.

(d) "Authority" means a body politic or corporate exercising public powers of the State as an agency thereof in accordance with the provisions of this Chapter and the ordinance creating such Authority.

(e) "Business Improvement District" or "District" means an area of a City designated for the provision of Services by an Authority or Management Company as defined by an ordinance adopted by the City in accordance with this Chapter.

(f) "City" or "Municipality" means any incorporated municipality or town.

(g) "Management Company" means an Authority which in accordance with the express terms of the ordinance creating it is duly incorporated under the not-for-profit incorporation provisions of the Delaware General Incorporation Law.

(h) "Services" means those functions undertaken directly or indirectly by an Authority or Management Company for the benefit and advantage of the Business Improvement District.

§1503. Establishment.

(a) the Mayor and Council or other governing body of any Municipality of this State may create one or more Business Improvement Districts comprising all or any portions of any area within such Municipality which is either zoned for commercial use or predominantly used for commercial purposes. Such ordinance shall include the following:

(1) A description of the geographic boundaries of such District, including the geographic boundaries of any Assessment Zones within the District;

(2) A description of the Authority or Management Company which will govern such District, which Authority or Management Company shall be comprised of not less than five members or directors respectively who either own a commercial property within such District, or are the designee of such owner;

(3) A general description of the services and/or improvements which the District shall be authorized to provide;

(4) The specific Assessment Base through which the annual budget of the District shall be funded;

(5) If the District is divided into Assessment Zones, the percentage of the District's annual budget which each Zone shall fund;

(6) Any limitations on the special assignment or borrowing authority of the District;

(7) The duration of the existence of the District, which shall not exceed thirty (30) years;

(8) The properties to be exempted from the District; provided that all residential properties having not more than four rental units shall be exempt, and provided further, that the Municipality may specifically exempt all properties owned by organizations exempt from the Municipality's real property tax.

(9) The method, manner and frequency of reports which each such District must file with the Municipality with respect to its affairs.

(b) the ordinance required by this section shall, in addition to any other applicable public notice procedures, be advertised in a periodical which is generally circulated within the area designated as the District not less than ten days prior to its introduction. Such ordinance shall, unless the ordinance shall otherwise expressly provide, be effective thirty (30) days after the date of its enactment.

§1504. Creation and Powers of the Authority or Management Company.

(a) the Authority or Management Company authorized by ordinance to govern a District shall be created by the filing of a certificate of authority or incorporation with the Secretary of State, which certificate shall include:

- (1) Citation to the ordinance authorizing its creation;
 - (2) The names and business addresses of those nominated and approved as the initial members or directors of the Authority or Management Company;
 - (3) The term of existence of the Authority or Management Company;
 - (4) Any express terms or conditions proposed by the enabling ordinance regarding the powers, duties or restrictions imposed upon the Authority or Management Company.
- (b) except as restricted by this Chapter or the ordinance creating it, an Authority or Management Company shall have, by way of example not limitation, the power:
- (1) to acquire, hold and use property necessary to achieve its purposes;
 - (2) to make contracts;
 - (3) to sue and be sued;
 - (4) to incur debt, and pledge or hypothecate its assets in security thereof;
 - (5) to propose an annual budget, and to calculate and assess against all Assessable Properties within the District, through the Assessment Base selected by the Municipality, such amount as is necessary to fund such budget;
 - (6) to adopt by-laws for its governance;
 - (7) to indemnify its members, officers and employees to the full extent authorized by the General Corporation Law; and
 - (8) to otherwise exercise all necessary powers with respect to the conduct of the functions of a Business Improvement District.

§1505. Method of Assessment.

- (a) the Authority or Management Company shall assess each Assessable Property within the District by multiplying the total service and improvement cost as reflected in the adopted budget for each year (less any allocated surplus or estimated revenue from other sources) by the ratio of the amount of such Assessable Property's Assessment Base to the total amount of the Assessment Base for all Assessable Properties in the District or, if the District is divided into Assessment Zones, in the respective Assessment Zone, provided that in all cases the Assessment Base shall be the one designated in the enabling ordinance by the Municipality to fund the District, and provided further that, notwithstanding the above, the Authority or Management Company shall have the power to impose an assessment of a minimum amount, and provided further that, notwithstanding the above, the Authority or Management Company may impose a lower rate or minimum amount of assessment on properties owned by organizations exempt from the Municipality's real property tax if the Municipality has chosen not to exempt such properties from the District.
- (b) the Authority or Management Company may by resolution authorize the payment of such assessment in annual, or more frequent, equal installments, over such time and bearing interest at such rate as may be specified in such resolution.
- (c) All assessments imposed by an Authority shall constitute a lien on each property so assessed, the non-payment of which shall be collectable in the same manner as the collection of a property tax delinquency by the Municipality in which the District lies. No action taken to enforce a claim by the Authority or Management

Company for any annual payment or installment payment shall affect the status of any subsequent installment of the same or the next assessment, each of which shall constitute a lien upon the property.

§1506. Prohibitions.

(a) no Authority or Management Company shall issue bonds or other forms of securities; nor shall any Authority or Management Company pledge the full faith and credit of the Municipality in which its District lies for the payment of its debts, or of the State of Delaware;

(b) No Authority or Management Company shall undertake or make any assessment in support of the provision of a service which is presently offered by the Municipality in which the District lies; and

(c) no Authority or Management Company may make any assessment for the provision of any service which is not for the direct benefit and advantage of the Business Improvement District.

§1507. Annual Review by Municipality.

Not less frequently than annually, the Municipality shall review the performance of each Authority or Management Company created by such Municipality and shall prepare for public inspection a report which certifies that:

(a) the Authority or Management Company is in compliance with its enabling ordinance, its certificate of incorporation and by-laws, and the provisions of this Chapter;

(b) the Authority or Management Company is fiscally sound; and

(c) the Authority or Management Company has not discriminated against any person based upon race, sex, national origin, religion, age or disability."

Section 2. Amend subsection (2) of §4010, Title 10, Delaware Code, by inserting a comma (",") and the phrase "any municipal business improvement district authority created pursuant to Chapter 15 of Title 22" immediately following the phrase "any parking authority created pursuant to Chapter 5 of Title 22."

Approved July 8, 1994.

CHAPTER 329

FORMERLY

HOUSE BILL NO. 229

AN ACT AUTHORIZING AND DIRECTING THE SECRETARY OF STATE TO CONVEY TO THE CITY OF NEW CASTLE TITLE TO TWO PARCELS OF LAND BOTH OF WHICH ARE LOCATED IN THE CITY OF NEW CASTLE, DELAWARE, ONE OF WHICH IS COMMONLY KNOWN AS BULL HILL, AND THE OTHER BEING A SMALL TRIANGULAR PARCEL OF LAND LOCATED ADJACENT TO ROUTE 9, SAID LANDS HAVING BEEN GIVEN TO THE COMMISSIONERS OF THE TOWN OF NEW CASTLE IN TRUST BY TWO SEPARATE ACTS OF THE DELAWARE LEGISLATURE, BEING CHAPTER 5B7, VOLUME 10, LAWS OF DELAWARE, AND A SUBSEQUENT SUPPLEMENT TO THE ACT, BEING CHAPTER 654, VOLUME 10, LAWS OF DELAWARE.

WHEREAS, the parcel of land known as Bull Hill was a "Burying Ground for the Poor" and in the absence of trustees for the administration of the burying ground, for reasons unknown, the Delaware Legislature passed an act on March 5, 1851 entitled "An Act constituting the Commissioners of the Town of New Castle Trustees of the Free Burying Ground of the Poor in the said Town." being Chapter 5B7, Vol. 10, Laws of Delaware.

WHEREAS, the investiture of trusteeship to the Commissioners over said burial grounds gave them full power and authority to do all such lawful acts as may be necessary for the protection and preservation of the same; and

WHEREAS, on February 17, 1852 the General Assembly supplemented the original act by passing Chapter 654, Vol. 10, Laws of Delaware which reads as follows:

" Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That all the right, title and interest of the State of Delaware in and to the water lot extending from the fast land of the said burying ground out into the deep water of the Delaware River, and from North street to the south-western line of said burying ground, to the line of Elihu Jefferson, as now held by him, and also all the right, title and interest of the State of Delaware in and to the small triangular lot in said town, bounded by Vine Street, Chesnut Street, and the public road leading to Wilmington, be, and they are hereby vested in the commissioners of the town of New Castle, and their successors in office, for the use and benefit of the trust imposed upon them by the act to which this is a supplement"; and

WHEREAS, early maps of the City of New Castle reflect that the area comprising approximately 5.6 acres of land on the northeast end of the City was actually used as a burying ground for the poor at some point in the past; and

WHEREAS, to date the earliest historical reference regarding this parcel of land appears on the Latrob map dated 1803, said map identifying the area as a burying ground; and

WHEREAS, local legend regarding this area is that sometime before the second world war the area, nicknamed "Bull Hill" was bulldozed and since that time the area has been used as park land for the City of New Castle and also as a boat storage area at the point where the Broad Dyke Canal flows into the Delaware River; consequently, there is no evidence of any burying ground remaining and the City plans to continue to use the area for park purposes.

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. The Secretary of State is hereby authorized and directed to convey through a quit claim deed to the City of New Castle all rights, title and claims to the two parcels of land, both of which are situated within City limits of New Castle and both of which have been under the trusteeship of the town since the 1850's for the consideration of \$1.00, said metes and bounds of said parcels of land herein described:

Parcel I. Description of a triangular shaped parcel of property known as New Castle County, Tax Parcel #21-015.00-090, being bounded on the East by the Northwestern side of Wilmington Road (formerly Broad Dyke), on the South by the Northeastly side of Chestnut Street and on the West by the Southeastly side of East Fourth Street (formerly Vine Street) in the City of New Castle, New Castle County, State of Delaware:

BEGINNING at a point of intersection formed by the Northeastly side of Chestnut Street (at 50 feet wide) with the Southeastly side of East Fourth Street (formerly Vine Street) at 54 feet wide;

THENCE from said point of Beginning along the said Southeastly side of East Fourth Street in a Northeastly direction to its point of intersection with the Northwestern side of Wilmington Road (formerly Broad Dyke) at 60 feet wide;

THENCE thereby, in a Southwesterly direction to its intersection with the said Northeastly side of Chestnut Street, thence thereby, in a Northwesterly direction to said Southeastly side of East Fourth Street, the point and place of Beginning.

CONTAINING a scaled area of 0.09 acres of land be the same more or less.

Parcel II. Description of an irregular shaped parcel of property known as New Castle County, Tax Parcel No. 21 015.00-210, being bounded on the East by the Delaware River, on the South by Lands now of Trustees of New Castle Common (formerly the Delaware-New Jersey Ferry Company and State of Delaware) on the West by the Southeastly side of East Second Street (formerly Market Street) and on the North by Lands now or formerly Rector and Vestryman of Immanuel Church of New Castle in the City of New Castle, New Castle County, State of Delaware;

BEGINNING at a point on the Southeastly side of East Second Street (formerly Market Street) at 60 feet wide, said point being a common corner for said parcel herein being described and Lands now or formerly Joseph B. Klein, Jr., and Mary A. Klein, his wife, known as New Castle County, Tax Parcel No. 21-015.00-120 and recorded in Deed Record B-47-228 and further located along the said Southeastly side of East Second Street; in a Northeastly direction, a distance of 238.38 feet (by survey of W. VanArsdale for property of State of Delaware, dated April 1953) from point of intersection with the Northeastly side of Chestnut Street extended at 50 feet wide.

THENCE from said point of Beginning continuing along the said Southeastly side of East Second Street, in a Northeastly direction, a distance of 630 feet more or less, to a point in the approximate centerline of Broad Dyke Canal and also in line of lands now or formerly of Rector and Vestrymen of Immanuel Church of New Castle, recorded in Deed Record U-25-190 (Parcel # 2);

THENCE along said Lands of Rector and Vestrymen of the Immanuel Church of New Castle by the said centerline of Broad Dyke Canal, in an Easterly direction, by its various meanderings to the low water line of the Delaware River;

THENCE by the said low water line of the Delaware River, in a general Southerly direction, by its various meanderings to a corner for said Lands of Trustees of New Castle Common; known as New Castle County Tax Parcel No. 21-015.00-119 and recorded in Deed Record I-78-199;

THENCE thereby, and by the northeasterly terminus of a 20 foot wide alley (running parallel with East Second Street) and by said Lands now or formerly Joseph B. Klein, Jr., and Mary A. Klein, his wife, in a Northwesterly direction to a point on the said Southeastly side of East Second Street, the place of Beginning.

CONTAINING a scaled area of 5.6 acres of land be the same more or less."

Section 2. Any provision in the Delaware Code to the contrary are hereby waived for the purpose of conveying said parcels of land in question to the Town of New Castle, Delaware.

Approved July 8, 1994.

CHAPTER 330

FORMERLY

HOUSE BILL NO. 517

AN ACT TO AMEND CHAPTER 74, TITLE 7 OF THE DELAWARE CODE RELATING TO UNDERGROUND STORAGE TANKS.

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

Section 1. Amend Subsection (20)b.3. of Section 7402, Chapter 74, Title 7 of the Delaware Code by striking the word "interstate" and substituting in lieu thereof the word "intrastate".

Section 2. Amend Subsection (18) of Section 7402, Chapter 74, Title 7 of the Delaware Code by adding the phrase "or a duly authorized designee" after the word "Control".

Section 3. Amend Section 7413, Chapter 74, Title 7 of the Delaware Code by continuing the sentence to read as follows:

"except that no variance or temporary emergency variance shall be granted which would be inconsistent with the no less stringent requirements of Section 9004 of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580 as amended by Pub. L. 98-616 (or regulations promulgated thereunder)."

Approved July 8, 1994.

CHAPTER 331

FORMERLY

HOUSE BILL NO. 551

AN ACT TO AMEND CHAPTER 45, TITLE 10 OF THE DELAWARE CODE RELATING TO COMPENSATION OF JURORS.

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

Section 1. Amend §4514, Chapter 45, Title 10, Delaware Code by striking subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) Jurors shall be compensated at a per diem rate of \$20. Jurors whose term of service is one day or one trial shall not receive compensation for the first day of service. The State shall pay for food, lodging, and other necessary expense during the sequestration of a jury."

Section 2. This amendment shall become effective January 15, 1995.

Approved July 8, 1994.

CHAPTER 332

FORMERLY

SENATE BILL NO. 275

AN ACT TO AMEND CHAPTER 70, 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 Subsection (b), §7002, Chapter 70, Title 29 of the Delaware Code by inserting between the words "agencies" and "and" as they appear in the first sentence thereof the phrase ", volunteer ambulance services, volunteer rescue services".

Section 2. Amend Subsection (c), §7002, Chapter 70, Title 29 of the Delaware Code by inserting between the words "agency" and "or" as they appear in the first sentence thereof the phrase ", volunteer ambulance service, volunteer rescue service".

Approved July 8, 1994.

CHAPTER 333

FORMERLY

SENATE BILL NO. 427

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO JURISDICTION OF THE COURT OF COMMON PLEAS.

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

Section 1. Title 21 of the Delaware Code, Section 2717 is amended by deleting therefrom any reference to "Superior Court" and inserting in lieu thereof "Court of Common Pleas".

Section 2. Title 21 of the Delaware Code, Section 2734 is amended by deleting therefrom any reference to "Superior Court" and inserting in lieu thereof "Court of Common Pleas".

Section 3. Title 21 of the Delaware Code, Section 2743 is amended by deleting therefrom any reference to "Superior Court" and inserting in lieu thereof "Court of Common Pleas".

Section 4. Title 21 of the Delaware Code, Section 2744 is amended by deleting therefrom any reference to "Superior Court" and inserting in lieu thereof "Court of Common Pleas".

Section 5. Title 21 of the Delaware Code, Section 2804 is amended by deleting therefrom any reference to "Superior Court" and inserting in lieu thereof "Court of Common Pleas".

Section 6. Title 21 of the Delaware Code, Section 2805 is amended by deleting therefrom any reference to "Superior Court" and inserting in lieu thereof "Court of Common Pleas".

Section 7. Title 21 of the Delaware Code, Section 2806 is amended by deleting therefrom any reference to "Superior Court" and inserting in lieu thereof "Court of Common Pleas".

Section 8. Title 21 of the Delaware Code, Section 2810 is amended by deleting therefrom any reference to "Superior Court" and inserting in lieu thereof "Court of Common Pleas".

Section 9. The provisions of this Act shall become effective January 15, 1995, and apply to all matters filed thereon or thereafter. Matters pending as of January 15, 1995 shall remain within the jurisdiction of the Superior Court as if no amendments were made.

Approved July 8, 1994.

CHAPTER 334

FORMERLY

SENATE BILL NO. 208

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

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

Section 1. Amend Section 906, Chapter 9, Title 19 of the Delaware Code by deleting the last sentence of Section 906.

Approved July 8, 1994.

CHAPTER 335

FORMERLY

SENATE BILL NO. 400

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO THE FAMILY COURT; AND PROVIDING FOR THE EXPUNGEMENT OF CERTAIN ADULT CRIMINAL RECORDS.

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

Section 1. Amend Chapter 9, Title 10 of the Delaware Code by redesignating present §930 through §939, Part A of Subchapter III as new §1001 through §1011; by re-designating present §940 through §943, Part 8, Subchapter III as new §1021 through §1024; by redesignating present §944, Part C, Subchapter III as new §1031; by redesignating present §945 through §952 as new §1041 through §1048; by redesignating present §960 through §962, Part E, Subchapter III as new §1051 through §1053, and by redesignating present §970 through §974 as new §1061 through §1065.

Section 2. Amend Part B, Subchapter III, Chapter 9, Title 10 of the Delaware Code by adding thereto the following new sections:

"§1025. Expungement: hearing by the Court

(a) If an adult under the jurisdiction of this court has been charged with the commission of a crime, and:

(1) is acquitted; or

(2) a nolle prosequi is taken, or the charge is otherwise dismissed, he may file a petition setting forth the relevant facts and requesting expungement of the police records, and the court records relating to the charge.

(b) The petition shall be filed in the Family Court in the county where the case was terminated, disposed of or concluded.

(c) A copy of the petition shall be served on the Attorney General, who may file an objection or answer to the petition within 30 days after it is served on him.

(d) Unless the Court believes a hearing is necessary, petitions shall be disposed of without a hearing. If the Court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes, or may cause, circumstances which constitute a manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records relating to the charge. Otherwise, it shall deny the petition. The fact that the petitioner has previously been convicted of a criminal offense, other than that referred to in the petition, shall be considered by the Court as prima facie evidence that the continued existence and possible dissemination of information relating to the arrest in question does not constitute a manifest injustice to the petitioner.

(e) The State shall be made party defendant to the proceeding. Any party aggrieved by the decision of the Court may appeal, as provided by law in civil cases.

(f) If an order expunging the records is granted by the Court, all the records specified in the order shall, within sixty days of the order, be removed from the files, and placed in the control of the Supervisor of the State Bureau of Identification who shall be designated to retain control over all expunged records, and who shall insure that the records or the information contained therein is not released for any reason except as specified in this subchapter. In response to requests from any person not specifically authorized, for information or records on the person who was arrested, the law-enforcement officers and departments shall reply, with respect to the arrest and proceedings which are the subject of the order, that there is no record.

§1026. Expungement: records: access by law-enforcement officers

(a) Except for disclosure to law-enforcement officers acting in the lawful performance of their duties in investigating criminal activity or for the purpose of an employment application as an employee of a law-enforcement agency, it shall be unlawful for any person having or acquiring access to an expunged court or police record to open or review it or to disclose to another person any information from it without an order from the Court which ordered the record expunged.

(b) Where disclosure to law-enforcement officers in the lawful performance of their duties in investigating criminal activity is permitted by subsection (a) of this section, such disclosure shall apply for the purpose of investigating particular criminal activity in which the person, whose records have been expunged, is considered a suspect and the crime being investigated is a felony; or pursuant to an investigation of an employment application as an employee of a law-enforcement agency.

(c) Nothing contained in this section shall require the destruction of photographs or fingerprints taken in connection with any felony arrest and which are utilized solely by law enforcement officers in the lawful performance of their duties in investigating criminal activity.

(d) Nothing herein shall require the destruction of court records or records of the Department of Justice. However, all such records, including docket books, relating to a charge which has been the subject of a destruction order shall be so handled to ensure that they are not open to public inspection or disclosure.

(e) An offense for which records have been expunged pursuant to this section shall not have to be disclosed by the person as an arrest for any reason.

(f) Upon the granting by the Court for an order for the expungement of records in accordance with this subchapter, a copy of such order shall be forwarded to the United States Department of Justice.

(g) Any person who violates §1025 of this section shall be guilty of a class B misdemeanor, and shall be punished accordingly."

Approved July 8, 1994.

CHAPTER 336

FORMERLY

SENATE BILL NO. 403

AN ACT TO AMEND CHAPTER 43, TITLE 11, DELAWARE CODE RELATING TO MENTAL HEALTH EVALUATIONS REQUIRED PRIOR PAROLE.

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

Section 1. Amend §4353(a), Chapter 43, Title 11 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof a new paragraph to read:

"(a) No person who has been convicted of and imprisoned for any Class A felony, felony sex offense or any felony wherein death or assault to a victim occurred shall be released from incarceration by the Parole Board until the Parole Board has considered a mental health evaluation of such person. The Parole Board, in its discretion, may request mental health evaluations on persons convicted and imprisoned for any offense not enumerated above."

Approved July 8, 1994.

CHAPTER 337

FORMERLY

SENATE BILL NO. 404

AN ACT TO AMEND CHAPTER 137, VOLUME 61, LAWS OF DELAWARE, AS AMENDED, BEING THE TOWN CHARTER OF THE TOWN OF DELMAR, RELATING TO STREETS.

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 striking subsections (b) through (n) of Section 30A, and by redesignating subsection (o) of Section 30A as subsection (b) thereof.

Approved July 8, 1994.

CHAPTER 338

FORMERLY

SENATE BILL NO. 408
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND 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 §543, Title 4 of the Delaware Code by adding a new subsection (h) to read as follows:

"(h) Any existing restaurant which was licensed by the State to permit the sale of alcoholic beverages and which was in compliance with applicable state, county or municipal laws and regulations as of June 14, 1991 shall be permitted to continue to operate in the same manner as it was operating on said date so long as said license is in effect, notwithstanding any ordinance or other restriction subsequently enacted by a municipal corporation."

Approved July 8, 1994.

CHAPTER 339

FORMERLY

SENATE BILL NO. 394

AN ACT TO AMEND TITLE 25, DELAWARE CODE RELATING TO AGRICULTURAL LEASES.

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

Section 1. Amend §6702(a) by adding after the word "year" and before the period (".") the phrase:

", terminating on December 31 next occurring unless the lease is entered into after September 1, in which case the lease shall terminate on the second December 31 next occurring".

Section 2. Amend §6702(b) by adding after the word "year" and before the semicolon (";") the phrase:

", terminating on December 31 next occurring unless the lease is entered into after September 1, in which case the lease shall terminate on the second December 31 next occurring".

Approved July 8, 1994.

CHAPTER 340

FORMERLY

SENATE BILL NO. 390

AN ACT TO AMEND CHAPTER THREE, TITLE 4, OF THE DELAWARE CODE, RELATING TO THE ABILITY OF THE DELAWARE ALCOHOLIC BEVERAGE CONTROL COMMISSION'S AUTHORITY TO ENFORCE ITS SUBPOENAS IN THE SUPERIOR COURT.

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

Section 1. Amend 4 Del. C., Section 304(13), by striking the semi-colon (";") at the end of the second sentence and substituting in lieu thereof a period (".").

Section 2. Amend 4 Del. C., Section 304(13), by adding the following at the end of the second sentence:

"The Commission may enforce compliance with a subpoena issued pursuant to this subsection by filing a motion to compel in the Superior Court which shall have jurisdiction over the matter. The Court may award costs and attorney fees if it determines that non-compliance with a Commission subpoena was unjustified, intentional, or in bad faith;"

Approved July 8, 1994.

CHAPTER 341

FORMERLY

SENATE BILL NO. 384

AN ACT TO AMEND CHAPTER 9, TITLE 13, OF THE DELAWARE CODE RELATING TO ADOPTION; AND GRANTING TO THE FAMILY COURT EXCLUSIVE JURISDICTION OVER ALL PETITIONS TO INSPECT ADOPTION RECORDS.

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

Section 1. Amend §925, Chapter 9, Title 13, of the Delaware Code by striking the last sentence of said section in its entirety.

Approved July 8, 1994.

CHAPTER 342

FORMERLY

SENATE BILL NO. 330

AN ACT TO AMEND §8009, CHAPTER 80, TITLE 29 OF THE DELAWARE CODE (67 Del. Laws Chapter 430, §2) RELATING TO THE PARKS AND RECREATION COUNCIL.

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

Section 1. Amend §8009, Chapter 80, Title 29, Delaware Code, by redesignating subsection "(2)" as "(3)", and by striking subsection (1) in its entirety and substituting in lieu thereof the following:

"(1) Eight members shall be appointed by the Governor and shall be eligible for reappointment. The terms of the 5 original members that were not reappointed or replaced on October 12, 1993, shall be staggered as follows: Two members shall serve until October 12, 1995; and 3 members shall serve until October 12, 1997. Upon the expiration of these terms or the 3 year terms of the members reappointed or appointed on October 12, 1993, the term of any member serving thereafter shall be for 3 years.

(2) At least 5 of the 8 members appointed by the Governor shall have experience and/or expertise in the management of recreation programs and parks. The remaining members may be composed of other related disciplines including, but not limited to, cultural affairs, fish and wildlife, tourism, finance, conservation, marketing, special populations, education or similar disciplines."

Approved July 8, 1994.

CHAPTER 343

FORMERLY

SENATE BILL NO. 328

AN ACT TO AMEND CHAPTER 63, TITLE 18, DELAWARE CODE, RELATING TO HEALTH SERVICE CORPORATIONS AND THE FILING OF ANNUAL REPORTS.

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

Section 1. Amend §6307(a), Chapter 63, Title 18, Delaware Code, by striking the word "June" as it appears therein and by substituting in lieu thereof the word "March".

Approved July 8, 1994.

CHAPTER 344

FORMERLY

SENATE BILL NO. 304

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 ACTING TREASURER AND THE SALARY OF THE CITY CLERK.

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

Section 1. Amend Section 22, Volume 27, Chapter 216, Laws of Delaware, as amended by Volume 38, Chapter 118, Laws of Delaware, and as by Volume 66, Chapter 230, Laws of Delaware, by deleting the paragraph added at the end of said Section authorizing the City Clerk to act as Acting Treasurer when specific circumstances arise, and by inserting a new paragraph in lieu thereof to read as follows:

"The President of City Council shall have authority to authorize the City Administrator or City Finance Coordinator to serve as Acting Treasurer during the absence of the Treasurer from the City, or while the Treasurer shall be prevented by sickness from performing the duties of the Office of Treasurer, and the City Administrator or City Finance Coordinator, upon receiving written notice authorizing him or her, shall be invested with all the powers and authority conferred upon the Treasurer, to exercise the same during such absence or sickness of the City Treasurer, until notified by the President of City Council that the Treasurer is ready to resume the duties of the Office."

Section 2. Amend Volume 27, Chapter 216, Laws of Delaware as amended by Volume 28, Chapter 134, Laws of Delaware, as amended by Volume 51, Chapter 306, Laws of Delaware, and as amended by Volume 67, Chapter 30, Laws of Delaware, by striking the last paragraph of Section 1 thereof and by inserting in lieu thereof the following:

"The City Clerk shall regularly attend at the Office of the City at such regular hours as may be fixed by the Council, and the Clerk shall be paid an annual salary to be fixed by the Council. The above salary shall be in full payment and compensation for the performance of all of the duties devolving upon him or her."

Approved July 8, 1994.

CHAPTER 345

FORMERLY

SENATE BILL NO. 293
AS AMENDED BY SENATE AMENDMENT NOS. 2 AND 4

AN ACT TO AMEND CHAPTER 79, TITLE 29, AND CHAPTER 29, TITLE 31, OF THE DELAWARE CODE, RELATING TO THE DIVISION OF AGING OF DELAWARE, THE COMMISSION FOR THE AGING AND THE COUNCIL ON AGING.

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

Section 1. Amend §7903, Title 29, of the Delaware Code by adding to subsection (a), subparagraph (2) the following:

"g. A Director of the Division of Services for Aging and Adults with Physical Disabilities, who shall be someone qualified by training, education, experience or ability to perform the duties of Director;"

Section 2. Amend §7915, Title 29, of the Delaware Code by deleting the section in its entirety and substituting in lieu thereof the following:

"§7915. Council on Services for Aging and Adults with Physical Disabilities.

(a) There is established the Council on Services for Aging and Adults with Physical Disabilities.

(b) The Council on Services for Aging and Adults with Physical Disabilities shall serve in an advisory capacity to the Director of the Division of Services for the Aging and Adults with Physical Disabilities and shall consider matters relating to the formation of local community councils for the aging and for adults with physical disabilities, programs and projects in this State to benefit the aging and adults with physical disabilities and such other matters as may be referred to it by the Governor, the Secretary of the Department or the Director of the Division of Services for the Aging and Adults with Physical Disabilities. The Council may study, research, plan and advise the Director, the Secretary and the Governor on matters it deems appropriate to enable the Division to function in the best possible manner.

(c) The Council on Services for Aging and Adults with Physical Disabilities shall be composed of 22 members who shall be appointed for 3-year terms by the Governor. The terms of the Council members shall be staggered in such a manner as will insure, as nearly as possible, an equal and uniform number of vacancies arising each year. Eleven (11) members of the Council shall be comprised of aging consumers apportioned as follows: two (2) residents each from New Castle County, excluding Wilmington, Kent County, Sussex County and Wilmington, and three (3) at-large members who may reside anywhere in the state. Eleven (11) members shall represent adults with physical disabilities to be apportioned as follows: One (1) consumer with physical disabilities from New Castle County, excluding Wilmington, Kent County, Sussex County and Wilmington, and three (3) at-large consumers with physical disabilities who may reside anywhere in the state. There shall also be four (4) representatives of public and/or nonprofit agencies that serve adults with physical disabilities who may reside anywhere in the state.

(d) At least 10, but no more than 12, members of the Council shall be affiliated with 1 of the major political parties, and at least 8, but no more than 10, members of the Council shall be affiliated with the other major political party; provided, however, that there shall be no more than a bare majority representation of 1 major political party over the other major political party. Any person who declines to announce his or her political affiliation shall also be eligible for appointment as a member of the Council. The Council membership shall be composed of representatives in the following areas: aging consumers, consumers with a physical disability, low income older persons, low income persons with a physical disability, minority older persons and minority persons with a physical disability and representatives of public and/or nonprofit agencies that serve adults with physical disabilities. Each Council member can be representative of more than 1 area, but no Council member shall be representative of more than 3 areas.

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

(f) A Chairperson of the Council shall be chosen by the members of the Council from among its members, except that the office shall rotate between consumer representatives of the aging community and consumer representatives of adults with physical disabilities. In its first year of operation, the Council shall be chaired by a representative of the aging community. In its second year of operation, the Council shall be chaired by a consumer representative of adults with physical disabilities. Thereafter, the chairman shall alternate and shall serve a two-year term. A chairman shall be eligible to serve two nonconsecutive terms.

(g) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for the remainder of the term.

(h) Members who are absent from more than 3 consecutive meetings, unless excused by the Council, shall be discharged from the Council by the Council Chairperson.

(i) There shall be two permanent subcommittees of the Council, in addition to any other committees that are established. Representatives of adults with physical disabilities shall form one Subcommittee on Physical Disabilities. Representatives of the aging community shall form a Subcommittee on Aging. The subcommittees shall meet as often as deemed necessary, in addition to the monthly meetings of the full Council. All decisions made by the Council relative to policy and budget shall be made by the full Council. Staff assistance shall be given to the subcommittees as well as to the full Council."

Section 3. Any references to the Council on Aging in the Delaware Code shall be changed to Council on Services for Aging and Adults with Physical Disabilities.

Section 4. Amend §7920, Title 29, of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"7920. Division of Services for Aging and Adults with Physical Disabilities.

(a) There is hereby established the Division of Services for Aging and Adults with Physical Disabilities within the Department of Health and Social Services.

(b) Definitions.

(1) As used in this section, aging or elderly persons shall have the same meaning as older and eligible individuals as defined in the Older Americans Act, 42 U.S.C. §3001 et seq.

(2) As used in this section, adults with physical disabilities shall include persons who are age 18 or older; whose physical condition is anticipated to last 12 months or more; whose physical condition affects their ability to live independently; and who need ongoing assistance with daily living. This, however, shall not include persons receiving or in need of primary case management from agencies providing services for educational; vocations; sensory; mental retardation; drug abuse; alcoholism; mental and physical health purposes; or from the Division for the Visually Impaired.

(c) The objective of the Division of Services for Aging and Adults with Physical Disabilities is to improve or maintain the quality of life for residents of Delaware at least eighteen years of age with physical disabilities, or who are elderly. The Division is committed to the development and delivery of consumer-driven services. As such, these services will maximize independence through individual choice in the least restrictive environment possible, enable adults with physical disabilities and those who are elderly to continue living active and productive lives, and protect those who may be vulnerable and at risk.

(d) The Division shall have the following duties and functions:

(1) serve as the focal point for the assessment, planning and development of service delivery systems designed to meet the needs of adults with physical disabilities and those who are elderly;

(2) serve as an advocate for the needs of the elderly and adults with physical disabilities by supporting the individual, family and others who serve as the individual's support system through the provision and coordination of services designed to maximize independent living in the least restrictive manner possible;

(3) provide information and training to those in the private and public sectors to increase awareness and encourage development of systems and services critical to improving the quality of life for the aging and adults with physical disabilities;

(4) facilitate a strong service delivery system through promoting the creation of public/private partnerships which shall serve to develop, combine and maximize appropriate resources; and

(5) receive and disburse all funds available to the State from any source, including but not limited to the United States Government, to be used for the benefit of the aging and adults with physical disabilities, unless the receipt and disbursement of such funds is otherwise provided by law.

(6) carry out a formal evaluation of the program to include, but not be limited to, organization, services, coordination, customer satisfaction, training and the role of the advisory council and its subcommittees after two years of operation, and report to the Secretary, the General Assembly and the Governor. In addition, the Division shall annually prepare a report on service requests, requests fulfilled, requests that could not be met and why, and observed gaps in service delivery for the Secretary and the General Assembly."

Section 5. Any references to the Division of Aging in the Delaware Code shall be changed to the Division of Services for Aging and Adults with Physical Disabilities.

Section 6. Amend §7922, Title 29 of the Delaware Code by deleting the word "and" as it appears at the end of subparagraph (8), by deleting the "." as it appears at the end of subparagraph (9) and inserting in lieu thereof "; and", and inserting after subparagraph (9) the following:

"(10) Director of the Division of Services for Aging and Adults with Physical Disabilities."

Section 7. Amend §7911, Title 29 of the Delaware Code by deleting subparagraph (2) in its entirety.

Section 8. Amend Title 31 of the Delaware Code by deleting Chapter 29 of Title 31 in its entirety.

Approved July 8, 1994.

CHAPTER 346

FORMERLY

HOUSE BILL NO. 484

AN ACT TO AMEND CHAPTER 87, TITLE 29, DELAWARE CODE, RELATING TO THE DIVISION OF LIBRARIES.

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

Section 1. Amend § 8731(a), Chapter 87, Title 29, Delaware Code, by inserting a new paragraph (9) therein and by redesignating the subsequent existing paragraphs, said new paragraph to read:

"(9) To coordinate the provision of accessible library and information services for individuals with disabilities and to serve as the Delaware Regional Library for the Library of Congress Network of Libraries for the Blind and Physically Handicapped;".

Approved July 8, 1994.

CHAPTER 347

FORMERLY

HOUSE BILL NO. 507

AN ACT TO AMEND CHAPTER 20, TITLE 16, DELAWARE CODE RELATING TO UNIFORM HEALTH DATA.

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

Section 1. Amend Chapter 20, Title 16 of the Delaware Code by deleting said Chapter in its entirety and by substituting in lieu thereof the following:

"Chapter 20. Uniform Health Data.

§2001. Purpose.

It is the purpose of this chapter to establish a health information data base that will assist the health care system to advance the general well-being of the population by better directing and improving the availability of health care services.

It is the policy of this State to foster appropriate and efficient use of health care resources by requiring information necessary for evaluating utilization patterns and costs to the community and the State for health care services. This information shall be available to health care purchasers, health care insurers, health care providers, health care planners and the general public without compromise of patient confidentiality. Such information will improve decision making with regards to access, identified needs, patterns of health care delivery, charges and use of health care services.

§2002. Definitions.

The following words, terms and phrases, when used in this chapter, shall have meaning ascribed to them in this section, except where the context indicates a different meaning:

(1) 'Delaware uniform claims and billing data set' shall mean that data approved for use by the State Uniform Billing Committee.

(2) 'Hospital' shall mean any non-federal facility licensed as such pursuant to Chapter 10 of this title.

(3) 'Individual' shall mean a singular human being.

(4) 'Nursing home' shall mean any non-federal 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.

(5) 'Person' shall mean an individual, trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), or a state or political subdivision or instrumentality (including a municipal corporation) of a state.

(6) 'Raw data' shall mean any information collected pursuant to this chapter which has not been approved for release by the State agency.

(7) 'State agency' shall mean the Bureau of Health Planning and Resources Management within the Department of Health and Social Services. The Bureau of Health Planning and Resources Management shall serve as the designated statistical agency under Public Law 95-623 for data analysis and statistical research related to The National Center for Health Statistics activities and for the designation of Health Manpower Shortage Areas (HMSAs) and Medically Underserved Areas (MUAs) by the U.S. Department of Health and Social Services.

(8) 'Third-party payers' shall mean any person authorized to transact health insurance or to engage in the business of a health service corporation in this State.

§2003. Duties and Authority of State Agency.

(a) The State agency shall compile, correlate, analyze and develop data which it collects pursuant to this chapter. The State agency shall prepare and distribute or make available reports to health care purchasers, health care insurers, health care providers and the general public. The data shall be collected in the most efficient and cost-effective manner. Data collected shall be limited to that contained in the Delaware uniform claims and billing data set (UB-82 or successor form).

(b) The State agency shall periodically compile and disseminate reports on the data collected such as, but not limited to: charge levels, age-specific utilization patterns, morbidity patterns, patient origin and trends in health care charges. Prior to release or dissemination of any compilations, the State agency shall provide a specified time period for hospitals and nursing homes to review the information they have submitted and to submit corrections. The State agency shall incorporate any valid corrections prior to release. Hospitals and nursing homes shall have the right to provide independent data interpretation which shall be disseminated along with the report.

(c) The State agency shall adopt such policies and procedures as necessary to carry out this chapter.

(d) The State agency shall establish a technical advisory committee with an appropriate number of hospital and nursing home representatives from the Association of Delaware Hospitals and the Delaware Health Care Facilities Association, to study issues such as the collection, compilation, dissemination and confidentiality of data. The State Agency may establish other committees as deemed appropriate.

(e) The State agency shall issue annual reports to the General Assembly outlining actions and accomplishments as well as recommendations for changes needed to further the purpose of this chapter.

(f) The State agency may study and issue reports on special medical needs, demographic characteristics, access to health care services and need for financing of health care services for the entire population or various population subgroups.

(g) the State agency may also study and issue reports on health status issues such as:

- (1) The incidence of medical and surgical procedures;
 - (2) Mortality rates for specified diagnoses and treatments;
 - (3) Rates of infection for specified diagnoses and treatments;
 - (4) Morbidity rates for specified diagnoses and treatments;
 - (5) Readmission rates for specified diagnoses and treatments;
- and
- (6) Rate of incidence for selected diagnoses and procedures.

§2004. Reporting Requirements.

(a) The Delaware uniform claims and billing data set (UB-82 or successor form) shall be completed for all hospital inpatient discharges and shall be submitted by all hospitals to the State agency according to a schedule established pursuant to subsection (d) of this section. All third-party payers shall be required to accept this uniform claims and billing form. The State agency shall recognize the

capabilities of each hospital in specifying the medium or mediums to be used in submitting data (hard copy, data tape or other appropriate electronic media).

(b) the Delaware uniform claims and billing data set (UB-82 or successor form) shall be completed for all nursing home inpatient discharges beginning not sooner than June 30, 1995, and shall be submitted by all nursing homes to the State agency according to a schedule established pursuant to subsection (d) of this section. All third-party payers shall be required to accept the Delaware uniform claims and billing form. Prior to this time, nursing homes shall continue to submit data in a medium and format as agreed to by the State agency and the Delaware Health Care Facilities Association.

(c) The State agency shall assure that any report of data specific to hospitals or nursing homes presents data that are reliable, valid and informative. Such data shall reflect as appropriate, factors including, but not limited to, the number of patients, patient severity at admission, age of patients, the actual versus expected number of deaths, average length of stay and case mix. The report shall explain each of these adjustments. The report also shall include information necessary to adequately represent the operations of the individual hospital or nursing home such as whether or not physician charges are included in the hospital charges, whether or not the hospital maintains medical education programs, and the hospital's payor mix. The State agency shall consult with the Association of Delaware Hospitals and the Delaware Health Care Facilities Association in identifying the various adjustment factors and information to be included.

(d) The State agency shall establish schedules for the timely submission of data and information collected pursuant to this section. The State agency may grant waivers from such schedules for good cause shown.

§2005. Confidentiality and Access to Data.

(a) The collection, compilation, data analysis and dissemination of reports and studies shall be done in a manner that protects the privacy of any individual about whom information is given. The State agency shall consider confidential any information that explicitly or implicitly identifies an individual. Raw data shall not be available for public inspection nor is it a public record within the meaning of the Delaware Freedom of Information Act.

(b) All compilations prepared and authorized by the State agency for release and dissemination shall be public records and efforts will be made to assure their accessibility.

§2006. Sanctions.

(a) A hospital or nursing home which willfully violates this chapter shall be reported to the State Board of Health which may take such action as deemed appropriate to enforce compliance. No action shall be taken by the Board without first providing an opportunity to the hospital or nursing home for a fair hearing.

(b) A hospital or nursing home which is aggrieved by any action taken by the State Board of Health pursuant to this section may, within 30 days of being notified of such action, appeal to the Superior Court.

§2007. Immunity.

No person shall be subject to, and all persons shall be immune from, any claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendation made while discharging any duty or authority under this chapter, so long as such person acted in good faith, without malice, and within the scope of his duty or authority under this chapter or any other provisions of the Delaware law, federal law or regulations or duly adopted rules and

regulations providing for the administration of this chapter, good faith being presumed until proven otherwise, with malice required to be shown by the complainant.

§2008. Data from Other Providers.

The Delaware Health Care Commission or its successor agency shall complete an analysis of the merits and feasibility of collecting data from providers other than hospitals and nursing homes. Other providers to be considered shall include, but not be limited to, physicians, freestanding surgical centers, freestanding birthing centers and freestanding emergency centers licensed in the State of Delaware. The results of such analysis along with proposed enabling legislation, as appropriate, shall be submitted to the Governor and the General Assembly by December 31, 1995."

Section 2. Severability.

If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate or affect the remainder of this Act which shall remain in full force and effect.

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 immediately.

Approved July 8, 1994.

CHAPTER 348

FORMERLY

SENATE BILL NO. 448

AN ACT TO MAKE A SUPPLEMENTARY APPROPRIATION TO THE DELAWARE LAND AND WATER CONSERVATION TRUST FUND FOR THE FISCAL YEAR ENDING JUNE 30, 1995, DEAUTHORIZING \$20,000,000 OF THE REVENUE BONDS AND AMENDING SUBCHAPTER II, CHAPTER 54, TITLE 30 OF THE DELAWARE CODE.

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

Section 1. Twenty Million Dollars (\$20,000,000) is hereby appropriated to the Project Account of the Delaware Land and Water Conservation Trust Fund established pursuant to Subchapter II, Chapter 54, Title 30, Delaware Code, as amended, in the Department of Natural Resources and Environmental Control, for current expenditures.

Section 2. Twenty Million Dollars of Revenue Bonds authorized by

Section 7, Chapter 14, Volume 67, Laws of Delaware for the Delaware Land and Water Conservation Trust Fund are hereby deauthorized.

Section 3. Amend §5423(b), Chapter 54, Title 30, Delaware Code to insert the phrase "or other State funds as the General Assembly may appropriate" after the phrase "of proceeds of bonds issued under this subchapter" and before the phrase "have been expended."

Approved July 11, 1994.

CHAPTER 349

FORMERLY

SENATE BILL NO. 395

AN ACT TO AMEND TITLE 7, DELAWARE CODE RELATING TO EROSION AND SEDIMENTATION CONTROL.

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

Section 1. Amend §4015 of Title 7, Delaware Code by deleting the phrase "§4013(d)(2)" as it appears in said section and replacing said phrase with the phrase "§4012".

Approved July 11, 1994.

CHAPTER 350

FORMERLY

SENATE BILL NO. 388

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO STATE FORESTRY AND SEDIMENTATION AND EROSION CONTROL.

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

Section 1. Amend Chapter 40, 4002(3), Title 7, Delaware Code by deleting the word "silvicultural," as it appears in that section.

Section 2. Amend Chapter 40, §4002 (3), Title 7, by adding a new final sentence to the section to read, "This subsection does not apply to commercial forestry practices."

Section 3. Amend Chapter 29, Title 7, of the Delaware Code by adding a new subchapter, designated as Subchapter VI, which subchapter shall read as follows:

"Subchapter VI. Water Quality as it relates to silvicultural systems and sedimentation and erosion control.

§2977. Findings; policy; purpose.

The Forestry Administrator shall provide for the protection of the waters of the state from pollution by sediment deposits resulting from silvicultural activities as provided in § 2978 of this title. Through the adoption of this subchapter, the State of Delaware recognizes that water quality protection techniques for silvicultural practices are an integral component of properly managed forests. Further, the State of Delaware recognizes the positive benefits that properly managed forest systems have on the environment, water quality, and quality of life in Delaware.

§2978. Definitions.

The following words, terms and phrases, as used in this Subchapter, shall have the following meaning ascribed to them except where the context clearly indicates a different meaning:

(1) 'Owner' shall mean any person that (a) owns or leases land on upon which silvicultural activity occurs or (b) owns timber on land which silvicultural activity occurs.

(2) 'Operator' shall mean any person that operates or exercises control over any silvicultural activity.

(3) 'Pollution' shall mean such alteration of the physical, chemical or biological properties of any waters of the state resulting from sediment deposition that will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future source of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses.

(4) 'Silvicultural activity' shall mean any forest management activity, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation.

(5) 'Reforestation' is the establishment of a tree crop on forest land.

(6) 'Special order' shall mean a special order or emergency special order issued under §2980.

§2979. Conduct of silvicultural activities.

If the Forestry Administrator or his or her designee determines that an owner or operator is conducting or allowing the conduct of any silvicultural activity in a manner which is causing or is likely to cause pollution, he or

she may advise the owner or operator of corrective measures needed to prevent or cease the pollution. Failure of the Forestry Administrator, or his or her designee, to advise an owner or operator of such corrective measures shall not impair the Forestry Administrator's authority to issue special orders.

§2980. Issuance of special orders.

Special orders can be issued if the Forestry Administrator, or his or her designee, finds that any owner or operator is conducting any silvicultural activity in a manner which is causing or is likely to cause alteration of physical, chemical or biological properties of any state water, resulting from sediment deposition presenting an imminent and substantial danger to (a) the public health, safety or welfare, or the health of animals, fish or aquatic life; (b) a public water supply; or (c) recreational, commercial, industrial, agricultural or other reasonable uses. The Forestry Administrator, or his or her designee, shall have the authority to issue special orders to any owner or operator who is conducting any silvicultural activity in a manner which is causing or likely to cause pollution, to cease immediately all or part of the silvicultural activities on the site and to implement specified corrective measures within a stated period of time. Such special orders are to be issued only after a hearing with reasonable notice to the owner or operator, or both, of the time, place and purpose thereof, and shall become effective not less than five days after service as provided in this section. The commencement of proceedings by the Forestry Administrator for the issuance of a special order shall not impair the authority of the Forestry Administrator to issue an emergency special order pursuant to this subsection. The Forestry Administrator shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof to the owner or operator, to affirm, modify, amend or cancel such emergency special order. The Forestry Administrator shall not issue a special order to any owner or operator who has incorporated generally acceptable sediment control and stormwater management techniques and guidelines developed by the Forestry Administrator, which techniques have failed to prevent pollution, if the Forestry Administrator determines that the pollution is the direct result of unusual weather events which could not have been reasonably anticipated.

§2981. Hearings, notices.

Any hearing required under this section shall follow Title 29, Chapter 101, of the Delaware Code, the Administrative Procedures Act.

§2982. Civil penalties.

Any owner or operator who violates, fails or refuses to obey any special order may be assessed a civil penalty by the Forestry Administrator. Such penalty shall not be less than \$200.00 or more than \$2,000.00 for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of assessing penalties. The Superior Court shall have jurisdiction of the offenses brought under this subsection. In determining the amount of the penalty, consideration shall be given to the owner's or operator's history of noncompliance, the seriousness of the violation, including any irreparable harm to the environment, any hazards to the health or safety of the public, whether the owner or operator was negligent, and the demonstrated good faith of the owner or operator in reporting and remedying the pollution. A civil penalty may be assessed by the Superior Court only after the owner or operator has been given an opportunity for a hearing as specified under in §2981 of this Title. Any person who intentionally, knowingly and after written notice to comply, violates or refuses to comply with any notice issued pursuant to this chapter, shall be fined not less than \$500.00 or more than \$10,000.00 for each offense. Each day the violation continues shall constitute a separate offense. The Superior Court shall have jurisdiction of offenses brought under this subsection.

§ 2983. State program

In carrying out this chapter, the Forestry Administrator may, in cooperation with appropriate municipal, county, State and Federal agencies, and with representatives from operators and owners groups:

- 1) Develop and publish sediment control and stormwater management techniques and guidelines for use by owners and operators;

- 2) Provide technical and other assistance to owners and operators in the implementation of techniques and guidelines;
- 3) Conduct and supervise educational programs for owners and operators with respect to sediment control and stormwater management techniques and guidelines;
- 4) Conduct studies and research and publish the results regarding the causes, effects, and hazards of sediment and stormwater originating from silvicultural activities;
- 5) Cooperate with appropriate agencies of the United States or other states or any interstate agency with respect to silvicultural activities; and
- 6) Establish a means of communication, such as a newsletter, so that information regarding program development and implementation can be distributed to interested owners and operators.

Approved July 11, 1994.

CHAPTER 351
FORMERLY
HOUSE SUBSTITUTE NO. 1

TO

HOUSE BILL NO. 483
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EARLY CHILDHOOD EDUCATION.

WHEREAS, school readiness is named as the first of eight national education goals; and

WHEREAS, Delaware Business-Public Education Council's Gap Analysis lists a high-quality pre-kindergarten program for all disadvantaged four-year-olds as essential to the future of our State; and

WHEREAS, the Delaware Criminal Justice Council endorses early intervention services such as Head Start as one preventive long-term solution for juvenile delinquency; and

WHEREAS, Delaware 2000 Readiness for Success Commission has recommended increased early intervention for at-risk preschoolers; and

WHEREAS, The 137th General Assembly directed the Delaware Health Care Commission and the Interagency Resource Management Committee to study services to children, and they have found the best investments are prevention and early intervention; and

WHEREAS, 13 other states currently supplement Head Start programs; and

WHEREAS, Delaware receives over \$5 million a year in federal funding to provide services for 3 to 5 year old children living in poverty and thereby maximizing the State's resources by building upon the existing Head Start resources.

NOW, THEREFORE:

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

Section 1. Amend Title 14 of the Delaware Code by creating a new chapter, to be known as Chapter 30, which new chapter shall read as follows:

"Chapter 30. Early Childhood Education Program.

§3001. State Early Childhood Education Program.

(a) The Department of Public Instruction shall be authorized to provide early childhood educational services to eligible children, which shall include preschool age children who live in poverty, using such funds as are appropriated by the General Assembly for that purpose.

(b) The Department of Public Instruction shall provide the early childhood educational services by contracting with private providers, including, but not limited to, providers administering Head Start programs within the State of Delaware, provided, however, that state funds paid to such contracting providers shall not be used to reduce expenditures from funds received by those providers from any other sources, or to make a Head Start provider ineligible for Head Start expansion grants.

(c) The Interagency Resource Management Committee ("IRMC") shall have administrative responsibility for all appropriations made to the Department of Public Instruction pursuant to this section. Such administrative responsibility shall include, but not be limited to:

(1) reviewing and recommending contracts to qualifying contracting providers to deliver early childhood educational services to preschool age children who live in poverty;

(2) reallocating unobligated or unspent appropriations made to the Department of Public Instruction pursuant to this section; and

(3) verifying that contracting providers use state funds paid to them for the purposes specified in their contracts.

§3002. Early Childhood Advisory Committee.

The Family Services Cabinet Council ("FSCC") shall establish an Early Childhood Advisory Committee composed of equal representation from the Department of Public Instruction, the Department of Health & Social Services, the Department of Services for Children, Youth and Their Families, the Governor's Advisory Council for Exceptional Citizens, the Interagency Resource Management Committee and private providers, including Head Start providers to assist in:

(1) recommending guidelines and evaluation procedures to be utilized by the Department of Public Instruction and the IRMC in awarding contracts for the provision of early childhood educational services to preschool age children who live in poverty, which guidelines and evaluation procedures shall be consistent with existing Head Start criteria; and

(2) advising the FSCC and IRMC of possible opportunities for improved interagency collaboration and/or gaps in the delivery of early childhood educational services to preschool age children who live in poverty.

§3003. Early Childhood Education Program Annual Report.

The IRMC shall make annual reports to the General Assembly and the FSCC regarding the State Early Childhood Education Program, which shall include:

(1) the number and percent of preschool age children who are eligible for early childhood educational services by county and by contracting provider;

(2) the amount of state funds requested for continuation and expansion per contracting provider;

(3) the amount of state funds received for continuation and expansion per contracting provider;

(4) the amount of state funds expended per contracting provider; and

(5) any other data reflecting the progress of expansion of early childhood educational services to preschool age children who live in poverty and its effectiveness that the IRMC regards as pertinent."

Approved July 12, 1994.

CHAPTER 352

FORMERLY

SENATE BILL NO. 356
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 90, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES.

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

Section 1. Amend §9003(8), Chapter 90, Title 29, Delaware Code, by striking the phrase "educational and vocational training" and substituting in lieu thereof the phrase "education."

Section 2. Amend §9004(b), Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) In the event the position of Secretary is vacant the Governor, by appointment, shall have the power to fill the positions of Division Director as are vacant. The Directors so appointed shall serve at the pleasure of the Governor and, upon the position of Secretary being filled, such Directors may be removed from office by the Secretary with the written approval of the Governor."

Section 3. Amend §9004(c), Chapter 90, Title 29, Delaware Code, by striking the phrase "the Director of the Youth Diagnostic Center or."

Section 4. Amend §9005(2), Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(2) Appoint and determine the salary, with the written approval of the Governor, of the following Directors who may be removed from office by the Secretary with the written approval of the Governor, and who shall have such powers, duties and functions in the administration and operation of the Department that may be assigned by the Secretary:

(a) A Director of the Division of Family Services who shall be known as the Director of Family Services;

(b) A Director of the Division of Child Mental Health Services who shall be known as the Director of Child Mental Health Services;

(c) A Director of the Division of Youth Rehabilitative Services who shall be known as the Director of Youth Rehabilitative Services;

(d) A Director of the Division of Management Services who shall be known as the Director of Management Services;"

Section 5. Amend §9005(3), Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(3) Appoint the following administrators and any additional personnel as may be necessary for the administration and operation of the Department within such limitations as may be imposed by law:

(a) An administrator of the Office of Case Management who shall be known as the Administrator of Case Management;

(b) An administrator of the Office of Prevention who shall be known as the Administrator of Prevention;"

Section 6. Amend §9006(1), Chapter 90, Title 29, Delaware Code, by striking the phrase "Division of Child Protective Services" and substituting in lieu thereof the phrase "Division of Family Services."

Section 7. Amend §9006(3), Chapter 90, Title 29, Delaware Code, by striking the phrase "Division of Youth Rehabilitation Services" and

substituting in lieu thereof the phrase "Division of Youth Rehabilitative Services"

Section 8. Amend §9006(4), Chapter 90, Title 29, Delaware Code, by striking the said subsection in its entirety and renumbering subsequent subsections.

Section 9. Amend §9006(5), Chapter 90, Title 29, Delaware Code, by striking the phrase "Division of Administration and Support Services" and substituting the phrase "Division of Management Services."

Section 10. Amend §9006(7), Chapter 90, Title 29, Delaware Code, by striking the phrase "Office of Primary Prevention" and substituting in lieu thereof the phrase "Office of Prevention".

Section 11. Amend §9006(8), Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety.

Section 12. Amend §9007, Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"§9007 Exemptions from merit system.

The following positions set forth in this chapter shall be exempt from Chapter 59 of this title:

(1) Secretary of the Department of Services for Children, Youth and Their Families;

(2) Director of Family Services;

(3) Director of Child Mental Health Services;

(4) Director of Youth Rehabilitative Services;

(5) Director of Management Services;

(6) Deputy Directors and private secretaries as provided in Chapter 59 of this title."

Approved July 12, 1994.

CHAPTER 352

FORMERLY

SENATE BILL NO. 356
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 90, TITLE 29 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES.

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

Section 1. Amend §9003(8), Chapter 90, Title 29, Delaware Code, by striking the phrase "educational and vocational training" and substituting in lieu thereof the phrase "education."

Section 2. Amend §9004(b), Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) In the event the position of Secretary is vacant the Governor, by appointment, shall have the power to fill the positions of Division Director as are vacant. The Directors so appointed shall serve at the pleasure of the Governor and, upon the position of Secretary being filled, such Directors may be removed from office by the Secretary with the written approval of the Governor."

Section 3. Amend §9004(c), Chapter 90, Title 29, Delaware Code, by striking the phrase "the Director of the Youth Diagnostic Center or."

Section 4. Amend §9005(2), Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(2) Appoint and determine the salary, with the written approval of the Governor, of the following Directors who may be removed from office by the Secretary with the written approval of the Governor, and who shall have such powers, duties and functions in the administration and operation of the Department that may be assigned by the Secretary:

(a) A Director of the Division of Family Services who shall be known as the Director of Family Services;

(b) A Director of the Division of Child Mental Health Services who shall be known as the Director of Child Mental Health Services;

(c) A Director of the Division of Youth Rehabilitative Services who shall be known as the Director of Youth Rehabilitative Services;

(d) A Director of the Division of Management Services who shall be known as the Director of Management Services;"

Section 5. Amend §9005(3), Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(3) Appoint the following administrators and any additional personnel as may be necessary for the administration and operation of the Department within such limitations as may be imposed by law:

(a) An administrator of the Office of Case Management who shall be known as the Administrator of Case Management;

(b) An administrator of the Office of Prevention who shall be known as the Administrator of Prevention;"

Section 6. Amend §9006(1), Chapter 90, Title 29, Delaware Code, by striking the phrase "Division of Child Protective Services" and substituting in lieu thereof the phrase "Division of Family Services."

Section 7. Amend §9006(3), Chapter 90, Title 29, Delaware Code, by striking the phrase "Division of Youth Rehabilitation Services" and

substituting in lieu thereof the phrase "Division of Youth Rehabilitative Services"

Section 8. Amend §9006(4), Chapter 90, Title 29, Delaware Code, by striking the said subsection in its entirety and renumbering subsequent subsections.

Section 9. Amend §9006(5), Chapter 90, Title 29, Delaware Code, by striking the phrase "Division of Administration and Support Services" and substituting the phrase "Division of Management Services."

Section 10. Amend §9006(7), Chapter 90, Title 29, Delaware Code, by striking the phrase "Office of Primary Prevention" and substituting in lieu thereof the phrase "Office of Prevention".

Section 11. Amend §9006(8), Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety.

Section 12. Amend §9007, Chapter 90, Title 29, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"§9007 Exemptions from merit system.

The following positions set forth in this chapter shall be exempt from Chapter 59 of this title:

(1) Secretary of the Department of Services for Children, Youth and Their Families;

(2) Director of Family Services;

(3) Director of Child Mental Health Services;

(4) Director of Youth Rehabilitative Services;

(5) Director of Management Services;

(6) Deputy Directors and private secretaries as provided in Chapter 59 of this title."

Approved July 12, 1994.

CHAPTER 353

FORMERLY

SENATE BILL NO. 415
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 42, TITLE 11 OF THE DELAWARE CODE.

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

Section 1. Amend Chapter 42, Title 11, of the Delaware Code by adding a new section to read as follows:

"Section 4204A Confinement of Youth Convicted in Superior Court.

- (a) When a child, as defined under 10 Del. C. Section 901(3), is sentenced in Superior Court as an adult, within 30 days there shall be a joint placement decision to be made by the Commissioner of the Department of Corrections ('the Commissioner'), the Secretary of the Department of Services for Children, Youth, and Their Families ('the Secretary'), and the Director of the Division of Youth Rehabilitative Services ('the Director'), to determine whether to confine the child in a juvenile or adult correctional facility until the child reaches his or her eighteenth birthday. The Commissioner, the Secretary and the Director shall have the exclusive authority to determine placement of such a child after sentencing in Superior Court. The placement decision shall take into account such factors as the child's age and maturity, the nature and circumstances of the offense for which the child was convicted, the child's prior offense history, the security and programs at each of the correctional facilities, the child's behavior while in detention, and any other relevant factors. The placement decision shall be reviewed by the Juvenile Detention Oversight Committee prior to implementation, provided that such review shall occur within 30 days of the placement decision.
- (b) At any point during the course of confinement, an administrative review of the placement may be requested by the Commissioner, the Secretary, or the Director for further consideration and, if appropriate, transfer to or from either of the systems. Any decision for transfer of a child shall be based on the same factors listed in subsection a of this section.
- (c) No child who has been sentenced in Superior Court as an adult shall be confined in an adult correctional facility prior to the release of the decision provided for in subsection a of this section. However, a child previously committed pretrial to an adult correctional facility pursuant to 11 Del. C. Section 2103A shall remain in the custody of that facility pending the decision of the Commissioner, the Secretary and the Director."

Section 2. The provisions of this Act shall automatically expire and cease to be effective two years after its enactment into law.

Approved July 12, 1994.

CHAPTER 354

FORMERLY

SENATE BILL NO. 416
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 11 OF THE DELAWARE CODE.

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

Section 1. Amend Chapter 21, Title 11, of the Delaware Code by adding a new section to read as follows:

"Section 2103A Detention of Youth Charged with Superior Court Offenses.

(a) When a child, as defined under 10 Del. C. Section 901(3), is found nonamenable to the rehabilitative processes available to the Family Court or is charged with an offense for which the Superior Court has original jurisdiction, there shall be a placement decision made at the preliminary hearing in the Family Court to decide whether to remand the child to a juvenile or adult detention facility. The placement decision shall be based on the best interests of the child and the protection of the public, and shall take into account such factors as the child's age and maturity, the nature and circumstances of the offense charged, the child's prior offense history, the security and programs of each of the detention facilities, the child's behavior at the youth detention facility prior to the placement decision, and any other factors deemed relevant by the Family Court. The placement decision shall be reviewed by the Juvenile Detention Oversight Committee prior to implementation, provided that such review shall occur within 30 days of the placement decision.

(b) No child who has been referred to Superior Court for trial as an adult shall be remanded to an adult detention facility prior to the hearing provided for in subsection a of this section."

Section 2. The provisions of this Act shall automatically expire and cease to be effective two years after its enactment into law.

Approved July 12, 1994.

CHAPTER 355

FORMERLY

HOUSE BILL NO. 536
AS AMENDED BY SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND, CHAPTER 17, TITLE 24 OF THE DELAWARE CODE RELATING TO THE PHYSICIAN'S ASSISTANT REGULATORY COUNCIL, PRESCRIPTIVE AUTHORITY AND SCOPE OF PRACTICE OF LICENSED PHYSICIAN'S ASSISTANTS.

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

Section 1. Amend §1703(g) of Title 24 of the Delaware Code by striking the phrase "4 other members" after "and shall have" in the second sentence and substituting "6 other members, including one physician appointed by the Board of Medical Practice and one pharmacist appointed by the Board of Pharmacy" in lieu thereof.

Section 2. Amend §1703(g) of Title 24 of the Delaware Code by striking the number "4" after "other" and before "members" in the sixth sentence and substituting "6" in lieu thereof.

Section 3. Amend §1770A(a)(1) of Title 24 of the Delaware Code by inserting the words "or a successor agency acceptable to and approved by the Board," after "(AMA)," and before "has passed a" as they appear therein.

Section 4. Amend §1770A(a) of Title 24 by striking subsection (2) and substituting in lieu thereof the following:

"(2) 'Supervision of physician's assistants' means the ability of the supervising physician to provide or exercise control and direction over the services of physician's assistants. The constant physical presence of the supervising physician is not required, provided that the supervising physician is readily accessible by some form of electronic communication and that the supervising physician can be physically present within 30 minutes if necessary.

a. Any physician who delegates medical responsibility to a physician's assistant is responsible for that individual's medical activities and must provide adequate supervision. No function may be delegated to a physician's assistant who by statute or professional regulation is prohibited from performing that function. The delegating physician cannot be involved in patient care in name only. A physician's assistant shall not maintain or manage an office separate and apart from the supervision physician. No regulation of the Board shall purport to authorize physician's assistants to engage in diagnosis, to prescribe or dispense legend drugs or therapeutics, to practice medicine or surgery or refractions or to pronounce a patient dead in any setting independent of the supervision of a physician who is licensed to practice medicine and surgery. Such licensed physician's assistants shall not delegate an assigned task to any other individual, nor shall they independently bill a patient for services rendered at the request of the physician.

b. For the purpose of clarification, the terms 'guidelines', 'standing orders', 'protocols' and 'algorithms' are synonymous in their application under these regulations. Hereafter, the term 'standing orders' will be used. Prescription and non-prescription medications may be initiated by standing orders if these standing orders have been approved by the responsible delegating physician and by the Physician's Assistant Regulatory Council. Emergency care as defined in the Medical Practices Act is exempted from these regulations.

c. It is appropriate and good medical procedure for all responsible physicians who choose to have their patients followed by physician's assistants to personally re-evaluate at least every 3 months any patient receiving controlled substances or at least every 6 months any patient receiving other prescription medications or therapeutics.

d. A supervising physician may not delegate responsibilities in assisting the physician to a physician's assistant that exceed the physician's specialty.

e. A supervising physician who fails to adhere to these regulations would be considered to be permitting the unauthorized practice of medicine (as defined under §1703, subsection (c) of the Medical Practices Act) and would be subject to disciplinary action by the Board of Medical Practice.

A physician's assistant will at all times be under the control of a licensed physician, as defined in this chapter."

Section 5. Amend §1770A(b)(2)b of Title 24 of the Delaware Code by adding the following new subparagraphs:

"4. Delegated acts of diagnosis and prescription of therapeutic drugs and treatments within the scope of physician's assistant practice defined within the Rules and Regulations promulgated by the Physician's Assistant Regulatory Council and approved by the Board of Medical Practice.

5. Prescriptive authority for therapeutic drugs and treatments within the scope of physician's assistant practice defined within Rules and Regulations promulgated by the Physician's Assistant Regulatory Council and approved by the Board of Medical Practice. The physician's assistant's prescriptive authority and authority to make independent medical diagnoses and treatment decisions shall be subject to biennial renewal upon application to the Physician's Assistant Regulatory Council."

Section 6. Amend §1703(g) of Title 24 by striking the language "Each of those 4" as it appears at the beginning of the third sentence thereof and substituting in lieu thereof "Four".

Approved July 12, 1994.

CHAPTER 356

FORMERLY

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

AN ACT TO AMEND CHAPTER 40, TITLE 31 RELATING TO WELFARE AND THE DEPARTMENT OF HOUSING.

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

Section 1. Amend Chapter 40, Title 31 by adding thereto a new section to read as follows:

"§4053A. Audit of Books and Accounts.

The office of Auditor of Accounts, shall cause an annual audit of the books and accounts of the Authority. The selection of a firm to perform the annual audit of the books and accounts of the Authority shall be mutually agreed upon by the Office of the Auditor of Accounts and the Housing Director who shall consult and cooperate with each other in the selection, contract, employment and scope of professional services to be rendered, provisions in 29 Del. C. Chapter 29 notwithstanding. The audit shall be performed by a certified public accountant of recognized national standing and shall conform in all respects to the covenants contained in all bond resolutions entered into by the Authority for the benefit of its bondholders. The Authority shall transfer funds, as requested by the Office of Auditor of Accounts, to cover the cost of the audit."

Approved July 12, 1994.

CHAPTER 357

FORMERLY

HOUSE BILL NO. 468

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 Chapter 33, Title 19 of the Delaware Code by adding a new section thereto to read as follows:

"§ 3327. Employment by a temporary help firm.

(1) For the purposes of this section, "temporary help firm" means a firm that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects. "Temporary employee" means an employee assigned to work for the clients of a temporary help firm.

(2) A temporary employee of a temporary help firm will be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment upon completion of an assignment. Failure to contact the temporary help firm will not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact the firm upon completion of assignments and that unemployment benefits may be denied for failure to do so."

Approved July 12, 1994.

CHAPTER 358

FORMERLY

HOUSE BILL NO. 611

AN ACT TO AMEND CHAPTER 181, VOL. 69, LAWS OF DELAWARE RELATING TO IMPLEMENTATION DATE OF THE STATE REGISTER OF REGULATIONS.

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

Section 1. Amend Chapter 181, Vol. 69, Laws of Delaware by striking the date "October 1, 1994" and inserting in lieu thereof the date "March 1, 1995".

Approved July 12, 1994.

CHAPTER 359

FORMERLY

HOUSE BILL NO. 361

AN ACT TO AMEND CHAPTER 11, TITLE 25, DELAWARE CODE RELATING TO THE UNAUTHORIZED REMOVAL OR ALTERATION OF BOUNDARY LANDMARKS.

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

Section 1. Amend Section 1101, Title 25, Delaware Code by striking the figure "\$50" as it appears in that section and substituting in lieu thereof the figure "\$200.00".

Approved July 12, 1994.

CHAPTER 360

FORMERLY

HOUSE BILL NO. 302

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMES AND CRIMINAL PROCEDURE.

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

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by adding a new §1455 to read as follows:

"§1455. Unlawfully Permitting a Minor Access to a Firearm; Class A Misdemeanor.

(a) A person is guilty of unlawfully permitting a minor access to a firearm when he intentionally or recklessly stores or leaves a loaded firearm within the reach or easy access of a minor and where the minor obtains the firearm and uses it to inflict serious physical injury or death upon himself or any other person.

(b) It shall be an affirmative defense to a prosecution under this Section if: (1) the firearm was stored in a locked box or container or in a location which a reasonable person would have believed to be secure from access to a minor; or, (2) the minor obtains the firearm as the result of an unlawful entry by any person; or, (3) the serious physical injuries or death to the minor or any other person results from a target or sport shooting accident or hunting accident.

Unlawfully permitting a minor access to a firearm is a Class A Misdemeanor."

Approved July 12, 1994.

CHAPTER 361

FORMERLY

HOUSE BILL NO. 519
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND CHAPTER 5, TITLE 4, DELAWARE CODE, RELATING TO LICENSES AND TAXES.

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

Section 1. Amend Chapter 5, Title 4, Delaware Code, by adding a new § 512C to read as follows:

"§ 512C. Microbrewery.

(a) Upon proper application and subject to the applicable provisions, restrictions and prohibitions of this title, the Commission may grant a license to any person who is the owner or lessee of a microbrewery to manufacture, and sell beer.

(b) For purposes of this section:

(1) 'Microbrewery' shall mean a single establishment in which beer is manufactured and which is operated by the licensee in accordance with this section.

(2) 'Cider' shall mean fruit or spice-flavored beverages not containing in excess of 20% alcohol by weight.

(c) Notwithstanding any provision of this title to the contrary, a microbrewery license shall allow the licensee:

(1) To manufacture on the licensed premises, and sell not more than 25,000 barrels of beer, cider, or a combination thereof in any calendar year;

(2) To manufacture on the licensed premises beer or cider for persons, other than the licensee, licensed under this title or for persons outside this State;

(3) To sell beer and cider manufactured on the licensed premises in labelled barrels, bottles or other closed containers to wholesalers licensed under this title for delivery by them to persons inside or outside the State; and

(4) To sell at the licensed premises beer and cider manufactured on the licensed premises at retail for consumption off the premises.

(d) It shall be unlawful for a person to operate a microbrewery if:

(1) The license is denied, canceled, suspended or revoked for any of the grounds contained in § 543 or § 561 of this title;

(2) The establishment is moved to a location other than the licensed premises; or

(3) Except as permitted by (c)(2), the licensee owns, operates or is affiliated with any other manufacturer, importer or supplier of alcoholic liquor either in or without this State.

(e) A microbrewery licensee shall be exempt from the distance requirements for establishments licensed or to be licensed as contained in § 543(d) of this title, and such requirements shall not affect the granting of a microbrewery license.

(f) All beer and cider sold by a microbrewery licensee for off-premise consumption shall be in containers which are securely sealed and have

attached thereto a label setting forth such information as required by this title, Commission rules and laws of the State."

Approved July 12, 1994.

CHAPTER 362

FORMERLY

HOUSE BILL NO. 602

AN ACT AMENDING CHAPTER 84 OF TITLE 29, DELAWARE CODE, RELATING TO THE CAPITOL IMPROVEMENT PROGRAM OF THE DEPARTMENT OF TRANSPORTATION.

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

Section 1. Amend Section 8409(b)(3)(a), Title 29, Delaware Code, by deleting the phrase "On or before August 31 of each year, the" in the first and third sentence thereof and inserting in lieu thereof in each sentence the word "The".

Section 2. Amend Section 8409(b)(3)(a), Title 29, Delaware Code, by deleting the phrase "November 1" appearing therein and inserting in lieu thereof the phrase "March 1", and further by deleting the phrase "November 15" appearing therein and inserting in lieu thereof the phrase "March 15".

Section 3. Amend Section 8409(c), Title 29, Delaware Code, by deleting the number "40" appearing in the last sentence therein and inserting in lieu thereof the number "15".

Approved July 12, 1994.

CHAPTER 363

FORMERLY

HOUSE BILL NO. 456

AN ACT TO AMEND CHAPTER 6, TITLE 31 OF THE DELAWARE CODE RELATING TO THE FOOD STAMP PROGRAM.

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

Section 1. Amend Chapter 6, Title 31 of the Delaware Code to add a new section to read as follows:

"613. Establishment of a State Law Enforcement Bureau (SLEB).

(a) The Department is designated as the State Law Enforcement Bureau (SLEB) for the purpose of coordinating Food Stamp trafficking interdiction activity in Delaware within the meaning of the United States Department of Agriculture (USDA), Food and Nutrition Service's (FNS) Regulations and Delaware's Food Stamp Trafficking Control Act.

(b) The Department shall delegate its responsibilities pursuant to Subsection (a) of this Section to the Department's Audit and Recovery Management Services (ARMS), and its successors.

(c) The Department's Audit and Recovery Management Services (ARMS), and its successors, are hereby declared a Criminal Justice Agency within the meaning of Section 8602(3)(b) of Title 11 of the Delaware Code for the sole purpose of accessing any and all criminal history records and files maintained by the State and any subdivision thereof."

Approved July 12, 1994.

CHAPTER 364

FORMERLY

HOUSE BILL NO. 459

AN ACT TO AMEND CHAPTER 11, TITLE 18 OF THE DELAWARE CODE RELATING TO THE INSURANCE CODE AND ASSETS AND LIABILITIES.

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

Section 1. Amend §1111, Chapter 11, Title 18, Delaware Code by redesignating subsections "(c)", "(d)" and "(e)" as "(d)", "(e)" and "(f)", respectively and by inserting a new subsection "(c)" to read as follows:

"(c) (1) General. Every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. The Commissioner by regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(2) Actuarial analysis of reserves and assets supporting such reserves.

a. Every life insurance company, except exempted by or pursuant to regulation, shall also annually include in the opinion required by subsection (c) (1) of this section, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

b. The Commissioner may provide by regulation for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this subsection.

(3) Requirement for opinion under subsection (c) (2). Each opinion required by subsection (c) (2) shall be governed by the following provisions:

a. A memorandum, in form and substance acceptable to the Commissioner as specified by regulation, shall be prepared to support each actuarial opinion.

b. If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified by regulation or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.

(4) Requirement for all opinions. Every opinion required by this subsection shall be governed by the following provisions:

a. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1994.

b. The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the Commissioner as specified by regulation.

c. The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the Commissioner may by regulation prescribe.

d. In the case of an opinion required to be submitted by a foreign or alien company, the Commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

e. For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in such regulations.

f. Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the Commissioner) for any act, error, omission, decision or conduct with respect to the actuary's opinion.

g. Disciplinary action by the Commissioner against the company or the qualified actuary shall be defined in regulations by the Commissioner.

h. Any memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection therewith, shall be kept confidential by the Commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated hereunder; provided, however, that the memorandum or other material may otherwise be released by the Commissioner with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential."

Section 2. Amend §1111(e) as designated by Section 1 of this Act, Chapter 11, Title 18, Delaware Code by striking said subsection in its entirety and by substituting in lieu thereof the following:

"(e) Any insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided; provided, however, that, for the purposes of this subsection, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subsection (c) of this section shall not be deemed to be the adoption of a higher standard of valuation."

Section 3. Amend §1113(e), Chapter 11, Title 18, Delaware Code by redesignating the existing subsection "(e)" as "(e)(1)" and by adding thereto a new paragraph to read as follows:

"(2) In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection (c) of this Section."

Section 4. This Act shall become effective December 31 of the calendar year of its enactment.

Approved July 12, 1994.

CHAPTER 365

FORMERLY

HOUSE BILL NO. 622

AN ACT TO AMEND THE STATUTORY PROVISIONS OF §106(a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF ROBIN FRANCES HEFFRON AND E. STEVEN ROME.

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

Section 1. Robin Frances Heffron and E. Steven Rome 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 Bifferato of the Delaware Superior Court is hereby authorized to solemnize the marriage between Robin Frances Heffron and E. Steven Rome. The Clerk of the Peace for New Castle County shall issue to Robin Frances Heffron and E. Steven Rome one official marriage license pursuant to this Act, the provisions of 13 Del. C. §106 to the contrary notwithstanding.

Approved July 12, 1994.

CHAPTER 366
FORMERLY
SENATE SUBSTITUTE NO. 1

TO

SENATE BILL NO. 33
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 60 AND CHAPTER 63, TITLE 7 OF THE DELAWARE CODE, RELATING TO CRIMINAL PENALTIES FOR VIOLATIONS OF THE PROVISION OF SAID CHAPTERS.

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

Section 1. Amend Subsection (b) of §6013, Subchapter II, Chapter 60, Title 7 of the Delaware Code by striking the dollar amount "\$5,000" and substituting in lieu thereof the dollar amount "\$10,000."

Section 2. Amend §6309, Subchapter I, Chapter 63, Title 7 of the Delaware Code by striking subsection (f) in its entirety, by redesignating subsection (g) as the new subsection (j), and by redesignating existing subsections (h), (i) and (j) as new subsections (l), (m) and (n).

Section 3. Amend §6309, Subchapter I, Chapter 63, Title 7 of the Delaware Code by inserting new subsections (f), (g), (h), (i) and (k) to read as follows:

(f) Any person who, with criminal negligence with respect to the following: violates any provision of or fails to perform any duty imposed by this Chapter, or who violates any provisions of or fails to perform any duty imposed by a rule, regulation, order, or any facility permit adopted or issued under this Chapter, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding six (6) months, or both. The Superior Court shall have jurisdiction of offenses under this subsection.

(g) Any person who knowingly, with respect to the following: violates any provision of or fails to perform any duty imposed by this Chapter, or who violates any provision of or fails to perform any duty imposed by a rule, regulation, order, or any facility permit adopted or issued under this Chapter, is guilty, if such violation causes the release of hazardous waste into the environment, of a misdemeanor and on conviction is subject to a fine not exceeding \$25,000 or imprisonment for not more than one (1) year, or both. The Superior Court shall have jurisdiction of offenses under this subsection.

(h) Any person who knowingly commits any of the following offenses is guilty of a felony and on conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding two (2) years, or both:

(1) Dumping, discharging, abandoning, or disposing into the environment, a hazardous waste in any place other than an authorized hazardous waste facility for which a current facility permit is in effect;

(2) Transporting for treatment, storage or disposal a hazardous waste to any place other than an authorized hazardous waste facility for which a current facility permit is in effect; or

(3) Authorizing, directing or participating in any offense listed in this subsection.

(i) Any person who knowingly with respect to the following: transports, treats, stores, exports, or otherwise disposes of a hazardous waste in a manner that would constitute a violation under subsection (h) of this section and who knows at that time that the violation places another person in imminent danger of death or serious bodily injury is guilty of a felony and on conviction is subject to a fine not exceeding \$100,000 or imprisonment not exceeding five (5) years, or both. For purposes of this subsection, in determination whether a person's state of mind is knowing and whether a person

knew that the violation or conduct placed another person in imminent danger of death or serious bodily injury, the criteria provided under Section 3008(f) of the Resource Conservation and Recovery Act (42 U.S.C. §6928(f) as adopted in PL99-499) shall apply.

(k) The terms used in this Section which pertain to criminal violations shall have the same meanings as such terms are defined in Title 11 of the Delaware Code. No person shall be prosecuted for criminal violations under this Section if such person is exercising a right of appeal under this Chapter with respect to a requirement which serves as the basis for the violation."

Section 4. Subsections (f) through (i) of §6309, Chapter 63, Title 7 of the Delaware Code shall apply to all such offenses committed, or alleged to have been committed on or after the date of enactment of the amendments. Subsection (f) as it was in effect prior to the date of enactment of this amendment shall govern all offenses committed, or alleged to have been committed, before the date of enactment of this amendment. Offenses committed, or alleged to have been committed during a course of conduct covering a time period both before and after the date of enactment of this amendment shall be governed by subsection (f) as it was in effect prior to the date of this amendment.

Section 5. Nothing in subsection (f) through (j) of §6309, Chapter 63, Title 7 of the Delaware Code shall be deemed to preclude prosecution under any other provisions of the Delaware Code nor shall these Sections be deemed to repeal any other sections of the Delaware Code.

Approved July 12, 1994.

CHAPTER 367

FORMERLY

SENATE BILL NO. 61
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

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 a new subsection (7) to read as follows:

"(7) He intentionally causes physical injury to any State employee or officer when that employee or officer is discharging or attempting to discharge a duty of his employment or office."

Approved July 12, 1994.

CHAPTER 368

FORMERLY

SENATE BILL NO. 118
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 21 OF THE DELAWARE CODE RELATING TO SUSPENSION OR REVOCATION.

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

Section 1. Amend Subsection 2736(b), Subchapter II, Chapter 27, Title 21, Delaware Code, by replacing the period found at the end of the last sentence of subsection (b) with a comma and add to the end of said sentence, "or by a computer generated list of those persons whose Suspension and/or Revocation Notice have been electronically processed through the Court's and the Division's computer interface system, such list having been generated electronically at the same time the Notice is processed by the computer system."

Approved July 12, 1994.

CHAPTER 369

FORMERLY

SENATE BILL NO. 159
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF THE REVENUE LAWS OF THE STATE OF DELAWARE.

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

Section 1. Amend Chapter 5, Title 30 of the Delaware Code by designating the present Subchapter V as Subchapter VI and by adding thereto a new Subchapter V to read as follows:

"Subchapter V Criminal Offenses

§571. Attempt to evade or defeat tax.

Any person who willfully attempts in any manner to evade or defeat any tax imposed by Title 4 or by this title, other than §3002 and Chapters 51 and 52, or the payment thereof, shall, in addition to the penalties imposed by law, be guilty of a class E felony as defined in Title 11.

§572. Failure to collect or pay over tax.

Any person required under this title to collect, account for and pay over any tax imposed by Title 4 or by this title, other than §3002 and Chapters 51 and 52, who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a class E felony as defined in Title 11.

§573. Failure to file return supply information or pay tax.

Any person required under Title 4, or by this title, other than §3002 and Chapter 51 and 52, to pay any estimated tax or tax required by Title 4 or by this title, other than §3002 and Chapters 51 and 52, or by regulations made under authority thereof, to make a return (other than a return of estimated tax), keep any records or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a class A misdemeanor as defined in Title 11. In the case of any individual with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such individual with respect to such failure if there is no addition to the tax under §535(b) of this title with respect to such failure.

§574. Fraud and false statements.

A person who commits one of the following acts shall be guilty of a Class E felony as defined in Title 11 if that person:

(1) willfully makes and subscribes any return, statement, or other document which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he/she does not believe to be true and correct as to every material matter; or

(2) willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under Title 4 or this title, other than §3002 and Chapters 51 and 52, of a return, affidavit, claim or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim or document, or

(3) simulates or falsely or fraudulently executes or signs any bond, permit, entry or other document required by the provisions of Title 4 or this title, other than §3002 and Chapters 51 and 52, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) removes, deposits or conceals, or is concerned in removing, depositing or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property which is subject to attachment or garnishment for payment of taxes, with intent to evade or defeat the assessment or collection of any tax imposed by Title 4 or by this title, other than §3002 and Chapters 51 and 52.

§575. Period of limitations on criminal prosecutions: jurisdiction.

No person shall be prosecuted, tried or punished for any of the various offenses arising under this subchapter unless the prosecution of such person is instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years for offenses arising under §§571, 572 and 574 of this title. If an offense is the failure to do an act required by or under this title or Title 4 to be done before a certain date, the period of limitation for such offense shall commence on such date for purposes of this Subchapter, the failure to do any act required by or under this title or Title 4 shall be deemed an act committed in part at the principal office of the Division of Revenue in New Castle County. The Superior Court in and for any county where the person to whose liability the proceeding relates resides or has a place of business or in any county in which the offense is alleged to have been committed shall have original jurisdiction, exclusive of any inferior court or any court of special jurisdiction, over any prosecution under this subchapter.

§576. Misdemeanors.

Notwithstanding the classifications of offenses otherwise specified in this subchapter, whenever an offense under this subchapter involves during any single tax year:

(1) understatement by an amount of less than \$7,500 of taxable income under §1105, §1121, or §1903 of this title or taxable gross receipts under Part III of this title; or

(2) evasion or willful failure to pay any tax imposed by Title 4 or by this title, other than §3002 and Chapters 51 and 52, in an amount of less than \$1,000;

any person convicted of any such offense shall be guilty of an unclassified misdemeanor and shall be fined not more than \$3,000 but shall not be subject to a sentence of imprisonment."

Section 2. Amend Title 30 of the Delaware Code by striking the following sections thereof: §367, §1231, §1232, §1233, and §1235.

Section 3. If any provision of Section 1 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 Section 1 which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 4. Sections 1 and 2 of this Act shall be effective with regard to offenses committed on or after the date on which this Act shall be enacted into law, but only with respect to taxable periods beginning on or after January 1, 1995. The provisions of law which are repealed by this Act shall remain in force and effect for the purpose of trial and sentencing for offenses committed prior to the enactment of this Act into law and also with respect to offenses committed with respect to tax periods beginning prior to January 1, 1995.

Approved July 12, 1994.

CHAPTER 369

FORMERLY

SENATE BILL NO. 159
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF THE REVENUE LAWS OF THE STATE OF DELAWARE.

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

Section 1. Amend Chapter 5, Title 30 of the Delaware Code by designating the present Subchapter V as Subchapter VI and by adding thereto a new Subchapter V to read as follows:

"Subchapter V Criminal Offenses

§571. Attempt to evade or defeat tax.

Any person who willfully attempts in any manner to evade or defeat any tax imposed by Title 4 or by this title, other than §3002 and Chapters 51 and 52, or the payment thereof, shall, in addition to the penalties imposed by law, be guilty of a class E felony as defined in Title 11.

§572. Failure to collect or pay over tax.

Any person required under this title to collect, account for and pay over any tax imposed by Title 4 or by this title, other than §3002 and Chapters 51 and 52, who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a class E felony as defined in Title 11.

§573. Failure to file return supply information or pay tax.

Any person required under Title 4, or by this title, other than §3002 and Chapter 51 and 52, to pay any estimated tax or tax required by Title 4 or by this title, other than §3002 and Chapters 51 and 52, or by regulations made under authority thereof, to make a return (other than a return of estimated tax), keep any records or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a class A misdemeanor as defined in Title 11. In the case of any individual with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such individual with respect to such failure if there is no addition to the tax under §535(b) of this title with respect to such failure.

§574. Fraud and false statements.

A person who commits one of the following acts shall be guilty of a Class E felony as defined in Title 11 if that person:

(1) willfully makes and subscribes any return, statement, or other document which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he/she does not believe to be true and correct as to every material matter; or

(2) willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under Title 4 or this title, other than §3002 and Chapters 51 and 52, of a return, affidavit, claim or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim or document, or

(3) simulates or falsely or fraudulently executes or signs any bond, permit, entry or other document required by the provisions of Title 4 or this title, other than §3002 and Chapters 51 and 52, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) removes, deposits or conceals, or is concerned in removing, depositing or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property which is subject to attachment or garnishment for payment of taxes, with intent to evade or defeat the assessment or collection of any tax imposed by Title 4 or by this title, other than §3002 and Chapters 51 and 52.

§575. Period of limitations on criminal prosecutions: jurisdiction.

No person shall be prosecuted, tried or punished for any of the various offenses arising under this subchapter unless the prosecution of such person is instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years for offenses arising under §§571, 572 and 574 of this title. If an offense is the failure to do an act required by or under this title or Title 4 to be done before a certain date, the period of limitation for such offense shall commence on such date for purposes of this Subchapter, the failure to do any act required by or under this title or Title 4 shall be deemed an act committed in part at the principal office of the Division of Revenue in New Castle County. The Superior Court in and for any county where the person to whose liability the proceeding relates resides or has a place of business or in any county in which the offense is alleged to have been committed shall have original jurisdiction, exclusive of any inferior court or any court of special jurisdiction, over any prosecution under this subchapter.

§576. Misdemeanors.

Notwithstanding the classifications of offenses otherwise specified in this subchapter, whenever an offense under this subchapter involves during any single tax year:

(1) understatement by an amount of less than \$7,500 of taxable income under §1105, §1121, or §1903 of this title or taxable gross receipts under Part III of this title; or

(2) evasion or willful failure to pay any tax imposed by Title 4 or by this title, other than §3002 and Chapters 51 and 52, in an amount of less than \$1,000;

any person convicted of any such offense shall be guilty of an unclassified misdemeanor and shall be fined not more than \$3,000 but shall not be subject to a sentence of imprisonment."

Section 2. Amend Title 30 of the Delaware Code by striking the following sections thereof: §367, §1231, §1232, §1233, and §1235.

Section 3. If any provision of Section 1 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 Section 1 which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 4. Sections 1 and 2 of this Act shall be effective with regard to offenses committed on or after the date on which this Act shall be enacted into law, but only with respect to taxable periods beginning on or after January 1, 1995. The provisions of law which are repealed by this Act shall remain in force and effect for the purpose of trial and sentencing for offenses committed prior to the enactment of this Act into law and also with respect to offenses committed with respect to tax periods beginning prior to January 1, 1995.

Approved July 12, 1994.

CHAPTER 370

FORMERLY

SENATE BILL NO. 179
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19, CHAPTER 23 OF THE DELAWARE CODE, RELATING TO WORKER'S COMPENSATION, BY PROTECTING AGAINST RETALIATORY DISCHARGE OR OTHER ACTION OF AN EMPLOYER IN RESPONSE TO THE EXERCISE BY EMPLOYEES OF RIGHTS UNDER THE WORKER'S COMPENSATION ACT.

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

Section 1. Amend Chapter 23, Title 19, Delaware Code, by adding a new §2365 to read as follows:

"§2365. Employee entitled to exercise rights; relief to be granted.

It shall be unlawful for any employer or the duly authorized agent of any employer to discharge or to retaliate or discriminate in any manner against an employee as to the employee's employment because such employee has claimed or attempted to claim worker's compensation benefits from such employer because such employee reported an employer's non-compliance with a provision of this chapter, or because such employee has testified or is about to testify in any proceeding under this chapter. Any claim of an employee alleging such action by an employer shall be filed with the Superior Court within two years of the employer's alleged action. If the Court, after hearing, finds in favor of the employee, the employee shall be restored to employment or to the position, privilege, right or other condition of employment denied by such action and shall be compensated for any loss of compensation and damages caused thereby, as well as for all costs and attorney's fees, as fixed by the Court, except that if the employee shall cease to be qualified to perform the duties of employment, the employee shall not be entitled to such restoration and compensation. An employer who violates this section shall be liable to pay a penalty of not less than \$500 and not more than \$3,000, as may be determined by the Court and which shall be paid to the Industrial Accident Board Second Injury and Contingency Fund. Any party shall have the right to appeal as in other cases before the Court, but if the employee's claim ultimately is sustained, the employer also shall be liable for all costs and attorney's fees on appeal."

Approved July 12, 1994.

CHAPTER 371

FORMERLY

HOUSE BILL NO. 391
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 29, TITLE 14 OF THE DELAWARE CODE RELATING TO
TRANSPORTATION OF PUPILS.

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

Section 1. Amend Chapter 29, Title 14 of the Delaware Code by adding a new
Section thereto to read as follows:

"§2910. Disqualification of school bus drivers.

Any school bus driver qualified to drive a school bus within the
State pursuant to a school bus driver's license issued pursuant to
§2708 or §2709 of Title 21 of the Delaware Code shall be immediately
suspended without pay, pending termination, as a school bus driver
should the results of any drug test administered pursuant to the rules
and regulations of the Department of Public Instruction be positive
for controlled substances classified in Schedule I, II, III, IV or V
of Chapter 47 of Title 16 of the Delaware Code. Any school bus driver
testing positive to such a drug test 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. In the event that the school
bus driver testing positive to a drug test requests further analysis
and the result of the drug test proves to be a false positive or is
inconclusive, the school bus driver shall have his or her employment
reinstated and his or her pay restored. Anyone failing to exercise
their right of further analysis of a positive drug test shall be
terminated as a school bus driver 10 days after receiving notice of
their suspension without pay and may never be rehired as a school bus
driver in the State. Anyone exercising their right of further
analysis of a positive drug test shall be terminated upon the
completion of the further analysis unless the result of the drug test
proves to be a false positive or is inconclusive."

Approved July 12, 1994.

CHAPTER 372

FORMERLY

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

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO NURSING.

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

Section 2. Amend §1918(a), Title 24, of the Delaware Code by deleting the
first sentence of said subsection in its entirety and inserting in lieu
thereof the following:

"(a) Every registered or licensed practical nurse licensed under this
chapter shall reregister biennially by filing an application before the date
determined by the Board; provided, however, that the license of any licensee
who is on active military duty with the Armed Forces of the United States and
serving in a theater of hostilities on the date such application or
reregistration is due shall be deemed to be current and in full compliance
with this chapter until the expiration of 60 days after such licensee is no
longer on active military duty in a theater of hostilities."

Approved July 12, 1994.

CHAPTER 373

FORMERLY

HOUSE BILL NO. 356
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE INSURANCE CODE
TO LIMIT THE AMOUNT OF SURPLUS IN A SINGLE INVESTMENT.

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

Section 1. Amend Title 18, Delaware Code, Section 1305, subsection (6) by
adding the following words at the end of that Section:

"Notwithstanding any other limitations contained herein, no investment
in a single person other than as provided in Section 1313, shall exceed 50%
of policyholders' surplus without the written approval of the Commissioner."

Approved July 12, 1994.

CHAPTER 374

FORMERLY

HOUSE BILL NO. 324

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

AN ACT TO AMEND TITLE 14, DELAWARE CODE RELATING TO ESTABLISHING A SPEECH LANGUAGE PATHOLOGIST INCENTIVE PROGRAM.

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

Section 1. Amend Title 14, Delaware Code by adding thereto a new Chapter 89 to read as follows:

"Chapter 89. Speech Language Pathologist Incentive Program.

§8901. Purpose.

It is the intent and purpose of the General Assembly through this chapter to enable and encourage academically talented Delawareans to pursue careers as speech language pathologists in the public school system of Delaware.

§8902. Administration.

(a) This chapter shall be administered by the Delaware Higher Education Commission, hereinafter referred to as the "Commission."

(b) The Commission shall adopt rules and regulations as it deems necessary and proper to the administration of this subchapter.

(c) The Commission shall annually report to the General Assembly the number of recipients, the institutions attended by the recipients and the total amount of expenditures made under this subchapter.

§8903. Scholarship Loans.

(a) The Commission is hereby authorized to award educational scholarship loans subject to the limits of its appropriations for this purpose.

(b) For the purposes of this section a scholarship/loan, referred to hereinafter as "award", is a loan, the repayment of which is forgiven when the borrower is employed as a Speech Language Pathologist in the public schools of the State for a period of time in accordance with the conditions specified in §8905 of this title.

(c) Awards shall be provided for graduate education at regionally-accredited institutions of higher education, that offer a master's degree that will satisfy the degree requirements for Delaware State licensure as a Speech Language Pathologist.

(d) No student shall be eligible for such award who is not a resident of the State for at least 1 year prior to the approval of the award. The place of residence of a student who is either under 18 years of age or dependent on parental financial support shall be the legal residence of his parent or guardian who must have qualified as a registered voter in Delaware and who is subject to payment of Delaware income tax. A student over 18 years of age, who is not dependent on parental financial support must meet the federal government's financial self-supporting student definition, and must have qualified as a registered voter in Delaware and must be subject to the payment of Delaware income tax, to satisfy the requirement of this section. An independent student may not satisfy the requirement for legal residence in Delaware while his/her principal occupation is that of student.

(e) Awards shall be made to college graduates who have received a baccalaureate degree and who are enrolled as full-time students in graduate programs which prepare students for speech/language pathology licenses.

(1) The number of awards will be determined annually by the Commission.

(f) Notwithstanding any other provision of this section, awards may be made available, on a prorated basis, to employees of Delaware's public schools who are enrolled as part-time students in programs which prepare them for speech/language pathology licenses.

(g) Initial awards shall be made in priority order based on academic merit and financial need. Academic merit shall be evaluated using criteria adopted by the Commission.

(h) The amount of each award will be determined annually by the Commission, except that the award shall not exceed the cost of tuition, books, fees and other direct educational expenses.

(i) Awards shall be renewable within the limits of appropriations for the program, provided the student meets the academic progress standards which shall be set by the Commission and communicated in writing to the recipient at the time the initial award is granted. No student shall receive more than two year's support from this program, or the equivalent on a prorated basis for qualifying part-time students.

§8904. Disbursement.

Funds awarded from this program shall be disbursed on a semester basis and shall be disbursed to the institution that the student attends, not directly to the student.

§8905. Repayment and Forgiveness.

(a) Repayment or forgiveness will commence 6 months after the student completes the master's degree program or immediately after the student discontinues enrollment prior to completion.

(b)(1) If after 6 months following graduation the recipient is employed as a Speech Language Pathologist in the public schools system of Delaware, no repayment of award principal or interest will be required. For each two years the recipient is so employed the repayment of 1 year's award will be forgiven.

(2) If during the period of repayment the recipient terminates employment with the public school system of the State, the recipient will be required to commence repayment of the awards or portions thereof which have not been forgiven at the time of the employment termination.

(3) If after 6 months following graduation the recipient is not employed as a Speech Language Pathologist in the public school system in Delaware, the recipient shall be obligated to make monthly payments to the Commission until the full amount of the award and interest on the award from the date of origination is paid in full.

(4) If during the period of repayment the recipient becomes employed as a Speech Language Pathologist in the public school district of the State, payments will be deferred and 1 year's award will be forgiven for each two years the recipient is so employed. Under no circumstances will payments already made by the recipient be reimbursed as a result of subsequent employment.

(5) The Commission shall determine the amounts of monthly payments, the length of the repayment period, and the rate and type of interest to accrue on awards.

(6) The Commission shall communicate the terms of repayment and interest accrual to the recipient and secure a promissory note from the recipient attesting to the recipient's agreement to such terms as shall be established."

Approved July 12, 1994.

CHAPTER 375

FORMERLY

HOUSE BILL NO. 545
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11, CHAPTER 5, DELAWARE CODE, RELATING TO THE CRIME OF POSSESSING A GAMBLING DEVICE.

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

Section 1. Amend Section 1405(c), Title 11, Delaware Code, by striking said subsection in its entirety, and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) A person is not guilty of a violation of this section if the device or machine is either:

(1) an antique slot machine which is not used for gambling purposes; or

(2) any slot machine or gambling device, not used for gambling purposes in this State, which is manufactured (including without limitation to retrofitting or alteration of a finished machine or device), transported, kept, exhibited, managed, or placed by a corporation in good standing in this State; or which is the subject of any negotiation which involves a transaction affecting or designed to affect the ownership, custody or use of such machine or device by such corporation; provided however, that such corporation:

a. is duly licensed to conduct a manufacturing business in this State; and

b. is regularly engaged in its normal course of business within this State in the manufacture of machines or devices exclusively for sale and use for lottery or gambling purposes in jurisdictions where possession and use of such machines or devices is legal.

(d) For purposes of this section, a slot machine is an antique machine if such machine is at least twenty-five years old."

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

Approved July 12, 1994.

CHAPTER 376

FORMERLY

SENATE BILL NO. 22B

AN ACT TO AMEND CHAPTER 14 OF TITLE 24 OF THE DELAWARE CODE RELATING TO THE APPOINTMENT OF MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS.

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

Section 1. Amend Section 1402, Chapter 14, Title 24 of the Delaware Code by striking existing subsections (c), (d) and (e) in their entirety and substituting in lieu thereof the following:

"(c) Each Board member shall be appointed for a term of 3 years, but no member may be appointed to more than 2 successive full terms. A person who has never served on the Board may be appointed to the Board two consecutive times, but no such person thereafter shall be eligible for two consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for six years within any nine-year period, shall again be appointed to the Board until an interim period of at least one term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) 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 Chapter, unless such amendment or revision amends this section to permit such an appointment.

(e) Any vacancy in the membership of the Board shall be filled by the Governor for the unexpired portion of the three-year term. The Governor shall remove from the Board any member whose license or registration has been revoked or suspended, and may, after hearing, remove any member of the Board for neglect of duty or other just cause."

Section 2. Notwithstanding any other provision of this Act, persons currently serving on the Board on the effective date of this Act shall be limited to one additional three-year term only.

Approved July 12, 1994.

CHAPTER 377

FORMERLY

SENATE BILL NO. 260

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

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

Section 1. Amend §1342(a), Title 9, Delaware Code by deleting the numbers "7" and "6" as they appear therein and by inserting in lieu thereof the numbers "9" and "8" respectively.

Section 2. Amend §1342(a), Title 9, Delaware Code by inserting the words "at least" before the words "2 members" and before the words "1 term to expire on January 31".

Approved July 12, 1994.

CHAPTER 378

FORMERLY

SENATE BILL NO. 298
AS AMENDED BY SENATE AMENDMENT NOS. 2 AND 4

AN ACT TO AMEND PART C, CHAPTER 9, TITLE 10, DELAWARE CODE, RELATING TO GRANDPARENTAL VISITATION RIGHTS.

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

Section 1. Amend §944 (7), Part C, Chapter 9, Title 10, Delaware Code, by deleting it in its entirety and inserting in lieu thereof the following:

"(7) Upon petition thereto, grant grandparents reasonable visitation rights as the Court shall determine with respect to the grandchild, regardless of marital status of the parents of the child or the relationship of the grandparents to the person having custody of the child; provided, however:

(a) that when the natural or adoptive parents of the child are cohabiting as husband and wife, grandparental visitation may not be granted over both parents' objection. The trier of fact shall make the ultimate decision based upon the best interest of the child.

(b) that wherever practicable, the Court shall provide that the maternal grandparents' visitation time shall occur when the child is placed with or has visitation with the mother and the paternal grandparents' visitation time shall occur when the child is placed with or has visitation with the father, irrespective of the place of residence of the parents and/or the grandparents, unless otherwise agreed to by all parties involved."

Approved July 12, 1994.

CHAPTER 379

FORMERLY

SENATE BILL NO. 308

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 3325, Chapter 33, Title 19 of the Delaware Code by deleting the phrase "the Unemployment Insurance Appeals Board" as it appears in the second sentence of the second paragraph of this section, and inserting in its place, the words "an Unemployment Insurance appeals referee".

Section 2. Amend Section 3325, Chapter 33, Title 19 of the Delaware Code by inserting after the second sentence of the second paragraph of this section and before the third sentence of the second paragraph of this section, a new sentence to read, "Appeal from an Unemployment Insurance appeals referee decision to the Unemployment Insurance Appeal Board must be filed within 10 days after such decision was mailed to the person."

Approved July 12, 1994.

CHAPTER 380

FORMERLY

SENATE BILL NO. 332

AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER V, CHAPTER 60, TITLE 7, DELAWARE CODE RELATING TO THE ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE REGARDING WATER SUPPLY.

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

Section 1. Amend §6077(a)(2), Title 7, Delaware Code by striking said subsection (2) in its entirety.

Approved July 12, 1994.

CHAPTER 381

FORMERLY

SENATE BILL NO. 348

AN ACT TO AMEND CHAPTER 46, TITLE 6, DELAWARE CODE, RELATING TO EQUAL RIGHTS TO HOUSING.

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

Section 1. Amend Section 4610, subsection (e) (1), Chapter 46, Title 6, Delaware Code, by striking the words "may elect to" as they appear in the second sentence, and substituting in lieu thereof, the phrase ", in the absence of any conflict of duty, shall".

Section 2. Amend Section 4610, subsection (e) (2), Chapter 46, Title 6, Delaware Code, by striking the words "elect to pursue" as they appear in the first sentence, and substituting in lieu thereof, the word "commence".

Section 3. Amend Section 4610, subsection (e) (2), Chapter 46, Title 6, Delaware Code, by striking the phrase ", provided it has funds available in the Special Administration Fund," as it appears in the first sentence.

Section 4. Amend Section 4610, subsection (e) (2), Chapter 46, Title 6, Delaware Code, by striking the second sentence of said subsection in its entirety.

Section 5. Amend Section 4612, subsection (n) (2), Chapter 46, Title 6, Delaware Code, by striking the words "may elect to" as they appear in the first sentence, and substituting in lieu thereof, the phrase ", in the absence of any conflict of duty, shall".

Section 6. Amend Section 4612, subsection (n) (2), Chapter 46, Title 6, Delaware Code, by striking the last sentence of said subsection in its entirety.

Section 7. Amend Section 4612, subsection (n) (3), Chapter 46, Title 6, Delaware Code, by striking the words "elect to pursue" as they appear in the first sentence, and substituting in lieu thereof, the word "commence".

Section 8. Amend Section 4612, subsection (n) (3), Chapter 46, Title 6, Delaware Code, by striking the phrase ", provided it has funds available in the Special Administration Fund," as it appears in the first sentence.

Section 9. Amend Section 4612, subsection (n) (3), Chapter 46, Title 6, Delaware Code, by striking the second sentence of said subsection in its entirety.

Approved July 12, 1994.

CHAPTER 382

FORMERLY

SENATE BILL NO. 349

AN ACT TO AMEND TITLE 19, OF THE DELAWARE CODE RELATING TO LOCATION OF INDUSTRIAL ACCIDENT BOARD HEARINGS.

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

Section 1. Amend Chapter 2348(a) Title 19 of the Delaware Code by deleting the phrase "the hearings of the Board shall be held at some reasonable location in the city or county where the injury occurred or," and inserting in lieu thereof:

"the hearings of the Board shall be held in the Division of Industrial Affairs' office nearest the site where the injury occurred or,".

Approved July 12, 1994.

CHAPTER 383

FORMERLY

SENATE BILL NO. 109

AN ACT TO AMEND TITLE 19 DELAWARE CODE PROVIDING FOR THE REMOVAL OF INDUSTRIAL ACCIDENT BOARD MEMBERS.

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

Section 1. Amend Subchapter I, Chapter 21, Title 19, Delaware Code by adding thereto a new §2109 to read as follows:

"§2109. Removal of Members.

The Governor may at any time, after notice and hearing, remove any Board member for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office."

Approved July 12, 1994.

CHAPTER 384

FORMERLY

SENATE BILL NO. 370

AN ACT TO AMEND CHAPTER 7, TITLE 4, OF THE DELAWARE CODE, RELATING TO THE SALE AND DELIVERY OF ALCOHOLIC LIQUOR BY THE DELAWARE ALCOHOLIC BEVERAGE CONTROL COMMISSION.

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

Section 1. Delete Section 709(a) of Chapter 7, Title 4 of the Delaware Code in its entirety.

Section 2. Amend Section 709, Chapter 7, Title 4 of the Delaware Code by re-designating Paragraphs (b) through (i) as (a) through (h), respectively.

Approved July 12, 1994.

CHAPTER 385

FORMERLY

HOUSE BILL NO. 504

AN ACT PROPOSING THE DELETION OF ARTICLE XII OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO THE STATE BOARD OF HEALTH.

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 the Delaware Constitution of 1897, as amended, by striking Article XII thereof in its entirety.

Passed June 29, 1994.

CHAPTER 386

FORMERLY

HOUSE BILL NO. 626

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 1995; DEAUTHORIZING STATE GUARANTEED BOND AUTHORIZATIONS AND DEAUTHORIZING, REAUTHORIZING AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE; AUTHORIZING THE ISSUANCE OF REVENUE BONDS OF THE DELAWARE TRANSPORTATION AUTHORITY; APPROPRIATING FUNDS FROM THE TRANSPORTATION TRUST FUND; DEAUTHORIZING AND REAUTHORIZING OF CERTAIN FUNDS OF THE TRANSPORTATION TRUST FUND; APPROPRIATING SPECIAL FUNDS 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; 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 1995 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, 1997, shall be subject to reversion or deauthorization.

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 "\$11,542,115" wherever it appears in said subsection and inserting in lieu thereof the number "\$10,259,015."

(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 bonds, to which the state shall pledge its full faith and credit, such bonds to be issued in such principal amount as necessary to provide proceeds to the State in the amount of Sixty-Six Million Seven Hundred Six Thousand Seven Hundred Dollars (\$66,706,700) and in the amount of Fourteen Million Six Hundred Forty-Five Thousand Dollars (\$14,645,000) for local share of school bonds. 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>
Delaware Development Office	\$3,000,000
Department of State	1,814,000
Department of Information and Administrative Services	18,759,300
Department of Natural Resources and Environmental Control	2,460,900
University of Delaware	6,000,000
Delaware State University	4,850,000
Delaware Technical and Community College	632,500
State Board of Education	<u>\$29,190,000</u>

SECTION 1 ADDENDUM
FISCAL YEAR 1995 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHORIZATIONS	STATE GUARANTEED BONDS	REVENUE & REFUND GRANTING	STRIPPER WELL	TRANSPORTATION TRUST FUND REAUTHORIZATION	TRANS. TRUST FUNDS	GENERAL FUNDS	TOTAL
OFFICE OF THE BUDGET										
800 MHz Statewide Backbone Radio System NCCo. Vol. Firemen-Portable/Mobile Radio Equip.	10-03-01	95002TGC	\$0	\$0	\$0	\$0	\$0	\$0	\$5,250,000	\$5,250,000
	10-02-01	95001TGE	\$0	\$0	\$0	\$0	\$0	\$0	700,000	700,000
			\$0	\$0	\$0	\$0	\$0	\$0	\$5,950,000	\$5,950,000
DELAWARE DEVELOPMENT OFFICE										
Delaware Strategic Fund	10-03-03	94001TGD	\$0	\$0	\$0	\$0	\$0	\$0	\$10,000,000	\$10,000,000
DE Technical Innovation Fund	10-03-03	96004TGD	0	0	0	0	0	0	200,000	200,000
Fulton-Water Infrastructure Improvements	10-03-03	94004TGC	0	0	0	0	0	0	50,000	50,000
Port of Wilmington Expansion	10-03-03	94008TBC	3,000,000	0	0	0	0	0	0	3,000,000
City of Wilmington-Fire Boat Repairs	10-03-03	95002TGE	0	0	0	0	0	0	40,000	40,000
City of Wilmington-Small Boat	10-03-03	95003TGE	0	0	0	0	0	0	10,000	10,000
Agri. Biotechnology Ctr./Biocontainment Ctr.	10-03-03	94008TGC	0	0	0	0	0	0	325,000	325,000
Franklin Stadium Land	10-03-03	94006TGL	0	0	0	0	0	0	750,000	750,000
Milford Downtown Revitalization-Main Street	10-03-03	95004TGC	0	0	0	0	0	0	150,000	150,000
Rehoboth Convention Center Completion	10-03-03	95001TGC	0	0	0	0	0	0	75,000	75,000
Subtotal			\$3,000,000	\$0	\$0	\$0	\$0	\$0	\$11,500,000	\$14,500,000
STATE										
Stabilization Endowment for the Arts	20-07-01	95007TGC	\$0	\$0	\$0	\$0	\$0	\$0	\$1,000,000	\$1,000,000
Winterthur Museum Constr.-Phase IV	20-01-01	92004TGC	0	0	0	0	0	0	500,000	500,000
Historical Society of Delaware	20-01-01	95005TGC	0	0	0	0	0	0	100,000	100,000
NCCo.-Bear Area Library	20-08-01	95002TBC	871,000	0	0	0	0	0	871,000	871,000
NCCo. Northern Regional Library	20-08-01	95003TBC	943,000	0	0	0	0	0	943,000	943,000
Rehoboth Beach Public Library-Planning	20-08-01	94014TBP	64,000 *	0	0	0	0	0	64,000	64,000
New Castle Public Library Renovations	20-08-01	95006TBC	28,800 *	0	0	0	0	0	28,800	28,800
Milborno Library	20-08-01	93005TGC	0	0	0	0	0	0	80,000	80,000
NW Wilmington Library	20-08-01	95007TGC	0	0	0	0	0	0	250,000	250,000
Milborno Historical Society	20-01-01	95008TGC	0	0	0	0	0	0	32,400	32,400
DE Agriculture Museum Expansion	20-01-01	95009TGC	0	0	0	0	0	0	100,000	100,000
Kalmar Nyckle	20-01-01	95010TGC	0	0	0	0	0	0	100,000	100,000
The Madison Factory-Greenbank Mill Associates	20-01-01	95011TGC	0	0	0	0	0	0	75,000	75,000
Engineering-New Castle Town Harbor-Ice Breakers	20-01-01	95012TGP	0	0	0	0	0	0	10,000	10,000
Subtotal			\$1,908,800	\$0	\$0	\$0	\$0	\$0	\$2,247,400	\$4,156,200

SECTION 1 ADDENDUM
FISCAL YEAR 1985 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHORIZATIONS	DEATH OF STATE GUAR- ANTEED BONDS	NON-TRANS. REVERSION & REPO- GRAMING	STRIPPER WELL	TRANSPORTATION		GENERAL FUNDS	TOTAL
							TRUST FUND	TRUST FUND		
							REAUTHORIZATION	TRUST FUNDS		
ADMINISTRATIVE SERVICES										
Architectural Barrier Removal	30-05-10	91016TBM	\$210,000 *	\$0	\$0	\$0	\$0	\$0	\$0	\$210,000
Sussex County Courthouse Acquisition	30-05-10	94010TBC	1,000,000	0	0	0	0	0	0	1,000,000
Underground Motor Fuel Storage Tanks	30-05-10	95013TGM	0	0	0	0	0	0	25,000	25,000
Energy Efficiency Program	30-05-10	95014TGM	0	0	0	1,125,000	0	0	0	1,125,000
Motor Vehicle Inspection Lanes-MCI	30-05-10	95015TBM	1,000,000 *	0	0	0	0	0	0	1,000,000
Legislative Hall Renovations	30-05-10	95020TBR	2,031,000	0	0	0	0	0	0	2,031,000
Legislative Hall Renovation Laboratory Planning/Programming	30-05-10	95016TGP	0	0	0	0	0	0	48,200	48,200
Department of State Projects:										
State Library Renovations	30-05-10	92002TBR	184,000 *	0	0	0	0	0	0	184,000
Department of Health & Social Services Projects:										
Georgetown State Service Center Completion	30-05-10	91020TBR	1,007,400	0	160,000	0	0	0	877,400	2,044,800
		91020TGR								
Campus Renewal-Lewis Bldg. Completion	30-05-10	87035TBR	1,900,000	0	0	0	0	0	0	1,900,000
Stockley Center-Therapeutic Pool	30-05-10	94020TGC	0	0	0	0	0	0	550,000	550,000
Forensic Mental Health Fac.-Corrys Building	30-05-10	95017TBR	1,500,000	0	0	0	0	0	0	1,500,000
Appointments Resource Center	30-05-10	95018TGP	0	0	0	0	0	0	500,000	500,000
Dept. Children, Youth & Their Families Projects:										
Secure Care Continuum Improvement Plan	30-05-10	91022TBC	7,989,900	0	0	0	0	0	0	7,989,900
Department of Corrections Projects:										
Secure Care Continuum Improvement Plan	30-05-10	91024TBR	259,500 *	0	0	0	0	0	0	259,500
Department of Agriculture Projects:										
Sussex Corp. Ind. Critical Enhancements	30-05-10	95019TBM	1,622,000 *	0	0	0	0	0	0	1,622,000
SCI Pre-Trial Facility	30-05-10	95020TBM	25,000 *	0	0	0	0	0	0	25,000
Plan-New 400-Bed Male Facility	30-05-10	95021TBR	100,000	0	0	0	0	0	100,000	100,000
DCC-Central Tower	30-05-10	95022TBC	300,000 *	0	0	0	0	0	0	300,000
Department of Public Safety Projects:										
State Police Firing Range	30-05-10	95023TBC	1,700,000	0	0	0	0	0	0	1,700,000
Agriculture Projects:										
Redden State Forest-Renovations	30-05-10	94017TBR	275,000 *	0	0	0	0	0	0	275,000
Delaware State Fairgrounds Horse Arena	30-05-10	94018TGC	0	0	0	0	0	0	500,000	500,000
State Fire Commission Projects:										
NCCO. Fire Training Center	30-05-10	95024TBC	1,521,000	0	0	0	0	0	0	1,521,000
Delaware National Guard Project:										
Little Rock Replacement	30-05-10	95025TBC	280,000 *	0	0	0	0	0	0	280,000
Subtotal			\$2,925,200	\$0	\$160,000	\$1,125,000	\$0	\$0	\$2,488,600	\$28,789,900
HEALTH AND SOCIAL SERVICES										
Charmont Satellite Service Center	35-01-20	95026TGC	\$0	\$0	\$0	\$0	\$0	\$0	\$350,000	\$350,000
City of Wilmington-Market Street Project	35-01-20	95027TGC	0	0	0	0	0	0	175,000	175,000
			\$0	\$0	\$0	\$0	\$0	\$0	\$25,000	\$25,000

SECTION 1 ADDENDUM
FISCAL YEAR 1995 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHORIZATIONS	STATE GUARANTEED BONDS	& REPROGRAMMING	STRIPPER WELL	TRUST FUND REAUTHORIZATION	TRANS. TRUST FUNDS	GENERAL FUNDS	TOTAL
NATURAL RESOURCES & ENVIRONMENTAL CONTROL										
Waste Water Management-Const. Grant Program	40-08-04	90033TBC	\$1,016,900	\$1,283,100	\$0	\$0	\$0	\$0	\$0	\$2,300,000
Waste Water Management-State Rev. Loan Fund	40-08-04	93009TBC 93009TRC	160,900	0	839,100	0	0	0	0	1,000,000
Conservation Cost Sharing Prog	40-07-04	85033TGO	0	0	0	0	0	0	0	420,000
Park Rehabilitation	40-06-02	81031TBM	750,000 *	0	0	0	0	0	0	750,000
Beach Preservation	40-07-03	78032TGO	0	0	0	0	0	0	0	1,000,000
Tax/Public Ditches	40-07-02	78031TBC	600,000 *	0	0	0	0	0	0	600,000
Kilgus Pond Pool Expansion	40-06-02	94022TGR	0	0	0	0	0	0	0	350,000
Stabilize Coast Guard Bldg. Rt. 1	40-06-02	95028TBR	75,000 *	0	0	0	0	0	0	75,000
Nantuxet River Project	40-06-02	95029TGP	0	0	0	0	0	0	0	650,000
Brandywine/Christina Rivers Improvement Project	40-01-01	94007TGD	0	0	0	0	0	0	0	50,000
Brandywine Hundred Aquatic Center	40-05-02	80026TGC	0	0	0	0	0	0	0	2,000,000
Resource, Conservation & Development Projects	40-07-02	91037TGC	0	0	0	0	0	0	0	1,681,600
Subtotal			\$2,602,800	\$1,283,100	\$839,100	\$0	\$0	\$0	\$6,131,600	\$10,856,600
DEPARTMENT OF PUBLIC SAFETY										
NCCo. Police Athletic League (PAL) Project	45-01-01	95030TGO	\$0	\$0	\$0	\$0	\$0	\$0	\$50,000	\$50,000
Renovate Former Hockessin Library for Community Police Facility	45-01-01	95031TGR	0	0	0	0	0	0	0	50,000
NCCo. Police-Middletown Sub-Station	45-01-01	95032TGC	0	0	0	0	0	0	0	500,000
Subtotal			\$0	\$0	\$0	\$0	\$0	\$0	\$600,000	\$600,000

SECTION 1 ADDENDUM
FISCAL YEAR 1995 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DPMS NO.	BOND AUTHOR- IZATIONS	DEAUTHOR- IZATION OF	STATE GUAR- ANTEED BONDS	NON-TRANS. REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANSPORTATION TRUST FUND	TRANS. TRUST FUNDS	GENERAL FUNDS	TOTAL
TRANSPORTATION											
Program Development (7400)	55-05-00	95033TTT	\$0	\$0	\$0	\$0	\$0	\$2,000,000	\$4,413,000	\$0	\$6,413,000
System Preservation (7500)	55-05-00	95034TTT	0	0	0	0	0	16,000,000	17,904,000	0	33,904,000
System Management (7600)	55-05-00	95035TTT	0	0	0	0	0	14,270,000	1,170,000	0	15,440,000
System Expansion (7700)	55-05-00	95036TTT	0	0	0	0	0	20,940,000	32,614,000	0	53,554,000
Engineering and Contingencies (5700)	55-05-00	78049TTT	0	0	0	0	0	0	1,000,000	0	1,000,000
Suburban Streets/Misc. Drainage (5500)	55-05-00	78043TTT	0	0	0	0	0	1,550,000	15,150,000	0	16,700,000
Municipal Street Aid (7100)	55-05-00	89034TTT	0	0	0	0	0	0	3,000,000	0	3,000,000
Reserve Account	55-05-00	90044TTT	0	0	0	0	0	0	1,500,000	0	1,500,000
Subtotal			\$0	\$0	\$0	\$0	\$0	\$54,760,000	\$76,851,000	\$0	\$131,611,000
FIRE PREVENTION COMMISSION											
Hydraulic Rescue Tool-Fallon	75-02-01	92017TGE	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$7,500	\$7,500
			\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$7,500	\$7,500

SECTION 1 APPENDIX
FISCAL YEAR 1995 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFNS NO.	BOND AUTHOR. IZATIONS	DEAUTHOR- IZATION OF STATE GUAR- ANTEED BONDS	NON-TRANS.		TRANSPORTATION		GENERAL FUNDS	TOTAL
					REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRUST FUND REAUTHORIZATION	TRANS. TRUST FUNDS		
UNIVERSITY OF DELAWARE										
Add./Renovate Coblum Laboratory	90-01-01	94025TBC	\$4,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$4,000,000
Add./Renovate Pursell Hall	90-01-01	95037TBC	2,000,000	0	0	0	0	0	0	2,000,000
Renovate Baseball Facility	90-01-01	95038TBR	125,000 *	0	0	0	0	0	0	125,000
Subtotal			\$6,125,000	\$0	\$0	\$0	\$0	\$0	\$0	\$6,125,000
DELAWARE STATE UNIVERSITY										
Science Center Annex Completion	90-03-01	91054TBC	\$3,350,000	\$0	\$0	\$0	\$0	\$0	\$0	\$3,350,000
Planning-Economic/Business Administration Bldg.	90-03-01	95039TBP	500,000 *	0	0	0	0	0	0	500,000
Loop Road/Grounds Improvements	90-03-01	95040TBC	1,500,000	0	0	0	0	0	0	1,500,000
Subtotal			\$5,350,000	\$0	\$0	\$0	\$0	\$0	\$0	\$5,350,000
DELAWARE TECHNICAL & COMMUNITY COLLEGE										
Major Renovations-Jason Bldg., Southern	90-04-02	95041TBR	\$900,000 *	\$0	\$0	\$0	\$0	\$0	\$0	\$900,000
Roof Replacement-President's Office	90-04-01	94030TBR	85,000 *	0	0	0	0	0	0	85,000
Planning-Wilmington Campus Expansion	90-04-04	95042TBP	250,000 *	0	0	0	0	0	0	250,000
Wilmington Land-Parking Project	90-04-04	93016TGL	0	0	0	0	0	0	200,000	200,000
Terry Ed./Training Facility	90-04-06	93014TBC	632,500	0	0	0	0	0	0	632,500
Subtotal			\$1,867,500	\$0	\$0	\$0	\$0	\$0	\$200,000	\$2,067,500

SECTION 1 ADDENDUM
FISCAL YEAR 1995 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHOR- IZATIONS	DEATHOR- IZATION OF	NON-TRANS REVERSION & REPRO- GRAMING	STRIPPER WELL	TRANSPORTATION TRUST FUND REAUTHORIZATION	TRANS TRUST FUNDS	GENERAL FUNDS	TOTAL
STATE BOARD OF EDUCATION										
Appoquinimink, New High School (87/23)	95-29-00	94035TBC	\$10,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$10,000,000
Architectural Barrier Removal (80/40)	95-01-01	91074TBM 91074TRM	82,700 *	0	77,300	0	0	0	0	160,000
NCCo. Vo-Tech, Replace Roof, Hodgson (80/40)	95-38-00	95043TBM	600,000	0	0	0	0	0	0	600,000
Cesar Rodney, New Elementary School (80/20)	95-10-00	95044TBP	4,539,000	0	0	0	0	0	0	4,539,000
Capital, New Elementary School (70/20)	95-13-00	95045TBP	3,946,100	0	0	0	0	0	0	3,946,100
Brandywine, Modernize Carroll Elementary (80/40)	95-31-00	95046TBR	2,817,600	0	0	0	0	0	0	2,817,600
Cesar Rodney, Plain Design Middle School (80/20)	95-10-00	95047TBP	200,000	0	0	0	0	0	0	200,000
Brandywine, Mod. Rehab Mt. Pleasant High (80/40)	95-31-00	95048TBP	968,600	0	0	0	0	0	0	968,600
Brandywine, Modernize Darley Road Elem. (80/40)	95-31-00	95049TBP	277,300	0	0	0	0	0	0	277,300
Colonial - George Read Middle (81/29)	95-34-00	95050TBC	2,841,400	0	0	0	0	0	0	2,841,400
Colonial - Castle Hills Elementary (81/29)	95-34-00	95051TBC	3,000,000	0	0	0	0	0	0	3,000,000
Delmar-Land Acquisition (80/20)	95-37-00	95052TGL	0	0	0	0	0	0	208,000	208,000
NCCo. Vo-Tech-Repair Paving, Front-Hodgson (80/40)	95-38-00	95053TGR	0	0	0	0	0	0	420,000	420,000
NCCo. Vo-Tech, Howard Renovations (100%)	95-38-00	95054TGR	0	0	0	0	0	0	300,000	300,000
NCCo. Vo-Tech, DE State Center Renovations (100%)	95-38-00	95054TGR	0	0	0	0	0	0	150,000	150,000
Subtotal			\$29,272,700	\$0	\$77,300	\$0	\$0	\$0	\$1,078,000	\$30,428,000
GRAND TOTAL:			\$73,950,000	\$1,283,100	\$1,076,400	\$1,125,000	\$54,760,000	\$76,861,000	\$30,538,100	\$238,985,500

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Appoquinimink, High School (67/33)	10,000,000	4,925,400	14,925,400
NCCo. Vo-Tech, Replace Roof, Hodgson (60/40)	600,000	400,000	1,000,000
Caesar Rodney, New Elementary School (80/20)	4,539,000	1,134,800	5,673,800
Capital, New Elementary School (70/30)	3,946,100	1,691,200	5,637,300
Brandywine, Modernize Carrcroft Elem. (60/40)	2,817,600	1,878,400	4,696,000
Caesar Rodney, Plan/Design Middle School (80/20)	200,000	50,000	250,000
Brandywine, Modernize/Rehab Mt. Pleasant High (60/40)	968,600	645,700	1,614,300
Brandywine, Modernize/Darley (60/40)	277,300	184,900	462,200
Colonial - George Read Middle School (61/39)	2,841,400	1,816,600	4,658,000
Colonial - Castle Hills Elem. (61/39)	<u>3,000,000</u>	<u>1,918,000</u>	<u>4,918,000</u>
<u>Subtotals</u>	<u>\$29,190,000</u>	<u>\$14,645,000</u>	<u>\$43,835,000</u>
<u>TOTAL</u>			<u>\$66,706,700</u>

Section 4. Authorization of Ten-Year Bonds. The state hereby authorizes the issuance of bonds, to which the state shall pledge its full faith and credit, such bonds to be issued in such principal amount as necessary to provide proceeds to the State in the amount of Seven Million Six Hundred Twenty-Six Thousand Four Hundred Dollars (\$7,626,400) and in the amount of Fifty-Five Thousand One Hundred Dollars (\$55,100) for local share of school bonds. 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:

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Department of State	\$ 92,800
Department of Administrative Services	4,165,900
Department of Natural Resources and Environmental Control	1,425,000
<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
University of Delaware	125,000
Delaware State University	500,000
Delaware Technical and Community College	1,235,000
State Board of Education	<u>82,700</u>

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Architectural Barrier Removal (60/40)	<u>\$ 82,700</u>	<u>\$ 55,100</u>	<u>\$137,800</u>
<u>Subtotals</u>	<u>\$ 82,700</u>	<u>55,100</u>	<u>137,800</u>
<u>Total</u>			<u>\$7,626,400</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).

<u>Project</u>	<u>Authorized Ch. & Vol. Laws of DE</u>	<u>Project Appropriation Code</u>	<u>Amount</u>
Red Clay Fire Reconstruction	156/68	10-04-05-6282	\$117.82
Biggs Collection	46/67	20-06-04-6014	660.00
Biggs Building	156/68	20-06-04-6212	.05
MCI	285/67	20-06-04-6112	212.90
Ft. Christina	156/68	20-06-04-6214	833.42
Cooper Building Renovations	385/65	30-05-10-5715	920.66
Ferris Planning	285/67	30-05-10-6123	212.60
MCI	360/66	35-01-20-5912	435.00
Furniture and Equipment	285/67	35-01-20-6114	1,277.48
Women's Prison	285/67	38-04-05-6113	14.50
MCI	156/68	40-01-01-6212	108.58
MCI	156/68	45-01-01-6212	198.00
Southern Fire Training Facility	285/67	75-02-01-6113	2,151.79

<u>Project</u>	<u>Authorized Ch. & Vol. Laws of DE</u>	<u>Project Appropriation Code</u>	<u>Amount</u>
Lora Little	285/67	76-01-01-6112	27.17
Delaware State University/MCI	285/67	90-03-01-6112	659.36
Delaware State University/Jason Library	46/67	90-03-01-6012	382.52
Higher Education	285/67	90-04-02-6112	.20
<u>TOTAL</u>			<u>\$8,212.05</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 Eight Thousand Two Hundred Dollars (\$8,200) 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	\$8,200
<u>TOTAL</u>	<u>\$8,200</u>

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).

District/Project	Authorized Ch. & Vol.	Project	Amount
	Laws of DE	Appropriation Code	
Caesar Rodney/MCI	156/68	95-10-00-6282	\$428.27
Capital/Classroom Addition	285/67	95-13-00-6112	736.46
Capital/MCI	156/68	95-13-00-6282	3.30
Capital/MCI VO EQ	156/68	95-13-00-6284	217.26
Lake Forest/Renovations	46/67	95-15-00-6012	3,827.70
Lake Forest/MCI	46/67	95-15-00-6062	300.00

District/Project	Authorized Ch. & Vol.	Project	Amount
	Laws of DE	Appropriation Code	
Lake Forest/Asbestos	156/68	95-15-00-6230	161.21
Lake Forest/MCI VO EQ	156/68	95-15-00-6284	7.67
Lake Forest/Barrier Removal	156/68	95-15-00-6293	278.70
Milford/MCI	156/68	95-18-00-6263	385.80
Smyrna/MCI	156/68	95-24-00-6282	3.15
Smyrna/MCI VO EQ	156/68	95-24-00-6284	1.18
Brandywine/MCI	156/68	95-31-00-6282	234.56
Brandywine/MCI VO EQ	156/68	95-31-00-6284	4.20
Claymont	156/68	95-31-00-6212	1.65
Christina/MCI	285/67	95-33-00-6182	559.42
Delmar/MCI	156/68	95-37-00-6282	2,320.94
Kent VoTech/MCI	285/67	95-39-00-6182	65.00
Sussex Co. VoTech/Conversion	285/65	95-40-00-6112	777.20
Howard T. Ennis, Sr./MCI	285/65	95-43-00-6182	6,578.15
Howard T. Ennis, Sr./Barrier Removal	156/68	95-43-00-6293	440.00

TOTAL

\$17,331.82

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 Seventy-Seven Thousand Three Hundred Dollars (\$77,300) 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.

Department, Agency, or Instrumentality	Amount		
State Board of Education	<u>\$77,300</u>		
Purpose	Maximum State Share	Local Share	Total Cost
Architectural Barrier Removal (60/40)	<u>\$ 77,300</u>	<u>\$ 51,500</u>	<u>\$128,800</u>

Section 9. Appropriation of General Funds. It is the intent of the General Assembly that Thirty Million Eight Hundred Thirty-Eight Thousand One Hundred Dollars (\$30,838,100) 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, 1997, shall revert to the General Fund of the State of Delaware.

<u>Department, Agency, or Instrumentality</u>	<u>Amount</u>
Office of the Budget	\$5,950,000
Delaware Development Office	11,600,000
Department of State	2,247,400
Department of Administrative Services	2,498,600
Department of Health and Social Services	525,000
Department of Natural Resources & Environmental Control	6,131,600
Department of Public Safety	600,000
State Fire Commission	7,500
Delaware Technical & Community College	200,000
Department of Public Instruction	<u>1,078,000</u>
TOTAL	<u>\$30,838,100</u>

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Delmar-Land Acquisition (80/20)	\$208,000	\$52,000	\$260,000
NCCo. Vo-Tech-Hodgson Front Paving (60/40)	420,000	280,000	700,000
NCCo. Vo-Tech-Howard Renovations (100%)	300,000	0	300,000
NCCo. Vo-Tech-DE Skills Ctr. Renovations (100%)	<u>150,000</u>	<u>0</u>	<u>150,000</u>
	<u>\$1,078,000</u>	<u>\$332,000</u>	<u>\$1,410,000</u>

Section 10. 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, 1994, 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, 1995.

<u>Project</u>	<u>Authorized Ch. & Vol. Laws of DE</u>	<u>Project Appropriation Code</u>	<u>Amount</u>
Department of State/Smyrna Library	405/68	20-08-01-0183	\$476.26
Public Safety/Helicopter	405/68	45-01-01-0183	3.23
Transportation/Barrier Removal	46/67	55-01-01-0197	<u>4,059.80</u>
TOTAL			<u>\$4,539.29</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>
Department of Natural Resources and Environmental Control	<u>\$4,500</u>

Section 11. 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>Project</u>	<u>Authorized Ch. & Vol. Laws of DE</u>	<u>Project Appropriation Code</u>	<u>Amount</u>
DHCI Kitchen Renovations	92/66	35-05-40-9632	<u>\$4,115.39</u>
TOTAL			<u>\$4,115.39</u>

Section 12. Appropriation of First State Improvement Fund. The State hereby authorizes the appropriation of Fifty Thousand Three Hundred Dollars (\$50,300) 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 and Environmental Control	<u>\$50,300</u>

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 Sixty Thousand Dollars (\$160,000) from the Health Facilities Subsidy Fund held by the State Treasurer (94-12-05-03-9400) 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, 1997, shall revert to the Health Facilities Subsidy Fund.

Department, Agency, or Instrumentality

Department of Administrative Services
on behalf of Department of Health and Social Services

\$160,000

Section 14. Appropriation of Special Funds. There is hereby appropriated the sum of Seven Hundred Seventy-Six Thousand One Hundred Dollars (\$776,100) from the Bond Sale 173 account, held by the State Treasurer (93-12-05-03-8594), 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, 1997, shall revert to the General Fund of the State of Delaware. Any remaining balance shall be used to reduce debt service.

Department, Agency, or Instrumentality

Department of Natural Resources and Environmental Control

\$776,100

Section 15. Allocation of Stripper Well Funds.

The State hereby authorizes the Department of Administrative Services to allocate One Million One Hundred Twenty-Five Thousand Dollars (\$1,125,000) from the proceeds of the Stripper Well Court Case Settlement for eligible projects up to the amount set forth in the Section 1 Addendum of this Act. All potentially eligible projects shall be submitted to the State Energy Office for review and prioritization according to the energy savings and payback predicted. For all projects eligible for Stripper Well funding, the Department of Administrative Services shall provide technical oversight of such projects and shall disburse funds in a manner consistent with the Stripper Well Court Case Settlement.

Section 16. Continuing Appropriations. For the fiscal year ending June 30, 1994, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1995.

<u>Fiscal Year</u>	<u>Appropriation</u>	<u>Account Codes</u>	<u>Remarks</u>
1992		10-02-01-6212	800 Mhz Radio System
1990		10-03-03-0190	Sussex Airport
1989		10-03-03-0184	Dover Civic Center
1990		10-03-03-9643	Dover Civic Center
1991		10-03-03-6112	Dover Civic Center
1992		10-03-03-0180	Dover Civic Center
1992		10-03-03-0187	AG/Aqua
1992		10-03-03-6215	First State Center
1991		20-06-01-6116	Redding House Study
1992		20-06-02-6212	Archives/Record Center Planning
1991		30-05-10-6121	Marine Bay Program
1992		30-05-10-6201	Architectural Barrier
1992		35-04-01-8002	Medical Examiners Lab
1991		37-01-15-6112	Girls Staff-Secure Res. Fac.
1991		40-06-04-6212	Aquatic Center
1992		40-06-04-6212	Aquatic Center
1991		40-07-02-6113	Resource, Conservation & Development
1992		76-01-01-6213	MCI/EQ
1992		95-18-00-6212	Morris Renovations
1992		95-18-00-6213	Ross Renovations
1991		95-33-00-6113	Barrett Run
1992		95-33-00-6212	Roof and Addition
1992		95-54-00-6282	MCI

Section 17. Advanced Planning and Advanced Real Property.

It is the intent of the General Assembly that the Woodbridge School District local share balance of \$8,000 due the Advanced Planning and Advanced Real Property Fund be Zero Dollars (\$0).

Section 18. Exxon Funds. It is the intent of the General Assembly that the monies appropriated in this Act and funds authorized for minor capital improvements in any annual appropriation act may be used to match Exxon funds for any purpose deemed appropriate by the State Energy Weatherization Committee and so long as the purpose does not contradict the purposes set forth in the Section 1 Addendum of this Act.

Section 19. Amendment. Amend Laws of Delaware Volume 66, Chapter 77, Section 4, by striking the following language as it appears therein:

"Asbestos Abatement (100%)	914,000	0	914,000
Architectural Barrier Removal	<u>160,000</u>	<u>0</u>	<u>160,000</u>
Subtotals	<u>\$1,684,000</u>	<u>\$195,000</u>	<u>\$1,879,000"</u>

and by substituting in lieu thereof the following language:

"Asbestos Abatement (60/40)	914,000	609,300	1,523,300
Architectural Barrier Removal (60/40)	<u>160,000</u>	<u>106,700</u>	<u>266,700</u>
Subtotals	<u>\$1,684,000</u>	<u>\$911,000</u>	<u>\$2,595,000"</u>

Section 20. New Castle County Airport. (a) The Governor and Delaware Development Office, and the New Castle County Executive, request that the Delaware River and Bay Authority consider the undertaking of the operation and funding of the New Castle County Airport by agreement with New Castle County pursuant to the Compact (17 Delaware Code, Section 1701) and applicable statutory requirements. The provisions of 17 Delaware Code, Section 1726 require that any major project of the Delaware River and Bay Authority located in the State of 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.

(b) If an agreement is concluded by New Castle County and the Delaware River and Bay Authority, the said project is hereby authorized and approved by this Act.

(c) It is the intent of the General Assembly that there be no increase in the nighttime flight operations of the New Castle County Airport and that any agreement between New Castle County and Delaware River and Bay Authority reflect such intent.

Section 21. Appoquinimink Resource Center. Funds in the amount of Five Hundred Thousand Dollars (\$500,000) authorized in the Section 1 Addendum of this Act shall be used to acquire land, plan and design a co-located community services delivery facility contiguous to the new high school. The design of such facility shall integrate with educational services without disruption to core educational classes. Resources for the cost of constructing additional square footage to accommodate the community services delivery functions shall be the responsibility of the state. In addition, it is the intent of the state to pursue an agreement with New Castle County to locate an appropriately sized public library to serve the high school students and Middletown-Odessa-Townsend community in this complex.

OFFICE OF THE BUDGET

Section 22. 800 MHz Digital Radio System. It is the intent of the General Assembly that Five Million Two Hundred Fifty Thousand Dollars (\$5,250,000) appropriated in the Section 1 Addendum of this Act to the Budget Office be used for 800 MHz Digital Radio System 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.

Section 23. The provisions of any other law notwithstanding, the funds appropriated to Budget Office - Contingency and One-Time Items (10-02-04) within SB 420 of the 137th General Assembly for 800MHz End User Equipment or other contingencies in (10-02-04) may be used to fund 800 MHz infrastructure and "backbone" system requirements if necessary to maintain the project schedule, subject to the approval of the Budget Director and Controller General.

DELAWARE DEVELOPMENT OFFICE

Section 24. Sussex County Airport. Funds authorized in Section 5 of Chapter 46 of Volume 67 of the Laws of Delaware for Sussex County Airport Resurfacing may be used for general infrastructure improvements to the Sussex County Airport.

Section 25. Composites Research. The Delaware Development Office is authorized to provide a match to the University of Delaware Center for Composite Materials research grants up to \$100,000 in order to enhance composites manufacturing technology. Such match shall be disbursed from the Delaware Strategic Fund.

Section 26. Delaware Strategic Fund. Amend Chapter 50, Title 29 of the Delaware Code by adding a new Subchapter I-8 as follows:

"Subchapter I-8. Delaware Strategic Fund

Section 5027. Findings and Purpose; Creation of the Fund. (a) 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 number and limited previous funding of finance programs of the Delaware Development Office do 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 existing development finance programs of the Delaware Development Office into a Delaware Strategic Fund.

(b) A special fund to be known as the "Delaware Strategic Fund" ("Fund") shall be created.

(1) The Fund shall initially consist of Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) as authorized in Volume 69, Chapter 77 of the Laws of Delaware to the Delaware Development Office ("Office") on behalf of The Delaware Economic Development Authority ("Authority"). Funds appropriated pursuant to this or subsequent acts are 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.

(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.

Section 5028. Fund Purposes. (a) 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 the following purposes:

- (1) Retention and expansion of existing firms;
- (2) Recruitment of new firms; and
- (3) Formation of new businesses.

For purposes other than stated above, the Co-Chairs of the Joint Legislative Committee-Capital Improvement Program, Budget Director and Controller General shall be informed prior to any action by the Delaware Development Office.

(b) Monies appropriated to the Fund may be used for the following activities:

- (1) Working capital;
- (2) Renovation, construction or any other type of improvements to roads, utilities and related infrastructure;

- (3) Assistance for equipment, machinery, land and building acquisition and development;
- (4) Assistance with relocation expenses;
- (5) Loans or loan guarantees;
- (6) Assistance for the development of startup strategies such as seed capital and incubator programs;
- (7) Assistance for the development of re-use strategies and implementation plans for sites located in the State and targeted for development by the Office; and
- (8) Assistance for the development and implementation of modernization strategies for existing manufacturing firms to strengthen their competitive position in regional, national and international markets.

Section 5029. Findings and Determinations for Assistance. (a) The Authority shall draft rules and regulations pertaining to the Fund eligibility, and establish criteria to administer the Fund.

(b) By December 1 of each year, the Office shall report the Fund's previous year's uses to the General Assembly.

(c) In order that the Agriculture/Aquaculture Business Program continue as a revolving fund, any and all balance of and future payments to the Agriculture/Aquaculture Business line as authorized in Section 5 of Chapter 156 of Volume 68 of the Laws of Delaware shall be disbursed to the Delaware Strategic Fund.

(d) The amount and type of assistance provided by Delaware Development Office to a firm through the Strategic Fund will be based upon the following criteria:

- (1) Consistency with State economic development strategies;
- (2) Number of jobs created or retained;
- (3) Competitiveness of Delaware versus other locations under consideration as measured by tax comparison and relative site location factors;
- (4) Quality of jobs using measures such as the average wage and benefits of the jobs to be created or retained as compared to labor force characteristics of the county and community in which the project will be located;
- (5) Comparative overall economic impact of the project at the state, county and local levels as measured by job creation and retention, private investment leverage, and revenue generation; and
- (6) Feasibility of the project as determined by the applicant's business plan, business history and collateral or other financial resources available to adequately secure assistance."
- (7) Any environmental consideration related to siting decisions, manufacturing processes or byproducts."

Section 27. Delaware Access Program Amend Subsection 29(c)(i) of chapter 360 of Volume 66 of the Laws of Delaware, as amended by Senate Bill No. 292, Section 30 of the 135th General Assembly; House Bill No. 417, Section 9 of the 136th General Assembly; and House Bill No. 350, Section 24 of the 137th General Assembly, by deleting said language in its entirety and substituting in lieu thereof the following:

"(c)(i)(a) The Director of the Delaware Development Office ("Office"), acting through the Delaware Economic Development Authority ("Authority"), is authorized to develop a portfolio insurance program known as the Delaware Access Program ("Program") with participating financial institutions to assist them in making loans that are somewhat riskier than conventional loans. The insurance shall be based on a portfolio insurance mechanism applicable to loans enrolled by a financial institution in the program, rather than loan by loan guarantees. The Delaware Development Office, acting through The Delaware Economic Development Authority, shall enter into a participation agreement with each financial institution approved to participate in the program. A participation agreement entered in to by the Authority and financial institution shall establish a separate loan loss reserve account, owned and controlled by The Delaware Economic Development Authority, but earmarked to cover losses on loans enrolled by that financial institution in the program. A separate loan loss reserve account shall be established for each participating financial institution. Each time a financial institution enrolls a loan in the program, payments shall be made into the earmarked loan loss reserve account by the borrower, financial institution and the Authority, in amounts consistent with the provisions of the participation agreement. The financial institution shall be allowed to recover the cost of its payment from the borrower.

(b) Approval of loans for which payments may be made into an account established under this Section shall be within the sole discretion of the financial institution making the loan except that such loans shall comply with the requirements specified in the participation agreement.

(c) The Authority shall adopt written procedures implementing the program. Such written procedures shall include the form of participation agreement which shall set forth procedures for use of the program and the rights and responsibilities of participating financial institutions and the Authority. The participation agreement shall require that loans enrolled in the program shall be for a business purpose in the State."

Section 28. Port of Wilmington. The City of Wilmington has requested that the Governor and General Assembly provide capital funding for port warehouse expansion in the amount of Six Million Dollars (\$6,000,000). Three Million Dollars (\$3,000,000) was authorized for this project in the Section 1 Addendum of Volume 69, Chapter 77 of the Laws of Delaware and Three Million Dollars (\$3,000,000) is authorized in the Section 1 Addendum of this Act. 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. Having met the aforementioned conditions, funds authorized in the Section 1 Addendum of this Act and the balance of funds previously authorized in the Section 1 Addendum of Volume 69, Chapter 77 of the Laws of Delaware shall be disbursed at 60% of total eligible invoice(s) submitted as a match to 40% non-state funds.

DEPARTMENT OF STATE

Section 29. 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 30. 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, provided that such costs to be reimbursed were paid not more than 60 days prior to the date hereof. 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.

Section 31. Amend Subsection 7425, Chapter 74, Title 29, Delaware Code by inserting the phrase "and Discount Bonds" at the end of the title of said section, and by inserting the phrase "or any other bonds sold to the public for a price less than the face amount thereof" after the phrase "capital appreciation bonds" and before the phrase "shall be the aggregate" in the second sentence thereof.

DEPARTMENT OF ADMINISTRATIVE SERVICESSection 32. Transfers From and 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 of Administrative Services listed below to the Department of State Budget Unit 20-08-01 to be used for the purpose of the funds as listed:

<u>FY</u>	<u>Appropriation Code</u>	<u>Project Name</u>
93	30-05-10-0182	Concord Pike Library
93	30-05-10-0184	Hillsboro Library
93	30-05-10-0185	Dover Library
91	30-05-10-6114	Bridgeville Library
93	30-05-10-6314	Bear Library
94	30-05-10-6419	Bear Library
94	30-05-10-6421	Concord Public Library
94	30-05-10-6423	Rehoboth Library

(b) 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:

<u>FY</u>	<u>Appropriation Code</u>	<u>Project Name</u>
92	20-06-02-6212	Archives/Records Center Planning
94	35-01-20-0180	Stockley Pool
94	35-01-20-0199	MCI & Equipment
94	35-01-20-6412	Georgetown Service Center
94	35-01-20-6413	Campus Renewal

(c) 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.

(d) Funds transferred in (a) for Archives/Records Center Planning shall be used by the Department as part of a plan to reevaluate the planning/programming of a new archive or record center as well as perform an adaptive re-use study of the Haslet Armory in Dover.

Section 33. 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 32 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 that are solely for the purchase of equipment, including projects that are funded in any "MCI and Equipment" line, or any "MCI" line, the Department shall transfer the appropriate amount of funding necessary to purchase the equipment to the agency for which the equipment is being purchased. The appropriate amount of funding shall be determined and agreed to by the Department and the agency for which the equipment is being purchased by August 1, 1994. 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 all incomplete projects.

Section 34. Horse Show Arena-Delaware State Fair. The Department of Administrative Services ("Department") is directed to provide technical assistance to the project Horse Show Arena ("Arena") to be located at the Delaware State Fair in Harrington. The Department shall review all contracts, changes orders, invoices, and applications associated with the Arena. The Department shall also approve and process all expenditure documents of funds authorized.

Section 35. During FY 1995, no construction manager contracts for public school projects may be signed unless approved by the Secretary of the Department of Administrative Services.

Section 36. Construction Quality Improvements. (a) Notwithstanding any other State law, any contract awarded in FY 1995 by any state agency/school district for a non-transportation public works project may include a provision that the successful bidder on a specialty contract perform, at a minimum, a fixed percentage of the work of said public works contract up to 50% of the total contract bid. Factors to be considered by the awarding agency in setting the required percentage of amount of work the successful bidder must perform may include the degree of difficulty involved in the agency's administration of the work covered under the terms of the public works contract; the degree of specialty work contemplated in the contract including, but not limited to, the amount of plumbing, electrical wiring, heating, roofing, insulation, weatherstripping, masonry, bricklaying or plastering work under the contract; and the time period required in which to complete the public works project. The terms of the contract shall so specify reasons for the stated percentage in its general terms and conditions. The decision of the agency setting the required percentage shall not be set aside by any court of competent jurisdiction as long as there is a rational basis for setting the required fixed percentage to be performed by the contractor. If the successful bidder fails to perform pursuant to the terms of this provision, the agency awarding and/or administering the contract may invoke the provisions of Subsection 6910, Title 29, Delaware Code.

(b) Any agency may prequalify subcontractors for any contracts awarded in FY 1995 for non-transportation public works projects as long as said agency follows the procedures outlined in Subsection 6905, Title 29, Delaware Code. In addition, if an agency prequalified subcontractors pursuant to this Section, no contractor shall list a subcontractor in its subcontractor listing if said subcontractor has not been prequalified by the agency.

Section 37. Cost Estimates. It is the intent of the General Assembly that the Joint Chairs of the Joint Legislative Committee - Capital Improvement Program, the Secretary of the Department of Administrative Services, the Budget Director, and the Comptroller General, or their designees, shall develop a process for the calculation of cost estimates for non-State Agency Capital Budget project requests. Such process shall be submitted to the Joint Legislative Bond Bill Committee Capital Improvement Program by the first day of the 138th General Assembly.

Section 38. Redden State Forest Renovations. Two Hundred Seventy-Five Thousand Dollars (\$275,000) authorized on behalf of the Department of Agriculture shall be used at the Redden State Forest for renovations as follows:

Redden Lodge	\$225,000
Horse Barn	25,000
Manager's House	25,000

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Section 39. City of Wilmington - Market Street Project. Funding in the amount of One Hundred Seventy-Five Thousand Dollars (\$175,000) is authorized as State matching funds to renovate the building at 2223 North Market Street currently owned by the Wilmington Home Ownership Corporation in order to expand the Project Stay Drug Free Program. The City of Wilmington shall pursue all non-state funding sources available to match the above funds. Funds authorized by the State shall not be subject to reversion until June 30, 1997.

DEPARTMENT OF CORRECTION

Section 40. Section 1 of this Act contains an appropriation to the Department of Correction for the planning of a 400 Bed New Male Secure Facility. Any proposed plans shall include the site selection process for such facility.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 41. Beach Preservation. The General Assembly hereby authorizes One Million Dollars (\$1,000,000) 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 and if so designated, shall be reimbursed by the Department on an equal basis to each such county or town for which a beach preservation project has been accomplished. The availability of the aforementioned non-state matching funds must be approved by the Budget Director and the Secretary of the Department.

Section 42. 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 43. Resource Conservation and Development. (a) It is the intent of the General Assembly that One Million Six Hundred Sixty-One Thousand Six Hundred Dollars (\$1,661,600) 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:

Project	Cost
NCC-Red Clay Flood Abatement-Glenville	\$300,000
Selbyville Flooding	200,000
Beecher's Lot, Danver Circle flooding	11,800
Wilton-Cedar Point-Ashley Drive	300,000
Quail Ridge-Bernard Blvd. Drainage	100,000
Broad Dyke upgrade of sluice gate	60,000
Pepper's Creek	50,000
Clayton VFW Drainage	10,000
Graylyn Crest-Graywell Rd. Flooding	75,000
Woodsdale/Bellevue Phase III Brandywine Blvd	250,000
Marabou Meadows/Melody Meadows Drainage	30,000
Red Lion/Central Road-Public Ditch	23,000
Rollins Meadows Drainage, Percheron Dr.	23,000
Summit Bridge Rd. (Old 896) Drainage	41,000
Coventry Ditch-NCCo. Matching Project	100,000
Zoar Public Ditch	6,300
Mt. Joy Public Ditch	7,500
Public Ditch Rt 1 & 215, Draper Farm	20,000
Roselle/Brack-EX	24,000
Hifflin Drainage	30,000

(b) The Department is authorized to develop and carryout standards and procedures for a cost-sharing program for homeowners in the flood-prone areas of Glenville remaining after construction on the reasonable and prudent flood reduction projects planned. The program will provide for home modifications to reduce the vulnerability of their homes to flood damage and make portions of this funding and/or future State and County funding available for this program.

(c) Amend Section 47 of Chapter 405 of Volume 68 of the Laws of Delaware by deleting "(a)" at the beginning of the first sentence and by deleting subsection (b) in its entirety and substituting in lieu thereof the following: "(b) Funds authorized for Bunker Hill Road Drainage may be utilized to include engineering, appraising, property acquisition, relocation, structure removal, floodway enhancement, watershed retrofilling or other actions appropriate and necessary to ameliorate flood damage to the surrounding community."

(d) Amend Section 40 of Chapter 77 of Volume 69 of the Laws of Delaware by deleting the words "Waverly Road" and inserting in lieu thereof the words "Old Mill and Greenbank".

Section 44. Little Mill Sewer Interceptor. Delays in construction of the Naaman's Sewer Interception Project have caused the cost of such project to rise jeopardizing its timely completion. Therefore the appropriate amount, not to exceed 50% of the actual cost differential, may be used from funds previously authorized for the Little Mill Sewer Interception Project as a match to non-state funds.

Section 45. Delaware Waste Pollution Control Revolving Fund. Amend Section 42 of Chapter 405 of Volume 68 of the Laws of Delaware, by deleting said Section in its entirety and substituting in lieu thereof the following:

(a) It is the intent of the General Assembly that the State Treasurer establish a special fund to be known as the "Water Pollution Control Revolving Fund", hereinafter to be known as the "Revolving Fund", to be administered by the Division of Water Resources, Department of Natural Resources and Environmental Control.

(b) Repayment of loans made from federal and state water pollution control revolving funds authorized shall be deposited into said Revolving Fund and shall be invested by the State Treasurer in securities consistent with the policies established by the Cash Management Board.

(c) Fifty percent (50%) of the interest earned on the Revolving Fund shall be deposited in a separate interest bearing account which shall be established by the State Treasurer in order to cover administrative expenses so authorized in subsequent Operating Budget Act(s) as an Appropriated Special Fund (ASF) account. Interest in excess of authorized administrative expenses shall be transferred to the Revolving Fund to be used for the loan program.

Section 46. Funds authorized in Sections 2 and 3 of Chapter 77, Volume 69 of the Laws of Delaware for a New Castle County, Water Resources Agency Plumbing Study may be used by the Department to evaluate the in-stream flow of White Clay, Red Clay and Brandywine Creeks and Christina River.

Section 47. The provisions of any other law notwithstanding, of the funds appropriated to the Department of Natural Resources, Air and Waste Management (40-09-00) in Senate Bill No. 420 of the 137th General Assembly for UST State Agency Tanks, up to Two Hundred Thousand Dollars (\$200,000) may be used by the Secretary of Natural Resources for the Hazardous Substance Cleanup Fund, as authorized by Title 7, Subsection 9113(c)(6), Delaware Code.

Section 48. Section 1 of this Act provides an appropriation to the Department of Natural Resources for the Coast Guard site at Cape Henlopen. This appropriation may be used for renovation costs at the Coast Guard site and up to Ten Thousand Dollars (\$10,000) may be used to purchase an option for the Ooxsee site.

DEPARTMENT OF PUBLIC SAFETY

Section 49. Delaware State Police Firing Range. The Department of Public Safety shall ensure that scheduling of the new firing range is arranged in such a manner to allow any public law enforcement agency in the state an opportunity to use said facility.

Section 50. Section 9 of this Act makes an appropriation of General Funds. Included in that amount is \$50,000, for the Police Athletic League Project, \$50,000 for Community Police Station in Hockessin and \$500,000 for New Castle County Police Sub-Station in Middletown.

DEPARTMENT OF TRANSPORTATION

Section 51. Transportation Trust Fund Authorizations. (a) There is hereby appropriated One Hundred Thirty-One Million Six Hundred Eleven Thousand Dollars (\$131,611,000) 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 Twenty Million Five Hundred Thousand Dollars (\$20,500,000) pursuant to the provisions of Chapter 14, Title 2, Delaware Code, as amended, of which Eighteen Million Nine Hundred Thousand Dollars (\$18,900,000) shall be used for purposes set forth in the Section 1 Addendum of this Act with the remainder of One Million Six Hundred Thousand Dollars (\$1,600,000) to be used to fund issuance costs and necessary reserves from the Reserve Account.

(c) To deauthorize the following program fund balances and reauthorize such balances in accordance with the Section 1 Addendum of this Act:

<u>Deauthorize</u>	<u>Amount</u>	<u>Reauthorize</u>	<u>Amount</u>
Advanced R/W & Corridor Preserv. (59/00)	(\$ 2,000,000)	Program Development (74/00)	\$ 2,000,000
Bridge Replacement & Rehab. (65/00)	(\$ 8,000,000)	System Preservation (75/00)	\$ 8,000,000
Public Transit (73/00)	(\$ 1,000,000)	System Preservation (75/00)	\$ 1,000,000
Pave & Rehab. (64/00)	(\$ 7,000,000)	System Preservation (75/00)	\$ 7,000,000
Safety & Inters. Impr. (63/00)	(\$ 6,000,000)	System Management (76/00)	\$ 6,000,000
Public Transit (73/00)	(\$ 380,000)	System Management (76/00)	\$ 380,000
Rehabilitation & Reconstr. (64/00)	(\$ 7,890,000)	System Management (76/00)	\$ 7,890,000
Cor/Non-Corridor Impr. (66/00)	(\$10,460,000)	System Expansion (77/00)	\$10,460,000
Public Transit (73/00)	(\$10,480,000)	System Expansion (77/00)	\$10,480,000
Suburban Street Prog (56/00)	<u>(\$ 1,550,000)</u>	Suburban Street Prog(56/00)	<u>\$ 1,550,000</u>
Total Deauthorization & Reauthorizations	<u>(\$54,760,000)</u>		<u>\$54,760,000</u>

(d) As projects and programs are completed within the following "old" program categories made available by previous acts, and as unexpended balances therein are determined to be in excess of those program needs, as identified by the Department, the Department of Transportation is authorized to transfer such balances to "new" program categories in such amounts and to such new programs as deemed appropriate by the Department:

"Old" Program Categories

Advanced Planning (60/00)
 Advanced R/W & Corridor Preservation (59/00)
 Rehabilitation & Reconstruction (64/00)
 Pave & Rehabilitation (64/00)
 Bridge Replacement & Rehabilitation (65/00)
 Safety & Intersection Improvements (63/00)
 Traffic Control Devices (62/00)
 Dirt & Surface Treatment Roads (62/00)
 Public Transit Improvements (73/00)
 Corridor & Non-Corridor Improv. (66/00)

"New" Program Categories

Program Development (74/00)
 System Preservation (75/00)
 System Management (76/00)
 System Expansion (77/00)

Section 52. Department of Transportation Accounts. (a) Any funds appropriated from any source to the Department of Transportation ("Department") shall be accounted for by program category as specified in the Section 1 Addendum of this Act. Amounts indicated for individual projects in the "Supplemental Information for 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 and pavements in the State of Delaware and to use the System Preservation Program funds made available by this act and the Bridge Program, the Rehabilitation and Reconstruction, and the Pave and Rehabilitation Program funds made available by previous acts to ensure the bridge repairs and replacements and pavement resurfacings and rehabilitations are carried out in an expeditious manner based on the Department's priority and management systems.

(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 paving and rehabilitation projects in the "System Preservation" 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 System Preservation 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 paving and rehabilitation project(s) from the most recently approved Department of Transportation Capital Improvement Program or from the most recent project priority "System Preservation" listing.

(d) Any funds appropriated from the "Suburban Street Program" (56/00) of the "Supplemental Information For 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 for administering the Suburban Street Program.

Section 53. 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 54. Trip permit registration may be issued pursuant to the International Registration Plan for any vehicle or combination of vehicles which could lawfully operate in this State if full registration or proportional registration were obtained. A permit for this purpose shall be valid for three days, including the day issued, for which a fee of \$15 shall be charged.

Section 55. No person shall operate, or being the owner of any qualified motor vehicle as defined under the International Registration Plan, as authorized in Chapter 4 of Title 21, without displaying an apportioned plate with required registration credentials, or without having in their possession a trip permit as authorized in Section 54 of this Act. Any person who violates this subsection shall, for the first offense, be fined not less than \$115 nor more than \$345, and for each subsequent offense not less than \$345 nor more than \$575. In addition, such person shall also be fined in an amount which is equal to the cost of registering the vehicle at its gross weight at which fine shall be suspended if within five days of the offense the court is presented with a valid registration card for the gross weight at the time of the offense or the maximum legal limit for such vehicle.

Section 56. It is the intent of the General Assembly that of the amount authorized in the Section 1 Addendum of this Act to the System Management Program Account (55-05-00-76-00), Five Million Four Hundred Fifteen Thousand Dollars (\$5,415,000) 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, 7 Delaware Code, Chapter 74, Subchapter 2.

Section 57. Section 4005, Title 7, Delaware Code notwithstanding, the Department of Transportation may also become the designated plan approval agency, in those situations where the land disturbing activity for which a permit is required is itself caused by a project initiated by the Department of Transportation, subject to the following provisions:

(1) If the land disturbing activity takes place on existing right-of-way of the Department of Transportation, that Department is permitted to assess and collect a fee for this purpose which shall not exceed \$125/acre, with a \$250 minimum.

(2) If the land disturbing activity takes place adjacent to but not upon existing right-of-way of the Department of Transportation, the fee is waived.

Section 58. The Department of Transportation is hereby directed to enter into an appropriate lease agreement with the Veterans of Foreign Wars, for nominal consideration, of certain state-owned lands adjacent to State Route 71 in New Castle County, near the State Veterans Cemetery, for purposes of a post site. The terms of the lease shall include a provision for the return of the premises to the Department, at no cost to the Department for the removal of structures, if the Department determines the land is needed for transportation purposes. For purposes of this transaction, the provisions of 17 Delaware Code, Section 137 are hereby waived.

Section 59. Section 1 Addendum of this Act provides for an appropriation for Suburban Streets. It is the intent of the General Assembly that the Department of Transportation utilize the infrared patching system on a pilot basis on one or more projects that are included in the Suburban Street Project List. The Department of Transportation shall report to the Joint Legislative Committee on the Capital Improvement Program on effectiveness of the infrared patching system by June 15, 1995.

Section 60. The State Police shall have the primary authority to enforce traffic laws on limited access highways within municipalities in the State of Delaware unless the State Police have, by specific signed agreement, authorized another jurisdiction to enforce traffic laws on a limited access highway.

Section 61. It is the intent of the General Assembly that any funds appropriated from any source to the Department of Transportation shall not be used to construct the First State Boulevard Connector (Project #92-031-01) until such time that the Department has indicated it will restrict all commercial related traffic, which includes pedestrian, customer, delivery and shipping access on MacArthur Drive, south of Windsor Avenue, immediately after the completion of the Connector Project. The Department shall notify the Joint Legislative Committee on Capital Improvement Program of the completion of the Connector project and the commercial traffic restrictions imposed on MacArthur Drive pursuant to this section.

Section 62. The Department is directed to complete the transportation environmental studies related to solutions for the projected needs of the U.S. 301 Corridor. As part of these studies and in accordance with the Clean Air Act, ISTEA and NEPA, the Department is directed to undertake a multi-modal analysis of the corridor consisting of maximum transit deployment, alternative land use scenarios and congestion management as solutions in order to eliminate the need for future highway expansion. Further, if highway expansion is deemed appropriate, the Department is encouraged to pursue the WILMAPCO discussed alternatives for U.S. Route 301, including but not limited to, linking U.S. Route 301 to Route 1 at the existing Route 40 interchange.

Section 63. Amend Volume 68 Laws of Delaware, Chapter 405, Section 55, by inserting the following sentence between the word "Office," and the quotation mark (") at the end of the last sentence thereof:

"Construction of the center by a private organization under an agreement pursuant to this section shall not be subject to Chapter 69 of Title 29, Delaware Code".

STATE BOARD OF EDUCATION

Section 64. 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 65. Kent County Vocational Technical District, North Educational Facility. Notwithstanding the provisions of any other state law, it is the intent of the Governor and General Assembly that land acquired by the state in 1971 off of Denny's Road in Dover, of which approximately 38 acres, as improved, is under the control of the Kent County Vocational Technical District for providing education, shall become part of and under the control of Delaware Technical and Community College, Terry Campus for the purpose of providing allied health educational programs upon completion of a replacement facility for Kent County Vocational Technical District's educational program. The transfer to Delaware Technical and Community College, Terry Campus of the land and improvements known as Kent County Vocational Technical District, North Educational Facility shall take effect upon completion and occupancy by Kent County Vocational Technical District of an appropriately sized replacement facility at its Woodside Campus. The size of such replacement facility shall be determined in accordance with the State Board of Education school construction regulations with the understanding that the purpose of this effort is to replace at the Woodside Campus the administration and classroom space currently being utilized by the District at the North facility. It is anticipated that the state will pay 100% of the replacement cost, excluding the cost of land previously acquired by the District. Nothing in this Section shall be construed as altering any existing ownership interest, rental agreements or maintenance responsibilities related to the North facility prior to completion and occupancy of the replacement facility at Woodside. Likewise, nothing in this Section is intended to obligate the Governor or the General Assembly to specific future authorizations or time frame.

Section 66. Southern Campus Land Acquisition. Funds authorized in Section 10 of Chapter 405 of Volume 68 of the Laws of Delaware and Section 11 of Chapter 77 of Volume 69 of the Laws of Delaware may be used to acquire land for maricultural and aquacultural purposes.

Section 67. Smyrna District Additions/Renovations. Funds authorized in Section 3 of Chapter 77 of Volume 69 and Section 2 of Chapter 405 Volume 68 of the Laws of Delaware may be used in conjunction with the Department of Public Instruction School Construction Manual to ensure completion of such projects.

Section 68. 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 69. 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 70. 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 71. Effective Date. This Act shall take effect in accordance with the provisions of state law.

Approved July 13, 1994.

PAVING AND REHABILITATION			
CO. ROAD #/NAME	FROM	TO	
N Rd 322(PE)	Pike Creek Rd	Rd 316	Rd 321
N Rd 295(PE)	Pike Creek Rd	Rd 321	Rd 13
N Rd 247(PE)	Del 82 Creek Hill Rd	Rd 253	Rd 257
N Rd 4 NB & SB	U.S. 202 Concord Pike	Rd 210 Murphy Rd	Rd 227 Mt. Lebanon Rd
N Rd 11 EB & WB	Del 2 Kirkwood Hwy	White Clay Creek Bridge	W. Limits Polly Drummond Proj
N Rd 11 EB & WB	Del 2 Kirkwood Hwy	E Limits Polly Drummond Pro	Rd 31(Del 7)
N Rd 11 EB & WB	Del 2 Kirkwood Hwy	Rd 11-C New Rd	0.10E of Rd 27(Del 100)
Del. Library Avenue, Newark			
N Rd 11 EB & WB	Del 2 Kirkwood Hwy	Rd 356(Del.72)	Rd 309 Cleveland Ave
N Rd 11-0	Library Ave	Rd 11 WB(Del 2)Kirkwood	Rd 356(Del 72)
N Rd 356 NB & SB	Del 72	Rd 356-E Wyoming Ave	Rd 11 EB(Del 72)Kirkwood Hwy
N Rd 32 EB & WB	US 40 Pulaski Hwy	Ramp 630-1(Del 1)	0.08 W of Rd 34(US 13)
N Rd 206	Baynard Blvd	Rd 214 Shipley Rd	Lakewood Dr
N Rd 210	Murphy Rd	Rd 4(US 202)Concord Pike	Rd 203(Del 261)Foulk Rd
N Rd 234	Twadell Hill Rd	New Hot Mix nr Meadows Ln	Rd 232 Rockland Rd
N Rd 235	Rockland Rd	Rd 225 Thompsons Bridge Rd	Rd 232 Rockland Rd
N Rd 252	Pole Cat Alley	0.06 W.Rd 254 Friends Mtg Rd	Rd 253 Senge Rd
N Rd 271 NB & SB	Del 141 Center Rd	Rd 270 Faulkland Rd	Rd 237(Del 48)Lancaster Pike
N Rd 281	Duncan Rd	Rd 276 McKennan's Church Rd	Rd 11(Del 2)Kirkwood Hwy
N Rd 299	Possum Hollow Rd	Rd 314 Possum Park Rd	END
N Rd 305	Corner Ketch Rd	Jobs Lane	Rd 292 Branch Rd
N Rd 356	Del 72 Wrangle Hill Rd	Rd 32(US 40)Pulaski Hwy	RR X-ing 1/2mi S of Old Baltimore Pike
N Rd 389	Whitaker Rd	Rd 26 Old Baltimore Pike	Rd 367 Welch Tract Church Rd
K Rd 2 NB & SB	North DuPont Hwy	Rd 45(Del 42)Main St Cheswold	Rd 102 Messina Hill Rd
N Rd 22 NB & SB	US 13 DuPont Pwy	Rd 441(Del 299)Old State Rd	Rd 2 Port Penn Road
N Rd 30	Paddock Rd	Rd 45 Walker School Rd	Rd 465 Eagles Nest Ldg Rd
K Rd 171	Lockwood Chapel Rd	Rd 46 Del 11 Arthursville Rd	Rd 170 Judith Rd
K Rd 289	Hopkins Cemetery	Rd 78 Hopkins Cemetery	Rd 5 SB S DuPont Hwy
K Rd 331	Dyke Branch Rd	Rd 330 E Denneys Rd	Rd 88 Leipsic Rd
K Rd 407	Airport Rd	Rd 388(Del 15)Canterbury Rd	Rd 8 SB US 113 DuPont Blvd
N Rd 430	Brick Hill Rd	Rd 438 Main St Odessa	Rd 429 Armstrong Corner Ad
N Rd 470	Massy Church Rd	Rd 47 Vandyke Greenspring Rd	Rd 469 Black Diamond Rd
N Rd 483	Alley Hill Rd	Rd 40 Clayton Delaney Rd	Rd 47 Vandyke Greenspring Rd
K Rd 19	Thompsonville Rd	Rd 423 Reynolds Rd	Rd 421 Long Cabin Rd
K Rd 67	S Little Creek Rd	Rd 348 Horsapond Rd	Rd 17(Del 8)Bayside Dr
K Rd 129	Longridge Rd	Rd 39 Millington Rd	Rd 478 Delaney Maryland Line Rd
K Rd 207	Mud Hill Rd	Rd 208 Mahan Corner Rd	Rd 226 Tobacco Rd
K Rd 347	Lafferty Ln	0.08 E of Rd 347-8	Rd 348
K Rd 12	Del 9 Denny St	Rd 15(Del 9)Bayside Dr	Rd 2 NB N DuPont Hwy
K Rd 39	Del 6 Millington Rd	MD Line	Rd 40 School Lane
K Rd 112	Burrsville Rd	Rd 63(Del 16)Hickman Rd	MD Line
K Rd 112-A	Wilhelm Rd	MD Line	Rd 112 Burrsville Rd
K Rd 119	Tub Hill Pond Rd	Rd 8 NB DuPont Blvd	Rd 392 Blue Jay Ln
K Rd 131	Blackiston Church Rd	Rd 94 Underwoods Corner Rd	Rd 39 Millington Rd
K Rd 141	Wildlife Rd	Rd 140 Chance Rd	Rd 94 Underwoods Corner Rd
K Rd 159	Winding Creek Rd	Rd 51(Del 8)	Rd 162 Sharon Hill Rd
K Rd 169	Shorts Corner Rd	Rd 46(Del 11)Arthursville Rd	Rd 170 Judith Rd
K Rd 185	Taralla Rd	Rd 186 Strauss Ave	Rd 103 Bryants Corner Rd
K Rd 198	Rose Valley School Rd	Rd 73 Hazelettville Rd	Rd 51(Del 8)
K Rd 199	Nault Rd	Rd 73 Hazelettville Rd	Rd 51(Del 8)
K Rd 199-A	Troyer Rd	Rd 73 Hazelettville Rd	Rd 199 Nault Rd
K Rd 203	Todds Hill Rd	Rd 202 Allabands Hill Rd	Rd 73 Hazelettville Rd
K Rd 204	Apple Grove School Rd	Rd 202 Allabands Hill Rd	Rd 73 Hazelettville Rd
K Rd 205	Bryants Corner Rd	Rd 52 Westville Rd	Rd 73 Hazelettville Rd
K Rd 212	Pony Track Rd	Rd 53(Del 10)Willow Grove Rd	Rd 207 Mud Hill Rd
K Rd 229	Mumfield Ln	END	Rd 230 Morgans Choice Ln
K Rd 232	Thicket Rd & Almshouse Rd	Rd 54 Henry Cowgill Rd	Rd 52 Westville Rd
K Rd 234	Bison Rd	Rd 125	RR Crossing
K Rd 236	Olin Hill Rd	Rd 235 Farm Rd	Rd 240 Turkey Point Rd
K Rd 387	Roseville Rd	Rd 386 Scrap Tavern Rd	Rd 35 Carpenter Bridge Rd
N Rd 417	Dutch Neck Rd	Rd 2 Port Penn Rd	Rd 2 Port Penn Rd
K Rd 421	Log Cabin Rd	Rd 422 Pritchett Rd	Rd 19 Thompsonville Rd
N Rd 437	Bunker Hill Rd	Rd 435 Choptank Rd	MD Line
K Rd 440	Devils Woodyard Rd	Rd 450 Schabach Rd	Rd 118 Coon Den Rd
N Rd 456	New Discovery Rd	Rd 14 Summit Bridge Rd	Rd 1 US 13 DuPont Pwy
N Rd 459	Grears Corner Rd	Rd 463 Blackbird Station Rd	Rd 25 Caldwell Rd

PAVING AND REHABILITATION - Continued
CO. ROAD #/NAME

Sub-Total	\$ 14,750,000
Statewide Concrete Patching	75,000
Transit Rideability Spot Improvements	175,000
Total	\$ 15,000,000

SUPPLEMENTAL INFORMATION FOR TRANSPORTATION PROJECTS

Fiscal Year 1995

TITLE	ACTIVITY	TOTAL COST	TTF AUTH
I. PROGRAM DEVELOPMENT			
Transportation Long Range Planning and Research Transportation Services Development Multimodal Program Development Project Development Technology Transfer Technical Services			
TOTAL PROGRAM DEV.		\$9,050,000	
TTF Authorization needed			\$6,413,000
II. SYSTEM PRESERVATION			
BR435 to N477	Construction		
BR445 on SR9	Construction		
BR257 on SR7	PE/Construction		
Van Buren ST BR	PE/Util.		
BR235, N20 over Mill Ck	Construction		
BR182, Faulkland Rd/Hyde Run	PE/Construction		
BR224, on N325	PE/Construction		
BR1A, Rising Sun Ln	Construction		
BR162A on Sharon Hill Rd	Construction		
BR17A on SR9, Little Ck	Construction		
BR21A on K21 over Misp. River	Construction		
BR156C on Saulsbury Rd	Construction		
BR148 on SR42 over Dyke Branch	Construction		
BR707, over Silver Lake, Rehoboth	Construction		
BR491, on S394B	PE/Construction		
BR161, S28A over Broad Ck, Poplar St	Construction		
Other Bridges			
Bridge Scour Eval			
Bridge Inspection			
I-95 From MD line to SRB96			
Bridge Painting Program			
I-95, N of SR141 to PA Line	PE		
I-95, N of SR141 to Wilm	Construction		
I-95, SR273 to SR141	PE		
I-95, SR896 to 273	PE		
SR20 -S62 to S432	Construction		
S331, S334 to S24 Eastbound	Construction		
S13(US13A), S501 to S64	Construction		
Paving (IR) Locations (See Attachment)			
SR1, Milford By-Pass	Construction		
Dirt Rds - Surface Treatment	Construction		
Port of Wilm			
13th Street Improvement	PE/Construction		
Riverview Plaza	Construction		
Rail Preservation			
Dast Buses/Vans			
COT Bus Replace			
DRT Bus Replace			
Fareboxes COT/DRT			
Heavy Equipment Replacement			
Materials and Minor Contracts			
Equipment Sheds			
Downtown Newark Pedestrian Enhancements			
New London Rd, MD Line to Cleveland Ave			
TOTAL SYSTEM PRESERVATION		\$46,103,000	
TTF Authorization needed			\$33,904,000

TITLE	ACTIVITY	TOTAL COST	TTF AUTH
III. SYSTEM MANAGEMENT			
Porter Rd. SR896 to SR72	R/W		
Salem Church Rd. US40-Raybold Rd	Construction		
Southwood Road, Valley Rd - Ridon Or	Construction		
Cedar Lane Rd, N429 to Mt Pleasant Rd	Construction		
Kenneth Pike, Buck to Sunnyside	Construction		
Lighthouse Rd	Construction		
Old Baltimore Pike, MD to SR896	Construction		
Governors Ave, Webb Lane to US13	Construction		
Foulk & Silver Side Rd	Construction		
Churchmans Rd, Continental Or	Construction		
US40 & SR7	Construction		
Lancaster Pike at Brackenville Rd	Construction		
Rockland Rd & Mt. Lebanon Rd	Construction		
US40/SR72 Intersection	PE		
SR84 and S349A Oceanview Int.	Construction		
S22 & S298 Intersection	Construction		
Rail Crossing Safety			
City of Wilm. Signals & Bus Stop	Construction		
Oart Services Bus Stop Retrofit			
Variable Message Signs	PE/Construction		
Adaptive Signal Control Systems			
Intersect Improv & Misc	PE/Construction		
Trans. Enhancement	PE/Construction		
Bus Shelters	Construction		
Clean Air Small Station Assistance Prog			
AVL/GPS Equipment			
Ticket Vending Machines			
TOTAL SYSTEM MANAGEMENT		<u>\$26,255,000</u>	
TTF Authorization needed			<u>\$15,440,000</u>
IV. SYSTEM EXPANSION			
SR896 N of US40 to I-95	Construction		
Intermodal Rail Passenger Transfer Fac.	Construction		
SR48, Lancaster Pike, Hercules to SR41	Environment		
JFK Turnpike, Churchmans Rd & SR7 INT	R/W		
SR7 (SR1) Interchange	R/W		
Naaman's Rd, BR at Phila Pike	Construction		
Naaman's Rd. Grubb to Foulk	Construction		
SR273, Marrow's Rd to Amtrak	Construction		
SR273, I-95 to Oglethorpe	PE		
Valley Rd, SR7 to Evanson	Construction		
Sussex Intersection Improvements 404A	Construction		
Sussex County Taxiway	Construction		
SR1	Rights-of-Way		
SR1	Environmental		
SR1, DAFB to S of SR10	Construction		
SR1, Emergency Response System	Construction		
SR1, Design Coordin			
SR1, Construction Coordin			
SR1, Wetlands Mitigations	Environmental		
SR1, St. Georges- Tybouts	Traffic		
SR1, Marl Pit Rd	Construction		
Transit Facilities Expansion	Construction		
Bus Procurement For Expanded Services			
Georgetown Transit Maintenance Facility	Construction		
Freight Rail Systems & Infrastructure			
State Vanpool Program			
TOTAL SYSTEM EXPANSION		<u>\$103,556,000</u>	
TTF Authorization needed			<u>\$53,554,000</u>
V. SUBURBAN ST., DRAINAGE & MISC.		<u>\$16,700,000</u>	
TTF Authorization needed			<u>\$16,700,000</u>

VI. Suburban Streets Program

Afton - Fairhope Road from speed bump at house #2609 to Oelpenn Rd.	95-482	10,400
Afton - Guilford Court from Fairhope Road to end	95-519	27,300
Afton - Hetterling Road from Marsh Road to end	95-483	32,500
Beaver Brook - Salenell Blvd. from Rte 13 to building 11M (Rental)	95-500	22,100
Bon Ayre - Deergrass Road from Ciderbrook Road to Clover Road	95-229	33,800
Bowers Beach - Cooper Avenue from K18 (Hubbard Ave.) to parking lot	95-421	22,100
Brandywine Springs Manor - Dunlap Dr. from H. Oakland to Herbert	95-009	22,100
Brandywine Springs Manor - Dunlap Dr. from H. Oakland to Herbert	95-010	23,900
Brookland Terrace - Albany Place from Centerville Road to Armstrong	95-307	8,450
Brookland Terrace - Beech Avenue from Centre Road to end	95-306	4,550
Brookmeade #1 - Teal Road from Turnstone Drive to end	95-532	39,000
Buckley - Buckley Boulevard from Route 40 to Calburn Court	95-336	52,000
Caesar Rodney Avenue from Center Street to Front Street	95-257	16,900
Cambridge Gardens (Hilton) - Dunning Court from Saybrook Way to end	95-089	7,150
Camden - U.S. 13A and Old North Road Intersection	95-422	15,600
Camden - West Street from South Street to Willow Avenue	95-401	49,900
Capitol Trail - Kirkwood Highway in front of house #134	95-137	10,400
Caravel Farms - Carol Ann Court from Mabel Lane to end	94-353	6,500
Caravel Farms - Caroline Court from Mabel Lane to end	94-352	6,500
Caravel Farms - Chesapeake Dr. from Savannah East to Savannah West	94-355	16,900
Caravel Farms - Congress Dr. from Savannah Dr. west to end	94-351	28,600
Caravel Farms - Mabel Lane from Valerie Drive to Route 72	94-350	55,900
Caravel Farms - Phoenix Dr. from Savannah West to Savannah East	94-354	14,300
Chalfont - Kingman Drive from Landon Drive to Easton Road	95-208	91,000
Chalfont - Landon Drive in front of house #2706 and #2707	95-320	7,200
Chatham - Graylyn Road in front of house #1204 and #1218	95-332	5,900
Cullan Drive from St. Georges Road to end	95-028	48,100
Delplane Manor - Delplane Ave. from house #220 (new hot mix) to end	95-184	53,300
Devon - S. Rockfield Drive from Shipley Road to Malvern Court	95-268	28,600
Dover - American Ave. from Madison St. to Pennsylvania Ave.	95-295	22,100
Dover - Carol St. from William St. to Walker Road	95-297	54,000
Dover - Freedom Drive from Independence Blvd. to Independence Blvd.	95-289	83,500
Dover - Governors Avenue from North S. to Bank Lane	95-032	28,000
Dover - Jefferson Court from George Washington Drive to end	95-291	14,700
Dover - Madison Court from George Washington Drive to end	95-292	15,100
Dover - Sherwood Court from Westview Terrace to end	95-294	28,600
Eden Ridge #2 - Hertford Rd. from Mt. Lebanon Rd. to Westcliff Road	95-404	83,200
Eden Ridge - Intersection of Conlson Road and Sunbury Road	95-126	1,700
Edgebrooke - Top View Court from Edgebrooke Way to circle	95-163	48,100
Elmhurst - Mansion Road from Emma Place to Tamarack	95-135	18,850
Elmwood - Marie Court from Robert Oakes Drive to Circle	94-242	20,800
Fairmount Drive from Skyline Drive to entrance to Birch Pointe	95-389	44,200
Fairthorne - Bellant Circle from Oriente Avenue to Fairthorne Ave.	93-189	35,100
Fairthorne - Santomera Lane from Fairthorne Avenue to end	93-186	14,300
Fairway Falls - Fairway Drive from Skyline Drive to Delray Drive	95-366	18,600
Fox Hall Drive from Road 104, Kenton Road to deadend	95-155	26,200
Fox Woods - Fox Drive from Stature Road to circle	95-105	54,600
Gordy Estates - Woodtop Road from Garnet Road to Lynbrook Road	95-309	33,150
Green Valley - 1st Street from 4th Street to end	95-180	20,800
Green Valley - 2nd Street from 1st Street to end	95-177	19,500
Green Valley - 3rd Street from 1st Street to end	95-179	13,000
Greentree - N. Walnut Tree Lane from existing sidewalk	95-522	4,680
Greentree - M. Birch Tree Lane from in front of house #712	95-205	2,600
Greentree - Intersection of Darley Road and Peachtree Road	95-206	7,800
Hampton Green #2 (Hilton) - Vane Ct. from Nilson Ct. to end	95-189	18,200
Harbor Estates (DE City) Harfel Drive from Clover Circle to Reybold	94-439	100,000
Hickory Hills - Erickson Drive from Hemingway Drive to end	95-253	16,900
Hickory Hills - Erickson Drive from Old Lancaster Pike to entrance	95-252	4,600
Holiday Hills - Lido Lane from Westminster Drive to Coventry Drive	95-515	23,400
Holiday Hills - Riviera Lane from Nassau Drive to Jamaica Drive	95-514	18,200
John C. Hudson development - Indian Branch from Road 582 to end	95-236	11,300
John C. Hudson development - Tramway Road from Indian Branch to end	95-237	9,400
Keen Mik West - Salty Way Drive from Road 553 to Salty Way West	95-406	22,100
Lancaster Pike - side of Children's Discovery Center	95-158	9,800
Lexington Ave. (Spruance City) from Upham Street to deadend	95-261	27,700
Limestone Acres - Springer's Lane from Pickwick Drive to end	95-489	57,200
Limestone Gardens - Cratchett Rd. from Hilltown Rd. to Nicholby Dr.	95-099	19,500
Limestone Gardens - McCawber Dr. from Pickwick Rd. to Pickwick Rd.	95-100	54,600
Limestone Hills-Fairhill Dr. to Morgan Ln., Belmont Dr. to Citation	95-160	46,800
Lincoln - public drainage ditch road #207	95-153	4,210
Lyndalia - Cedar Avenue from 1st Avenue to 3rd Avenue	95-311	22,100

Lynfield - Homewood Road from Milson Road to Bette Road	95-226	71,500
Magnolia - Thorne Street and West Walnut Street	95-170	49,890
Manor Park	95-560	106,600
Mayfield - Mayfield Drive from Marsh Road to Walton Road	95-063	35,100
McDaniel Crest - Orchard Drive from Woodrow to Nichols to Florence	95-225	63,700
Mendenhall Village - Stone Barn Rd. from Windy Hill Dr. to end	94-298	15,600
Mendenhall Village - Fieldstone Circle from Village Drive to end	95-248	18,200
Mendenhall Village - Quail Hollow Road from house #5 to Iron Stone	95-250	18,200
Mendenhall Village-Lamplighter May from Cobblers to Chimney Hill	95-249	26,000
Mendenhall Village - Pump House Circle from Forest Creek to circle	94-318	13,000
Midway Park -North Road from Issacs Drive East to Issacs Drive West	95-416	1,672
Milford - Road S619 from Road S618 to Road S619-A	95-041	2,300
Montclare - Belaire Drive from Salem Drive to end	95-334	42,900
New Castle - Van Dyke Drive from New Anstel Avenue to end	95-333	45,500
Newark (Prestwick Farms)- Stafford Avenue from Orchard Ave. to #402	95-465	25,800
Newark - Country Club Drive from New London Road to Danbury Drive	95-418	89,000
Newark - East Park Place from Academy Street to Manuel Street	95-417	79,000
Newark - West Main Street from #144 to #176	95-420	23,000
Newark - West Main Street from railroad tracks to Bent Lane	95-494	17,500
North Graylyn Crest	95-561	91,000
North Graylyn Crest - Harlton Dr. from Longcome Dr. to Foulk Rd.	95-013	26,000
North Star - Jupiter Drive from new hot mix at house #201 to end	95-369	61,100
Northcrest - Chinchilla Drive from Wrexham Road to Wrexham Road	95-055	33,800
Old Hill Road, Road 355 from Alt Rte 13, Rd 27 to S. Shore Drive	95-154	11,700
Pearson Ave. (Woodland Beach) from North Ave. to Bombay Hook Ave.	95-262	16,100
Penn Acres - Lesley Lane from Morrison Road to Roosevelt Avenue	95-363	110,500
Pepperidge - Tupelo Turn from Pepper Ridge Court to end	95-367	29,000
Piermont Woods - Penncross Circle from East Hanna Drive to end	95-495	10,400
Porter Square - East Meald Drive and Roberta Court	95-463	6,500
Red Hill Farms - Nassau Drive, Coventry Drive, and Red Hill Circle	95-109	55,900
Rivers End - Bynum Lane from Providence Drive to Red Lion Terrace	95-343	20,800
Rivers End - Manticoke Place from end to end	95-342	18,200
Rivers End - South Red Lion Terrace from Providence Road to end	95-344	26,000
Road 126 - both sides of Intersection of Road 129	95-129	2,600
Road 18C (Bowers Beach) from Road 18 to Road 18	95-147	22,700
Road 276 from Road 269 to Road 275	95-185	70,200
Road 379 from Road 379 to Road 31	95-148	8,100
Road 46 - north end of Hartly Fire Station to south of station	95-314	55,600
Road 54 - Woodside from Route 13A to Road 240	95-156	96,500
Road 619 (Shawnee Road) from Road 618 to Road 619A	95-084	4,600
Road K33B from Road K15 (Route 9) to end	95-425	122,200
Road K76 (Smyrna Landing) from bridge 64A to 565 L.F. south	95-264	15,100
Road N234 (Twaddel Hill Road) from Rt3 100 to new hot mix at Meadow	95-390	58,500
Road N364 (West Chestnut Hill Road) from Ott's Chapel to 500' west	95-464	10,150
Road N485 (Clark Farm Road) from road N47D to Road N484	95-424	57,100
Road N485 (Smyrna Landing) from bridge 64A to 1990 L.F. north	95-263	52,400
Road S16-C from Road 16 to end	95-078	45,500
Road S17 (drainage) from Road S404 to Road S564	95-092	5,000
Road S18 (shoulders) from Road S17 to Road S561	95-038	72,000
Road S18 from Road S17 to Road S561 - shoulders	95-040	72,000
Road S42 ditching	95-265	6,270
Rodney Village - David Hall Rd. from Charles Polk to Nathaniel	95-528	59,100
Rodney Village - John Collins Circle from David Hall Rd. to David	95-527	18,600
Roseville Park - Chestnut Avenue from Laurel Avenue to Polly	95-535	35,100
Roseville Park - Maple Avenue from Chestnut to Oak	94-482	15,600
Roseville Park - Rose Circle from Kirkwood Highway to end	95-101	49,400
Roseville Park - drainage at Intersection of Oak & Boxwood Avenues	95-284	15,000
Roseville Park from Laurel Ave. to Rose Circle	95-157	20,800
SR 42 and SR 300 (Kenton) Intersection - traffic	95-405	4,000
Salem Woods - Arlene Court from Jaymar Boulevard to end	95-338	20,800
Salem Woods - Giles Court from Jaymar Boulevard to end	95-436	14,300
Salem Woods - Jaymar Boulevard from Joseph Drive to Megan Court	95-340	76,700
Salem Woods - Joseph Dr. from Salem Church Road to Jaymar Blvd.	95-339	26,000
Saulsbury Road and Hillcreek Drive Intersection	95-387	8,400
Sharpley - Hampton Road in front of house #330	95-492	2,600
Sharpley - Whitby Road from house #304 to house #308	95-110	5,900
Shelley Farms - Sonnett Dr., Kipling Dr. and Tennyson Dr.	95-074	29,900
Sherwood Forest - Sheldrake Rd. from Brownleaf Rd. to Stature Rd.	94-260	31,200
Southwood - Sassafras Dr. from Slashpine Dr. to New Alm	94-157	27,300
Summit View - Firthorne Lane from Summit View Drive to end	95-529	26,000
Summit View - Summit View Drive from Chestnut Hill Road to end	95-531	61,100
Summit View - Tulip Tree Lane from Summit View Drive to end	95-530	24,700

Surrey Park - Palomino court from Coachman Road to circle	94-158	18,200
Surrey Park - Road Ct. from Coachman Road to circle	94-159	9,100
Surrey Park - Sorrell Court from Sorrell Drive to circle	94-160	9,100
Surrey Park - Sorrell Drive from Sadler Lane to Silverside Rd.	94-161	70,200
Swanwick Estates - Cross Avenue from Festone Ave. to Stamm Blvd.	95-511	32,500
Talley Brook - Kenney Rd. from circle (hse #2812) to Summerset Rd.	95-209	45,500
Taylorstowne - Cervantes Court from Dumas Place to end	95-430	6,500
Taylorstowne - Dumas Place from Penman Drive to end	95-431	22,100
Taylorstowne - Pasternak Place from Dumas Place to end	95-434	9,100
Taylorstowne - Tolstoy Lane and Hilton Place	94-240	12,200
The Pines - The Pine Boulevard from Stone Pine Dr. to Gingerwood	95-359	18,200
Town of Frederica overlay	95-559	50,000
Townsend - Chestnut Street from Main Street (Rd. 25) to end	95-214	11,200
Traffic - City of Dover	95-025	6,600
Traffic - Greenwood Fire Company	95-072	1,650
Traffic - H. Reilly Brown Elementary School signal	95-106	23,500
Unami Trail Bypass Lane - Thompson Station Road (N53)	95-388	14,100
Vandyke Village - Casimir Court from Casimir Drive to end	95-267	45,500
Varlano - Dawes Court from Trevett Drive to end	95-446	9,100
Varlano - Dawes Drive from Trevett Boulevard to end	95-454	75,400
Varlano - Half Drive from Tiverton Circle to end	95-445	5,850
Varlano - Pitcairn from Tiverton Circle to end	95-448	20,800
Varlano - Prescott Drive from Dawes Drive to end	95-449	27,300
Varlano - Putnam Place from Dawes Drive to end	95-447	12,350
Varlano - Screven Place from Dawes Drive to end	95-452	10,400
Varlano - Valcour Circle from Trevett Boulevard to end	95-453	11,600
Village of Manley - Robin court from Nathalie Drive to end	95-244	41,600
Hillington Hills - Arthur Drive in front of house #7	95-228	7,300
Hillington Manor - Vanburen Ave. from Jefferson Ave. to Rte. 13	95-190	133,900
Hillington Manor Gardens - Boston Place from Yale Ave. to Colgate	95-222	44,000
Hilton - Berkely Way from Pembroke Court to Hilton Blvd.	95-537	76,700
Hilton - Lanford Place from house #31 to Edinburgh Road	95-505	50,700
Hilton - Palmer Place from Lanford Road to Canford Road	95-506	27,300
Wood Ridge - Sun Court from Jupiter Drive to end	95-365	11,900
Woodcreek - Greenwood Drive from new h/m entrance to Blue Grass Dr.	95-358	101,400
Woodcrest - Becker Avenue from Marlon Avenue to Surrey Avenue	95-308	8,450
Woodcrest - Surrey Avenue from Troy Avenue to Rochelle Avenue	95-310	11,050
Woodland - Peachtree Dr. from Hildwood Dr. to Glen Oak Lane	94-072	37,700
Woodland - Wagoner Drive from Dettling Road to Gallery Road	95-545	27,300
Woodland - Wagoner Drive from Faulkland Road to Dettling Road	95-544	57,200
Woodland Trail - Mozart Way from Opus Drive to Taylor Drive	95-139	8,100
Woodland Trail - Opus Drive from Mozart Way to Taylor Drive	95-138	10,400
Woodmill - Carolina Court from Woodmill Road to end	95-394	15,600
Woodmill - H. Woodmill Drive from Carolina Court (new hot mix) to end	95-277	48,100
Woodridge - Jupiter Road from house #201 to circle	95-085	45,650
Northland (Knollwood), Balfour Avenue to intersection of Denham Ave	95-127	2,300
Wyoming - E. Railroad Ave. from Camden-Wyoming Ave. to S. Boulevard	95-426	20,400
Wyoming - Meadow Ave. from Apple Tree Lane to Peach Street	95-427	13,200
Wyoming - Mill Street from West R.R. Avenue to south gate of mill	95-428	7,800
Arundel - Elrean Drive in front of house #1164	95-251	1,000
Beech Hill - Beech Hill Dr. from house #7 to new hot mix at Hse #2	95-234	19,700
Beech Hill - Running Brook Lane from Beech Hill Road to house #7	95-235	11,900
Benge Road #253 from Old wilm. Road #275 to Meeting House Rd #254	95-274	46,200
Bon Ayre - Clover Drive from ciderbrook Road to Deergrass Road	94-313	5,400
Devonshire - N. Rockfield Dr. from Cheshire Road to Altamont Dr.	95-548	14,100
Grubb Road drainage from Naaman's Road to Foulk Road	95-134	5,000
Iron Gates - Gates Circle from house #7 to house # 115	95-227	18,200
Keen-Wik - Bayberry Road from Cedar Road to dead end	95-462	21,200
Limestone Hills - Tern Cour from Middletown Drive to circle	94-311	1,000
Longwood (Tarleton) - Hillmont Drive in front of house #3109	93-358	3,765
Marshallton Heights - James Avenue from Newport Road to School Lane	95-312	7,650
McDaniel Crest - Shellpot Dr. from valley gutter to Lynhurst Ave.	95-027	2,800
Mendenhall Village - Beechwood Circle from Village Drive to end	95-246	1,000
Mendenhall Village - Briarcreek Dr. from Village Dr. to Stoneridge	95-247	1,000
Mendenhall Village - Cold Spring Circle from Forest Creek to circle	94-308	1,000
Mendenhall Village - Village Dr. from Forest Creek to Ridgewood	95-233	1,000
Mendenhall Village - White Briar Circle from Forest Creek to circle	94-307	1,000
North Star Road - North Star Road from Paper Mill Road to Altonwood	95-368	82,250
Oak Meadows - Briar Lane from Oak Meadow Drive to Oak Meadow Drive	95-412	16,000

Quail Ridge (Mayfair)- Pimlico Court from Bernard Drive to house #2	95-242	4,650
Road K152 from Road 42 to Road 92	95-386	153,660
Road N460 (Ratlidge Road) from 1/2 mile west of Road N14 to Barlow	95-474	168,000
Rodney Village - Gunning Bedford Dr. from Charles Polk to Nathaniel	95-526	52,400
Sharply - Hampton Rd., Halstead Rd. Foulkstone Rd., Walden Rd.	95-223	6,500
Talleybrook - Kennedy Road from Somerset Road to Somerset Road	95-057	12,350
Woodbrook - Cranebrook Road from Sharpley Road to Cornwall Road	95-349	8,000

1st Representative District	95-701	120,000
1st Representative District - Elliott Run	95-925	75,000
1st Representative District - Wilmington Employment Corps	95-926	25,000
1st Representative District tree planting - DE Center Horticulture	95-927	30,000
2nd Representative District	95-702	250,000
3rd Representative District	95-703	250,000
4th Representative District	95-704	200,000
4th Representative District - City of Wilmington sidewalk improve.	95-955	20,000
5th Representative District	95-705	250,000
6th Representative District	95-706	250,000
7th Representative District	95-707	38,220
8th Representative District	95-708	250,000
9th Representative District	95-709	56,400
10th Representative District	95-710	35,700
11th Representative District	95-711	31,900
11th Representative District - Greenways	95-988	10,000
13th Representative District	95-713	250,000
14th Representative District	95-714	107,500
15th Representative District	95-715	1,050
16th Representative District	95-716	217,500
18th Representative District	95-718	80,250
19th Representative District	95-719	250,000
20th Representative District - Greenways	95-720	850
21st Representative District	95-721	17,800
23rd Representative District	95-723	26,200
23rd Representative District - Greenways	95-932	50,000
24th Representative District	95-724	217,240
25th Representative District	95-725	6,700
27th Representative District	95-727	100,415
28th Representative District	95-728	50,950
30th Representative District	95-730	233,750
31st Representative District	95-731	42,750
32nd Representative District	95-732	77,250
32nd Representative District - Greenways	95-929	25,000
33rd Representative District	95-733	124,055
34th Representative District	95-734	66,800
35th Representative District - Milford Greenways	95-913	30,470
36th Representative District	95-736	227,500
37th Representative District	95-737	143,628
38th Representative District	95-738	17,661
39th Representative District	95-739	250,000
40th Representative District	95-740	250,000
41st Representative District	95-741	170,000
1st Senatorial District	95-801	250,000
2nd Senatorial District	95-802	250,000
3rd Senatorial District	95-803	240,000
4th Senatorial District	95-804	71,450
5th Senatorial District	95-805	3,085
6th Senatorial District - Greenways	95-806	30,000
7th Senatorial District	95-807	12,000
8th Senatorial District	95-808	7,900
9th Senatorial District	95-809	47,250
10th Senatorial District - Greenways - HR	95-958	107,525
11th Senatorial District	95-811	140,850
12th Senatorial District	95-812	1,150
13th Senatorial District	95-813	52,400
14th Senatorial District	95-814	126,850
15th Senatorial District	95-815	179,850
16th Senatorial District	95-816	5,455
17th Senatorial District	95-817	80,550
18th Senatorial District	95-818	82,700
19th Senatorial District	95-819	250,000

21st Senatorial District	95-821	250,000
Aeropark - Kent County Economic Development Corporation	95-961	17,000
Ardencroft	95-977	3,000
Ardentown	95-976	3,000
Bethany Beach - drainage	95-939	15,000
Bicycle/pedestrian underpass engineering	95-931	10,000
Blackwater Village	95-942	30,000
Casho Hill Road - underpass warning signal	95-957	30,000
City of Dover - Dogwood Court - Dogwood Avenue to end	95-969	6,800
City of Dover - Locust Point Place - Hayberry Lane to end	95-970	4,300
City of Dover - Monroe Terrace - Hyoming Avenue to end	95-971	20,100
City of Dover - Nottingham Court from Hayberry Lane to end	95-968	4,300
City of Dover - Westwood Drive - Westview Terrace to Moodsedge	95-972	17,900
City of Dover - Hoodbrook Drive - US 13 to end	95-973	5,800
City of Dover - drainage	95-967	13,000
City of Dover - streets	95-965	40,000
City of Harrington - Commerce Street sidewalk	95-919	2,500
City of Harrington - Tru-Blu Alley	95-918	30,000
City of Harrington - sidewalks	95-920	20,000
City of Hillford - Hall Place	95-917	45,000
City of Hillford - Truitt Avenue extension	95-916	16,000
City of Hillford - North Street	95-915	75,000
City of New Castle	95-924	50,000
City of Rehoboth Beach - Baltimore Avenue storm sewer improvement	95-928	80,000
City of Wilmington - Elliott Run project	95-959	10,000
Collins Creek - public ditch	95-940	6,339
Country Club Drive from Dexter to Maycross	95-986	72,000
Elliott Run - streetscape work	95-953	15,000
Fenwick Island - drainage	95-938	40,000
Forest Oak - Midway walking path	95-962	15,000
Grace Drive from Godwin Drive to end	95-948	14,350
Greenways - between Court St and St. Jones River Bridge Route 13	95-966	25,000
Greer Drive from SR 896 to end	95-947	12,500
Indian River School - Long Neck School	95-937	65,000
Kalmar Nyckel project	95-954	15,000
Kennett Pike at Wilmington Country Club & Methodist Country House	95-975	30,000
Kent County Aero Park	95-914	35,000
Kimberton/Harrows Road traffic light	95-956	45,000
Marsh Road - drainage	95-979	25,000
Mendenhall Village - Limestone Hills	95-910	44,800
Montclare entrance	95-964	20,000
N. Chapel Street - E. Main St./New St.	95-990	10,000
Newark bikeways study	95-933	25,000
Oak Meadows - drainage	95-935	5,000
Oak Orchard - 297A	95-934	31,000
Opticom devices	95-944	10,140
Opticom devices - Greenwood, Bridgeville, Houston and Farmington	95-912	6,000
Plymouth Road from Thomas Road to Fairfax Blvd.	95-987	109,000
Porter Square - berm	95-923	42,220
Red Mill Farms - behind Andries Road	95-945	24,500
Road 101, Dinah Corner Trailer Court - Stardust Dr. from 101 to 101	95-943	24,000
Salem Church Road - sewer connection to new fire house	95-904	7,000
Selbyville - Main Street	95-941	50,000
South Bethany - drainage	95-936	20,000
Southwood - Wellington Hills	95-909	25,000
Stadium Drive	95-963	10,000
Sussex County - opticom system	95-946	1,650
Swarthmore from Chrysler Avenue to Lehigh Road	95-905	47,800
Town of Arden	95-978	8,000
Town of Dagsboro	95-950	15,000
Town of Dagsboro	95-983	10,000
Town of Elsmere	95-980	20,000
Town of Fenwick Island	95-952	40,000
Town of Frankford	95-949	25,000
Town of Frankford	95-982	25,000
Town of Georgetown	95-984	25,000
Town of Millsboro	95-951	20,000
Town of Millsboro	95-981	20,000
Town of Hyoming - Kent Conservation District	95-960	5,000
U.S. 13 and Road N471 - traffic light	95-911	40,000
University of Delaware - Newark Hall driveway	95-922	30,000
University of Delaware - Rodney driveway	95-930	40,000

Office of Secretary of Finance
Debt Limit Statement Dated June 30, 1994

This Debt Limit Statement to be attached to
as required by Section 7422, Title 29, Delaware Code.

- | | | |
|-----|---|-----------------|
| (1) | Estimated Net General Fund revenue
for the fiscal year ending June 30,
1995 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 | \$1,461,000,000 |
| (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, 1995 | \$ 73,050,000 |
| (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) | \$ 73,050,000 |
| (6) | Less: Aggregate principal amount of
new tax-supported obligations subject
to debt limit to be authorized
pursuant to appended legislation | \$ (73,050,000) |
| (7) | REMAINING DEBT LIMIT (5-6) | \$ 0 |


Secretary of Finance

June 30 1994
Date

CHAPTER 387

FORMERLY

HOUSE BILL NO. 568
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO ACCEPTANCE OF ELECTRONIC INFORMATION.

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

Section 1. Amend §6103, Title 29 of the Delaware Code by designating the existing language of §6103 as subsection (a) of said section and adding thereto a new subsection (b) to read as follows:

"(b) Notwithstanding any other provisions of the Delaware Code dealing with confidentiality of tax or revenue information, state agencies responsible for collecting such taxes or revenues may receive tax or revenue information electronically from the designated depository of the state's funds or its third-party vendor without regard to such confidentiality statutes so long as such designated depository or vendor has executed an agreement not to disclose such information other than to such state agencies responsible for collecting taxes or revenues and not to use the information other than as authorized by such agency."

Approved July 13, 1994.

CHAPTER 388

FORMERLY

HOUSE BILL NO. 426
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 11, TITLE 30 OF THE DELAWARE CODE RELATING TO PERSONAL INCOME TAX.

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

Section 1. AMEND Section 1113, Chapter 11, Title 30 of the Delaware Code by striking the figure "\$75" as it appears therein and substituting in lieu thereof \$125 for tax years commencing after December 31, 1994 but before January 1, 1996; and \$150 for tax years commencing after December 31, 1995.

Section 2. This act shall apply to tax years beginning after December 31, 1994.

Approved July 13, 1994.

CHAPTER 389

FORMERLY

HOUSE BILL NO. 216
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 20, TITLE 30, DELAWARE CODE CONCERNING TAX CREDITS AND THE DONATION OF COMPUTERS TO SCHOOL DISTRICTS.

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

Section 1. Amend Chapter 20, Title 30, Delaware Code by adding thereto a new subchapter to read as follows:

"Subchapter VII. Tax Credit For Donation of Computers to School Districts.

§2061. Declaration of Purpose.

The purpose of this subchapter is to promote computer literacy among grade school students by making computers available to schools despite their substantial cost.

§2062. Definitions.

As used in this subchapter:

(1) 'Department' shall mean the Department of Public Instruction.

(2) 'Computer' shall mean one compatible set of computer components minimally including a terminal, keyboard and central processing unit, all in good working order and sufficiently compatible with the needs of a school district as established solely by the discretion of the Department.

(3) 'Person' shall mean any individual or entity constituting a taxpayer.

§2063. Credit Against Income Tax For Donation of Computer.

(a) Any person shall receive, subject to the provisions of subsections (b) and (c) of that section a tax credit of \$50/per computer donated to a school district.

(b) Upon meeting the Department's standards, the Department shall issue vouchers to those persons eligible for a tax credit to serve as evidence thereof.

(c) The Department shall be limited to issuing 500 vouchers per tax year."

Section 2. The effect of this Act shall expire on January 1, 1998.

Approved July 13, 1994.

CHAPTER 390

FORMERLY

SENATE BILL NO. 91
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 28, TITLE 21 OF THE DELAWARE CODE RELATING TO HABITUAL OFFENDERS.

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

Section 1. Amend §2802(1)(d) of Title 21 of the Delaware Code by deleting said paragraph in its entirety and substituting in lieu thereof the following:

"(d) Driving a motor vehicle without a license to do so, in violation of §2701(a), §2701(b), or §2701(c) of this Title."

Approved July 13, 1994.

CHAPTER 391

FORMERLY

HOUSE BILL NO. 487

AN ACT TO AMEND CHAPTER 45 AND CHAPTER 49 OF TITLE 15 OF THE DELAWARE CODE RELATING TO CERTIFICATES OF ELECTION.

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

Section 1. Amend § 4508, Chapter 45, Title 15 of the Delaware Code by deleting said section in its entirety and by substituting in lieu thereof the following:

"§ 4508. Certificates of the vote cast in each election district.

(a) Each department shall print 3 forms of a certificate of the votes cast in each election district in the County. The certificate shall be in the same sequence as is shown on the official ballot. In a presidential year it shall conform to the following design. In a non-presidential year it shall conform as nearly as possible to such design.

' _____ County and _____

_____ Representative District, ss: At the general election held in the said election district, on the Tuesday next after the first Monday in November, A.D. nineteen hundred and _____ the votes stand as follows:

FOR

PRESIDENT AND VICE-PRESIDENT OF THE UNITED STATES CANDIDATE

TOTAL VOTES

SENATOR IN THE SENATE OF THE UNITED STATES CANDIDATE

TOTAL VOTES

REPRESENTATIVE IN CONGRESS CANDIDATE

TOTAL VOTES

GOVERNOR CANDIDATE

TOTAL VOTES

LT. GOVERNOR CANDIDATE

TOTAL VOTES

ATTORNEY GENERAL CANDIDATE

TOTAL VOTES

INSURANCE COMMISSIONER CANDIDATE

TOTAL VOTES

STATE TREASURER CANDIDATE

TOTAL VOTES

AUDITOR OF ACCOUNTS CANDIDATE

TOTAL VOTES

SENATOR IN THE GENERAL ASSEMBLY CANDIDATE

TOTAL VOTES

REPRESENTATIVE IN THE GENERAL ASSEMBLY CANDIDATE

TOTAL VOTES

CLERK OF THE PEACE CANDIDATE

TOTAL VOTES

REGISTER OF WILLS CANDIDATE

TOTAL VOTES

RECORDER CANDIDATE

TOTAL VOTES

REGISTER OF CHANCERY CANDIDATE

TOTAL VOTES

COUNTY EXECUTIVE CANDIDATE

TOTAL VOTES

PRESIDENT OF COUNCIL CANDIDATE

TOTAL VOTES

COUNTY COUNCIL (OR LEVY COURT) CANDIDATE

TOTAL VOTES

RECEIVER OF TAXES AND COUNTY TREASURER CANDIDATE

TOTAL VOTES

COUNTY COMPTROLLER CANDIDATE

TOTAL VOTES

SHERIFF CANDIDATE

TOTAL VOTES

And we further certify that the Clerks of Election were duly sworn or affirmed according to law, and that we were duly sworn or affirmed.

In Testimony, we the Judges of Election for said election district have hereunto set our hand on the day and year aforesaid.

(Signature)'

(b) In the printed forms of certificates, before the same shall be delivered by the Department of Elections as above directed, the name of the County, the election district, the representative district and the year shall be inserted in the blanks for said purposes in the foregoing form, and the offices to be filled at the election shall be listed in the foregoing order, and the offices not to be filled at the election shall be omitted. The certificate shall include for each candidate on the district ballot the number of votes received as follows: 'Voting machine no. ____', 'absentee ballots', 'write-in ballots' and 'totals'. There shall be a space provided to record the number of absentee ballots counted and the number of absentee ballots rejected. The form of the certificates shall be determined by the several county Department of Elections, and shall be uniform throughout the State."

Section 2. Amend § 4978(a), Chapter 49, Title 15 of the Delaware Code by deleting the word "form" as it appears in said subsection and by substituting in lieu thereof the word "information".

Approved July 13, 1994.

CHAPTER 392

FORMERLY

HOUSE BILL NO. 437
AS AMENDED BY HOUSE AMENDMENT NOS. 1, 2 AND 4

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE BY ADDING A NEW CHAPTER 50 RELATING TO THE REQUIREMENTS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 FOR STATE MEDICAID PROGRAMS TO SEEK ADJUSTMENT OR RECOVERY OF ANY MEDICAL ASSISTANCE CORRECTLY PAID ON BEHALF OF INDIVIDUALS RECEIVING LONG-TERM CARE SERVICES UNDER THE STATE PLAN FOR TITLE XIX OF THE SOCIAL SECURITY ACT.

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

Section One. Amend Title 25 of the Delaware Code by adding thereto a new Chapter to read:

"Chapter 50. Liens and Estate Recoveries.

§ 5001. Definitions.

(a) 'Department' means the Delaware Department of Health and Social Services.

(b) 'Long-term care' means a service provided in a long-term care facility or in the home as an alternative to institutionalization (known as home and community based services).

(c) 'Discharge from a long-term care service' means the release of a person from a long-term care facility for the purpose of returning to the home for permanent residence or discontinuance of a long-term services as an alternative to institutionalization.

(d) 'Lawfully residing in the home' means residing in the home with the permission of the owner or, if under guardianship, the owner's legal guardian.

(e) 'Residing in the home on a continuous basis' means using the home as the principal place of residence.

(f) 'Medical assistance' means payment by the State's program under Title XIX of the Social Security Act, or Medicaid Program, administered by the Department.

(g) 'Estate' means all real property, as well as all personal property which constitutes assets of the individual's estate as described in Chapter 19 of Title 12 of the Delaware Code.

(h) 'Real property' means land, including houses or immovable structures or objects attached permanently to the land. The terms 'real estate', 'realty', and 'real property' are used synonymously with one another and designate real property in which an individual has ownership rights and interests.

§502. Liens; Notice.

(a) Subject to the provisions of subsection (b) of this Section, for any individual who is 55 years of age or older when the individual receives services in a long-term care under facility the auspices of the Department, a lien shall be created against all real property of such individual, prior to the individual's death, upon approval of such individual for, and receipt of, services that will be paid, on that individual's behalf, fully or in part by the Department, and only after notice and opportunity for a hearing before the Department to establish that the person cannot reasonably be expected to return home.

b. The lien shall attach to real property upon the recording of a Notice of Lien being recorded by the Department at the Recorder of Deeds Office in the county where such real property is located.

c. The lien may be released by the Department recording a Release of Lien form at the Recorder of Deeds Office in the county where the real property is located.

(d) Any lien imposed pursuant to this section shall dissolve and be null and void upon the individual's discharge from the long-term care facility and return home. Any such lien shall be released by the Department upon such discharge.

§ 5003. Estate recovery.

In the case of any individual receiving long-term care from the Department, the Department shall seek recovery for any disbursements made on behalf of such individual under the State Plan for Medical Assistance, from the individual's estate or upon sale of property subject to a lien. The Department will seek recovery of monies expended for correctly paid medical assistance from all periods of eligibility for medical assistance on behalf of the individual only:

(a) after the death of the individual and the death of a surviving spouse who was residing in the home on a continuous basis; and

(b) in the case of liens on an individual's home, when there is no:

(i) surviving son or daughter who is blind or disabled as defined in accordance with the disability rule of the federally administered Supplemental Security Income (Title XVI of the Social Security Act) who was residing in the home on a continuous basis immediately prior to the death of the individual; or

(ii) non-disabled son, daughter, or sibling of the individual lawfully residing in the home, who has resided there for a period of at least two years immediately prior the date of the individual's admission to a long-term care service, who has lawfully resided there on a continuous basis since that time, and who can establish to the Department's satisfaction that he or she provided the care that permitted the individual to reside in the home rather than in a long-term care facility; or

(iii) minor child who was residing in the home on a continuous basis immediately prior to the death of the individual, until that child reaches majority.

§ 5004. Voluntary reimbursement.

The Department shall accept reimbursement for medical assistance it has rendered when voluntarily offered by a current or former recipient of long-term care or someone acting on his/her behalf to offset any recovery under § 5003 of this chapter.

§ 5005. Undue hardship.

The Department shall, within three (3) months of enactment of this Act, establish procedures under which the Department shall waive the application of this Act if it would work an undue hardship.

§ 5006. Rules and regulations.

The Department shall establish rules and regulations by which it can carry out the terms of this law."

Section Two. Effective date:

This Act shall become effective on the expiration of sixty (60) days after its approval by the Governor.

Approved July 13, 1994.

CHAPTER 393

FORMERLY

HOUSE BILL NO. 355

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 designating said section as §717(a) and adding new subsections (b) and (c) to read as follows:

"(b) Nothing in this section shall prevent the operation of reasonable and non-discriminatory cost containment or managed care provisions, including but not limited to, deductibles, coinsurance, allowable charge limitations, coordination of benefits, and utilization review.

(c) The Insurance Commissioner may issue regulations in order to aid the administration, effectuation and enforcement of this section."

Approved July 13, 1994.

CHAPTER 394

FORMERLY

SENATE BILL NO. 379
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND §4702, CHAPTER 47, TITLE 7 OF THE DELAWARE CODE RELATING TO PARKING VIOLATIONS IN STATE PARKS.

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 §4702(a), Chapter 47, Title 7, Delaware Code, by striking the phrase "the rules and regulations" and inserting in lieu thereof the phrase "any rule or regulation" and by inserting the phrase "pursuant to this chapter" immediately after the word "Control". Further amend said subsection by inserting the phrase ", except when such violations are violations of subsection (g)" immediately after the word "both" as it appears in the first sentence.

Section 2. Amend §4702(c), Chapter 47, Title 7, Delaware Code, by inserting the phrase "promulgated pursuant to this chapter" immediately after the word "Control" as it first appears.

Section 3. Amend §4702(d), Chapter 47, Title 7, Delaware Code, by inserting the phrase "promulgated pursuant to this chapter" immediately after the word "Control".

Section 4. Amend §4702, Chapter 47, Title 7, Delaware Code, by adding thereto a new subsection to read as follows:

"(g) Notwithstanding subsection (d) of this section, a summons in the appropriate form to be adopted by the Department of Natural Resources and Environmental Control may be attached to an unattended vehicle found in violation of any rule or regulation for parking in state parks by an arresting officer, in lieu of the arrest of the owner or operator of such vehicle.

(1) If an unattended vehicle is found to be in violation of this subsection and the identity of the operator is not otherwise apparent, there shall be a rebuttable presumption that the person in whose name such vehicle is registered as the owner was responsible for such violation.

(2) The Department of Natural Resources and Environmental Control may adopt a schedule of fines, between a minimum of \$10 and a maximum of \$25, for all violations delineated by its rules and regulations for parking in state parks and such schedule may be printed upon the form of summons adopted pursuant to this subsection. Each fine for an offense under this subsection shall be subject also to the penalty assessment which is or may be provided for in the Delaware Victim Compensation Law, Chapter 90 of Title 11.

(3) It shall be permissible for an owner or operator of a vehicle who has been issued a summons for a violation of this subsection to mail such summons and the appropriate fine directly to the Department of Natural Resources and Environmental Control instead of appearing before the Justice of the Peace Court designated upon the summons for trial of the charge, provided that such remittance of the summons and fine is mailed at least 5 days before the trial date designated upon the summons. Court costs shall not be assessed if the fine is paid to the Department pursuant to this paragraph, any statute or court rule of this State notwithstanding. Moneys received by the Justice of the Peace Courts from such fines after trial of a charge shall be disbursed in accordance with §1307 of this title.

(4) After payment of a fine pursuant to this subsection is received by the Department of Natural Resources and Environmental Control or a Justice of the Peace Court, the Department or the Court shall mail a receipt indicating the payment of such fine if the person paying such fine makes a written request for a receipt and encloses a self-addressed envelope with proper postage affixed thereon."

Approved July 13, 1994.

CHAPTER 395

FORMERLY

HOUSE BILL NO. 575

AN ACT TO AMEND CHAPTER 66, TITLE 16 RELATING TO FIRE PREVENTION.

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

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

"§ 6625. Protection of records.

Any and all records and reports compiled by the State Fire Marshal's office resulting from the State's Juvenile Fire Setter Intervention Program, including but not limited to case histories, interviews and findings, shall be considered confidential and privileged and shall not be disclosed directly or indirectly to anyone other than Family Court, the Attorney General and the Deputies Attorney General and the employees of the State Fire Marshal's office in the discharge of their official duties. Such records and reports shall not be subject to the Freedom of Information Act pursuant to Chapter 100 of Title 29 and shall not be subject to any subpoena powers of any court."

Approved July 13, 1994.

CHAPTER 396

FORMERLY

SENATE BILL NO. 442

AN ACT RELATING TO PERMITTING THE COLONIAL SCHOOL DISTRICT TO CONVEY TO THE ROSE HILL COMMUNITY CENTER INC. THE BUILDING AT 19 LAMBSON LANE, NEW CASTLE, DELAWARE AND TO CONVEY TO THE HOWARD J. WESTON COMMUNITY AND SENIOR CENTER, INC. THE BUILDING AT BASSET AVENUE, MANOR PARK, NEW CASTLE, DELAWARE.

WHEREAS, the Colonial School District ("Colonial") holds title to the building and land located at 19 Lambson Lane, and the building and land located at Basset Avenue, Manor Park ("the Properties"); and

WHEREAS, the State of Delaware has a 60% interest in the Properties and Colonial has a 40% interest in the Properties; and

WHEREAS, the Rose Hill Community Center ("Rose Hill") has leased the Lambson Lane Property for approximately 14 years, and the Howard J. Weston Senior Center, Inc. ("Howard Weston") has leased the Bassett Avenue Property for approximately 14 years; and

WHEREAS, Colonial has no intention of using the buildings located on the Properties for school purposes given the cost of renovating the buildings, coupled with the fact that such use would displace organizations (Rose Hill and Howard Weston) providing vital services to their respective communities; and

WHEREAS, Colonial is willing to convey the Lambson Lane building to Rose Hill, and the Basset Avenue property to Howard Weston, together with the land occupied by such buildings, and the land immediately surrounding the buildings, but Colonial is prohibited from doing so by 14 Del. C. §1057.

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. Section 1057 of Title 14 notwithstanding, Colonial may convey to Rose Hill the building it leases, and may convey to Howard Weston the building it leases, together with the land occupied by each such building, and the land immediately surrounding each building. Colonial shall determine how much of the land surrounding each building shall be conveyed in order to accommodate current use of the buildings by Rose Hill and Howard Weston. Such conveyances shall be "as is" in that Rose Hill and Howard Weston shall accept the buildings and land in their present condition.

Section 2. In order to compensate Colonial for its 40% interest in the portion of the Properties conveyed to Rose Hill and Howard Weston, the State hereby transfers to Colonial its 60% interest in those portions of these two properties which are retained by Colonial.

Approved July 13, 1994.

CHAPTER 397

FORMERLY

HOUSE BILL NO. 603

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO INFORMATION AND TECHNOLOGY AND TO CREATE AN OFFICE OF INFORMATION SYSTEMS ADVISORY COMMITTEE.

WHEREAS, the importance of information services to the effective operation of State government continues to increase; and

WHEREAS, the State is prepared to make major new investments in information technologies to improve work force productivity and the delivery of services to the people of Delaware; and

WHEREAS, the Commission on Government Reorganization and Effectiveness identified, and the governor and General Assembly acknowledge, the clear need to enhance the responsibilities and elevate the profile of the Office of Information Systems;

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

Section 1. There shall be established an "Office of Information Systems Advisory Committee" ("Committee") to develop the implementation plan to make the Office of Information Systems a separate office within the Executive Department. The Committee shall consider the services and functions to be included in the organization, recommend and appropriate structure for the State's information services delivery components, analyze the relationships among all information resource entities with the State of Delaware, and develop a strategic plan for the organization and coordination of these entities.

Section 2. The Committee shall consist of one member of the Senate appointed by the President Pro Tempore of the Senate, one member of the House of Representatives appointed by the Speaker of the House of Representatives, the Secretary of Finance, the Secretary of Health and Social Services, the Secretary of State, the Superintendent of Public Instruction, the Budget Director, the Controller General, and no more than three other members from within and outside State government as the Governor may deem appropriate. The Governor shall select a member to be Chairperson of the Committee.

Section 3. The Committee shall report to the General Assembly and the Governor no later than December 1, 1994.

Section 4. Amend Title 29 of the Delaware Code by deleting Section 6356 thereof in its entirety.

Approved July 13, 1994.

CHAPTER 398

FORMERLY

HOUSE BILL NO. 583
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO QUALIFICATIONS OF CHIROPRACTIC LICENSURE APPLICANTS.

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

Section 1. Amend § 707(a)(1), Title 24, Delaware Code, by inserting immediately before the semi-colon thereof, the following:

" , except that if the chiropractic accrediting agency of a chiropractic college loses, or has lost, its recognition by the United States Department of Education, a student who had matriculated and begun the student's studies at the college prior to the effective date of the loss of recognition shall, upon completion of the student's degree program, be admitted to the chiropractic licensing examination and shall be eligible for licensure to practice chiropractic if the student otherwise satisfies the requirements of this Chapter, the college continues to be accredited by the chiropractic accrediting agency, and the college continues to have the authority, under the laws of the state in which it is located, to grant the doctor of chiropractic (D.C.) degree."

Approved July 13, 1994.

CHAPTER 399

FORMERLY

HOUSE BILL NO. 478

AN ACT TO AMEND CHAPTER 9, TITLE 18 OF THE DELAWARE CODE RELATING TO THE STANDARDS FOR CREDIT FOR REINSURANCE.

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

Section 1. Amend § 911(4)a., Chapter 9, Title 18, Delaware Code, by striking said paragraph in its entirety and substituting in lieu thereof the following:

"(4)a. Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in § 913 (b) of this title, exclusively for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Commissioner information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000. In the case of a group, including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The group shall make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountant."

Approved July 13, 1994.

CHAPTER 400

FORMERLY

SENATE BILL NO. 380

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE TAX APPEAL BOARD.

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

Section 1. Amend Chapter 3, Title 30 of the Delaware Code by adding to said Chapter a new Section 333 to read as follows:

"§333. Removal of Tax Appeals to the Superior Court.

(a) Any appeal brought under Section 329 of this Chapter may be removed by the taxpayer or the Division of Revenue from the Tax Appeal Board to the Superior Court of this State as provided by this section.

(b) No action may be removed by either party unless: (1) the total amount in controversy for all taxable periods which are the subject of the appeal exceeds \$50,000 and a notice of removal has been filed by either party; or (2) the Tax Appeal Board (hereinafter "the Board"), on motion by one or more parties, in its discretion grants leave to remove the action. The Board's determination grants leave to remove the action.

(c) In the case of taxes determined under Chapter 11 of this Title (other than taxes due under Subchapter VII of said Chapter), if the taxpayer is a resident of this State, the action being removed shall be removed to the Superior Court in and for the county of the taxpayer's residence. In all other cases, the action being removed shall be removed to the Superior Court in and for New Castle County.

(d) The person desiring to remove an action to the Superior Court shall file with the Tax Appeal Board a notice of such removal or a motion for leave to remove. A notice of removal must be filed within sixty (60) days after the appeal is commenced and shall state the grounds for removal. A motion for leave to remove may be filed at any time prior to the matter being submitted to the Board for decision.

(e) Upon the filing of a notice of removal or granting of a motion for leave to remove, the Board shall transmit all records in the appeal to the Superior Court in and for the county to which the action is removed. Except as otherwise provided in this section or as provided by Rule of the Superior Court, following the filing of such notice or the granting of such motion, the action shall continue as though it had commenced in Superior Court.

(f) Trials of appeals removed under this section shall be to the Superior Court without a jury.

(g) The taxpayer removing a case to the Superior Court pursuant to this section shall pay fees to the Superior Court as if the taxpayer had commenced the action in Superior Court. In the case of a motion for leave to remove, fees shall be paid as if the petitioner or petitioners had commenced the action in the Superior Court.

(h) For purposes of this section:

(1) 'Tax' includes any tax or fee governed by Section 501 of this Title, but shall not include any interest or penalty.

(2) 'Person' includes any natural person and any entity, including the Division of Revenue.

(3) 'Taxpayer' includes any person who is or may be liable for any tax.

(4) 'Amount in Controversy' means: (A) The portion of tax as reflected on a Notice of Proposed Assessment or Notice of Disallowance of Refund issued under Sections 521 or 542 of this Title which a taxpayer contests; plus (B) Any interest reflected on said Notice to the extent such

interest is computed on the amount of tax which is contested; plus (C) The amount of penalty as reflected on such Notice which the taxpayer contests."

Section 2. Amend Section 331, Title 30 of the Delaware Code by designating existing Section 331 as subsection (a) of said section and adding thereto a new subsection (b) to read as follows:

"(b) Whenever, at any time prior to the Board's issuance of a final order, the parties (including the Director of Revenue) to any appeal so stipulate, the Board's order shall not be subject to appeal to the Superior Court, notwithstanding subsection (a) of this section."

Section 3. Amend Chapter 3, Title 30 of the Delaware Code by adding to said Chapter a new Section 334 to read as follows:

"§334. Admission to Practice before the Tax Appeal Board.

The Rules of any Court of this State to the contrary notwithstanding, the Tax Appeal Board shall admit to practice before the Board the following individuals:

(a) All attorneys admitted to practice by the Supreme Court of the State of Delaware;

(b) All accountants who have received a certificate as a Certified Public Accountant granted by the Delaware State Board of Accountancy or its successor and all other accountants practicing within the State of Delaware who are entitled to practice as enrolled agents before the Internal Revenue Service;

(c) Attorneys-at-law and Certified Public Accountants duly admitted to practice their respective professions by the appropriate authorities in other states, or the District of Columbia, or other accountants practicing outside the State of Delaware who are entitled to practice as enrolled agents before the Internal Revenue Service upon application wherein good cause is shown (in the case of attorneys, in accordance with the Rules of the Delaware Supreme Court) upon admission by the Board pro hac vice for the purpose of representing parties appearing before the Board;

(d) Any employee (including an attorney admitted to practice by the appropriate authority of another state or the District of Columbia) of a corporation that is a party to proceedings before the Board provided such employee is duly appointed by the corporation to undertake such representation and such representation is within the scope of the employee's employment. (In the case of an attorney seeking admission to practice under this subsection, the provisions of subsection (c) shall not apply);

(e) Any other person who establishes, to the satisfaction of the Board, that he or she is a citizen of the United States and of the State of Delaware, of good moral character and repute, and possessed of the requisite qualifications to represent others in the preparation and trial of matters before this Board, may be admitted to practice before the Board subject to such uniform requirements, interviews, or examinations which the Board, by supplemental rule, may adopt; and

(f) Any natural person appearing on his or her own behalf."

Section 3. Effective Date. This Act shall be effective for all appeals filed with the Tax Appeal Board on or after August 1, 1994.

Approved July 13, 1994.

CHAPTER 401

FORMERLY

SENATE BILL NO. 372

AN ACT TO AMEND 69 DEL. LAWS, CHAPTER 144, SECTION 6, RELATING TO THE EFFECTIVE DATE OF REGULATIONS ENACTED BY THE STATE BOARD OF EDUCATION, PURSUANT TO CHAPTER 85 OF TITLE 11 OF THE DELAWARE CODE, IN REGARD TO CRIMINAL BACKGROUND CHECKS FOR PERSONS WHO HAVE REGULAR DIRECT ACCESS TO CHILDREN IN THE PUBLIC SCHOOLS, BUT WHO ARE NOT EMPLOYEES OR CONTRACTORS.

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

Section 1. Amend 69 Del. Laws, Chapter 144, Section 6, relating to the effective date of regulations enacted by the State Board of Education pursuant to Chapter 85 of Title 11 of the Delaware Code, by adding thereto at the end of Section 6, the following:

"Notwithstanding the foregoing, the effective date of Regulations enacted by the State Board of Education pursuant to this law in regard to criminal background checks for persons who have regular direct access to children in the public schools, but who are not employees or contractors, shall be permissive until July 1, 1995; further provided, however, that on and after July 1, 1995, the application of such Regulations shall be mandatory.

Approved July 13, 1994.

CHAPTER 402

FORMERLY

SENATE BILL NO. 368
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE COLLECTION OF DEBTS OWED TO STATE AGENCIES.

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

Section 1. Amend §545, Title 30 of the Delaware Code by striking subsection (a) of said section in its entirety and substituting in lieu thereof a new subsection (a) to read as follows:

"(a) General. Upon receiving notice from any claimant agency that a taxpayer owes a debt to such agency, the Director shall:

(1) Reduce the amount of any overpayment of tax payable to the taxpayer, during a period not to exceed twelve months from the date of the receipt of said notice, by the amount of such debt or unpaid portion thereof;

(2) Notify the taxpayer that such overpayment has been reduced by the amount of such reduction;

(3) Pay the amount by which such overpayment is reduced under paragraph (1) of this subsection to such agency in an order of priority as determined by the Director of Revenue;

(4) Pay to the taxpayer the remainder of such overpayment, if any; and

(5) Notify the Director of the Lottery to pay to the Director of Revenue any prize payable where prizes exceed a threshold established by the Director of the Lottery to a taxpayer who is also a lottery winner, and the Director of the Lottery shall:

a. Reduce the prize payable to the winner by the amount of such debt or unpaid portion thereof;

b. Notify the winner that such prize has been reduced by the amount of such reduction;

c. Pay the amount by which such prize is reduced under subparagraph a. of this paragraph to the claimant agency; and

d. Pay to the winner the remainder of such prize, if any."

Section 2. Amend §545, Title 30 of the Delaware Code by striking subsection (b) of said section in its entirety and substituting in lieu thereof a new subsection (b) to read as follows:

"(b) Definitions. For purposes of this section:

(1) 'Claimant agency' means:

a. Any department or agency of the State of Delaware, including Delaware State University and Delaware Technical and Community College, but not school districts of this State, with respect to any debt owed to it; and

b. Any court, office of the court clerk, Prothonotary, or Register in Chancery of this State with respect to fines, court costs, assessments and/or restitution.

(2) 'Debt' means any liquidated sum which is past due, is legally enforceable, and has accrued through contract, subrogation, tort, court assessment, or operation of law, whether or not there is an outstanding judgement of such sum, plus, if so agreed between the

Director and the claimant agency, the amount of the reimbursement provided in subparagraph (c)(1)e of this section.

- (3) 'Taxpayer' means any person or entity identified by a claimant agency for action by the Director of Revenue under this section.
- (4) 'Lottery winner' means any person who is entitled to a payment on account of winning a prize in a lottery conducted pursuant to the provisions of Chapter 48, Title 29 of the Delaware Code."

Section 3. Amend §545, Title 30 of the Delaware Code by adding a new subsection (g) to read as follows:

"(g) Director of Lottery. When the Director of Revenue shall notify the Director of Lottery pursuant to the provisions of subsection (a) of a debt owed by a taxpayer, and said taxpayer is also a lottery winner, the Director of Lottery shall pay over to the Director of Revenue any prize then payable or becoming payable to said taxpayer, until such time as the Director of Revenue notifies the Director of Lottery that the debt of said taxpayer has been discharged. The Director of Lottery shall maintain a current log of the names and other identification provided to him by the Director of Revenue of persons owing a debt to a claimant agency."

Section 4. Amend §545(c), Title 30 of the Delaware Code by striking the phrase "subsection (a)(2)" as it appears in subparagraph e. of paragraph (1) of said subsection and substituting in lieu thereof the phrase "subsection (a)".

Section 5. Amend §552(a) Title 30 of the Delaware Code by inserting, in the first sentence of said subsection, between the second place the phrase "Title 4" appears in said subsection and the word "if", the following:

"Including setoff of such amount as a debt owed to a claimant agency pursuant to §545(a) of this Title,".

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

Section 7. This Act shall be effective for claims for refunds made by original or amended returns or otherwise filed after December 31, 1994, refunds initiated by the Division of Revenue after December 31, 1994, and for payments to lottery winners after December 31, 1994.

Approved July 13, 1994.

CHAPTER 403

FORMERLY

SENATE BILL NO. 365
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 72, TITLE 18 OF THE DELAWARE CODE RELATING TO SMALL EMPLOYER HEALTH INSURANCE.

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

Section 1. Amend Chapter 72, §7202(7), Title 18, Delaware Code by striking therefrom the word "gender,".

Section 2. Amend Chapter 72, §7202(29), Title 18, Delaware Code by striking the word and number "twenty-five (25)" as they appear therein and by substituting in lieu thereof the word and number "fifty (50)".

Section 3. Amend Chapter 72, §7207(a)(3), Title 18, Delaware Code by striking the word and number "two (2)" as they appear therein and by substituting in lieu thereof the word and number "one (1)".

Section 4. Amend Chapter 72, §7207(c)(4)c., Title 18, Delaware Code by inserting the phrase "or other qualifying existing coverage" immediately after the phrase "through a spouse" as it appears therein.

Section 5. Amend Chapter 72, §7207(d)(2), Title 18, Delaware Code by striking the word and number "twenty-five (25)" as they appear therein and by substituting in lieu thereof the word and number "fifty (50)".

Section 6. Amend Chapter 72, §7209(c), Title 18, Delaware Code by striking said subsection in its entirety and by redesignating the remaining subsections accordingly.

Section 7. Amend Chapter 72, §7210(c)(1), Title 18, Delaware Code by striking said paragraph in its entirety and by substituting in lieu thereof the following:

"The Program shall operate subject to the supervision and control of the board. Subject to the provisions of paragraph (2) of this subsection the board shall consist of nine (9) members appointed by the Governor. Of the 9 members appointed by the Governor, at least 1 shall be a resident of each county. No more than 5 of the board members shall be of the same political party."

Approved July 13, 1994.

CHAPTER 404

FORMERLY

SENATE BILL NO. 329
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18, DELAWARE CODE, TO INCLUDE HEALTH MAINTENANCE ORGANIZATIONS UNDER THE INSURANCE CODE'S HOLDING COMPANY SYSTEM REGISTRATION ACT.

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

Section 1. Amend Section 6406, Chapter 64, Title 18, Delaware Code, by renumbering the current subsection (17) as subsection (18) and inserting a new subsection (17) to read as follows:

"(17) Chapter 50 (Insurance Holding Companies)."

Section 2. This act shall become effective 30 days after its enactment into law.

Approved July 14, 1994.

CHAPTER 405

FORMERLY

SENATE BILL NO. 319
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND THE DELAWARE INSURANCE CODE TO REQUIRE COVERAGE OF THE CA-125 TEST FOR MONITORING OVARIAN CANCER TREATMENT.

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

Section 1. Amend Chapter 33, Title 18 of the Delaware Code by adding a new Section 3337 as follows:

"§3337. Coverage of Cancer Monitoring Test

(a) Every individual health, sickness or accident insurance policy, contract or certificate, which is delivered or issued for delivery in this State by any health insurer, health service corporation or health maintenance organization, and which provide benefits for outpatient services, shall provide to covered persons residing in this State a benefit for CA-125 monitoring of ovarian cancer subsequent to treatment. Such monitoring shall be deemed a covered service, notwithstanding any policy exclusions for services which are considered experimental or investigative; provided, however, that nothing contained herein shall be deemed to provide coverage for routine screening.

(b) Nothing in this section shall prevent the operation of such policy provisions as deductibles, coinsurance, allowable charge limitations, coordination of benefits or provisions restricting coverage to services by licensed, certified or carrier-approved providers or facilities.

(c) This act shall apply to all policies, contracts or certificates which are issued, renewed, modified, altered, amended or reissued after the effective date of this Act."

Section 2. Amend Chapter 35, Title 18 of the Delaware Code by adding a new Section 3554 which shall read as follows:

"§3554. Coverage of Cancer Monitoring Tests.

(a) All group and blanket health insurance policies, which are delivered or issued for delivery in this State by any health insurer, health service corporation or health maintenance organization, 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 CA-125 monitoring of ovarian cancer subsequent to treatment. Such monitoring shall be deemed a covered service, notwithstanding any policy exclusions for services which are considered experimental or investigative; provided, however, that nothing contained herein shall be deemed to provide coverage for routine screening.

(b) Nothing in this section shall prevent the operation of such policy provisions such as deductibles, coinsurance, allowable charge limitations, coordination of benefits or provisions restricting coverage to services by licensed, certified or carrier-approved providers or facilities.

(c) This act shall apply to all policies, contracts or certificates which are issued, renewed, modified, altered, amended or reissued after the effective date of this Act."

Section 3. Nothing in this Act shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, or other limited benefit health insurance policies.

Section 4. This Act shall become effective on September 1, 1994.

Approved July 14, 1994.

CHAPTER 406

FORMERLY

SENATE BILL NO. 423
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AUTHORIZE AND APPROVE THE TRANSFER OF CERTAIN REAL PROPERTY IN THE CITY OF WILMINGTON, KNOWN AS THE BRIDGE HOUSE.

WHEREAS, Bridge House ceased functioning as a detention center for juveniles in May 1989, and has not been used for any purpose by the state of Delaware since that time; and

WHEREAS, Bridge House is located in a residential neighborhood in the Browntown section of Wilmington; and

WHEREAS, it is in the best interest of the residents of the surrounding neighborhood that may use of the Bridge House property be in conformance with the residential character of the surrounding neighborhood; and

WHEREAS, the Polish American Post 3257 of the Veterans of Foreign Wars has an understanding and appreciation of the residential quality of the surrounding neighborhood.

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 the following described real property to the Polish American Post 3257 of the Veterans of Foreign Wars for the consideration of one dollar (\$1.00) is hereby specifically approved:

ALL that certain lot, piece or parcel of land, situate in the City of Wilmington, New Castle County and State of Delaware, being more particularly described as follows, to wit:

BEGINNING at the intersection of the Southerly side of Anchorage Street with the Easterly side of 8th Avenue; thence by the said Easterly side of 8th Avenue in a Southerly direction one hundred sixty-seven and five-tenths (167.5) feet; thence Westerly and crossing 8th Avenue by a line parallel with the said Southerly side of Anchorage Street two hundred ten (210) feet to a point in the Easterly side of 9th Avenue and thence by the said side of 9th Avenue in a Northerly direction one hundred sixty-seven and five-tenths (167.5) feet to the intersection of the Easterly side of 9th Avenue with the Southerly side of Anchorage Street; thence by the said Southerly side of Anchorage Street two hundred ten (210) feet to the point and place of Beginning.

Being the same lands and premises conveyed to the State of Delaware by Deed of James T. McKinstry, Single man, dated December 7, 1954 and recorded in the Office of the Recorder of Deeds, in Deed Book R-55, Page 495.

Section 2. The appropriate state agency is hereby authorized and empowered to execute and deliver to the Polish American Post 3257 of the Veterans of Foreign Wars a good and sufficient deed to the said real property.

Section 3. The Polish American Post 3257 of the Veterans of Foreign Wars shall remove any asbestos from Bridge House, demolish the building and construct a parking lot.

Section 4. The Polish American Post 3257 of the Veterans of Foreign Wars shall have three (3) years from the effective date of this Bill to begin the project described in Section 3. If such project is not started within three (3) years from the effective date of this Bill, the deed to the above-described real property known as Bridge House shall revert to the State.

Section 5. This Bill becomes effective on January 15, 1995.

Approved July 14, 1994.

CHAPTER 407

FORMERLY

SENATE BILL NO. 441

AN ACT AUTHORIZING AND DIRECTING THE STATE BOARD OF EDUCATION TO RELEASE INCREASED ACADEMIC EXCELLENCE BLOCK GRANT FUNDING FOR FISCAL YEAR 1995 OVER AND ABOVE THE LEVEL OF FUNDING CONTAINED IN THE FISCAL YEAR 1994 GENERAL FUND BUDGET OF THE STATE OF DELAWARE ONLY TO THOSE SCHOOL DISTRICTS CERTIFYING THAT THEY EMPLOY NO FEWER ELEMENTARY SCHOOL COUNSELORS THAN THEY DID DURING FISCAL YEAR 1994.

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

Section 1. The State Board of Education is hereby authorized, empowered and directed to release any moneys contained in the Academic Excellence Block Grant for Fiscal Year 1995 which represent an increase over the level of academic excellence funding contained in the Fiscal Year 1994 General Fund Budget only upon certification by a school district to the State Board of Education that it employs on the same full time or part time basis an equal or greater number of elementary counselors listed in a Department of Public Instruction report entitled "School Counseling in Delaware's Elementary Schools - A Status Report, December 1993 - March 1994", which was submitted to the Board on April 21, 1994.

Approved July 14, 1994.

CHAPTER 408

FORMERLY

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

AN ACT TO AMEND CHAPTER 5, TITLE 11, DELAWARE CODE RELATING TO RECEIVING STOLEN PROPERTY.

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

Section 1. Amend Section B52, Chapter 5, Title 11 of the Delaware Code by adding a second sentence to said section, to read as follows:

"In addition, knowledge that property has been acquired under circumstances amounting to theft shall be presumed in the case of a person or dealer who acquires it for a consideration, when such property consists of traffic signs, other traffic control devices, or historical markers and the acquisition is not accompanied by a written authorization for the property's disposition from the Department of Transportation, Department of State, or other entity which owns the property."

Approved July 14, 1994.

CHAPTER 409

FORMERLY

SENATE BILL NO. 354

AN ACT TO AMEND CHAPTER 5, TITLE 17 OF THE DELAWARE CODE RELATING TO DEVELOPERS DEDICATING NEW ROADS FOR STATE MAINTENANCE.

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

Section 1. Amend Section 508(c), Chapter 5, Title 17 of the Delaware Code by adding thereto a new subsection (2) as follows:

"A signature from a Department Inspector shall be obtained before the Department can accept a road from a developer into the state maintenance system."

Section 2. Further amend Section 508(c), Chapter 5, Title 17 of the Delaware Code by adding thereto a subsection (3) as follows:

"The Department shall inform by letter an officer of the maintenance association, if any, in the development in which the road will be dedicated, that the Department has accepted the road from the developer. The Department shall send copies of such letter to the State Senator and State Representative. Such letter shall indicate the acceptance date of the roadway(s) and an explanation of the state's three-year good faith warranty."

Section 3. Further amend Section 508(c) by renumbering subsection (2) as subsection (4).

Approved July 14, 1994.

CHAPTER 410

FORMERLY

SENATE BILL NO. 437

AN ACT TO AMEND CHAPTER 48, TITLE 9, DELAWARE CODE, RELATING TO KENT COUNTY REGIONAL PLANNING.

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

Section 1. Amend §4801, Chapter 48, Title 9, Delaware Code, by adding said definition for Minor Subdivision in its entirety:

"(1) 'Minor Subdivision' means any subdivision of land that creates five (5) or less, or no, parcels of land and if a parcel of land is created, either said created parcel is not on a new road, or said created parcel(s) is on a private road approved pursuant to regulations adopted by the County government; and shall apply only to the creation of up to a five (5) parcel minor subdivision and shall not apply to the creation of parcels in excess of a total of five (5) off of the tract of land from which minor subdivision is sought. Original tract shall be deemed to be all tracts separately in existence upon effective date of this definition."

Section 2. Amend §4810(a), Chapter 48, Title 9, Delaware Code, by striking said Subsection and substituting in lieu thereof the following:

"(a) Plans depicting the location, proposed grades and drainage of all roads intended to be dedicated by the owner thereof to the public use or for the use of owners of property abutting thereon or adjacent thereto and plans of all subdivisions and land developments within the limits of the District shall be submitted to the Commission for its adoption and the approval of the County government. No person shall record any plan, map, or other document showing the location of any new or proposed road, subdivision or land development in any public office in Kent County unless such plan, map, or other document shall show thereon by endorsement, its adoption by the Commission and its approval by the County government; expressly provided, however, said endorsement of approval for minor subdivision shall be by Administrative Commission staff pursuant to Minor Subdivision Regulations which the Commission is hereby authorized and directed to adopt. The adoption of any road plan or map by the Commission and the approval thereof by the County government endorsed upon such road plan or map shall, when recorded, be deemed and taken as an acceptance of the intended dedication of the road appearing thereon, but shall not impose any duty upon the County government or upon the Department of Transportation respecting the maintenance or improvement thereof. Such road plan or map shall, when recorded, become a part of the official map.

Section 3. This Act shall become effective upon the County government's adoption of minor subdivision regulations.

Approved July 14, 1994.

CHAPTER 411

FORMERLY

SENATE BILL NO. 436

AN ACT TO AMEND AN ACT BEING CHAPTER 196, VOLUME 22, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO AUTHORIZE THE COMMISSIONERS OF LEWES TO APPOINT A BOARD OF PUBLIC WORKS FOR THE TOWN OF LEWES, WHICH SHALL ESTABLISH, CONTROL AND REGULATE AN ELECTRIC LIGHT PLANT, WATER WORKS AND A SEWER SYSTEM FOR SAID TOWN; PRESCRIBING THE POWERS AND DUTIES OF SAID BOARD AND PROVIDING FOR THE ELECTION OF THEIR SUCCESSORS" TO ELIMINATE AS A QUALIFICATION FOR ELECTION TO THE BOARD OF PUBLIC WORKS THAT A CANDIDATE BE A FREEHOLDER OR LEASEHOLDER, TO PROVIDE FOR ABSENTEE BALLOTS AND TO ESTABLISH THE TIME FOR THE OPENING AND CLOSING OF POLLS AT THE ANNUAL 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. Section 1, Chapter 196, Volume 22, Laws of Delaware, as amended, by Section 1, Chapter 126, Volume 60, Laws of Delaware, as amended, be and the same is hereby further amended by striking out all of Paragraph (1) of said Section 1 of said Chapter 126, Volume 60, Laws of Delaware, and substituting in lieu thereof a new Paragraph (1) to read as follows:

"(1) A bona fide citizen of the United States and of the State of Delaware and a resident of the City of Lewes or on the public or vacant lands under the jurisdiction of the City Council for at least ninety (90) days next preceding the date of the Annual Election for members of the Board of Public Works; and"

Section 2. Section 1, Chapter 196, Volume 22, Laws of Delaware, as amended by Section 1, Chapter 218, volume 51, Laws of Delaware, and subsequently by Section 5, Chapter 281, Volume 55, laws of Delaware, and subsequently by Section 5, Chapter 281, Volume 55, Laws of Delaware and by Section 2, Chapter 126, Volume 60, Laws of Delaware, be and the same is hereby further amended by adding at the end of said Section 5, Chapter 126, Volume 60, Laws of Delaware, the following:

"The City Council of the City of Lewes may, by Ordinance, provide for any voter registered to vote in the Annual Election for a member of the Board of Public Works to cast an absentee ballot if such person is unable to appear and cast his or her ballot in person."

Section 3. Section 1, Chapter 196, Volume 22, Laws of Delaware, as amended, be and the same is hereby further amended by adding at the end of said Section 1, the following:

"The Annual Election for members of the Board of Public Works shall be held at a place designated by the Board of Public Works on the First Saturday in April of each year from 8:00 o'clock in the morning, prevailing time, until 6:00 o'clock in the evening, prevailing time."

Approved July 14, 1994.

CHAPTER 412

FORMERLY

SENATE BILL NO. 352
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 28, TITLE 24, DELAWARE CODE RELATING TO PROFESSIONAL ENGINEERS.

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

Section 1. Amend §2803(13), Title 24, Delaware Code by adding thereto the following to the sentence:

"and 'Applicant' shall mean a person who applies to become registered as a professional engineer, applies to become certified as Engineer Intern, or applies for a Certificate of Authorization or Permit."

Section 2. Amend §2810, Title 24, Delaware Code by substituting the word "matter" for the word "case" immediately following the words "in a" and further inserting after the word "involving" the words "an application for registration,"

Section 3. Amend §2816, Title 24, Delaware Code by inserting the word "applicants," between the word "All" and the word "members" and further striking the period "." at the end of the second sentence and inserting the following language: "or in seeking to register as a professional engineer or seeking certification as an Engineer Intern".

Section 4. Amend §2817(7), Title 24, Delaware Code by adding thereto a new subsection (e) to read as follows:

"(e) Used improper means to gain information usable by the applicant on or in connection with a written examination taken by the applicant to obtain registration as a professional engineer or certification as an Engineer Intern."

Section 5. Amend §2823(a), Title 24, Delaware Code by inserting after the words "review the" the words "actions and representations of any applicant as well as the" and further inserting the words "refuse registration" between the words "to" and "warn" as they appear in the second sentence of said subsection (a).

Section 6. Amend §2824(c), Title 24, Delaware Code by inserting the word "applicant," between the word "accused" and the word "individual" as the same appears in the second sentence and further striking the word "Counsel" and inserting the word "counsel".

Section 7. Amend §2824(d), Title 24, Delaware Code by inserting between the words "refuse to" and the word "renew" the words "grant or" in the first sentence and by inserting in the same sentence therein the word "certification" immediately after the word "registration".

Section 8. Amend §2824(e), Title 24, Delaware Code by inserting the words "applicant, or a" immediately after the word "individual".

Section 9. Amend §2825, Title 24, Delaware Code by inserting immediately after the seventh paragraph of (3) thereof the following paragraph:

"Any applicant who misstates or misrepresents any fact in connection with his or her application or any such applicant who uses improper means to gain information usable by such applicant on or in connection with a written examination taken by the applicant to obtain registration as a professional engineer or certification as an Engineer Intern shall be in violation of the provisions of this chapter."

Section 10. Amend §2808(c), Title 24, Delaware Code by adding at the end of said subsection (c) the following new sentence:

"Each term of office of the appointed Council members shall expire on the date specified in the appointment, however, the Council member shall

remain eligible to participate in Council proceedings unless and until replaced by the Governor."

Section 11. Amend §2811(b)(1), Title 24, Delaware Code by adding at the end of said subsection (b)(1) the following new sentence:

"A declared vacancy of an appointed Council position may, upon a majority vote of Council, be temporarily filled by the former Council member until a new person meeting the qualifications required to hold that appointed Council seat is appointed by the Governor."

Section 12. Amend §2811(b)(2), Title 24, Delaware Code by inserting between the word "filled" and the word "by" the following words: "either by the former Council member or".

Section 13. Amend §2817(4)(a)(2), Title 24, Delaware Code by striking the period "." immediately following the word "case" and inserting the following "; or".

Section 14. Amend §2817(7)(a), Title 24, Delaware Code by inserting after the semicolon ";" the word "or".

Section 15. Amend §2817(7)(b), Title 24, Delaware Code by inserting after the semicolon ";" the word "or".

Section 16. Amend §2816, Title 24, Delaware Code by adding at the end thereof the following:

"Copies of the code of ethics shall also be sent to prospective applicants as a part of their application materials."

Approved July 14, 1994.

CHAPTER 413

FORMERLY

SENATE BILL NO. 446
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING TO THE REQUIREMENT OF INSURANCE FOR ALL MOTOR VEHICLES REQUIRED TO BE REGISTERED.

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

Section 1. Amend §2118(a)(2)a.1., Chapter 21, Title 21 of the Delaware Code by striking the dollar figure "\$3,000" where said figure appears in the second sentence of §2118(a)(2)a.1. and substituting in lieu thereof the dollar figure "\$5,000".

Section 2. This Act shall become effective November 1, 1994.

Approved July 14, 1994.

CHAPTER 414

FORMERLY

SENATE BILL NO. 450

AN ACT TO AMEND CHAPTER 57, TITLE 11 OF THE DELAWARE CODE RELATING TO FEES, COSTS AND CHARGES OF THE MUNICIPAL COURT FOR THE CITY OF WILMINGTON.

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 §5715, Chapter 57, Title 11 of the Delaware Code by striking the first sentence thereof, including the entire fee schedule set forth therein, and substituting in lieu thereof the following:

"Fees, costs and charges which shall be taxed in criminal cases for services in the Municipal Court for the City of Wilmington, shall be as follows:

Issuing, filing and processing criminal warrant/summons.....	\$20.00
For conducting a trial or accepting a plea of Guilty	
or Nolo Contendere.....	\$10.00
For issuance and return of capias.....	\$20.00
Processing voluntary assessment agreement.....	\$12.00
Fees, costs and charges which shall be assessed in	
all other cases for all other services in Municipal Court.....	\$15.00"

Approved July 14, 1994.

CHAPTER 415

FORMERLY

SENATE BILL NO. 396
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 12, TITLE 20, OF THE DELAWARE CODE RELATING TO THE INTERMENT OF NATIONAL GUARD AND RESERVE.

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

Section 1. Amend §1204(a), Title 20, Delaware Code by redesignating paragraph (3) as paragraph (4) and substituting a new paragraph (3) to read as follows:

"(3) This section shall also apply to persons who served honorably as a member of the National Guard or Reserve forces of the United States, who at the time of death was entitled to retired pay under Chapter 67 of Title 10 USC or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age; and provided that the Delaware residency requirements of the preceding subparagraph b are met."

Approved July 14, 1994.

CHAPTER 416

FORMERLY

SENATE BILL NO. 434

AN ACT TO AMEND AN ACT BEING CHAPTER 3, VOLUME 68 OF THE LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF ELSMERE, NEW CASTLE COUNTY" TO PERMIT REGULAR MUNICIPAL ELECTIONS FOR ELECTED OFFICIALS OF THE TOWN OF ELSMERE EVERY FOUR YEARS.

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 301, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the second sentence of paragraph two in its entirety and substituting in lieu thereof the following:

"The next regular municipal election of Mayor and Council after April of 1995 shall be held on the last Saturday in April of 1999, and regular municipal elections of Mayor and Council shall be held on the last Saturday in April every four years thereafter."

Section 2. Amend Section 301.1, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the second sentence of the first paragraph in its entirety and substituting in lieu thereof the following:

"He or she shall be elected at large at the quadrennial Town election and shall serve for a term of four years or until his or her successor shall be duly elected and qualified, but the first Mayor elected under this Charter shall serve from the date of his or her qualification until the qualification of his or her successor after the election of April 1957.

Section 3. Amend §601, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the first sentence in its entirety and substituting in lieu thereof the following:

"At the quadrennial organization meeting, the Council shall appoint an attorney-at-law who shall be an officer of the Town who shall have the title of Town Solicitor."

Section 4. Amend §602, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the last sentence in its entirety and substituting in lieu thereof the following:

"He or she shall be elected by a ballot or voice vote at the quadrennial organization meeting for a period of four years or until his or her successor is duly elected and qualified."

Section 5. Amend §603, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the first and third sentences and substituting in lieu thereof the following:

"At the quadrennial organization meeting of the Council, the Mayor shall appoint a Board of Health consisting of five members, one of whom shall be a practicing physician in the Town of Elsmere, if there be one available; or if not, a practicing physician in New Castle County. The Board shall serve for four years, shall have the cognizance of the interests of life and health within the Town and that of the people residing within one-quarter mile of the boundaries of said Town, except where such area outside of the Town may lie within the jurisdiction of another municipality."

Section 6. Amend §901, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the first paragraph in its entirety and substituting in lieu thereof the following:

"Every person domiciled in the Town of Elsmere who shall have reached the required age to vote in State elections, who is a citizen of the United States and who has been domiciled in the State of Delaware for at least one year and in the Town of Elsmere for at least thirty (30) days preceding the election, and whose name is recorded in the list of registered voters provided to the Town by the New Castle County Department of Elections shall be entitled

to vote at the quadrennial municipal elections, special elections, and referenda, except as otherwise provided in this Chapter."

Section 7. Amend §902, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the second sentence of the first paragraph in its entirety and substituting in lieu thereof the following:

"Such notification shall be made, on forms provided by the Town, on or before 7:00 p.m. of the first Monday in February prior to the quadrennial municipal elections, or the fifth Monday prior to a special election."

Section 8. Further Amend §902, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the second sentence of the third paragraph in its entirety and substituting in lieu thereof the following:

"The notice of withdrawal shall be filed before 12:00 noon of the second Monday in February prior to the quadrennial municipal elections, or the fifth Monday prior to a special election."

Section 9. Amend §904, Chapter 3, Volume 68, Laws of Delaware, as amended, by striking the first sentence of the first paragraph in its entirety and substituting in lieu thereof the following:

" A regular municipal election shall be held on the last Saturday in April, 1995 or on the first Saturday, which shall be more than (sixty) 60 days after the enactment of this Charter, whichever is later, and on the last Saturday of April in each fourth year thereafter."

Section 10. If any section, subsection, sentence, clause or phrase of this Act is for any reason held invalid, such decision or decisions shall not affect the validity of the remaining portions of this Act. All rules, regulations, directives, orders and standard operating procedures shall remain in full force and effect except insofar as they conflict with the provisions of this Act in which case the provisions of the Act shall govern.

Section 11. This Act shall take effect upon its enactment into law.

Approved July 14, 1994.

CHAPTER 417

FORMERLY

HOUSE BILL NO. 200
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 21 OF THE DELAWARE CODE RELATING TO WHEN
LIGHTED LAMPS ARE REQUIRED.

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 §4331, Chapter 43, Title 21, Delaware Code by striking
the words "or rain" after the word "smoke" as it appears in said section and
substituting in lieu thereof the following:

" , rain or when windshield wipers are in use because of weather
conditions".

Section 2. Amend §4331, Chapter 43, Title 21, Delaware Code by designating
the existing paragraph as subsection "(a)".

Section 3. Amend §4331, Chapter 43, Title 21, Delaware Code by adding
thereto the following:

"(b) the portion of subsection (a) of this section criminalizing the
failure to display lighted lamps and illuminating devices when windshield
wipers are in use because of weather conditions shall constitute a
secondary offense in that no person shall be stopped by a police officer
for that failure alone."

Approved July 14, 1994.

CHAPTER 418

FORMERLY

HOUSE BILL NO. 490
AS AMENDED BY HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO CHILD RESTRAINT LAWS.

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

Section 1. Amend Title 21, Subsection 4803(a) of the Delaware Code by striking the first sentence in its entirety and substituting in lieu thereof the following:

"(a) Every person shall be responsible, when transporting a child under the age of 4 years in a motor vehicle operated on the roadways, streets or highways of this State, for providing for the protection of the child by properly using a child passenger restraint system meeting the federal motor vehicle safety standards."

Section 2. Amend Title 21, Section 4803 of the Delaware Code by adding a new subsection (b) to follow subsection (a), and by redesignating the subsequent existing subsections, which new subsection shall read:

"(b) Every child who has attained the age of 4 and has not yet attained the age of 16 shall wear a fastened seat belt or child passenger restraint system at all times while in a motor vehicle operated on the roadways, streets, or highways of this State."

Section 3. Amend Title 21, Section 4803 of the Delaware Code by inserting, after the word 'violation' and before the word 'of' as they appear in subsection (c), formerly designated subsection (b), the following: 'of subsection (a)'.

Section 4. Amend Title 21, Section 4803 of the Delaware Code by inserting, after 'child passenger restraint system' and before 'for' as they appear in the second sentence in subsection (d), formerly designated subsection (c), the words 'or seat belt'.

Section 5. Amend Title 21, Section 4803 of the Delaware Code by striking the words 'Failure to wear a child passenger restraint system' as they appear at the beginning of subsection (e), formerly designated subsection (d), and by inserting in place thereof: 'A violation of this section'.

Section 6. Amend Title 21, Section 4803 of the Delaware Code by inserting, after the words 'nor shall failure to wear a child passenger restraint system' and before the words 'be admissible as evidence' as they appear in subsection (e), formerly designated subsection (d), the words: 'or seat belt in violation of this section'.

Section 7. Amend Title 21, Section 4803 of the Delaware Code by striking the number '4' as it appears in subsection (e), formerly designated subsection (d), and by inserting in place thereof the number '16'.

Section 8. Amend Title 21, Section 4803 of the Delaware Code by inserting, after 'suit' and before 'arising' as they appear in the second sentence in subsection (e), formerly designated subsection (d), the words:

'or of criminal negligence or recklessness in any criminal action'."

Approved July 14, 1994.

CHAPTER 419

FORMERLY

SENATE BILL NO. 13

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

AN ACT TO AMEND CHAPTER 79, TITLE 16, OF THE DELAWARE CODE, RELATING TO PLUMBING.

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 79, Title 16 of the Delaware Code by re-designating present §7933 as new §7934; and adding a new section to said chapter, which new section shall read as follows:

"§7933. Public Accommodations

In any place of public entertainment required by a state, county or municipal law, rule or regulation to have a public restroom, water closets and urinals shall be provided for men and women in accordance with the minimum number of plumbing facilities required under the 1993 National Plumbing Code promulgated by the Building Officials and Code Administrators International, Inc. (BOCA), Table P-1204.1, Building Use Groups A-1, A-2, A-3, and A-5."

Section 2. Amend §7908, Chapter 79, Title 16 of the Delaware Code by adding thereto the following subsections:

"(4) 'Place of Public Entertainment' shall mean an establishment that accommodates more than one hundred individuals.

(5) 'Public Restroom' shall mean a public sanitary facility that contains more than one plumbing fixture."

Section 3. The provisions of this act shall apply for any place of public entertainment for which a construction permit is issued after July 1, 1993.

Approved July 14, 1994.

CHAPTER 420

FORMERLY

HOUSE BILL NO. 477

AN ACT TO AMEND CHAPTER 5, TITLE 10 OF THE DELAWARE CODE TO PROVIDE FOR COMMISSIONERS OF THE SUPERIOR COURT AND THE COURT OF COMMON PLEAS.

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

Section 1. Amend Subchapter I, Chapter 5, Title 10 of the Delaware Code to provide new sections 511 and 512 to read as follows:

"§ 511. Commissioners of the Superior Court; appointment; terms of office; removal.

(a) The Governor may appoint, with the consent of a majority of all members elected to the Senate, suitable persons to act as Commissioners of the Superior Court, all of whom shall hold office for a term of 4 years. Vacancies in office shall be filled for a term of 4 years by the Governor, with the consent of a majority of all members elected to the Senate. Appointees shall be residents of the State of Delaware, shall be duly admitted to practice law before the Supreme Court of this State, and shall not engage in the practice of law nor any business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as judicial officers. The number of Commissioners from one major political party shall not exceed the number of Commissioners from another major political party by more than one.

(b) Individuals appointed as Commissioners under this section shall take the oath or affirmation prescribed by Article XIV, § 1 of the Delaware Constitution before they enter upon the duties of their office.

(c) The salaries of Commissioners shall be part of the annual budget of the Superior Court. The salary of a Commissioner shall not be reduced during the term being served below the salary fixed at the beginning of that term.

§ 512. Jurisdiction and powers of Commissioners of the Superior Court.

(a) Each Commissioner serving under this chapter shall have:

(1) all powers and duties conferred or imposed upon Commissioners by law or by the Rules of Criminal and Civil Procedure for the Superior Court;

(2) the power to administer oaths and affirmations, issue orders pursuant to Chapter 21, Title 11 of the Delaware Code concerning release or detention of persons pending trial, and take acknowledgements, affidavits, and depositions.

(3) the power to accept pleas of not guilty to any offense within the jurisdiction of the Superior Court and to appoint counsel to represent indigent defendants.

(4) the power to accept a plea of guilty to a misdemeanor or violation and, with the consent of the parties, to enter a sentence thereon.

(b) Commissioners may be designated to perform the following with the approval of the President Judge or his designee:

(1) (A) A judge may designate a Commissioner to hear and determine any pretrial matter pending before the Court, except a motion for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the Court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the Commissioner's order is based

upon findings of fact that are clearly erroneous, or is contrary to law, or an abuse of discretion.

(B) A judge may also designate a Commissioner to conduct hearings, including evidentiary hearings, and to submit to a judge of the Court proposed findings of fact and recommendations for the disposition, by a judge of the Court, of any motion excepted in subparagraph (A) of this paragraph or of applications for postconviction relief made by individuals convicted of criminal offenses.

(C) The Commissioner shall file proposed findings and recommendations under subparagraph (B) of this paragraph with the Court and shall mail copies forthwith to all parties.

(D) Within 10 days after being served with a copy of proposed findings and recommendations under subparagraph (B) of this paragraph any party may serve and file written objections to such proposed findings and recommendations as provided by rules of Court. A judge of the Court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Commissioner. The judge may also receive further evidence or recommit the matter to the Commissioner with instructions.

(2) A judge may also designate a Commissioner to serve as a special master or master pro hac vice pursuant to the applicable provisions of the Superior Court Civil Rules of Procedure.

(3) A Commissioner may be assigned such additional duties by the President Judge, including assignment to the Court of Common Pleas upon designation by the Chief Justice, as are not inconsistent with the Constitution and laws of the State of Delaware. A Commissioner designated to sit in the Court of Common Pleas may exercise in that court the powers and duties set forth in paragraphs (a)(2), (4) and (b)(1) of this section."

Approved July 14, 1994.

CHAPTER 421

FORMERLY

HOUSE BILL NO. 526

AN ACT TO AMEND §5301(a), TITLE 11 OF THE DELAWARE CODE RELATING TO JURIES IN CRIMINAL TRIALS IN THE COURT OF COMMON PLEAS IN NEW CASTLE COUNTY.

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

Section 1. Amend §5301(a), Title 11 of the Delaware Code by deleting therefrom the last sentence of subsection (a).

Section 2. This legislation shall apply to offenses committed after January 15, 1995.

Approved July 14, 1994.

CHAPTER 422

FORMERLY

HOUSE BILL NO. 527

AN ACT TO AMEND §1314, TITLE 10 OF THE DELAWARE CODE RELATING TO THE AMOUNT IN CONTROVERSY FOR CIVIL JURISDICTION OF THE COURT OF COMMON PLEAS.

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

Section 1. Amend §1314, Title 10 of the Delaware Code by deleting the reference to "\$15,000" as it appears throughout and substituting in lieu thereof: "\$50,000".

Section 2. This legislation shall be effective January 15, 1995 and shall apply only to actions commenced after that date.

Approved July 14, 1994.

CHAPTER 423

FORMERLY

HOUSE BILL NO. 533
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 2, 3, 7, 10, 11, 16, 17, 24 AND 31 OF THE DELAWARE CODE, TO PROVIDE THAT APPEALS FROM THE JUSTICE OF THE PEACE COURTS SHALL BE VESTED IN THE COURT OF COMMON PLEAS.

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

Section 1. Amend Subsection (b), Section 508, Title 2 of the Delaware Code by striking the phrase "Superior Court" as it appears after the words "with the right of appeal to the" and inserting the words "Court of Common Pleas" in lieu thereof.

Section 2. Amend Section 1106, Title 3 of the Delaware Code by striking the phrase "Superior Court" as it appears in the fourth sentence of that section and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 3. Amend Section 3150, Title 3 of the Delaware Code by striking the phrase "Superior Court" as it appears in that section and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 4. Amend Subsection (c), Section 7338, Title 3 of the Delaware Code by striking the phrase "Superior Court" as it appears in that subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 5. Amend Subsection (b), Section 1309, Title 7 of the Delaware Code by striking the phrase "Superior Court" as it appears in the first sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof; and by striking the phrase "Superior Court" as it appears in the last sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 6. Amend Subsection (d), Section 9551, Title 10 of the Delaware Code by striking the phrase "Superior Court" as it appears in that subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 7. Amend Subsections (a) and (b), Section 9570, Title 10 of the Delaware Code by striking the phrase "Superior Court" as it appears in the subsections and inserting the phrase "Court of Common Pleas" in lieu thereof in each instance.

Section 8. Amend Subsections (a) and (d), Section 9571, Title 10 of the Delaware Code by striking the phrase "Superior Court" as it appears in the subsections and inserting the phrase "Court of Common Pleas" in lieu thereof in each instance.

Section 9. Amend Subsection (a), Section 9572, Title 10 of the Delaware Code by striking the phrase "Superior Court" as it appears in the first sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof; and by striking the word "Prothonotary" as it appears in the first sentence of the subsection and inserting the phrase "Clerk of Court" in lieu thereof; by striking the phrase "Superior Court" as it appears in the second sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 10. Amend Subsection (c), Section 9572, Title 10 of the Delaware Code by striking the word "Prothonotary" as it appears in the first sentence of the subsection and inserting the phrase "Clerk of Court" in lieu thereof; and by striking the phrase "Superior Court" as it appears in the second sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 11. Amend Subsection (a), Section 9574, Title 10 of the Delaware Code by striking the phrase "Superior Court" as it appears in the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 12. Amend Section 9614, Title 10 of the Delaware Code by striking the phrase "Superior Court" as it appears in the section and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 13. Amend subsections (a) and (c), Section 9615, Title 10 of the Delaware Code by striking the phrase "Superior Court" as it appears in subsections (a) and (c) and inserting the phrase "Court of Common Pleas" in lieu thereof in each instance.

Section 14. Amend Section 9640, Title 10 of the Delaware Code by striking the phrase "Superior Court" as it appears in the first sentence of the section and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 15. Amend subsection (a), Section 4503, Title 11 of the Delaware Code by striking the phrase "Superior Court" as it appears in the first sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 16. Amend Section 5719, Title 11 of the Delaware Code by striking the phrase "Superior Court" as it appears in the first sentence of the second paragraph of the section and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 17. Amend subsection (b), Section 5917, Title 11 of the Delaware Code by striking the phrase "Superior Court" as it appears in the first sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 18. Amend Section 109, Title 16 of the Delaware Code by striking the phrase "Superior Court" as it appears in the section and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 19. Amend subsection (c), Section 2113, Title 16 of the Delaware Code by deleting the existing text of subsection (c) in its entirety and inserting in lieu thereof the following new text:

"Any person convicted of an offense under this section, before a Justice of the Peace, may appeal the judgment of conviction to the Court of Common Pleas of the county."

Section 20. Amend subsection (d), Section 511, Title 17 of the Delaware Code by deleting the existing text of subsection (d) in its entirety and inserting in lieu thereof the following new text:

"In actions before Justices of the Peace, the procedure shall be the same as is provided for actions of trespass before Justices of the Peace, with the right of appeal to the Court of Common Pleas, and, in actions before the Court of Common Pleas, the right of appeal to the Superior Court shall be preserved."

Section 21. Amend subsection (c), Section 520, Title 17 of the Delaware Code by deleting the existing text of subsection (c) in its entirety and inserting in lieu thereof the following new text:

"In actions before Justices of the Peace, the procedure shall be the same as is provided for actions of trespass before Justices of the Peace, with the right of appeal to the Court of Common Pleas, and, in actions before the Court of Common Pleas, the right of appeal to the Superior Court shall be preserved."

Section 22. Amend subsection (e), Section 701, Title 17 of the Delaware Code by striking the phrase "Superior Court" as it appears in the second sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 23. Amend Section 2586, Title 24 of the Delaware Code by deleting the existing second paragraph of the section in its entirety and inserting in lieu thereof the following:

"Any person convicted of any such offense before a Justice of the Peace may appeal to the Court of Common Pleas in the county in which the conviction was had upon giving bond in the sum of \$200 to the

State with surety satisfactory to such Justice, provided the appeal is taken and bond given within 3 days from the time of the conviction."

Section 24. Amend paragraph (c)(2), Section 2618, Title 24 of the Delaware Code by deleting the existing text of paragraph (c)(2) in its entirety and inserting in lieu thereof the following new text:

"Any person convicted of any such offense before a Justice of the Peace may appeal to the Court of Common Pleas in the county in which the conviction was had upon giving bond in the sum of \$200 to the State with surety satisfactory to such Justice, provided the appeal is taken and bond given within 7 days from the time of the conviction."

Section 25. Amend subsection (c), Section 2112, Title 31 of the Delaware Code by striking the phrase "Superior Court" as it appears in the first sentence of the subsection and inserting the phrase "Court of Common Pleas" in lieu thereof.

Section 26. These amendments shall be effective January 15, 1995, and apply to all appeals filed thereon or thereafter. Appeals pending as of that date shall remain within the jurisdiction of the Superior Court.

Approved July 14, 1994.

CHAPTER 424

FORMERLY

HOUSE BILL NO. 543 AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10, CHAPTER 5, SUBCHAPTER III OF THE DELAWARE CODE RELATING TO THE JURISDICTION OF THE SUPERIOR COURT.

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

Section One. Amend Title 10, Chapter 5, Subchapter III of the Delaware Code by adding a new section to read as follows:

"§ 545. Power to Receive Appeals Involving Personnel Administration of the Delaware Court System.

(a) Jurisdiction is hereby conferred upon Superior Court to hear and determine appeals of non-judicial employees and of the appointing authority of the Delaware court system from administrative decisions of such authority rendered under the 'Personnel Rules for Non-Judicial Employees of the Delaware Court System.'

(b) Such appeals may be taken by either the aggrieved employee or the appointing authority on the question of whether the appointing authority acted in accordance with law. The burden of proof in either case is on the party making the appeal, and all such appeals shall be undertaken by filing a notice of appeal with the court within thirty (30) days of receipt of the written decision of the Hearing Officer.

(c) Review by the Superior Court shall be on the record, without a trial *de novo*. When factual determinations are at issue, the court shall take account of the experience and specialized competence of the Hearing Officer. The court review of factual issues shall be limited to a determination of whether the Hearing Officer's decision was supported by substantial evidence on the record.

(d) In the event that the appeal involves a non-judicial employee of the Superior Court, the Chief Justice of the Supreme Court shall designate a member of the Court of Chancery to hear the appeal."

Approved July 14, 1994.

CHAPTER 425

FORMERLY

HOUSE BILL NO. 544

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE TO RAISE THE CIVIL JURISDICTION OF THE JUSTICE OF THE PEACE COURT FROM \$5,000 TO \$15,000.

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

Section 1. Amend Section 9301, Title 10 of the Delaware Code by deleting "\$5,000" as it appears therein and substituting "\$15,000" in lieu thereof.

Section 2. Amend Section 9303, Title 10 of the Delaware Code by deleting "\$5,000" at the end of subsection (a) and substituting "\$15,000" in lieu thereof; and by deleting "\$5,000" at the end of subsection (b) and substituting "\$15,000" in lieu thereof.

Section 3. Amend Section 9304, Title 10 of the Delaware Code by deleting "\$5,000" and substituting "\$15,000" in lieu thereof.

Section 4. Amend Section 9536, Title 10 of the Delaware Code by deleting all references to "\$5,000" and substituting "\$15,000" in lieu thereof in each instance.

Section 5. Amend subsection (b), Section 9572, Title 10 of the Delaware Code by deleting "\$5,000" and substituting "\$15,000" in lieu thereof in each instance.

Section 6. Amend Section 9583, Title 10 of the Delaware Code by deleting "\$5,000" and substituting "\$15,000" in lieu thereof.

Section 7. Amend subsection (a), Section 9615, Title 10 of the Delaware Code by deleting "\$5,000" and substituting "\$15,000" in lieu thereof.

Section 8. These amendments shall become effective January 15, 1995. Cases filed prior to January 15, 1995 shall not be affected by these amendments.

Approved July 14, 1994.

CHAPTER 426

FORMERLY

HOUSE BILL NO. 554
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE TO PROVIDE FOR COMMISSIONERS OF THE COURT OF COMMON PLEAS.

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

Section 1. Amend Chapter 13, Title 10 of the Delaware Code by re-designating present §1309 through §1312 (being Subchapter II) as new §1311 through §1316; by re-designating present §1313 through §1322 (being Subchapter III) as new §1321 through §1330.

Section 2. Amend Subchapter II, Chapter 13, Title 10 of the Delaware Code to provide new sections 1315 and 1316 to read as follows:

"§ 1315. Commissioners of the Court of Common Pleas; appointment; terms of office; removal.

(a) The Governor may appoint, with the consent of a majority of all members elected to the Senate, suitable persons to act as Commissioners of the Court of Common Pleas, all of whom shall hold office for a term of 4 years. Vacancies in office shall be filled for a term of 4 years by the Governor, with the consent of a majority of all members elected to the Senate. Appointees shall be residents of the State of Delaware, shall be duly admitted to practice law before the Supreme Court of this State, and shall not engage in the practice of law nor any business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as judicial officers. The number of Commissioners from one major political party shall not exceed the number of Commissioners from another major political party by more than one.

(b) Individuals appointed as Commissioners under this section shall take the oath or affirmation prescribed by Article XIV, § 1 of the Delaware Constitution before they enter upon the duties of their offices.

(c) The salaries of Commissioners shall be part of the annual budget of the Court of Common Pleas. The salary of a Commissioner shall not be reduced during the term being served below the salary fixed at the beginning of that term.

§ 1316. Jurisdiction and powers of Commissioners of the Court of Common Pleas.

(a) Each Commissioner serving under this chapter shall have:

(1) all powers and duties conferred or imposed upon Commissioners by law or by the Rules of Criminal and Civil Procedure for the Court of Common Pleas.

(2) the power to administer oaths and affirmations, issue orders pursuant to Chapter 21, Title 11 of the Delaware Code concerning release or detention of persons pending trial, and take acknowledgements, affidavits, and depositions.

(3) the power to accept pleas of not guilty to any offense within the jurisdiction of the Court of Common Pleas and to appoint counsel to represent indigent defendants.

(4) the power to accept a plea of guilty to a misdemeanor or violation, including any violation of probation, or violation of Title 21 of the Delaware Code, or any other violation defined in the Delaware Code, and, with the consent of the parties, to enter a sentence thereon.

(b) Commissioners may be designated to perform the following with the approval of the Chief Judge or his designee:

(1)(A) A judge may designate a Commissioner to hear and determine any pretrial matter pending before the Court, except the following motions: for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the Court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the Commissioner's order is based upon findings of fact that are clearly erroneous, or is contrary to law, or an abuse of discretion.

(B) A judge may also designate a Commissioner to conduct hearings, including evidentiary hearings, and to submit to a judge of the Court proposed findings of fact and recommendations for the disposition, by a judge of the Court, of any motion excepted in subparagraph (A) of this paragraph or of applications for postconviction relief made by individuals convicted of criminal offenses.

(C) The Commissioner shall file proposed findings and recommendations under subparagraph (B) of this paragraph with the Court and shall mail copies forthwith to all parties.

(D) Within 10 days after being served with a copy of proposed findings and recommendations under subparagraph (B) of this paragraph any party may serve and file written objections to such proposed findings and recommendations as provided by rules of Court. A judge of the Court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Commissioner. The judge may also receive further evidence or recommit the matter to the Commissioner with instructions.

(2) A judge may also designate a Commissioner to serve as a special master or master *pro hac vice* pursuant to the applicable provisions of the Court of Common Pleas Civil Rules of Procedure.

(3) A Commissioner may be assigned such additional duties by the Chief Judge, including assignments to other courts upon designation by the Chief Justice, as are not inconsistent with the Constitution and laws of the State of Delaware. A Commissioner designated to sit in another court may exercise the powers and duties of a commissioner appointed to said court."

Approved July 14, 1994.

CHAPTER 427

FORMERLY

HOUSE BILL NO. 579
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE, TO PROVIDE THAT APPEALS FROM THE JUSTICE OF THE PEACE COURT SHALL BE VESTED IN THE COURT OF COMMON PLEAS.

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

Section 1. Amend subsection (b), §708, Title 21 of the Delaware Code by striking the words "Superior Court" as they appear in the first sentence and substituting in lieu thereof the words "Court of Common Pleas".

Section 2. This amendment to subsection (b), §708, Title 21 of the Delaware Code shall take effect on January 5, 1995 and shall apply to all appeals filed on or after that date. Appeals pending as of that date shall remain in the jurisdiction of the Superior Court.

Approved July 14, 1994.

CHAPTER 428

FORMERLY

HOUSE BILL NO. 587

AN ACT TO AMEND CHAPTER 45, TITLE 10 OF THE DELAWARE CODE RELATING TO SELECTION AND SUMMONING OF JURY PANELS.

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

Section 1. Amend §4510(a), Chapter 45, Title 10 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

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

Approved July 14, 1994.

CHAPTER 429

FORMERLY

HOUSE BILL NO. 589

AN ACT TO AMEND CHAPTER 95 OF TITLE 10 OF THE DELAWARE CODE RELATING TO PROCEDURES OF THE JUSTICE OF THE PEACE COURT.

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

Section 1. Amend subsection (a) and (c), Section 9501, Title 10 of the Delaware Code by adding the word "court" after the words "justice of the peace"; and by striking the word "he" as it appears in subsection (b) and inserting the words "the court" in lieu thereof.

Section 2. Amend Section 9502, Title 10 of the Delaware Code by adding the word "court" after the words "justice of the peace"; and by deleting the word "himself" and inserting the words "the court" in lieu thereof.

Section 3. Amend Section 9505, Title 10 of the Delaware Code by striking the words "All justices of the peace in this State, after passing judgment in all civil and criminal cases," as they appear at the beginning of the first sentence, and inserting "After entering judgment in all civil and criminal cases, the Justice of the Peace Courts" in lieu thereof.

Section 4. Amend Section 9522, Title 10 of the Delaware Code by deleting all of the language following the phrase in the first sentence "[t]he writ of summons in an action under this subchapter shall be issued" and by inserting in lieu thereof:

"under the seal of the Justice of the Peace Court, dated on the day it is issued, stating the sum demanded, and the date for the defendant's appearance, which shall be made by the filing of any written motion or pleading purporting to be responsive to, or affecting, the complaint, no later than 15 days from the date received."

Section 5. Amend Title 10 of the Delaware Code by deleting the text of the existing Section 9523 in its entirety and inserting in lieu thereof the following new text:

"The summons in an action under this subchapter shall be of the following form:

".....County, ss. The State of Delaware.

TO ANY CONSTABLE OF SAID COUNTY OR OTHER DULY APPOINTED PROCESS SERVER:

We command you to summon, the defendant(s), and serve upon said defendant(s) a copy of this summons and complaint.

TO THE DEFENDANT(S):

Within 15 days after you receive this Summons, excluding the day you receive it, you must complete and return to the Justice of the Peace Court,.....(address), the enclosed Answer (or other such filing) if you deny owing all or part of the money claimed as a debt against you by the plaintiff in the Complaint.

Failure to file an Answer, or other written document related to this claim, with the Justice of the Peace Court may result in a default judgment being entered against you and action may be taken by the plaintiff, such as the attachment of your wages or the attachment and sale of your property, to satisfy the judgment.

DATED: _____
Justice of the Peace/Clerk'"

Section 6. Amend subsection (a), Section 9537, Title 10 of the Delaware Code by deleting the existing subsection (a) in its entirety and inserting in lieu thereof the following new subsection (a):

"(a) After verification of the return of service, if a defendant, being duly summoned in an action under this subchapter, fails to appear by written motion or pleading at or before the date provided for in the summons, or at any time to which the cause is regularly adjourned, judgment by default may be entered, by a Clerk of the Court for a sum certain or for a sum which can by computation be made certain or by the Justice of the Peace in all other cases in which the party is entitled to judgment by default. The Court may conduct such hearings as it deems necessary and proper."

Section 7. Amend subsection (a), Section 9538, Chapter 95, Title 10 of the Delaware Code by deleting the word "justice" and inserting the word "court" in lieu thereof.

Section 8. Amend subsection (a), Section 9542, Chapter 95, Title 10 of the Delaware Code by deleting the phrase "before a justice" which follows the words "[e]very judgment".

Section 9. Amend subsection (a), Section 9544, Chapter 95, Title 10 of the Delaware Code by deleting the phrase "a justice of the peace" which follows the words "upon every judgment given by" and inserting the words "the court" in lieu thereof.

Section 10. These amendments shall become effective January 15, 1995. Cases filed prior to January 15, 1995, shall not be affected by these amendments.

Approved July 14, 1994.

CHAPTER 430

FORMERLY

SENATE BILL NO. 305
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2AN ACT TO AMEND CHAPTER 53, TITLE 7 OF THE DELAWARE CODE RELATING TO
ARCHAEOLOGICAL SITES.

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 §5301, Chapter 53, Title 7, Delaware Code by deleting the existing section and inserting in lieu thereof the following:

"No person shall excavate, collect, deface, injure or destroy any archaeological resource or artifact, or otherwise disturb or alter an archaeological resource or artifact or its surrounding location or context, in or on lands owned or controlled by this State, except with the permission of the Governor of this State or the person duly authorized by the Governor to extend and grant such permission. Archaeological resources and artifacts shall be defined to include any remains of past human life or activity that are at least 50 years old."

Section 2. Amend §5302, Chapter 53, Title 7, Delaware Code, by replacing the phrase "aboriginal sites" in the first sentence with the phrase "archaeological resources or artifacts" and by replacing the word "objects" as it appears in the last sentence with the phrase "archaeological resources or artifacts."

Section 3. Amend §5306, Chapter 53, Title 7, Delaware Code by deleting the existing section and heading and inserting in lieu thereof the following:

"Prohibition Against Transfer, Sale and Purchase.

No person shall sell, transfer, exchange, transport, purchase, receive, or offer to sell, transfer, exchange, transport, purchase or receive, any archaeological resource or artifact as defined in §5301 unless such artifact or resource has been obtained in compliance with the requirements of this Chapter."

Section 4. Amend Chapter 53, Title 7, Delaware Code by adding a new §5307 and heading which reads as follows:

"Possession of Prohibited Tools or Devices.

No person shall possess, use or employ, on lands owned or controlled by the State, tools or devices designed, modified or commonly used for the excavation or removal of archaeological resources or artifacts or otherwise designed or modified for activities prohibited by this Chapter, excluding individuals permitted or authorized to possess such tools and devices in accordance with the requirements of this Chapter."

Section 5. Amend Chapter 53, Title 7, Delaware Code by adding a new §5308 and heading which reads as follows:

"Penalties.

Whoever violates this Chapter shall be fined an amount which shall not exceed \$10,000 or imprisoned up to thirty (30) days, or both. Each day of excavation, alteration, destruction, injury or other violation shall be considered a separate offense and punishable as such. Unauthorized tools or devices seized from violators of §5307 may be ordered forfeited to the State without compensation. Further, restitution may be ordered to compensate the State for the cost of remedying or remediate any violation of this Chapter."

Section 6. Amend Chapter 53, Title 7 of the Delaware Code by adding a new Section 5309 and heading which reads as follows:

"Exemptions.

The provisions of Sections 5301 and 5302 of this Chapter shall not apply to activities of State agencies which are (a) already subject to federal laws or regulations relating to archeological resources or artifacts, or (b) which are not intended as archeological activities, such as but not limited to surveying soil testing, construction, or property maintenance. Further, this Chapter shall not apply to public use areas on lands along the Atlantic coast from Cape Henlopen south to the State line, situated between the mean low water line and the base of the primary dune, unless otherwise posted."

Approved July 14, 1994.

CHAPTER 431

FORMERLY

SENATE BILL NO. 435

AN ACT PROPOSING AN AMENDMENT TO §2, ARTICLE X OF THE DELAWARE CONSTITUTION RELATING TO ELIMINATING THE UNCONSTITUTIONAL REQUIREMENT OF RACIALLY SEGREGATED SCHOOLS.

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 §2, Article X of the Delaware Constitution by deleting the phrase ", and separate schools for white and colored children shall be maintained".

Approved July 1, 1994.

CHAPTER 432

FORMERLY

HOUSE BILL NO. 565
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND ARTICLE IV OF THE CONSTITUTION OF THE STATE OF DELAWARE TO PROVIDE FOR THE INCLUSION OF THE FAMILY COURT AND THE COURT OF COMMON PLEAS AS COURTS ESTABLISHED BY THE CONSTITUTION OF THE STATE OF DELAWARE.

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

Section 1. Amend Article IV, Section 1 of the Constitution of the State of Delaware by adding the phrase "a Family Court, a Court of Common Pleas," after the phrase "a Court of Chancery," and before the phrase "an Orphans' Court."

Section 2. Amend Article IV, Section 2 of the Constitution by striking the second, third and fourth full paragraphs thereof and substituting in lieu thereof the following:

"In addition to members of the Supreme Court there shall be other State Judges, who shall be citizens of the State and learned in the law. They shall include: (1) the Chancellor and the Vice-Chancellors; (2) The President Judge and the Associate Judges of the Superior Court, three of whom shall be Resident Associate Judges and one of whom shall after appointment reside in each county of the State; (3) the Chief Judge and the Associate Judges of the Family Court; and (4) the Chief Judge and Judges of the Court of Common Pleas, one of whom after appointment shall reside in each county of the State.

There shall also be such number of additional Vice-Chancellors, Associate Judges and Judges as may hereinafter be provided for by Act of the General Assembly. Each of such Vice-Chancellors, Associate Judges, and Judges shall be citizens of the State and learned in the law.

If it is otherwise impossible to determine seniority of service among the Vice-Chancellors, or among the said Associate Judges or among the said Judges, they shall determine it by lot respectively and certify accordingly to the Governor."

Section 3. Amend Article IV, Section 3 of the Constitution of the State of Delaware by deleting the word "and" after the phrase "or Vice-Chancellors," as that phrase appears in the first sentence of the first paragraph of said section; by adding the phrase ", the Chief Judge and Associate Judges of the Family Court and the Chief Judge and Judges of the Court of Common Pleas" after the phrase "Associate Judges of the Superior Court" as that phrase appears in the first sentence of the first paragraph of said section; by adding the phrase ", Chief Judge or Associate Judge of the Family Court or Chief Judge or Judge of the Court of Common Pleas" after the phrase "Associate Judge of the Superior Court" as that phrase appears in the sixth sentence of the first paragraph of said section; and by renumbering current paragraph "Fourth" as paragraph "Sixth" and adding new paragraphs "Fourth" and "Fifth" after paragraph "Third" to read as follows:

"Fourth, at any time when the total number of Judges of the Family Court shall be an even number, not more than one-half of the Judges shall be of the same political party; and at any time when the total number of Judges shall be an odd number, then not more than a majority of one Judge shall be of the same political party.

Fifth, at any time when the total number of Judges of the Court of Common Pleas, (including the Chief Judge) shall be an even number, not more than one-half of the Judges shall be of the same political party; and at any time when the total number of Judges shall be an odd number, then not more than a majority of one Judge shall be the same political party."

Section 4. Amend Article IV, Section 4 of the Constitution of the State of Delaware by deleting the word "and" after the phrase "or Vice-Chancellors," as that phrase appears in the first sentence of this section and by adding the phrase "the Chief Judge and Associate Judges of the Family Court and the Chief

Judge and Judges of the Court of Common Pleas" after the phrase "Orphans' Court" as that phrase appears in the same sentence.

Section 5. Amend Article IV of the Constitution of the State of Delaware by adding thereto a new Section which Section shall read in its entirety as follows:

"§7A. Jurisdiction of Family Court.

Section 7A. The Family Court shall have all the jurisdiction and powers vested by the laws of this State in the Family Court."

Section 6. Amend Article IV of the Constitution of the State of Delaware by adding thereto a new section which section shall read in its entirety as follows:

"§7B. Jurisdiction of Court of Common Pleas.

Section 7B. The Court of Common Pleas shall have all the jurisdiction and powers vested by the laws of this State in the Court of Common Pleas."

Section 7. Amend Article IV, Section 13 of the Constitution of the State of Delaware by striking paragraph (2) in its entirety and substituting in lieu thereof the following:

"(2) Upon written request made by the Chancellor, President Judge of the Superior Court, the Chief Judge of the Family Court, or the Chief Judge of the Court of Common Pleas, or in the event of an absence or incapacity, by the next qualified and available Vice-Chancellor, Associate Judge or Judge, who is senior in length of service, to designate one or more of the State Judges (including the Justices of the Supreme Court) to sit in the Court of Chancery, the Superior Court, the Family Court or the Court of Common Pleas, 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 8. Amend Article IV, Section 17 of the Constitution of the State of Delaware by adding the phrase ", the Family Court hereby established, the Court of Common Pleas hereby established" after the phrase "Orphans' Court" as that phrase appears in the first sentence of this section, substituting the word "any" for the word "either" as it appears in the first sentence of this section and by adding the phrase ", the Family Court, the Court of Common Pleas" after the phrase "Orphans' Court" as that phrase appears in the second sentence of this section.

Section 9. Amend Article IV, Section 18 of the Constitution of the State of Delaware by adding a second sentence thereto which shall read as follows:

"Until the General Assembly shall otherwise provide, the Chief Judge of the Family Court and the Associate Judges of said Court, respectively, shall each singly exercise all the powers which any law of this State vests in the Judges of the Family Court, whether as members of the Court or otherwise, and the Chief Judge of the Court of Common Pleas and the Judges of said Court, respectively, shall each singly exercise all the powers which any law of the State vests in the Judges of the Court of Common Pleas, whether as members of the Court or otherwise."

Section 10. Amend Article IV of the Constitution of the State of Delaware by adding a new Section 34A which shall read as follows:

"§34A. Continuation in office and designation of judicial officers of the Family Court and the Court of Common Pleas.

Section 34A: The Chief Judge and the Associate Judges of the Family Court and the Chief Judge and the Judges of the Court of Common Pleas in office at and immediately before the time this amended Article IV of this Constitution becomes effective shall hold their respective offices until

the expiration of their terms, respectively, and shall receive the compensation provided by law."

Section 11. Amend Article IV, Section 37 of the Constitution of the State of Delaware by deleting the word "and" after the phrase "the Chancellor," as it appears in the first sentence thereof and by adding the phrase ", the Chief Judge of the Family Court and the Chief Judge of the Court of Common Pleas" after the phrase "President Judge of the Superior Court" and before the period in that same sentence.

Approved June 30, 1994.

CHAPTER 433
FORMERLY
SENATE SUBSTITUTE NO. 1
TO
SENATE BILL NO. 215

AN ACT TO AMEND CHAPTER 9 AND CHAPTER 11, TITLE 13 OF THE DELAWARE CODE RELATING TO ADOPTION AND PROVIDING THAT ADOPTEES AND BIRTH PARENTS HAVE ACCESS TO CERTAIN INFORMATION.

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

Section 1. Amend Section 901, Chapter 9, Title 13 of the Delaware Code by deleting subsection (5) in its entirety and substituting in lieu thereof:

"Identifying information" means any data, including that described in Section 929 of this title, that can distinguish a party to the adoption from the general public, and shall include, for purposes of Subchapter III of this Chapter, the full name, full address and birth date of the birth parent(s) and birth sibling(s), if any, as well as any other known names and addresses used by the birth parent(s), birth sibling(s), or the adoptee."

Section 901 is further amended to add the following definitions after subsection (10):

(11) "Adoptee" means a person whose birth parent(s)' rights were terminated or who has been adopted in this State.

(12) "Adult adoptee" means an adoptee who is 18 years of age or older.

(13) "Birth parent" means:

- (1) the biological mother of a child;
- (2) the named father of a child who consented to the termination of his parental rights; or
- (3) the father whose paternity is presumed pursuant to Chapter 8 of this Title.

(14) "Original birth certificate" means the certificate issued at the time of birth of the child which contains identifying information regarding birth parents and the child's full name at birth and which may provide such details as the time and place of birth.

Section 2. Amend Chapter 9, Title 13 of the Delaware Code by adding a new Subchapter, designated as Subchapter III, as follows:

"Subchapter III. Access to Identifying Information."

§961. Records.

As of January 1, 1995, all adoption records presently maintained in the Prothonotary's Office shall be transferred to Family Court for permanent retention.

§962. System of affidavits.

(a) A birth parent who has consented to the adoption of his or her child or whose parental rights have been terminated by a Delaware Court may file with Family Court at any time an affidavit which (1) authorizes Family Court to provide his or her child who is an adult adoptee or the adoptive parents of a minor adoptee with a copy of the adoptee's original birth certificate, and which authorizes Family Court, the Department of Services for Children, Youth and Their Families (hereinafter "the Department"), or the licensed agency handling the termination of parental rights or adoption procedures to provide the adult adoptee or the adoptive parents of a minor

adoptive with identifying information in their possession; or (2) denies the release of any identifying information concerning that birth parent to the adult adoptee or any other person by Family Court, the Department or a licensed agency.

Either affidavit shall be in effect at all times unless rescinded in writing by the birth parent.

(b) A birth parent who consents to the adoption of his or her child or whose parental rights are terminated at any time after the effective date of this Subchapter shall be advised by the Agency filing the petition to terminate parental rights of the right of the birth parent(s) to file at that time or any subsequent time the affidavit described in Section 962(a). The petition, as required in Section 1105(a), Chapter 11 of this Title, shall state that the birth parent has been advised of this right, and the affidavit, if obtained, shall be attached to the petition.

(c) In the case of a stepparent or relative adoption, the agency writing the social study report, as required by Section 1107(f), Chapter 11, and Section 912, Chapter 9 of this Title, shall state that the parent whose parental rights are being terminated has been advised of the right to file an affidavit at that time or any subsequent time, and the affidavit, if obtained, shall be attached to the social report.

(d) If a birth parent is deceased or mentally incompetent, the following relations of said birth parent may file an affidavit, with proof of the death or mental incompetency, authorizing the release of the relations' own name and address:

- either parent of the birth parent;
- sibling (full or half) of the birth parent;
- birth siblings (full or half) of the adoptee.

Such affidavit shall be in effect at all times unless rescinded in writing by the individual who filed it.

(e) An adult adoptee may file with Family Court at any time an affidavit consenting to or denying the release of the adoptee's name and address to a birth parent or other birth relative as in Section 962(d) above. This affidavit shall be effective at all time unless rescinded in writing by the adoptee.

(f) The adoptive parents of a minor adoptee may file an affidavit with Family Court authorizing the release of the adoptive parent(s)' name and address to the birth parent(s) of the child. Such affidavit shall expire when the adoptee reaches the age of 18.

§963. Procedure for providing identifying information.

(a) When Family Court, the Department or a licensed agency receives a request for identifying information from an adult adoptee, the adoptive parents of a minor adoptee, the birth parent(s) of an adoptee, or adult birth relatives of the adult adoptee as in Section 962(d) above, the Court, Department or licensed agency shall determine within 30 (thirty) days whether any affidavit is on file and whether such affidavit or affidavits permit complying with the request. Any agency receiving such a request shall contact Family Court to determine whether any affidavit or letter rescinding an affidavit is on file.

(1) If a request is received from an adult adoptee or the adoptive parents of a minor adoptee, and an affidavit consenting to the release of identifying information has been filed by each known birth parent, a copy of the original birth certificate and other identifying information shall be released within 90 (ninety) days of the initial request. If an affidavit consenting to the release of identifying information is on file for one birth parent only, information released shall not include any identifying information concerning the other birth parent. If an affidavit is on file from a birth relative as in Section 962(d) above, only that birth relative's information shall be released to the adoptee.

(2) When a request is received from the birth parent(s), and an affidavit from the adult adoptee or from the adoptive parents of a minor adoptee consenting to the release of identifying information is on file, the agency shall release identifying information within 90 (ninety) days of the request.

(3) When a request is received from an adult birth relative as in Section 962(d) above, identifying information about the adult adoptee may be released only if an affidavit is on file from the adoptee consenting to the release of such information.

(b) If a request for information is received from an adult adoptee, adoptive parents of a minor adoptee, or the birth parent of an adult adoptee and no affidavit is on file, Family Court shall instruct the agency that handled the adoption or the termination of parental rights or, in the case of an agency no longer licensed in this state, the designated custodian of the records of such agency, to undertake a diligent search for the individual being sought. A search shall be commenced within 90 (ninety) days from the date of Family Court's instructions to the agency.

(c) Within 15 (fifteen) working days of locating the individual, the designated agency shall attempt to make personal and confidential contact. Upon contact, the agency will advise the individual of his or her right to file an affidavit as described in Section 962 above with Family Court and will provide the appropriate form of the affidavit to the individual. The individual shall be advised that, in the event such affidavit is not received by the agency within 30 (thirty) days, identifying information will be released and, in the case of an adult adoptee, a copy of the original birth certificate will be provided. The individual shall also be advised that an affidavit denying the release of identifying information may subsequently be rescinded or modified in writing at any time.

(d) If, after contact, the individual files an affidavit denying the release of identifying information, a subsequent contact may be initiated by Family Court, the Department, or the agency upon a second request for information. Family Court, the Department, or an agency may refuse to contact in response to subsequent requests for information.

(e) If an affidavit denying the release of identifying information is received, the Court shall not allow the release of identifying information with respect to the party requesting confidentiality.

(f) Upon proof that a birth parent is deceased, all information concerning such birth parent shall be released.

(g) If an adult adoptee has initiated the search and neither birth parent can be located within one (1) year of the request for identifying information, the agency shall notify Family Court in writing. Family Court shall provide a copy of the original birth certificate to the adult adoptee.

§964. Immunity from liability.

Any person or agency, including the State of Delaware or any governmental subdivision of this State, who participated in good faith in any requirement of this section, shall have immunity from any liability, civil or criminal, that results from such person's or agency's actions. In any proceeding, civil or criminal, the good faith of any person participating in the requirement of this Subchapter shall be presumed.

§965. Affidavits.

The Department, licensed agencies and Family Court shall design a uniform affidavit that will be approved by the Chief Judge of Family Court prior to the effective date of this Subchapter. Subsequent revision of the affidavits must be approved by the Chief Judge of Family Court.

Section 3. Amend Sections 923, 924 and 925, Chapter 9, Title 13 of the Delaware Code by adding the phrase, "Except as provided in Subchapter III of this Chapter, " at the beginning of each respective section, and by changing the upper case letter at the beginning of the first sentence of each section to the respective lower case letter.

Section 4. Further amend Section 924, Chapter 9, Title 13 of the Delaware Code by adding "and Subchapter III" after "§929" in the third sentence of the paragraph, and by adding at the end of said section a new sentence which shall read as follows:

"If Family Court receives a report stating that a birth parent, another offspring of the birth parent, or the adoptee has a genetically transmitted disorder or a family pattern of a disease, Family Court shall instruct the agency that was involved with the adoption or the termination of parental rights to conduct a diligent search for the adult adoptee, adoptive parents of a minor adoptee, or birth parent(s) to inform them of the report."

Section 5. Amend Section 929(b), Chapter 9, Title 13 of the Delaware Code by striking the words "subsection (a)" and inserting in lieu thereof, "Subchapter III of this Chapter".

Section 6. Amend Section 1112(a), Chapter 11, Title 13 of the Delaware Code by striking the period (".") at the end of said subsection and adding in lieu thereof a comma (",") and the phrase "except as provided in Subchapter III of Chapter 9 of this Title."

Section 7. Amend Section 1112(c), Chapter 11, Title 13 of the Delaware Code by striking the period (".") at the end of said subsection and inserting in lieu thereof a semi-colon (";") and adding a new paragraph as follows:

"(3) According to Subchapter III of Chapter 9 of this Title."

Section 8. Amend Section 1105(a), Chapter 11, Title 13 of the Delaware Code by adding a new subsection (12) as follows:

"(12) A statement that each birth parent has been advised of the right to file an affidavit as provided by Subchapter III of Chapter 9 of this Title."

Section 9. Amend Section 912(b), Chapter 9, Title 13 of the Delaware Code by changing subsection (6) to (7) and adding a new subsection (6) as follows:

"(6) In stepparent/relative cases, a statement that the birth parent whose parental rights are being terminated has been advised of the right to file an affidavit as provided by Subchapter III of this Chapter."

Section 10. This Act shall become effective January 1, 1995.

Approved July 14, 1994.

CHAPTER 434

FORMERLY

HOUSE BILL NO. 117
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 13, TITLE 2, DELAWARE CODE RELATING TO AUDITING AND THE DELAWARE TRANSPORTATION AUTHORITY.

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

Section 1. Amend §1323, Chapter 13, Title 2, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§1323. Audit of books and accounts.

The Office of Auditor of Accounts, shall cause an annual audit of the books and accounts of the Authority. The selection of a firm to perform the annual audit of the books and accounts of the Authority shall be mutually agreed upon by the Office of the Auditor of Accounts and the Secretary who shall consult and cooperate with each other in the selection, contract, employment and scope of professional services to be rendered, provisions in 29 Del. C. Chapter 29 notwithstanding. The audit shall be performed by an independent firm of certified public accountants of recognized ability and standing and shall conform in all respects to the covenants contained in all Trust Agreements entered into by the Authority for the benefit of its bondholders. The Authority shall transfer funds, as requested by the Office of Auditor of Accounts, to cover the cost of the audit."

Approved July 14, 1994.

CHAPTER 435

FORMERLY

SENATE BILL NO. 393
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 13, 18 AND 19 OF TITLE 2 AND CHAPTER 84 OF TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE TRANSPORTATION AUTHORITY, THE DEPARTMENT OF TRANSPORTATION REGULATION OF PUBLIC CARRIERS AND EMPLOYEE COMMUTE OPTION AND THE REORGANIZATION THEREOF AND THE CREATION OF THE DELAWARE TRANSIT CORPORATION.

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

Section 1. Amend §1303, Chapter 13, Title 2 of the Delaware Code by striking subsection (a) in its entirety and by adding a new subsection (a) to read as follows:

"(a) 'Delaware Transit Corporation' means a corporation created pursuant to this chapter which is the parent corporation of subsidiaries created pursuant to this chapter the purpose of which is to provide public transit services."

Section 2. Amend §1303(1), Chapter 13, Title 2 of the Delaware Code by striking the word "Authority" and substituting in lieu thereof the words "Delaware Transit Corporation".

Section 3. Amend §1310(j), Chapter 13, Title 2 of the Delaware Code by striking the phrase "Division of Highways" and substituting in lieu thereof "Division of Highway Operations".

Section 4. Amend §1303(1), Chapter 13, Title 2 of the Delaware Code by striking the words "of the Turnpike Administration" and substituting in lieu thereof the words "incurred in maintenance and operation of the Delaware Turnpike".

Section 5. Amend §1303(o), Chapter 13, Title 2 of the Delaware Code by striking the word "Authority" and substituting in lieu thereof the words "Delaware Transit Corporation".

Section 6. Amend §1303, Chapter 13, Title 2 of the Delaware Code by striking subsection (w) in its entirety.

Section 7. Amend §1304, Chapter 13, Title 2 of the Delaware Code by striking subsection (b) in its entirety and adding a new subsection (b) to read as follows:

"(b) All action by the Authority shall be taken by resolution of the Secretary, the Director of the Office of Financial Management and Budget and the Administrator of the Transportation Trust Fund."

Section 8. Amend §1304, Chapter 13, Title 2 of the Delaware Code by striking subsection (c) in its entirety and redesignating subsection (d) through (g) as subsection (c) through (f).

Section 9. Amend §1305, Chapter 13, Title 2 of the Delaware Code by striking it in its entirety and inserting in lieu thereof the following:

"§1305. Turnpike Maintenance and Operations.

The Authority is authorized to make appropriate provisions for the maintenance and operation of the Delaware Turnpike including, but not limited to, assignment of the responsibility for maintenance and operation by the Division of Highway Operations, subject however, to the requirement that at all times the Authority shall retain the ultimate responsibility for operation and maintenance of the Delaware Turnpike in accordance with the terms and conditions of any trust agreement with bondholders. The assignment of responsibilities for maintenance and operation of the Delaware Turnpike to an entity other

than the Authority shall not include the authority to adjust in any manner charges, fares, fees, rentals and/or tolls."

Section 10. Amend §1306 of Chapter 13, Title 2 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§1306. Aeronautics within the Department.

Administration of the laws of this State appearing in Chapters 1, 3, 5, 7 and 9 of this Title shall be administered by the Office of Aeronautics within the Department. The Secretary of the Department may appoint a person of suitable qualifications to administer the Office of Aeronautics."

Section 11. Amend §1307(a) of Chapter 13, Title 2 of the Delaware Code by striking the first two sentences of the second paragraph.

Section 12. Amend §1307(a) of Chapter 13, Title 2 of the Delaware Code by inserting a new paragraph after the first full paragraph in subsection (a) which shall read as follows:

"The Authority is authorized to create or abolish a subsidiary corporation called the 'Delaware Transit Corporation' to be the parent corporation of all subsidiaries created pursuant to this section to provide public transit services. The Delaware Transit Corporation is declared to be a public benefit corporation constituting a public instrumentality of the State exercising public and essential governmental functions. The Delaware Transit Corporation and its public transportation services subsidiaries shall be under the direction and supervision of a Director who shall be appointed by the Secretary, with the written approval of the Governor, and who shall serve at the pleasure of the Secretary. The Director of the Delaware Transit Corporation may appoint a Deputy Director."

Section 13. Amend §1307(a) of Chapter 13, Title 2 of the Delaware Code by striking the word "Director" as it appears in line 11 of the existing second paragraph and substituting in lieu thereof the word "Secretary".

Section 14. Amend §1307 subsection (b) and (c) of Chapter 13, title 2 of the Delaware Code by striking them in their entirety.

Section 15. Amend §1307(d) of Chapter 13, Title 2 of the Delaware Code by redesignating same as §1307(b).

Section 16. Amend §1308 of Chapter 13, Title 2 of the Delaware Code by striking it in its entirety.

Section 17. Amend §1309 of Chapter 13, Title 2 of the Delaware Code by striking the word "with" on line 3 and substituting in lieu thereof the word "through".

Section 18. Amend §1309(7) of Chapter 13, Title 2 of the Delaware Code by striking the word "Authority" as it appears on line 5 and substituting in lieu thereof the word "Secretary".

Section 19. Amend §1309(16) of Chapter 13, Title 2 of the Delaware Code by striking the words "the Turnpike Administrator, the Aeronautics Administrator and the" and the word "other" as they appear therein.

Section 20. Amend §1309 of Chapter 13, Title 2 of the Delaware Code by deleting subsection (28) in its entirety and substituting a new subsection (28) to read as follows:

"(28) Delegate to the Delaware Transit Corporation the rights and responsibilities to:

[a] Develop plans and programs:

- (1) To foster efficient and economical public transportation and
- (2) To serve citizens requiring specialized transportation."

Section 21. Amend §1309(29) of Chapter 13, Title 2 of the Delaware Code by striking the word "Authority" as it appears therein and inserting in lieu thereof the words "the Delaware Transit Corporation" and by striking the designation "(29)" and substituting the designation "(b)".

Section 22. Amend §1309(30) of Chapter 13, Title 2 of the Delaware Code by striking the word "Authority's" as it appears therein and inserting in lieu thereof the words "the Delaware Transit Corporation's" and by striking the designation "(30)" and substituting the designation "(c)".

Section 23. Amend §1309(31) of Chapter 13, Title 2 of the Delaware Code by striking the word "Authority" each time it appears and inserting in lieu thereof the words: "The Delaware Transit Corporation" and by deleting the designation "(31)" and substituting the designation "(d)".

Section 24. Amend §1309 of Chapter 13, Title 2 of the Delaware Code by striking subsection (32) in its entirety.

Section 25. Amend §1309(33) of Chapter 13, Title 2 of the Delaware Code by redesignating same as §1309(29).

Section 26. Amend §1311 of Chapter 13, Title 2 of the Delaware Code by striking the word "Director" as it appears on line 12 of the second paragraph and substituting the words "the Director of the Office of Financial Management and Budget and/or the Administrator of the Transportation Trust Fund" and by striking the word "Director" as it appears on line 15 and substituting in lieu thereof the word "Secretary".

Section 27. Amend §1313 of Chapter 13, Title 2 of the Delaware Code by striking the words "Division of Highways" as it appears therein and substituting in lieu thereof the following: "Division of Highway Operations".

Section 28. Amend §1320(f) of Chapter 13, Title 2 of the Delaware Code by striking the words "administration and" as they appear on line 5 therein.

Section 29. Amend §1323 of Chapter 13, Title 2 of the Delaware Code by striking the words "and the Director" at the end of the third sentence, and substituting the word "and" between the comma and after the word "General" and before the word "the" in the third sentence.

Section 30. Amend §1325 of Chapter 13, Title 2 of the Delaware Code by striking it in its entirety and inserting in lieu thereof the following:

"§1325. Employees of the Delaware Transit Corporation and Subsidiaries.

The Director and Deputy Director of the Delaware Transit Corporation shall be exempt from Chapter 59 of Title 29, as amended. All employees of any public or specialized transportation subsidiary, including persons directly employed by the Delaware Transit Corporation, and any other subsidiaries created pursuant to this chapter, shall also be exempt from the provisions of Chapter 59 of Title 29, as amended. Except as otherwise provided herein, such employees shall not be considered state employees for purposes of wages, salaries, fringe benefits, or for purposes of any other benefits which may accrue to state employees whether exempt or merit employees, including benefits that may accrue under Executive Order No. 36 dated November 23, 1977. Such employees shall be considered state employees for the purposes of participating in the group medical insurance and deferred compensation plans available to state employees. Participation in, and the terms of, medical insurance and deferred compensation programs available through the State shall not be a subject of collective bargaining."

Section 31. Amend §1328 of Chapter 13, Title 2 of the Delaware Code by striking the comma and the words ", its administrations" as they appear on the first line.

Section 32. Amend §1331 of Chapter 13, Title 2 of the Delaware Code by striking it in its entirety and in lieu thereof substituting the following:

"§1331 Motor Fuel Tax.

The provisions of Chapters 51 and 52 of Title 30 and Chapter 29 of Title 6 shall be administered by the Department of Transportation in the Office of Motor Fuel Tax. The Director of the Office of Motor Fuel Tax shall be transferred to the Department of Transportation and, notwithstanding any provision of 1325 of Title 2 to the contrary shall be deemed to be employees of the State in the classified service with all the benefits accrued as merit employees as of July 1, 1992."

Section 33. Amend §1332(a), (b), and (c) of Chapter 13, Title 2 of the Delaware Code by inserting the words "acting through the Delaware Transit Corporation" after the word "Authority" each time it appears.

Section 34. Amend §1801 of Chapter 18, Title 2 of the Delaware Code by deleting subsection (4) in its entirety.

Section 35. Amend §1802 of Chapter 18, Title 2 of the Delaware Code by striking the word "Authority" each time it appears and substituting in lieu thereof the word "Department".

Section 36. Amend §1802 of Chapter 18, Title 2 of the Delaware Code by striking subsection (k) in its entirety.

Section 37. Amend §1802(1) of Chapter 18, Title 2 of the Delaware Code by striking the words "Authority Regulatory Revolving" and substituting in lieu thereof the word "Trust" and by striking the words "as provided above".

Section 38. Amend §§1806, 1807, 1817, 1818, 1819 and 1820 of Chapter 18, Title 2 of the Delaware Code by striking the word "Authority" each time it appears and substituting in lieu thereof the word "Department".

Section 39. Amend §1903 of Chapter 19, Title 2 of the Delaware Code by striking subsection (a) in its entirety.

Section 40. Amend §§1903, 1904, and 1905 of Chapter 19, Title 2 of the Delaware Code by striking the word "Authority" each time it appears therein and substituting in lieu thereof the word "Department".

Section 41. Amend §8404 of Chapter 84, Title 29 of the Delaware Code by striking "Division of Highways" in each place it appears therein and substituting in lieu thereof "Division of Highway Operations".

Section 42. Amend §8404(5) of Chapter 84, Title 29 of the Delaware Code by inserting "or the Authority" after the word "Department" as it appears in the second and third line of that section as it is currently written.

Approved July 14, 1994.

CHAPTER 436

FORMERLY

HOUSE BILL NO. 518
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 59, TITLE 29, DELAWARE CODE, RELATING TO THE ESTABLISHMENT OF A MERIT EMPLOYEE RELATIONS BOARD AND THE ADMINISTRATION OF THE MERIT SYSTEM.

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

Section 1. Amend Section 5906, Chapter 59, Title 29, Delaware Code, by deleting said Section in its entirety and substituting in lieu thereof the following:

"§5906. Composition of the Merit Employee Relations Board.

(a) The Merit Employee Relations Board shall consist of 5 Board Members, including two management representatives, two labor representatives and a chairperson. The Governor shall appoint, with Senate approval, the Members for a term of 3 years, or until their successors are appointed; provided, however, that members may be removed at the pleasure of the Governor.

(b) When appointed, members shall be residents of this State for at least 3 years immediately preceding their appointments. One member shall reside in the City of Wilmington, one shall reside in the remainder of New Castle County, and one each shall reside in each of the other two counties of the State. The fifth member may reside anywhere in the State. The qualifications for members shall continue during their term of office.

(c) The State Personnel Director, or the Director's designee, shall be the liaison between the Board and the State Personnel Office and shall attend all meetings of the Board. The Director shall not participate in the deliberation of any cases before the Board, nor sit with members of the Board, during the hearing or deliberations. The Director or the Director's designee shall be limited to representing and/or testifying on behalf of the State Personnel Office and other State agencies before the Board.

(d) The Merit Employee Relations Board shall have clerical and legal support staff separate from the staff of the State Personnel Office, and such staff shall be located separate from the State Personnel Office."

Section 2. Amend Section 5907, Chapter 59, Title 29, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"§ 5907. Powers, Duties and Functions of the Board.

In addition to the duties set forth elsewhere in this Chapter, and consistent with the right of public employees to organize under Chapter 13 of Title 19, the Board shall:

(1) Request that the State Personnel Director investigate problems or complaints arising from the implementation of the Merit System and the effect of Merit policies and procedures on employees in the classified service;

(2) Appoint one or more members from its own membership to act as representatives of the Board at any meeting where such representation is deemed desirable;

(3) Require the Director to submit all proposed Merit Rule revisions to the Statewide Labor-Management Committee for review and comment prior to submission to the Board for public hearing and adoption;

(4) Make an annual report to the Governor, and special reports and recommendations upon the Governor's request."

Section 3. Amend Section 5908, Chapter 59, Title 29, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"§ 5908. Organization and Meetings of the Board.

(a) The Board shall meet as often as necessary to assure the timely disposition of cases. The Chair shall cause reasonable notice to be given to each Board member and the State Personnel Director of the time and place of each meeting. Three members shall constitute a quorum for the transaction of business at any meeting.

(b) Each Board member shall be paid \$100 for each day devoted to Board business, not to exceed \$4,000 annually. Members shall be entitled to reimbursement for travel in accordance with State guidelines."

Section 4. Amend Section 5910, Chapter 59, Title 29, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"§ 5910. Director of Personnel.

(a) A Director of Personnel shall be appointed by the Governor, with the advice and consent of the Senate. The Director shall be a person qualified by knowledge, training and experience to perform the duties of the office. The Director shall receive such compensation as may be authorized by the Governor within the appropriation of the General Assembly.

(b) The Director shall serve at the pleasure of the Governor and may be removed by the Governor at any time.

(c) The Director, as liaison between the Board and the State Personnel Office, shall cooperate with the staff of the Board with its administrative and technical activities.

(d) The Director of State Personnel shall be responsible for the clerical administration of all State pension funds. The Director shall have the authority to recommend to the Governor such changes as may be desirable in the pension system for employees in the classified service."

Section 5. Amend Subparagraph (1), Section 5911, Chapter 59, Title 29, Delaware Code, by deleting the words "its secretary and keep minutes of its proceedings" and substituting in lieu thereof the following: "liaison between the Merit Employee Relations Board and the State Personnel Office".

Section 6. Amend Section 5914, Chapter 59, Title 29, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"§ 5914. Rules; Hearing; Adoption.

The Director shall prepare and submit to the Board proposed rules covering the classified service. The rules shall be reviewed by the Board at a public hearing held following public notice. The rules, as proposed by the Director, shall become final upon the completion of the public hearing, unless rejected by a majority of the members appointed to the Board."

Section 7. Amend Section 5931, Chapter 59, Title 29, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"The rules shall provide for the establishment of a plan for resolving employee grievances and complaints. The final two steps of any such plan shall provide for hearings before the Director or the Director's designee and before the Board, respectively, unless a particular grievance is specifically excluded or limited by the Merit Rules. The Director and the Board, at their respective steps in the grievance procedure, shall have the authority to grant back pay, restore any position, benefits or rights denied, place employees in a position they were wrongfully denied, or otherwise make employees whole, under a misapplication of any provision of this chapter or the Merit Rules. The rules shall require that the Board take final action on a grievance within 90 calendar days of submission to the Board. Upon approval of all parties, the 90 days may be extended an additional 30 calendar days."

Section 8. Amend Subsection (a), Section 5949, Chapter 59, Title 29, Delaware Code, by adding after the last sentence the following:

"The rules shall require that the Board take final action on an appeal within 90 calendar days of submission to the Board. Upon approval of all parties, the 90 days may be extended an additional 30 calendar days."

Section 9. Amend Sections 5901 through 5954, Chapter 59, Title 29, Delaware Code, by striking the words "State Personnel Commission" and substituting the words "Merit Employee Relations Board," and by striking the word "Commission" and substituting the word "Board".

Approved July 14, 1994.

CHAPTER 437

FORMERLY

HOUSE BILL NO. 511
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DUTIES OF THE SECRETARY OF PUBLIC SAFETY.

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

Section 1. Amend § 8203, Title 29, Delaware Code, by striking the period [.] at the end of subsection (9), by inserting a semicolon [;] in its place, and by adding a new subsection to read:

"(10) appoint persons who shall serve as officers of the unit known as Capitol Police. The Capitol Police shall operate under the administration and control of the Secretary of Public Safety, who shall consult with the Secretary of Administrative Services regarding the deployment of such force in such a manner as to accomplish the purposes of § 422(b) of this Title. The Capitol Police shall have the police powers of constables and other police officers of the State, counties and other subdivisions of the State, and they shall be conservators of the peace throughout the State, and may suppress all acts of violence."

Approved July 14, 1994.

CHAPTER 438

FORMERLY

HOUSE BILL NO. 569

AN ACT TO AMEND CHAPTER 50, TITLE 29 RELATING TO AUDITING THE DELAWARE ECONOMIC DEVELOPMENT AUTHORITY.

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

Section 1. Amend §5053(h), Title 29, Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"(h) The Office of Auditor of Accounts shall cause an audit of the Authority's bonds issued under §5054(d) of this title to be made annually by a certified public accountant licensed to practice in the State. In addition, the Authority shall make an annual report of its activities to the Governor which shall set forth a complete operating and financial statement covering the Authority's operations during the year and shall include the report of the certified public accountant who makes the audit of the Authority's books and accounts. The Authority shall furnish a copy of the annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the Auditor of Accounts and Controller General."

Approved July 14, 1994.

CHAPTER 439

FORMERLY

SENATE BILL NO. 92

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

AN ACT TO AMEND CHAPTER 42, TITLE 11, DELAWARE CODE RELATING TO STATUTORY AGGRAVATING CIRCUMSTANCES IN CAPITAL MURDER PROSECUTIONS.

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

Section 1. Amend Section 4209(e)(1), Title 11, Delaware Code, by adding new subparagraphs 's', 't', 'u' thereto to read as follows:

"s. The victim was a child 14 years of age or younger, and the murder was committed by an individual who is at least four years older than the victim.

t. At the time of the killing, the victim was or had been a nongovernmental informant or had otherwise provided any investigative, law enforcement or police agency with information concerning criminal activity, and the killing was in retaliation for the victim's activities as a nongovernmental informant or in providing information concerning criminal activity to an investigative, law enforcement or police agency.

u. The murder was premeditated and the result of substantial planning. Such planning must be as to the commission of the murder itself and not simply as to the commission or attempted commission of any underlying felony."

Approved July 14, 1994.

CHAPTER 440

FORMERLY

HOUSE BILL NO. 563

AN ACT TO AMEND SUBCHAPTER II, SUBPART D, SECTION 761(g) OF TITLE 11 OF THE DELAWARE CODE RELATING TO THE DEFINITION OF "WITHOUT CONSENT" IN SEX CRIME PROSECUTIONS.

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

Section 1. Amend subchapter II, subpart D, section 761(g), Title 11, by redesignating current subparagraph (4) as new subparagraph (5).

Section 2. Amend subchapter II, subpart D, section 761(g), Title 11, by adding a new subparagraph (4) thereto to read as follows:

"(4) Where the defendant is a health professional, as defined herein, or a minister, priest, rabbi, or other member of a religious organization engaged in pastoral counseling, the commission of acts of sexual contact, sexual penetration or sexual intercourse by such person shall be deemed to be without consent of the victim where such acts are committed under the guise of providing professional diagnosis, counseling or treatment and where at the times of such acts the victim reasonably believed the acts were for medically or professionally appropriate diagnosis, counseling or treatment, such that resistance by the victim could not reasonably have been manifested. For purposes of this paragraph, 'health professional' includes all individuals who are licensed or who hold themselves out to be licensed or who otherwise provide professional physical or mental health services, diagnosis, treatment, or counseling and shall include, but not be limited to, doctors of medicine and osteopathy, dentists, nurses, physical therapists, chiropractors, psychologists, social workers, medical technicians, mental health counselors, substance abuse counselors, marriage and family counselors or therapists, and hypnotherapists."

Approved July 15, 1994.

CHAPTER 441

FORMERLY

SENATE BILL NO. 281
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2 AND
HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE POSSESSION OF
HANDGUNS BY JUVENILES.

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

Section 1. Amend subsection (a), Section 144B, Title 11, Delaware Code by adding thereto a new subsection, said new paragraph to be denominated as paragraph (5) to read as follows:

"(5) Any juvenile, if said deadly weapon is a handgun, unless said juvenile possesses said handgun for the purpose of engaging in lawful hunting, instruction, sporting or recreational activity while under the director or indirect supervision of an adult. For the purpose of this subsection, a handgun shall be defined as any pistol, revolver, or other firearm designed to be readily capable of being fired when held in one hand."

Approved July 15, 1994.

CHAPTER 442

FORMERLY

SENATE BILL NO. 17
AS AMENDED BY SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11, DELAWARE CODE BY ADDING THE CRIME OF CONTINUOUS
SEXUAL ABUSE OF A CHILD.

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

Section 1. Amend Subchapter II, Subpart D, Title 11, Delaware Code by adding thereto a new section to read as follows:

"Section 777. Continuous Sexual Abuse of a Child: Class B Felony.

(a) A person is guilty of continuous sexual abuse of a child when, either residing in the same home with the minor child or having recurring access to the child, he intentionally engages in three or more acts of sexual conduct with a child under the age of fourteen years over a period of time, not less than three months in duration.

(b) Sexual conduct under this section is defined as any of those criminal sexual acts defined under Sections 76B, 769, 770, 771, 772, 773, 774, 775, or 110B of this Title.

(c) To convict under this section the trier of fact, if a jury, need unanimously agree only that the requisite number of acts occurred not on which acts constitute the requisite number."

Approved July 15, 1994.

CHAPTER 443

FORMERLY

HOUSE BILL NO. 438
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 30 AND 31 OF THE DELAWARE CODE RELATING TO THE FEDERAL EARNED INCOME TAX CREDIT.

WHEREAS, the United States Congress provides an Earned Income Tax Credit (EIC) to each qualifying family with an adjusted gross income of less than \$23,050 in 1993; and

WHEREAS, such families often do not know to file for an EIC, among other reasons, because they do not need to file Federal tax returns; and

WHEREAS, it is in the best interest of such families entitled to receive the EIC under Federal law to actually receive the EIC; and

WHEREAS, children account for eleven and seven-tenths percent (11.7%) of the impoverished persons in the State of Delaware according to a 1990 estimate, and are among the intended beneficiaries of the EIC, together with their families; and

WHEREAS, most of the EIC received by families with an adjusted gross income of less than \$23,050 is spent rather than saved, and spent locally, thus stimulating the Delaware economy;

NOW, THEREFORE,

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

Section One. This Act may be cited as the Earned Income Tax Credit Information Act.

Section Two. Amend Title 30 of the Delaware Code by striking § 1152 thereof in its entirety, and by inserting a new Section in its place which shall read as follows:

"§ 1152. Information statement for employee.

Every employer required to deduct and withhold tax under this chapter from the wages or other remuneration of an employee shall furnish to each such employee, in respect to the wages or other remuneration paid by such employer to such employee during the calendar year, on or before January 31 of the succeeding year, or, if such employee's employment is terminated before the close of such calendar year, within 30 days from the date on which the last payment of wages or other remuneration is made, a written statement, as prescribed by the Director of the Division of Revenue, showing

- (1) the amount of wages or other remuneration paid by the employer to the employee;
- (2) the amount deducted and withheld as tax;
- (3) All information required by the Internal Revenue Service regarding the employee's eligibility for the federal earned income tax credit; and
- (4) such other information as the Director of the Division of Revenue shall prescribe."

Section Three. Amend Title 31, § 503(g) of the Delaware Code by appending thereto:

"During the month of January, the Department shall send a notice to recipients paid by the Department under this subsection in the form of:

- (1) Any notice available from the Internal Revenue Service concerning the EIC, including but not limited to the Notice of a Possible Federal Tax Refund Due to the Earned Income Credit; or

(2) A notice developed by the Department which shall include the maximum earned income credit and the maximum earnings to which such tax credit shall apply, as determined by the federal government."

Section Four. This Act shall be effective sixty days following enactment.

Approved July 15, 1994.

CHAPTER 444

FORMERLY

SENATE BILL NO. 335

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE FOR CHILDREN AND MEDICAID RECIPIENTS.

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 chapter to read as follows:

"Chapter 40. Health Insurance for Children and Persons on Medicaid.

Section 4001. Scope of Chapter.

The provisions of this chapter shall apply to:

(1) Any insurer providing insurance of human beings against bodily injury, disablement or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto;

(2) A health service corporation, notwithstanding any provision to the contrary in Chapter 63 of this title;

(3) A health maintenance organization, notwithstanding any provision to the contrary in Chapter 64 of this title;

(4) A group health plan, as defined in section 607 (1) of the Federal Employee Retirement Income Security Act of 1974;

(5) An entity offering a service benefit plan;

(6) A self-funded entity or group providing health care coverage; and

(7) Any person or entity which provides coverage in this State for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement or otherwise.

Section 4002. Health Insurance for Children.

(a) No health insurer shall deny enrollment of a child under the health coverage of the child's parent on the ground that:

(1) the child was born out of wedlock;

(2) the child is not claimed as a dependent on the parent's Federal income tax return; or

(3) the child does not reside with the parent or in the insurer's service area.

(b) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through a health insurer, such health insurer shall:

(1) permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

(2) if such parent is enrolled but fails to make application to obtain coverage of such child, enroll such child under such family coverage upon application by the child's other parent or by a State agency administering a program under part D, Title IV of the Federal Social Security Act, or Title XIX of the Federal Social Security Act; and

(3) not disenroll (or eliminate coverage of) such a child unless the health insurer is provided satisfactory written evidence that:

(A) such court or administrative order is no longer in effect, or

(B) the child is or will be enrolled in comparable health coverage through another health insurer which will take effect not later than the effective date of such disenrollment.

(c) In any case in which a child has health coverage through the health insurer of a noncustodial parent, the insurer shall:

(1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

(2) permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

(3) make payment on claims submitted in accordance with paragraph (2) directly to such custodial parent, the provider, or the State agency administering a program under part D, Title IV of the Federal Social Security Act or Title XIX of the Federal Social Security Act.

Section 4003. Health Insurance for Persons on Medicaid.

(a) No health insurer, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, shall take into account that the individual is eligible for or is provided medical assistance under a Medicaid Plan of this State or any other State.

(b) Where a State agency has been assigned the rights of an individual eligible for medical assistance under Title XIX of the Federal Social Security Act and such individual is covered for health benefits from a health insurer, no such health insurer shall impose requirements on the State agency that are different from requirements applicable to an agent or assignee of any other individual so covered.

Section 4004. Definition.

For the purposes of this chapter, the term "health insurer" includes, without limitation, an insurer providing insurance of human beings against bodily injury, disablement or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto; a health service corporation, a health maintenance organization; a group health plan, as defined in Section 607 (1) of the Federal Employee Retirement Income Security Act of 1974; and entity offering a service benefit plan; a self-funded entity or group providing health care coverage; and any person or other entity which provides coverage in this State for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement or otherwise.

Section 4005. Administrative Procedures.

The Commissioner may issue regulations in accordance with Section 314 of this Title and Chapter 101 of Title 29 for the implementation and administration of this chapter."

Section 2. Separability.

If any section, subsection, sentence, clause or provision of this act is held invalid, the remainder of this Act shall not be affected.

Approved July 15, 1994.

CHAPTER 445

FORMERLY

SENATE BILL NO. 334
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTERS 4 AND 5, TITLE 13 OF THE DELAWARE CODE, RELATING TO CHILD SUPPORT, TO PROVIDE FOR ENHANCED MEDICAL SUPPORT ENFORCEMENT AS REQUIRED BY FEDERAL LAW.

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

Section 1. Amend subsection 401 (b) (1), Chapter 4 of Title 13 of the Delaware Code by inserting after the phrase "decree or judgment for the support," and before the phrase "or for the payment of arrearages on such support," the following: "medical support,".

Section 2. Amend subsection 401 (b), Chapter 4 of Title 13 of the Delaware Code by adding a new subsection (11) to read as follows:

"(11) 'Medical support' means health care costs incurred for and health insurance coverage that is reasonable in cost for the child of an obligor whose support order requires health insurance coverage. Health insurance is considered reasonable in cost if it is employment related or other group health insurance regardless of service delivery mechanism."

Section 3. Amend subsection 507 (a), Chapter 5 of the Title 13 of Delaware Code by striking the comma [,] after the phrase "payment of child support" and before the phrase "the division and distribution of marital property and marital debts and any other matters incident to a marriage" as the same appear in the second sentence thereof and inserting between said phrases in lieu thereof the following: "or medical support,".

Section 4. Amend Chapter 5, Title 13 of the Delaware Code by adding a new section 509 to read as follows:

Section 509. Definitions. Unless a different meaning is plainly required by the context, words and phrases used in this Chapter shall have the same meaning as those defined in subsection 401 (b) of this Title."

Section 5. Amend subsection 513 (a) (4), Chapter 4 of Title 13 of the Delaware Code by striking the word "medical" where the same appears in two places before the word "insurance" and inserting in lieu thereof the following: "health"; and by adding after the word "employment" and before the word "or" a comma [,] and the following: "otherwise available at reasonable cost as defined in subsection 401 (b) (11) of this Title".

Section 6. Amend subsection 513 (a) (4), Chapter 5 of Title 13 of the Delaware Code by adding to said subsection the following new subparagraphs to read as follows:

"a. In any case in which a parent is required by Court or administrative order to provide health insurance coverage for a child and the parent is eligible for family health coverage through an employer doing business in this State, such employer shall:

1. Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions).

2. If such a parent is enrolled but fails to make application to obtain coverage of such child, enroll such child under such family coverage upon application by the child's other parent, the Division of Child Support Enforcement or Division of Social Services.

3. Not disenroll (or eliminate coverage of) any such child unless the employer is provided satisfactory written evidence that:

(a) Such Court or administrative order is no longer in effect, or

(b) The child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

(c) The employer has eliminated family health coverage for all of its employees.

b. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or insurer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this subparagraph regarding assignment of benefits, this subparagraph shall not require a health service contractor or a health maintenance organization to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the Division of Child Support Enforcement, or the obligee at the obligee's last known address, within thirty days of the termination date.

c. If a obligor fails to pay his or her portion of any deductible required under the health insurance coverage or fails to pay his or her portion of medical expenses incurred in excess of the coverage provided under the plan, the obligee or 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.] may enforce collection of the obligor's portion of the deductible or the additional medical expenses through an appropriate order under this section, including attachment of the obligor's income. The amount of the deductible or additional medical expenses shall be added to the obligor's child support obligation and be collectible as provided by law if the obligor's share of the amount of the deductible or additional expenses is reduced to a sum certain in a court order.

d. Receipt of an order for the enforcement of a medical support obligation shall require an obligor's employer to:

1. Answer the Division of Child Support Enforcement or the obligee, as directed, within 15 days and confirm that the child:

(a) Has been enrolled in a health care plan;

(b) Will be enrolled in the next open enrollment period; or

(c) Cannot be covered, stating the reasons why such coverage cannot be provided.

2. Withhold any required premium from the obligor's income or wages, as provided in subsection (b) (8) of this section.

3. If more than one plan is offered by the employer or health insurer, and each plan may be extended to cover the child, enroll the child in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor.

4. Provide information to the Division of Child Support Enforcement or the obligee, as directed, about the name of the health care provider or the insurer and the extent of the coverage available and make available to such party any necessary claim forms or enrollment membership cards.

e. Orders entered under this subsection may be enforced as provided in subsection (b) (9) and (10) of this section."

Section 7. Amend subsection 513 (b) (1), Chapter 5 of Title 13 of the Delaware Code by adding after the phrase "duty to support" and before the word "has" in the first sentence thereof the following: "or to provide medical support"; by adding after the word "support" and before the word "payments" as the same appear in the first sentence thereof the following: "or medical support"; and by adding after the phrase "date of the order," and before the word "except" as the same appear in the first sentence thereof the following: "for payment of support or premiums for health insurance coverage".

Section 8. Amend subsection 513 (b) (2)a, Chapter 5 of Title 13 of the Delaware Code by adding after the phrase "orders of support" and before the word "entered" the following: "or medical support".

Section 9. Amend subsection 513 (b) (2)b, Chapter 5 of Title 13 of the Delaware Code by adding between the first and second sentences thereof a new sentence to read as follows: "If the existing medical support order does not include an attachment for payment of health insurance coverage, payment for the obligor's share (if any) for premiums of health insurance coverage shall be added to the attachment."

Section 10. Amend subsection 513 (b) (5), Chapter 5 of Title 13 of the Delaware Code by adding after the phrase "SUB benefits," and before the phrase "unemployment compensation" the following: "medical benefits".

Section 11. Amend subsection 513 (b) (7), Chapter 5 of Title 13 of the Delaware Code by adding after the phrase "child support" where the same appears for the first time in the first sentence thereof and before the word "or" a comma [,] and the following: "medical support,."; and by adding in the last sentence thereof after the word "support" and before the word "attachment", where the same appear for the first time, the following: "and medical support".

Section 12. Amend subsection 513 (b) (8), Chapter 5 of Title 13 of the Delaware Code by striking the first sentence of said subsection in its entirety and inserting in lieu thereof the following: "Upon receipt of a certified copy of income withholding from the Court, the employer shall deduct the specified sum from the wages due the obligor-employee and shall, at or before the time the obligor-employee is paid, mail or otherwise deliver the said deduction for support to the Division of Child Support Enforcement or the obligee, as directed, and pay the health insurance premium amount deducted directly to the health insurer, and shall continue to do so for so long as the obligor remains in his employ or until the Court orders otherwise."

Section 13. Amend subsection 513 (b) (9), Chapter 5 of Title 13 of the Delaware Code by adding after the word "obligations" and before the word "set" the following: "for support and medical support".

Section 15. Amend subsection 513 (b) (11), Chapter 5 of Title 13 of the Delaware Code by adding after the word "income" and before the word "under" the following: "for support or medical support"; and by adding after the word "support" and before the word "upon" the following: "or medical support".

Section 16. Amend subsection 513 (c) (1), Chapter 5 of Title 13 of the Delaware Code by adding after the word "support" and before the word "under" in the first clause thereof the following: "or medical support"; and by adding after the word "support" and before the word "order" at the end of the first clause thereof the following: "or medical support".

Section 17. Amend subsection 513 (d), Chapter 5 of Title 13 of the Delaware Code by adding a new subparagraph (3) to read as follows:

"(3) Whenever the Court considers a petition to modify child support, the Court shall also consider whether medical support should be ordered or modified, as provided in this Chapter. When the Court considers a petition to establish or modify medical support, such petition shall also put the order for child support at issue, and the Court will determine whether the child support amount should be modified in accordance with the guidelines."

Section 18. The provisions of this Act shall become effective on July 1, 1994.

Section 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Approved July 15, 1994.

CHAPTER 446

FORMERLY

HOUSE BILL NO. 628
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 3, 28 AND 29 OF THE DELAWARE CODE AND THE LAWS OF DELAWARE RELATING TO THE ESTABLISHMENT OF VIDEO LOTTERIES AT RACETRACKS, THE ADMINISTRATION OF SUCH LOTTERIES, AND HORSE RACING AND HARNESS RACING.

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

Section 1. This Act shall be known as the "Horse Racing Redevelopment Act."

Section 2. Amend §4801, Chapter 48, Title 29, Delaware Code by designating all of said section as subsection (a) of said §4801 and by adding new subsection (b) as follows:

"(b) In authorizing a video lottery, it is the further purpose of the General Assembly to (1) provide non-state supported assistance in the form of increased economic activity and vitality for Delaware's harness and thoroughbred horse racing industries, which activity and vitality will enable the industry to improve its facilities

and breeding stock, and cause increased employment, and (2) restrict the location of such lottery to locations where wagering is already permitted and controls exist."

Section 3. Amend §4803, Chapter 48, Title 29, Delaware Code, by adding thereto new subsections (f) and (g) to read as follows:

"(f) 'Video lottery' shall mean any lottery conducted with a video lottery machine or a network of linked video lottery machines with an aggregate progression prize or prizes.

(g) 'Video lottery machine' shall mean any machine in which bills, coins or tokens are deposited in order to play in a game of chance in which the results, including options available to the player, are randomly and immediately determined by the machine. A machine may use spinning reels or video displays or both, and may or may not dispense coins or tokens directly to winning players. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary."

Section 4. Amend §4805(a), Chapter 48, Title 29, Delaware Code, by inserting the words "and the players of video lottery machines," in the second sentence thereof after the first use of "winning tickets," and before the word "including".

Section 5. Amend §4805(a)(10), Chapter 48, Title 29, Delaware Code, by inserting the word "ticket" between the words "licensed" and "sales agents".

Section 6. Amend §4805(a)(11), Chapter 48, Title 29, Delaware Code, by deleting the words "and from all other sources".

Section 7. Amend §4805(a)(12), Chapter 48, Title 29, Delaware Code, by deleting the period at the end thereof and by substituting the words "and the players of video lottery machines."

Section 8. Amend §4805(a), Chapter 48, Title 29, Delaware Code, by adding thereto new paragraphs (13) through (23) to read as follows:

"(13) Value of bills, coins or tokens needed to play video lottery machines;

(14) Licensing of agents for video lotteries;

(15) Payout from video lottery machines, provided that such payouts shall not be less than 87% on an average annual basis, and further provided that

video lottery agents may return a payout greater than 87% but not greater than 95% upon 10 days written notice to the Director, and further provided that video lottery agents may, with the approval of the Lottery Director, return a greater payout percentage than 95%;

(16) A licensure requirement and enforcement procedure (taking no more than 90 days to complete, unless extenuating circumstances require a longer period, in which

case the Director and the State shall act with all deliberate speed to complete the process) for officers, directors, key employees and persons who own directly or indirectly 10% or more of such agent, which licensure requirement shall include the satisfaction of such security, fitness and background standards as the Director may deem necessary relating to competence, honesty and integrity, such that a person's reputation, habits and associations do not pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the video lottery; it being specifically understood that any person convicted of any felony, a crime involving gambling, or a crime of moral turpitude within ten (10) years prior to applying for a license hereunder or at any time thereafter shall be deemed unfit. The Delaware State Police shall conduct the security, fitness and background checks required under this rule or regulation;

(17) A licensure requirement and enforcement procedure (taking no more than 90 days to complete, unless extenuating circumstances require a longer period, in which case the Director and the State shall act with all deliberate speed to complete the process) for those persons or entities including video lottery manufacturers who propose to contract with a video lottery agent or the State for the provision of goods or services including management services, which licensure requirements shall include the satisfaction of such security, fitness and background standards of officers, directors, key employees, and persons who own, directly or indirectly, ten percent or more of such entity, as the Director may deem necessary relating to competence, honesty and integrity, such that a person's reputation, habits and associations do not pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the video lottery; it being specifically understood that any person convicted of any felony, a crime involving gambling, or a crime of moral turpitude within ten (10) years prior to applying for a license hereunder or at any time thereafter shall be deemed unfit. The Director may determine whether the licensing standards of another state are comprehensive, thorough, and provide similar adequate safeguards and, if so, may, in his discretion, license an applicant already licensed in such state without the necessity of a full application and background check. The Delaware State Police shall conduct the security, fitness and background checks required under this rule or regulation;

(18) Standards for advertising, marketing and promotional materials used by video lottery agents;

(19) Regulations and procedures for the accounting and reporting of the payments required under §4815(b) hereof, including the calculations required for payments under §4815(b)(3)b.

(20) The registration, kind, type, number and location of video lottery machines on the licensee's premises, subject to the Director's obligations set forth in §4820(b).

(21) The on-site security arrangements for the video lottery machines.

(22) Requiring the reporting of information about the video lottery agent, its employees, vendors and finances necessary or desirable to ensure the security of the video lottery system. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, 29 Del. C. §§10001-10005.

(23) The reporting and auditing of financial information of licensees including, but not limited to, the reporting of profits or losses incurred by licensees and the reporting by licensees of such employment and payroll information as is necessary for the Director to determine compliance with §10148(1) of Title 3 or §100048 of Title 3 of this Code as the case may be. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, 29 Del. C. §§10001-10005."

Section 9. All regulations and licensure requirements called for or required by this Act shall be promulgated by December 31, 1994, unless extenuating circumstances require a longer period.

Section 10. Amend §4805(b)(2), Chapter 48, Title 29, Delaware Code, by inserting the words "and generated by the operation of video lottery machines", after the words "lottery tickets" and before the word "appoint".

Section 11. Amend §4805(b), Chapter 48, Title 29, Delaware Code, by adding a new subsection (13) to read as follows:

"(13) License as video lottery agents each person, corporation or association which, in 1993, held either a horse racing meet pursuant to Title 3 or Title 28 of this Code or a harness horse racing meet pursuant to Title 3 of this Code and who satisfies such fitness and background standards as the Director may promulgate pursuant to section 4805 (a)(16) of this subchapter. In the event that there shall have been or shall be a change of ownership or such person, corporation or association after the close of the 1993 racing meet then the issuance by the Director of a license to serve as a video lottery agent shall be conditioned upon the Director's determination that such person, corporation or association shall have met the requirements of section 4806(a)(1)-(4) and (b) hereof and satisfies such fitness and background standards as the Director may promulgate pursuant to section 4805 (a)(16) of this subchapter. Change of ownership occurring after the Director has issued a license shall automatically terminate the license 90 days thereafter unless the Director has determined after application to issue a license to the new owner(s) because the new owner(s) have met the requirements of §4806(a)(1)-(4) and (b) hereof and satisfied such fitness and background standards as the Director may promulgate pursuant to §4805(a)(16) of this subchapter. Any license granted pursuant to this subsection is a privilege personal to the video lottery agent and is not a legal right. A license granted or renewed pursuant to this subsection may not be transferred or assigned to another person, nor may a license be pledged as collateral. For purposes of this subsection, 'a change of ownership' shall have occurred if more than twenty percent of the legal or beneficial interests in such person, corporation or association shall be transferred, whether by direct or indirect means."

Section 12: Amend §4805(b), Title 29, Del. C., by adding a new subsection (14) thereto to read as follows:

"(14) Whenever he deems necessary, examine all accounts, bank accounts, financial statements and records of the licensee in a licensee's possession or under its control in which it has an interest and the licensee must authorize all third parties, including parents, subsidiaries or related entities, in possession or control of the accounts or records of the licensee to allow examination of any of those accounts or records by the Director. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, 29 Del. C. §§10001-10005."

Section 13. Amend §4805, Chapter 48, Title 29, by adding a new Subsection (c) to read as follows:

"(c) Licenses granted pursuant to subsection (b)(13) above shall be for a period of five years in duration. The license may be revoked or suspended for cause at any time upon 30 days written notice to the licensee. "Cause" shall by way of example and not by limitation include, falsifying any application for license or report required by the rules and regulations, the failure to report any information required by the rules and regulations, the material violation of any rules and regulations promulgated by the Director, or any conduct by the licensee which undermines the public confidence in the video lottery system or serves the interest of organized gambling or crime and criminals in any manner. A license may be revoked for an unintentional violation of any federal, state or local law, rule or regulation provided that the violation is not cured within a reasonable time as determined by the Director; or a longer period where the video lottery agent has made diligent efforts to cure. The Secretary of Finance shall within a reasonable time, if requested, appoint a hearing officer to hold a hearing to determine whether the license should be revoked or suspended. The hearing officer's decision revoking or suspending the license shall be appealable to the Superior Court under the provisions of the Administrative Procedures Act. Any decision of the Director relating to the business plan or the number of video lottery

machines to be awarded to licensees under §4820(b) shall be appealable under the Administrative Procedures Act in the manner of a case decision. At least one hundred and eighty days prior to the expiration of a license, the licensed agent may apply for renewal of such license. A license renewal application shall be acted upon within 100 days, and the failure to grant or deny such renewal within 100 days shall be deemed a renewal. Notwithstanding the foregoing, nothing in this subsection (c) shall otherwise prohibit the termination or revocation of a license in accordance with the rules and regulations adopted hereunder."

Section 14. Amend §4807, Chapter 48, Title 29, Delaware Code, by adding the words "or a video lottery agent as the case may be" at the end of §4807.

Section 15. Amend §4810(a), Chapter 48, Title 29, Delaware Code, by substituting a semi-colon for the period at the end thereof, and by thereafter adding the words "nor shall any person under the age of 21 years be permitted to play a video lottery machine."

Section 16. Amend §4815, Chapter 48, Title 29, Delaware Code, by designating all of said section as subsection (a) of said §4815 and by adding a new subsection (b) as follows:

"(b) All proceeds, net of proceeds returned to players pursuant to paragraph 1 of this subsection, from the operation of a video lottery shall be electronically transferred daily into the State Lottery Fund and shall be applied as follows:

(1) Proceeds Returned to Players. A portion of such proceeds, but not less than 87% of the total proceeds on an average annual basis received from the operation of a video lottery, shall be retained by and returned to the players under rules prescribed by the Director. Proceeds returned to players in excess of the payout authorized pursuant to Section 4805(a)(15) of this subchapter shall be the sole responsibility of the video lottery agent and the State Lottery's proceeds shall not be reduced on account of such excess payment.

(2) Proceeds Returned To The State. Of amounts remaining after all payments to players under paragraph (1) of this subsection, there shall be returned to the State:

(i) 12.5% of the average daily win (the amount remaining after all payments to players) not exceeding \$25,000;

(ii) 15% of the average daily win exceeding \$25,000 but not in excess of \$50,000;

(iii) 20% of average daily win exceeding \$50,000 but not in excess of \$75,000; and

(iv) 30% of average daily win in excess of \$75,000.

The funds retained by the State Lottery shall be applied as follows: first, to the administrative costs and expenses in respect of the video lottery including, but not limited to, administrative expenses including payroll and other employment costs attributable to the operation of the video lottery by the State Lottery Office, law enforcement and security expenses, including payroll and other employment costs of the State Lottery, the Office of the Attorney General and the Delaware State Police, attributable to the operation by the State Lottery of a video lottery; second, \$100,000 or 1%, whichever is greater, of the proceeds distributed under (b)(2)(i)-(iv) of this section, to the Division of Alcoholism, Drug Abuse and Mental Health of the Department of Health & Social Services for funding programs for the treatment, education and assistance of compulsive gamblers and their families; and, third, the remainder shall be paid into the State's General Fund.

(3) Application of Remaining Proceeds. The proceeds remaining after payments as set forth in paragraphs (1) and (2) above shall be applied as follows:

a. Reimbursements to State. There shall be deducted from the video lottery agent an amount necessary to reimburse the State for all costs of equipment (both video lottery machines and related equipment), whether leased

or owned by the State, used or under the control of such agent and for a proportionate share of the cost of the central computer used to monitor the equipment used by the agent. The payments or reimbursements made by a video lottery agent hereunder shall be solely for the cost to the State of such equipment, and the State shall not be entitled to receive any markup or additional payments or reimbursements for equipment beyond such cost.

b. Purses.

(i) For video lottery agents licensed only to conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horsemen's association) to be applied under the direction of the Delaware Thoroughbred Racing Commission, for races conducted at such agent's racetrack in accordance with 3 Del. C. §10148 or 28 Del. C. §427 as appropriate, in an amount calculated as follows: 10% of the proceeds remaining after payments made under subsection (b)(1) above.

(ii) For video lottery agents licensed only to conduct harness racing meets under Chapter 100 of Title 3, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horsemen's association) to be applied under the direction of the Delaware Harness Racing Commission to purses for races conducted at such agent's racetrack in accordance with 3 Del. C. §10048, in an amount calculated as follows:

1. Where the average daily win (the amount remaining after all payments to players) for the preceding calendar year is less than or equal to \$25,000 per day, the agent shall pay an amount equal to 10% of the proceeds remaining after payments made under subsections (b)(1), (b)(2), and (b)(3)a. above.

2. Where the average daily win for the preceding calendar year is greater than \$25,000 and less than or equal to \$50,000, the agent shall pay 10% of the first \$25,000 in proceeds remaining after payments made under subsections (b)(1), (b)(2) and (b)(3)a. above, and 20% of such remaining proceeds in excess of \$25,000.

3. Where the average daily win for the preceding calendar year is greater than \$50,000, the agent shall pay 20% of the proceeds remaining after payments made under subsections (b)(1), (b)(2), and (b)(3)a. above. During the first year of operation, the additional purses will be based upon the average daily win for the then current year.

(iii) For video lottery agents licensed to conduct harness horse racing meets under Chapter 100 of Title 3 on January 1, 1993, such agents, which in the future also conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, shall be paid and shall pay additional purses (and related administrative expenses of the horsemen's association) administered by either the Delaware Thoroughbred Racing Commission or the Delaware Harness Racing Commission, as appropriate, in accordance with the formula set forth in subsection (ii) above, for races conducted at such agent's racetrack based on the ratio of live horse racing days to total live racing days and live harness racing days to total live racing days.

(iv) For video lottery agents licensed to conduct horse racing meets under Chapter 101 of Title 3 on January 1, 1993, such agents, which in the future also conduct harness horse racing meets under Chapter 100 of Title 3, shall be paid and shall pay additional purses (and related administrative expenses of the horsemen's association) administered by either the Delaware Thoroughbred Racing Commission or the Delaware Harness Racing Commission, as appropriate, in accordance with the formula set forth in subsection (i) above, for races conducted at such agent's racetrack based on the ratio of live horse racing days to total live racing days and live harness racing days to total live racing days.

c. Commissions To Agents. The portion of such proceeds remaining after the payments required by paragraphs a. and b. above shall be paid to such video lottery agent as commission, provided, however, that no such commissions shall be paid after three years from the date the first customer plays the video lottery. It is the intent of the General Assembly and the Governor that before that date legislation be enacted to establish an appropriate and equitable distribution of the proceeds of the video lottery so as to ensure that the State's General Fund receives an appropriate share of the proceeds of

the video lottery, and further that video lottery agents are expected to provide the financial information necessary to enable the General Assembly and the Governor to make such a determination based on a full and adequate factual record."

Section 17. Amend Subchapter II of Chapter 48, Title 29, Delaware Code, by renumbering the provisions of Subchapter II from §§4820-4825 to §§4830-4835.

Section 18. Amend Chapter 48, Title 29, Delaware Code, by adding thereto a new §4819 to read as follows:

"§4819. Restrictions on location and use of video lottery machines.

(a) Video lottery machines shall only be located within the confines of an existing racetrack property in this State on which was conducted in 1993 either a horse racing meet pursuant to Title 3 or Title 28 of this Code or a harness horse racing meet pursuant to Title 3 of this Code; and provided further, that video lottery machines shall not be located in a hotel, motel or other overnight sleeping facility.

(b) In respect of any pari-mutuel harness racing or pari-mutuel horse racing property the racing operations on which were lawful under any county or municipal zoning ordinance as of January 1, 1993, the use of video lottery machines on such property pursuant to the provisions of this Act shall not be deemed to change the character of such lawful land use and such use of video lottery machines shall not be prohibited by any such county or municipal zoning ordinance, including amendments thereto.

(c) Video lottery machines shall be connected to the Lottery's central computer system, and shall not be available for play on Christmas, Easter or between the hours of 2:00 a.m. and 1:00 p.m. on Sundays, or between the hours of 2:00 a.m. and 8:00 a.m. on all other days."

Section 19. Amend Chapter 48, Title 29, Delaware Code, by adding thereto a new §4820 to read as follows:

"§4820. Rights and obligations of Director and video lottery agent relating to video lottery machines.

(a) All video lottery machines shall be owned or leased by the State and shall be obtained from manufacturers licensed under §4805(a)(17). All video lottery machines shall be leased or purchased under the procedures set forth in Section 6922, Title 29 of this Code. Any video lottery agent must file with the Director a copy of any current or proposed agreement or disclose any other relationship between the agent, its parents, subsidiaries, related entities, directors, officers or key employees for the sale, lease, maintenance, repair or other assignment to the agent's facility of video lottery machines, or any other relationship with any vendor, manufacturer or other party which stands to benefit financially from the possession or use of video lottery machines by such agent. Failure to file such information shall constitute grounds for the revocation or suspension of a license.

(b) Upon submission by a video lottery agent of a proposed plan for the purchase or lease of video lottery machines in accordance with procedures to be established by the Director, the Lottery Director shall lease or purchase the number, type, and kind of video lottery machines necessary for the efficient and economical operation of the Lottery, or convenience of the players and in accordance with the plan of the licensee, provided that no more than 500 video lottery machines shall be located within the confines of a racetrack property unless the Director approves up to an additional 500 for each racetrack property, and further provided that the Director may amend such plan where he finds that such amendments are necessary to increase revenues from the video lottery, protect the public welfare or ensure the security of the video lottery.

(c) Each video lottery agent shall be responsible for the security and safekeeping of the video lottery machines of which it has physical custody.

(d) The Director shall contract with an independent laboratory to test video lottery machines and related equipment on a periodic basis to ensure that the machines and equipment comply with the requirements of this chapter and any other applicable standards and regulations. The manufacturer, vendor

or lessor of such machines and equipment shall pay all costs associated with such testing.

(e) Each video lottery agent shall hold the Director and this State harmless from and defend and pay for the defense of any and all claims which may be asserted against the Director, the State or the employees thereof, arising from the participation in the video lottery system; specifically excluding, however, any claims arising from the negligence or willful misconduct of the Director, the State or the employees thereof.

(f) Each video lottery agent shall provide access to all records of the licensee and the physical premises of the business or businesses where the video lottery agent's video lottery activities occur for the purpose of monitoring or inspecting the video lottery agent's activities and the video lottery games, video lottery terminals and associated equipment. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, 29 Del. C. §§10001-10005."

Section 20. Amend Chapter 101, Title 3, Delaware Code, by adding thereto a new §10148 to read as follows:

"§10148. Restrictions on licensee acting as video lottery agent.

During any calendar year in which a licensee under this chapter has also been licensed by the Director of the State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed under this chapter, the following rules shall apply:

(1) As to each racetrack so licensed by the Director of the State Lottery Office, the licensee shall conduct live racing operations on at least 100 days. Each licensee shall also employ during the live racing operations a minimum of 100 additional employees than the average daily number employed during the most recent racing meet held prior to the enactment of this Act. The licensee's continued failure to substantially comply with this requirement after notice from the Director shall constitute grounds for revocation or suspension of the video lottery agent's license.

(2) An amount determined pursuant to §4815(b)(3) of Title 29 of the Delaware Code shall be added to the purses for the races to be held at the licensee's racetrack. The allocation of said sums among the races to be held at the licensee's racetrack shall be in accordance with contracts currently in force with the Horsemen's Association recognized for the purposes related to the allocation of purses, provided that all such sums shall have been allocated no later than the end of the calendar year immediately following the calendar year of receipt of said sums by the licensee."

Section 21. Amend Chapter 4, Title 28, Delaware Code, by adding thereto a new §427 to read as follows:

"§427. Restrictions on licensee acting as video lottery agent.

During any calendar year in which a license under this chapter has also been licensed by the Director of the State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed under this chapter an amount calculated pursuant to §4815(b)(3) of Title 29 of the Delaware Code shall be added to the purses for the races to be held at the licensee's racetrack. The allocation of said sums among the races to be held at the licensee's racetrack shall be in accordance with contracts currently in force, or with the Horsemen's Association recognized for purposes related to the allocation of purses, if applicable; provided that all of such sums shall have been allocated no later than the end of the calendar year immediately following the calendar year of receipt of said sums by the licensee."

Section 22. Amend Chapter 100, Title 3, Delaware Code, by adding thereto a new §10048 to read as follows:

"§10048. Restrictions on licensee acting as video lottery agent.

During any calendar year in which a licensee under this chapter has also been licensed by the Director of the State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed under this chapter, the following rules shall apply:

(1) As to each racetrack so licensed by the Director of the State Lottery Office, the licensee shall conduct live racing operations on at least 90% of the number of days such live racing operations were awarded for and conducted in 1992 in accordance with section 10023(c) of this chapter, or in the event there is only one licensee under this Chapter the licensee shall conduct 60 days of live racing operations, unless the Commission shall award less than said number of days or the supply of horses is insufficient to support racing on such number of days. Each licensee shall also employ during the live racing operations a minimum of 50 additional employees than the average daily number employed during the most recent racing meet held prior to the enactment of this Act. The licensee's continued failure to substantially comply with this requirement after notice from the Director shall be grounds for revocation or suspension of the video lottery agent's license.

(2) An amount calculated pursuant to §4815(b)(3) of Title 29 of the Delaware Code shall be added to the purses for the races to be held at the licensee's racetrack. The allocation of said sums among the races to be held at the licensee's racetrack shall be in accordance with contracts currently in force with the Horsemen's Association recognized for purposes related to the allocation of purses, if applicable; provided that all such sums shall have been allocated no later than the end of the calendar year immediately following the calendar year of receipt of said sums by the licensee."

Section 23. Amend Subchapter I, Chapter 100, Title 3 of the Delaware Code by adding the following language to the end of section 10023(c):

"In addition, the Commission may award additional dates, beyond any limits prescribed elsewhere, for racing days limited exclusively to the receiving and accepting of wagers or bets on electronically televised simulcasts of harness horse races."

Section 24. Amend Subchapter II, Chapter 101, Title 3 of the Delaware Code by striking the period at the end of the second sentence of §10122(c) thereof, and adding the following language to said sentence:

"; provided, however, that the Commission may award additional dates, beyond any limits prescribed elsewhere, for racing days limited exclusively to the receiving and accepting of wagers or bets on electronically televised simulcasts of horse races."

Section 25. Amend Subchapter III, Chapter 101, Title 3 of the Delaware Code, by deleting §10142 thereof in its entirety.

Section 26. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 27. Amend Chapter 48, Title 29, Delaware Code, by adding thereto a new §4821 to read as follows:

"§4821. Decision To Forego Video Lottery.

Any person, corporation or association licensed under Chapter 100 of Title 3 to conduct a harness horse racing meet during 1993 which conducted live harness horse races on 30 days or less during 1993 may forego the opportunity to become a video lottery agent under Chapter 48 of Title 29. Any such person, corporation or association electing to forego such opportunity shall notify the Director and all other video lottery agents of such decision, and so long as such person, corporation or association conducts live harness horse races on at least 90% of the same number of racing days as were conducted by such person, corporation or association in 1992, and so long as such person, corporation or association maintains and awards an average purse per race which is not less than the average purse per race offered by such person, corporation or association during 1992, then such person, corporation or association shall receive an annual payment of \$100,000 from all video lottery agents licensed under Chapter 101 of Title 3 and \$75,000 from all video lottery agents licensed under Chapter 100 of Title 3 or Chapter 4 of Title 28, such payment to be made on an annual basis commencing six months after the first customer plays the video lottery and shall continue so long as the video

lottery is in operation. Video lottery agents licensed under more than one chapter of Title 28 and Title 3 shall only make one payment as set forth in the preceding sentence. An election to forego the opportunity to become a video lottery agent shall be effective for one year from the date of such election, after which time the licensee making the election may apply for licensure to become a video lottery agent, or may elect to forego such opportunity for an additional one year."

Section 28. Amend Chapter 48, Title 29, Delaware Code, by adding thereto a new Section 4822 to read as follows:

"§4822. Annual Crime Report.

The State Lottery Office, with the assistance of the Attorney General's Office and the State Bureau of Identification, shall annually provide to the General Assembly a report detailing the crimes that occur within the communities surrounding each racetrack property."

Section 29. Amend Chapter 48, Title 29, Delaware Code, by adding a new section 4823 to read as follows:

"§4823. The Horse Racing Redevelopment Act shall terminate and shall be of no further force and effect on or after five years from March 15, 1995, unless by action of the General Assembly taken before four years from March 15, 1995, the legislation is extended or reenacted."

Section 30. 1.0 Appropriated Special Fund position shall be established in Legal (15-00-00), Office of Attorney General (15-01-00), Office of Attorney General (15-01-01). The position shall be a Deputy Attorney General assigned to the State Lottery Office to assist the Lottery Director in the administration of this Act. The Lottery Director shall transfer monies to the Office of Attorney General to cover the costs associated with the position from special funds authorized under Section 4815, Chapter 48, Title 29, Delaware Code.

Section 31. 2.0 Appropriated Special Fund positions shall be established in the Department of Finance (25-00-00), State Lottery Office (25-07-00), State Lottery Office (25-07-01). The positions shall be an operations manager and an accountant to administer the provisions of this Act. The positions shall be funded from special funds authorized under Section 4815, Chapter 48, Title 29, Delaware Code.

Section 32. The Lottery Director shall reimburse the Delaware State Police for the contractual costs associated with the performance of security, fitness and background checks required under regulations promulgated by the Lottery Director. The monies to reimburse the Delaware State Police shall be funded from special funds authorized under Section 4815, Chapter 48, Title 29, Delaware Code.

Section 33. 2.0 Appropriated Special Fund positions shall be established in the Department of Public Safety (45-00-00), State Police (45-06-00), State Bureau of Identification (45-06-08). The positions shall be used to administer the security and law enforcement provisions of this Act. The positions shall be funded from special funds authorized under Section 4815, Chapter 48, Title 29, Delaware Code.

Section 34. The State Lottery Office, the Delaware State Police and the Office of the Attorney General shall issue a report by November 15, 1994 or before any video lottery agent is licensed detailing the security, law enforcement and public safety measures they believe to be necessary in order for the video lottery to be operated free from criminal influence and to protect communities in which the video lottery will operate from any adverse public safety consequences resulting from such lottery. Such report shall set forth with specificity the personnel and other costs necessary to take such measures. In preparing the report, the State Lottery Office, the Delaware State Police and the Office of the Attorney General shall consider the experience of other states which have implemented video lotteries or have sanctioned comparable gaming activity.

Became law without the Governors signature July 16, 1994.

CHAPTER 447

FORMERLY

SENATE BILL NO. 425
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 29, TITLE 30 OF THE DELAWARE CODE RELATING TO TAX ON WHOLESALERS' GROSS RECEIPTS.

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

Section 1. Amend Section 2901(2)(b), Title 30 of the Delaware Code, by striking in its entirety all of said paragraph as appears after the phrase "Title 4;" and by substituting in lieu thereof the following:

"(iv) receipts derived from the sale of any form of combustible petroleum product for heating or cooking which is sold for ultimate consumption; provided, however, that, for purposes of this Chapter, 'physically delivered within this State' includes delivery to the United States mail or to a common or contract carrier for shipment to a place within this State irrespective of F.O.B. or other terms of payment for delivery; or (v) receipts derived from the sale of material or equipment other than petroleum products to the State of Delaware (not including local jurisdictions or school districts) through the system of central contracting managed by the Department of Administrative Services pursuant to the provisions of Section 8806(b)(1) of Title 29."

Section 2. This Act shall be effective for gross receipts received on or after January 1, 1995.

Approved July 21, 1994.

CHAPTER 448

FORMERLY

SENATE BILL NO. 421

AN ACT TO AMEND CHAPTER 34, TITLE 14, DELAWARE CODE RELATING TO THE ESTABLISHMENT OF THE HERMAN M. HOLLOWAY, SR. MEMORIAL SCHOLARSHIP FUND AND THE ADMINISTRATION THEREFOR.

WHEREAS, Senator Herman M. Holloway, Sr. commenced his public service career on November 25, 1963 when he was elected to the Delaware House of Representatives to serve out the unexpired term of the late State Representative Paul F. Livingston; and

WHEREAS, in November of 1964 Herman M. Holloway, Sr. was elected to the Delaware State Senate, becoming the first member of the Afro-American race to ever serve in the Delaware State Senate; and

WHEREAS, Senator Herman M. Holloway, Sr., from the very outset, built one of the most notable, constructive and illustrious political careers in the history of the first state; and

WHEREAS, Senator Herman M. Holloway, Sr.'s 30 year political tenure, his magnanimous acts of generosity, his affable demeanor, his erudite wisdom and his ability to bring seemingly formidable sides together in the resolution of complex issues all of which epitomize the many attributes and characteristics of this distinguished gentleman; and

WHEREAS, it is most fitting and appropriate that the state of Delaware memorialize Senator Herman M. Holloway, Sr. by establishing a scholarship at Delaware State University in his honor.

NOW THEREFORE;

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

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

"Subchapter IX. Herman M. Holloway, Sr. Memorial Scholarship Fund

§3480. Purpose.

It is the intent and purpose of the General Assembly through this Subchapter to provide scholarships to deserving Delawareans in memory of Herman M. Holloway, Sr. who served for 30 years as a member of both houses of the legislature and to this end hereby establishes the Herman M. Holloway, Sr. Memorial Scholarship Fund.

§3481. Administration.

(a) This Subchapter shall be administered by the Delaware Postsecondary Education Commission, hereinafter referred to as the "Commission".

(b) The Commission shall adopt such rules and regulations as it deems necessary and proper to the administration of this Subchapter.

(c) The Commission shall annually report to the General Assembly of the State the names of the scholarship recipients and the total amount of expenditures made under this Subchapter.

§3482. Herman M. Holloway, Sr. Memorial Scholarships

(a) The Commission is hereby authorized to award educational scholarships as follows:

(1) One scholarship shall be awarded for the academic year commencing September 1994;

(2) Two scholarships shall be awarded for the academic year commencing September 1995;

(3) Three scholarships shall be awarded for the academic year commencing September 1996; and

(4) Four scholarships shall be awarded for each academic year commencing thereafter.

(b) Scholarships shall be provided to residents of the State of Delaware who will enter the Delaware State University as first year, full-time students.

(c) Scholarships shall be awarded in an amount sufficient to meet the costs of tuition, required fees and room and board at Delaware State University.

(d) Selection of scholarship recipients shall be based on criteria established by the Commission such that the qualities of academic achievement, community service, participation in extra-curricular activities and promise of academic success in college are considered.

(e) Where several students are judged to be equally qualified for the scholarships, financial need shall be considered in establishing priority position for scholarship awards.

(f) The Commission shall award scholarships only to students who have accepted an admissions offer from the Delaware State University by a deadline date established by agreement between the Delaware State University and the Commission.

(g) Awards shall be renewable within the limits of appropriations for the program, to a maximum of four awards, provided the student meets the academic progress standards which shall be set by the Commission and communicated in writing to the recipient at the time the initial award is granted.

(h) A student who is awarded a scholarship under this section shall by accepting the scholarship become ineligible to receive any other scholarship or grant funded by the State of Delaware from its General Fund.

(i) Scholarship payments shall be made to the Delaware State University on behalf of the student each semester that the student is enrolled, provided the student meets all requirements of this section.

(j) No student shall be eligible for the scholarship award who is not a resident of the State for at least one year prior to the date of the award. The place of residence of a student who is either under 18 years of age or dependent on parental financial support shall be the legal residence of the student's parent or guardian who must have qualified to register to vote in Delaware and who is subject to payment of Delaware income tax. A student over 18 years of age, who is not dependent on parental financial support, must meet the federal government's financial self-supporting student definition, and must be qualified to register to vote in Delaware and must be subject to the payment of Delaware income tax, to satisfy the requirements of this section."

Approved July 21, 1994.

CHAPTER 449

FORMERLY

SENATE BILL NO. 429
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 14, TITLE 14 OF THE DELAWARE CODE RELATING TO THE TERMINATION OF TEACHERS AT THE END OF A SCHOOL YEAR AND CHAPTER 17, TITLE 14 RELATING TO STATE APPROPRIATIONS.

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

Section 1. Amend Title 14, Chapter 14, Section 1403(b) of the Delaware Code by striking said subsection in its entirety.

Section 2. Amend Title 14, Chapter 14, Section 1410 of the Delaware Code by redesignating what is now Section 1410 as Subsection (a) of §1410, and adding the following as subsection (b) of §1410:

"(b) A teacher who has not completed three (3) years of service in the State and/or has not completed two (2) years in the employ of the terminating board may, within seven (7) days of receiving notice of intention to terminate services, request in writing, the reason(s) for such notice. The board will provide such reason(s) in writing and a copy of this Chapter no later than five (5) days after receipt of such a request, provided that the stated reason(s) must have either been contained in the teacher's performance appraisal, and the teacher was provided time to correct any deficiency through an individualized improvement plan or other documented materials properly placed in the teacher's personnel file prior to said notice. In providing the reason(s), the board is not limited to the reasons set forth in §1411 of this Chapter. Within seven (7) days of receiving the reason(s) for the notice of intention to terminate services, a teacher may request in writing a conference with the board's Superintendent for the purpose of discussing the reason(s) and attempting to resolve any disputed matter. Within ten (10) days of receiving such a request for a conference, the Superintendent shall personally provide the teacher a conference to review the matter. The conference with the Superintendent is final and conclusive."

Section 3. Amend Title 14, Chapter 17 of the Delaware Code by striking the existing §1717(e) in its entirety and substituting in lieu thereof a new §1717(e) to read as follows:

"§1717(e). Personnel employed pursuant to this section shall be covered by Chapter 14 of this Title, if such personnel qualify for coverage under §1403(a). In determining length of service for the purposes of Chapter 14 of this Title, employees who heretofore have been excluded from coverage under Chapter 14 of this Title shall receive credit for all service to the state and to the current employing school district."

Section 4. Amend newly designated §1410(a), Chapter 14, Title 14, Delaware Code by striking the words "1st day of May" as they appear in the first sentence thereof and substituting in lieu thereof the following: "15th day of May".

Section 5. Sections 3 and 4 of this Act shall become effective in each school district upon the effective date of any subsequently negotiated agreement to the agreement in effect on the effective date of this Act unless the parties to a current negotiated agreement agree to such changes prior to the effective date of such subsequently negotiated agreement.

Approved July 21, 1994.

CHAPTER 450

FORMERLY

SENATE BILL NO. 44

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 DECEMBER 1, 1990.

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

Section 1. Amend Section 5532, Chapter 55, Title 29, Delaware Code, by redesignating Section 5532 as subsection 5532(a).

Section 2. Amend Section 5532, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (b) to read as follows:

"5532(b). Any monthly service or disability pension which became effective on or before December 1, 1990 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 December 1, 1990 and is payable on the date this subsection is enacted into law shall be increased effective April 1, 1995, by 2% plus .10% for each full month of retirement preceding January 1, 1981 up to a maximum of 15%. These increases shall continue to be paid through June 30, 1995 and every Fiscal year thereafter provided that funds are appropriated in accordance with §5544 of this Chapter."

Section 3. The increases provided by this Act shall not apply to pensions awarded under Section 5527(d), Chapter 55, Title 29, Delaware Code.

Section 4. Amend Section 5544, Chapter 55, Title 29, Delaware Code, by striking Section "5532" as the same appears in subsections (d)(1) and (d)(2) thereof, and substituting in lieu thereof the Section "5532(a)."

Section 5. Amend Section 5544, Chapter 55, Title 29, Delaware Code, by striking the date "July 1, 1993" as the same appears in said section and substituting in lieu thereof the date "January 1, 1994."

Section 6. Amend Section 5544, Chapter 55, Title 29, Delaware Code, by adding thereto a new subsection to be designated as subsection (e) to read as follows:

"(e)(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 Section 5532(b) of this Chapter shall be the payment required to amortize the unfunded accrued liability over five years from April 1, 1995.

(2) The State's obligation to the Special Pension Fund authorized by Volume 61, Chapter 455, Laws of Delaware, to implement the provision of Section 5532(b) of this Chapter in Fiscal year 1995 shall be the lump sum actuarial liability of the benefits granted."

Section 7. This Act shall become effective on April 1, 1995, provided that there are sufficient funds appropriated in the Fiscal year 1995 Budget Appropriation Act.

Approved July 21, 1994.

CHAPTER 451

FORMERLY

SENATE BILL NO. 371
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 AND TITLE 14 OF THE DELAWARE CODE RELATING TO POST-RETIREMENT LUMP SUM DEATH BENEFITS.

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

Section 1. AMEND §5316 and §5546 of Title 29 of the Delaware Code by striking the amount "\$4,000" as it appears therein, and substituting in lieu thereof the amount "\$5,000".

Section 2. AMEND §3910, Chapter 39, Title 14, Delaware Code by striking the amount "\$4,000" as it appears therein, and substituting in lieu thereof the amount "\$5,000".

Section 3. This Act shall be effective for the beneficiaries or the estates of decedents dying after June 30, 1994.

Approved July 21, 1994.

CHAPTER 452

FORMERLY

HOUSE BILL NO. 601
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 1, TITLE 16 OF THE DELAWARE CODE RELATING TO THE STATE BOARD OF HEALTH.

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

Section 1. Amend §122(3), Chapter 1, Title 16 of the Delaware Code by striking existing subparagraph c. in its entirety and substituting in lieu thereof the following:

"c. Provide for the sanitary protection of all water supplies which are furnished to and used by the public, including the establishment of standards for biological, physical and chemical quality which shall apply to all public water suppliers unless exempted by the Board as being a supplier on a seasonal basis only and not on a year-round basis; and further provide for the fluoridation of such water supplies, excepting, however, such water supplies sold by bottle or similar container. In so providing, no public water supply system shall operate without a duly licensed public water supply operator. The Board shall have the exclusive power to grant or deny any such license and shall adopt regulations setting forth the requirements, including any acceptable performance or an examination for obtaining and retaining any such license; the Board shall assess an annual licensure fee of \$50 per operator."

Section 2. This Act shall take effect on February 1, 1995.

Approved July 22, 1994.

CHAPTER 453

FORMERLY

HOUSE BILL NO. 595

AN ACT TO AMEND CHAPTER 93, TITLE 9 OF THE DELAWARE CODE RELATING TO THE DUTIES AND POWERS OF COUNTY COMPTROLLERS.

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

Section 1. Amend §9305(b), Chapter 93, Title 9 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) No money shall be paid out of the county treasury for county purposes except on warrants drawn by order of the county government signed by the President of the county government and countersigned by the comptroller. Interest coupons on the bonded debt of the county shall be paid on presentation."

Section 2. Amend §9305(d), Chapter 93, Title 9 of the Delaware Code by striking the language "during the months of January and July in each year," and substituting in lieu thereof the word "annually" and by striking the references to "coroner, Prothonotary," and to "sealer of weights and measures, justices of the peace, constables" and the language "during the months aforesaid,".

Section 3. Amend §9305(e), Chapter 93, Title 9 of the Delaware Code by striking the words "In the months of January and July in each year" and substituting in lieu thereof the word "Annually".

Approved July 22, 1994.

CHAPTER 454

FORMERLY

HOUSE BILL NO. 594

AN ACT TO AMEND CHAPTERS 1 AND 23, TITLE 21 OF THE DELAWARE CODE RELATING TO PARK TRAILERS.

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

Section 1. Amend §101, Title 21 of the Delaware Code by adding the following new paragraphs:

"(76) 'Park trailer' is a vehicle more than eight body feet in width that is primarily designed to provide temporary living quarters for recreation camping or seasonal use; built on a single chassis mounted on wheels which has a gross trailer area not exceeding 400 square feet in the set-up mode and is certified by the manufacturer as complying with ANSI a 119.5 standard.

(77) 'Mobile home' is a structure transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length, or when erected on sight, is more than 400 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating and air conditioning. The structure must be constructed in accordance with construction requirements promulgated by the Federal Department of Housing and Urban Development (HUD)."

Section 2. Amend §101(45), Title 21, of the Delaware Code by inserting "park trailer," after the words "mobile home" in said paragraph.

Section 3. Amend §2121(b), Title 21 of the Delaware Code by inserting the following sentence prior to the last sentence in said subsection:

"The title registration number for mobile homes shall begin with the letters MH and park trailers with the letters PT."

Section 4. Amend §2302(e), Title 21 of the Delaware Code by inserting "park trailer," after the words "mobile home" in the first line of said subsection.

Approved July 22, 1994.

CHAPTER 455

FORMERLY

SENATE BILL NO. 411
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 8, TITLE 26 OF THE DELAWARE CODE RELATING TO UNDERGROUND UTILITY DAMAGE PREVENTION AND SAFETY.

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

Section 1. Amend Chapter 8, Title 26 of the Delaware Code by deleting this Chapter in its entirety and inserting in its place a new Chapter 8 to read as follows:

"Chapter 8. UNDERGROUND UTILITY DAMAGE PREVENTION AND SAFETY

§801. PURPOSE; CITATION; CONSTRUCTION.

(a) For the purposes of providing for the protection of the public health and safety, certain procedures are necessary to assure that persons performing excavation or demolition operations know, prior to commencing such operations, of the presence or location of underground utilities in the excavation or demolition area. Certain precautions must be taken to avoid injuries and damage to life, limb and property, to avoid disruption and discontinuation of utility services to members of the public and to promote safe operations during excavation and demolition.

(b) This act shall be known and may be cited as the Underground Utility Damage Prevention and Safety Act. This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

§802. DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

(1) "Approved Notification Center" shall mean an organization identified by section 807 of this chapter and which complies with the requirements of section 807 of this chapter and is otherwise operated in accordance with the Federal Pipeline Safety Regulations codified at 49 C.F.R. CH. 1., section 198.39;

(2) "Damage" shall mean, but is not limited to:

a. The complete or partial destruction, dislocation or weakening of structure or lateral support of a utility line, or

b. The complete or partial penetration or destruction of any utility line, appurtenance, protective coating, covering, housing or other protective device, or

c. The complete or partial severance of any utility line;

(3) "Demolish or demolition" shall mean any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment or discharge of explosives capable of damaging underground or submarine utility lines;

(4) "Designer" shall mean any architect, engineer or other person, acting either as an employer or employee, who prepares a drawing for a construction or other project which requires excavation or demolition;

(5) "Emergency" shall mean any condition constituting a clear and present danger to life, health or property by reason of escaping gas or petroleum products, exposed or broken wires, other breaks or defects in an operator's utility line, or by reason of any disaster of artificial or natural causes;

(6) "Excavate" or "excavation" shall mean any operation in which earth, rock or other material in the ground is moved, removed or otherwise displaced or disturbed by means of any tools, equipment or explosives and

includes, without limitation, grading, trenching, digging, dredging, ditching, drilling, augering, tunnelling, boring, backfilling, post pounding, driving objects into the ground, installation of form pins, hammering, scraping, cable or pipe plowing or driving, but does not include the surface cultivation of the soil for agricultural purposes, such as tilling, or patch-type paving where the same, including cutback, does not exceed 12 inches in depth measured from the surface of the pavement being patched;

(7) "EXCAVATOR" shall mean any person, including those acting either as an employer or employee, intending to perform or performing excavation or demolition work.

(8) "Operator" shall mean any person who furnishes or transports materials or services by means of a utility line;

(9) "Person" shall mean any individual, firm, joint venture, partnership, corporation, association, municipality, other political subdivision, state or federal governmental unit, department, or agency, state cooperative association, joint stock association and shall include any assignee, trustee, receiver or personal representative thereof.

(10) "UNDERGROUND PIPELINE FACILITY OPERATOR" shall mean an operator of a buried pipeline facility used in the transportation of gas, such as propane and natural gas, subject to the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. section 1671 et. seq.), or used in the transportation of hazardous liquid subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. section 2001 et. seq.); Underground Pipeline Facility Operators include, without limitation, natural gas, propane gas, master meter, LP gas, and interstate and intrastate gas and liquid distribution facility operators as defined by these Acts.

(11) "Utility line" shall mean any item of personal property which shall be buried or placed below ground or submerged for use in connection with the storage or conveyance of water, sewage, electronic, cable television, telephonic or telegraphic communications, electric energy, oil, petroleum products, gas or other substances, and shall include, but not be limited to, pipes, sewers, conduits, cables, fiber optic conductors, valves, lines, wires, manholes, vaults, attachments and those portions of poles, pylons or other supports below ground or submerged.

(12) "Working day" shall mean every day, except Saturday, Sunday and State, Federal and recognized operator holidays.

§803. DUTIES OF OPERATOR.

It shall be duty of each operator:

- (1) To participate in the Approved Notification Center;
- (2) To give written notice to such Approved Notification Center which shall state:
 - a. The name of the operator;
 - b. The location of the operator's lines; and
 - c. The operator's office address (street, number and political subdivision) and the telephone numbers to which inquiries may be directed as to the location of such lines;
- (3) To give like written notice within 5 working days after any of the matters stated in the last previous notice shall have changed;
- (4) To respond to requests from an excavator or operator who identifies the site of excavation or demolition, or proposed excavation or demolition, for information as to the approximate location and type of the operator's utility lines in the area, not more than 2 working days after receipt of such requests;

(5) To inform excavators or operators who identify the site of excavation or demolition, or proposed excavation or demolition, not more than 2 working days after receipt of a request therefor, of the following:

a. If it is determined by an operator that a proposed excavation or demolition is planned within 5 feet of a utility line as measured in the horizontal plane and that the utility line may be damaged, the operator shall notify the person who proposes to excavate or demolish and shall physically mark the horizontal location of the utility line within 18 inches of the utility line on the ground by means of stakes, paint or other suitable means within 2 working days after the request. The operator shall also notify the person who proposes to excavate or demolish as to the size of the utility line, the type of temporary marking provided and how to identify the markings. In the case of extraordinary circumstances, if the operator cannot mark the location within 2 working days, the operator shall, upon making such determination, notify the person who proposes to excavate or demolish and shall, in addition, notify the person of the date and time when the location will be marked;

b. The cooperative steps which the operator may take, either at or off the excavation or demolition site, to assist him in avoiding damage to its lines;

c. Suggestions for procedures that might be followed in avoiding such damage;

d. If the operator has no utility line within 5 feet of the proposed excavation or demolition as measured in the horizontal plane and if a proposed excavation or demolition by blasting is not planned in such proximity to the operator's utility lines that the utility lines may be damaged, the operator shall advise the person who proposes to excavate or demolish that marking is unnecessary and that the person may therefore begin the excavation or demolition;

e. In marking the approximate location of utility lines, the operator shall follow the color coding described herein:

Electric power distribution and transmission - Safety red

Municipal electric systems - Safety red

Gas distribution and transmission - High visibility safety yellow

Oil and petroleum products distribution and transmission - High visibility safety yellow

Dangerous materials, product lines, steam lines - High visibility safety yellow

Telephone and telegraph systems - Safety alert orange

Police and fire communications - Safety alert orange

Cable television - Safety alert orange

Water systems - Safety precaution blue

Slurry systems - Safety precaution blue

Sewer systems - Safety green;

(6) To respond to requests from designers who identify the site of excavation or demolition, for information as to the approximate location and type of the operator's utility lines in the area within 15 working days of receipt of a request therefor;

(7) To inform designers who identify the site of excavation or demolition, or proposed excavation or demolition, not more than 15 working

days after receipt of a request therefor of the information set forth at subsection (5) of this section.

(8) Upon receipt of a request pursuant to subsections (4), (5), (6) and/or (7) of this section to assign such request an identifying number (which may be the same as the number assigned by the Approved Notification Center in accordance with section 807(b)(5) of this chapter), inform the requestor of such number and maintain a record showing the name, address and telephone number of the requestor, the site to which the request pertains and the identifying number assigned to the request.

§804. ADDITIONAL DUTIES OF OPERATORS WHO ARE ALSO UNDERGROUND

PIPELINE FACILITY OPERATORS.

It shall be the duty of each underground pipeline facility operator to :

- (1) Participate in the Approved Notification Center.
- (2) Provide as follows for inspection of pipelines that such operator has reason to believe could be damaged by excavation activities:
 - a. The inspection must be done as frequently as necessary during and after the excavation activities to verify the integrity of the pipeline; and,
 - b. In case of blasting, any inspection must include leakage surveys.

§805. DUTIES OF DESIGNERS.

It shall be the duty of each designer:

- (1) To contact the Approved Notification Center and obtain the identity of operators whose facilities are listed, as required by section 803 of this chapter, in the area of the proposed excavation or demolition;
- (2) To obtain the information prescribed in subsection (6) or (7) of §803 of this chapter from each operator identified as required by subsection (2) of §803;
- (3) To show upon the drawing the type of each line, derived pursuant to the request made as required in subsection (2) of this section, the name of the operator and telephone number of the Approved Notification Center, and instructions to "Notify the Approved Notification Center not less than two working days, but no more than 10 working days, prior to the excavation or demolition activities".

§806. DUTIES OF EXCAVATORS.

(a) Prior to undertaking any excavation or demolition activities, it shall be the duty of each excavator to:

- (1) Ascertain the telephone number of the Approved Notification Center;
- (2) Notify the Approved Notification Center not less than 2 working days, but no more than 10 working days, prior to the day of the commencement of such work of the following:
 - a. the name of the person notifying the Approved Notification Center;
 - b. the name, address and telephone number of the excavator;
 - c. the specific location, starting date and description of the intended excavation or demolition activity.

(3) Ascertain the location and type of utility lines, and information prescribed by the subsection (5) of section 803 of this chapter and the identifying number(s) assigned (pursuant to section 807 of this chapter) by the Approved Notification Center in response to the notice prescribed in subsection (2) of this section;

(4) Inform each person employed by him or her at the site of such work of the information obtained pursuant to subsection (3) of this section;

(5) Maintain in a prudent and careful manner all markings provided by operators in accordance with the provisions of section 803 of this chapter and, in the event of the obliteration, destruction, or removal of the markings, the excavator shall notify the Approved Notification Center of the need for remarking of utility line by the operators;

(6) Establish and maintain a mutually agreeable schedule of required utility locating with each involved operator to insure that the purpose of this chapter is met whenever the intended excavation or demolition will occur at multiple locations, on various dates, on a construction site or public works project with a duration in excess of 20 working days. Proper establishment and prudent, careful, compliance with such a schedule, after initial notice as required under subsection (2) of this section, shall be considered as notice required in subsection (2) for the balance of the construction project;

(7) Excavate prudently and carefully and to take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but may not be limited to hand digging, within the limits of the planned excavation or demolition, starting two feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel type excavations;

(8) Report immediately to the operator any break in, or leak on, its utility lines, any dent, gouge, groove, or other damage to such lines or to the coating or cathodic protection made or discovered in the course of the excavation or demolition work;

(9) Alert immediately the occupants of any premise as to any emergency that the excavator may create or discover at or near such premises.

(b) The requirements of subsection (1) through (5) of this section shall not apply to an excavator performing excavation or demolition work in any emergency. However, excavators performing excavation or demolition activities in an emergency shall notify the Approved Notification Center at the earliest practicable moment of the information prescribed in subsection (a)(2) of this section.

§807. APPROVED NOTIFICATION CENTER.

(a) The Approved Notification Center shall be Utilities Service Protection of Delmarva, Inc.

(b) The approved Notification Center shall:

(1) Receive and record information prescribed by section 803 of this chapter regarding the location of operators' utility lines within the state;

(2) Receive and record information prescribed by section 805 and 806 of this chapter regarding notice by excavators or designers of intended excavation or demolition activity;

(3) Promptly transmit to the operators identified in accordance with section 803 of this chapter, the information received as prescribed by section (2) of this section;

(4) Maintain records of each notice received in accordance with subsection (2) of this section for a period of not less than 6 years;

(5) Assign an identifying number to the notice prescribed in subsection (2) of this section;

(6) Notify those persons giving notice as prescribed by section 806 of this chapter, of the names of participating operators to whom the notice will be transmitted as prescribed by subsection (3) of this section and Approved Notification Center's identifying number assigned (pursuant to

subsection (5) of this section) to the notice prescribed in subsection (2) of this section;

(7) Provide a toll-free telephone number for use by any person providing notice as prescribed by sections 803, 805 and 806 of this chapter;

(8) Identify persons who normally engage in excavation activities in this state;

(9) Notify the persons identified in subsections (7) and (8) of this section and the general public as often as necessary to make them aware of :

- a. the existence of the Approved Notification Center;
- b. the purpose and general requirements of this chapter;
- c. how to learn the location of utility lines before excavation or demolition activities are begun; and
- d. the toll-free telephone number provided as required by subsection (7) of this section.

§808. EXEMPTIONS.

No penalties provided for in section 810 of this chapter shall apply to any excavation or demolition done by the owner of a private residence when such excavation or demolition is made entirely on the land on which the private residence is situated and provided there is no encroachment on any operator's rights-of-way or easement. However, this exemption shall have no effect on the civil liability of such private residence owner pursuant to section 811 of this chapter.

§809. INJUNCTION; MANDAMUS.

Whenever it appears that any person has engaged in, is engaging in or is about to engage in excavation or demolition in a manner contrary to safe practices, thereby posing a threat, or potential threat, of injury or damage to life, limb, or property, not necessarily limited to utility lines, or has otherwise violated, is about to violate, or is violating any provision of this chapter, the Attorney General or any operator or owner of said utility line may institute an action for the purpose of having such excavation or demolition stopped or prevented, either by mandatory or prohibitive injunction, mandamus, or for other relief including interim equitable relief and punitive damages, in a court of competent jurisdiction in the county in which the excavation or demolition has occurred, is occurring or is about to occur, or in which the defendant's or respondent's principal place of business is located. The procedure for all such proceedings shall be as provided in the rules of procedure in the court where said action is commenced or as established by the usual practice and procedure in said court. The court may join as parties any and all persons necessary to make its judgment or processes effective.

§810. PENALTIES.

It is unlawful and a misdemeanor for any person to do any act forbidden, or fail to perform an act required by this chapter.

(a) Except as provided in subsection (b) of this section, whoever, by action or inaction, violates a provision of this Chapter shall, for the first offense, be fined not less than \$100 nor more than \$500. For each subsequent like offense, such person shall be fined not less than \$200 nor more than \$1,000 for each violation.

(b) Operators of underground pipeline facilities, excavators, and the Approved Notification Center shall, upon violation of any applicable requirements of 49 C.F.R. part 198, Subpart C, be subject to civil penalties not to exceed ten thousand dollars (\$10,000) for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars (\$500,000) for any related service of violations. In determining the amount of the fine, the court shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the

violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the fine, and such other matters as justice may require.

§811. CIVIL LIABILITY.

(a) Obtaining information as required by this chapter does not excuse any person making any excavation or demolition from doing so in a careful and prudent manner, nor shall it excuse any person from liability for any damage or injury resulting from the excavation or demolition.

(b) If the information required to be provided by operators pursuant to section 803 of this chapter is not provided in accordance with the terms thereof, any person damaging or injuring underground facilities of such operator shall not be liable for such damage or injury except on proof of negligence.

§812. CONVICTION NOT ADMISSIBLE.

A conviction under this Chapter, even when obtained pursuant to a guilty plea, shall not be admissible in any civil proceedings involving personal injury, wrongful death or property damage.

§813. EFFECTIVE DATE.

The effective date of this Chapter shall be January 1, 1995."

Approved July 22, 1994.

CHAPTER 456

FORMERLY

SENATE BILL NO. 383
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, SUBCHAPTER 1 TITLE 26, OF THE DELAWARE CODE RELATING TO EASEMENTS FOR PUBLIC UTILITIES ACROSS RAILROAD PROPERTY.

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

Section 1. Amend Title 26 of the Delaware Code by adding a new section to Chapter 9, Subchapter 1, to read as follows:

"908. Easements for Public Utilities Across Railroad Property, Rights-of-way, or Occupations

Any public utility operating within the State may acquire a utility easement for its public use in accordance with Chapter 61, Title 10, whenever all the following conditions are met:

(a) The property on, over, under, along, or across which the public utility easement is to be established (1) was previously owned by a railroad company, including a successor whose ownership interest derives, directly or indirectly, from the abandonment of the property use by a railroad company, or (2) was subject to an easement, right-of-way, or occupation for railroad purposes; and

(b) The railroad company's property interests have been extinguished by abandonment or otherwise; and

(c) Immediately prior to the time such railroad company's property interests were extinguished, a public utility held an easement, license, right-of-way, permission or occupation for public utility purposes that had been obtained from the railroad company;

(d) The public utility and any owner or owners of the property cannot agree as to the terms and conditions of the acquisition by the public utility of a property interest for use for public utility purposes; and

(e) the property on which the utility easement to be acquired is not owned by the State of Delaware or any of its agencies or political subdivisions; and

(f) the public utility exercises this authority in accordance with the provisions of Chapter 95 of Title 29."

Approved July 22, 1994.

CHAPTER 457

FORMERLY

SENATE BILL NO. 217

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

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO DISTRIBUTION, DELIVERY, OR POSSESSION OF CONTROLLED SUBSTANCES IN OR WITHIN 300 FEET OF A PARK OR RECREATION AREA.

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

Section 1. Amend Subchapter IV, Chapter 47, Part IV, Title 16 of the Delaware Code by adding thereto a new section, to be designated as §476B and to read as follows:

"§476B. Distribution, delivery, or possession of controlled substance in or within 300 feet of park or recreation area; penalties; defenses.

(a) Except as authorized by this chapter, any person who illegally distributes, delivers or possesses a controlled substance or counterfeit controlled substance listed in §4714, §4716, §4718, §4720 or §4722 of this title while in any park or recreation area owned, operated or utilized by any county or municipality, or by the State of Delaware, or by any board, commission, department, agency, corporation or organization thereof, or in any 'parkland' as defined in 9 Del. C. §8109(a)(2), or while within 300 feet of the boundaries of any such parkland, park or recreation area, is guilty of a felony and upon conviction shall be imprisoned for a term of not more than 15 years and fined not more than \$250,000.

(b) Nothing in this section shall be construed to preclude or limit a prosecution or conviction for a violation of this chapter or any other provision of law, and a conviction under this section shall not merge with a conviction for violation of any other provision of this chapter or other provision of law.

(c) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place in or within 300 feet of any parkland, park or recreation area.

(d) It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence and that the prohibited conduct did not involve distribution, delivery or possession of any controlled substance for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter."

Approved July 22, 1994.

CHAPTER 458

FORMERLY

SENATE BILL NO. 413

AN ACT TO AMEND THE DELAWARE CODE RELATING TO THE NAME OF THE DELAWARE DEVELOPMENT OFFICE.

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

Section 1. Amend the Delaware Code by striking the phrase "Delaware Development Office" wherever said phrase appears in the Delaware Code and, in every instance, substituting in lieu thereof the phrase "Delaware Economic Development Office".

Section 2. The Delaware Economic Development Office and its Director shall have the power to perform and shall be responsible for the performance of all the powers, duties and functions heretofore vested in the Delaware Development Office and its Director.

Section 3. This Act shall take effect at such time as the Director deems appropriate, but will occur no later than January 1, 1995 in order to ensure the efficient utilization of printed materials.

Approved July 22, 1994.

CHAPTER 459

FORMERLY

HOUSE BILL NO. 127

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

AN ACT TO AMEND CHAPTER 43, TITLE 11 OF THE DELAWARE CODE, RELATING TO THE COMPENSATION OF MEMBERS OF THE BOARD OF PAROLE.

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

Section 1. Amend §4344, Chapter 43, Title 11 of the Delaware Code by striking the figure "\$85" as the same appears in the first sentence of subsection (a), and substituting the figure "\$110" in lieu thereof.

Approved July 22, 1994.

CHAPTER 460

FORMERLY

SENATE BILL NO. 344

AN ACT TO AMEND CHAPTER 33, TITLE 19 OF THE DELAWARE CODE RELATING TO UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Section 3350(7), Chapter 33, Title 19 of the Delaware Code by inserting the phrase "Effective July 1, 1994," after the subsection designation "(7)" and before the word "notwithstanding" as it appears in the first sentence of this subsection therein.

Section 2. Amend Section 3350(7), Chapter 33, Title 19 of the Delaware Code by deleting the number "30" as it appears in the first sentence of this subsection therein and in its place inserting the number "90".

Section 3. Amend Section 3350(7), Chapter 33, Title 19, of the Delaware Code by adding after the second sentence of this subsection and before the third sentence of this subsection as they appear therein, three new sentences to read, "Rehire credits shall be applied to the employer's benefit wage record in the calendar year and quarter in which the claimant's benefit year exhausted. An employer may apply for rehire credits relating to a claim for benefits regardless of the number of separate periods of unemployment a claimant had during the claimant's benefit year. However, no rehire credits shall be allowed as a consequence of benefits paid on a claim for partial unemployment benefits."

Approved July 22, 1994.

CHAPTER 461

FORMERLY

HOUSE BILL NO. 418
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 83 OF TITLE 11 OF THE DELAWARE CODE RELATING TO THE STATE POLICE.

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

Section 1. Amend §8301, Chapter 83, Title 11 of the Delaware Code by deleting the last 2 sentences of said section in their entirety and by substituting in lieu thereof the following:

"There shall not be more than 600, nor less than 525, police officers on full active duty. Calculations for determining the number of such positions shall include any appropriated (ASF) and nonappropriated (NSF) special funded positions."

Section 2. The minimum limitation of 525 police officers provided for in Section 1 of this Bill shall not become effective until June 30, 1996.

Approved July 22, 1994.

CHAPTER 462

FORMERLY

HOUSE BILL NO. 615
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 18 RELATING TO EMPLOYER OWNED LIFE INSURANCE POLICIES AND TRUST OWNED LIFE INSURANCE POLICIES ISSUED IN THIS STATE.

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

Section 1. Amend Section 2704(c)(3), Chapter 27, Title 18 of the Delaware Code by deleting said paragraph in its entirety and by substituting in lieu thereof the following:

"(3) Exclusive of paragraph (2) of this subsection, an employer providing life, health, disability, retirement or similar benefits to its employees or the employees of its affiliates, and acting in a fiduciary capacity with respect to such employees or retired employees or their dependents or beneficiaries, has an insurable interest in the lives of its employees. As used in this Section and in Sections 702(c) and 2708(4) of this Title, the term 'employee' shall include any and all directors, officers, partners, employees, and retired employees. The term 'employer' shall include corporations, partnerships, other business entities, including associations of employers, and their affiliates. The trustee of a trust established by an employer for the benefit of the employer has the same insurable interest in the life of any person and employee as does the employer;"

Section 2. Amend Section 2704(c), Chapter 27, Title 18 of the Delaware Code by deleting the period "." as it appears at the end of paragraph "(4)" thereof and by substituting in lieu thereof the phrase "; and" and by adding a new paragraph thereto to read as follows:

"(5) The trustee of a trust established by an individual has an insurable interest in the life of that individual and the same insurable interest in the life of any other person as does the individual. A 'Trust Owned Life Insurance Policy', for the purposes of this Title, means an insurance contract permitted under this paragraph, issued for delivery in this State to a trust established under the laws of this State and having a trustee with its principal place of business in this State."

Section 3. Amend Section 2704(e), Chapter 27, Title 18 of the Delaware Code, by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(e) An 'Employer Owned Life Insurance Policy', for the purposes of this Title, means an insurance contract permitted under paragraph (c)(3) of this Section and Section 2708(4) of this Title, issued for delivery in this State and procured or effected by any employer, or a trust established by an employer, which employer has at least 50 employees and is incorporated, registered or qualified to do business in this State. The existence of an insurable interest with respect to an Employer Owned Life Insurance Policy shall be governed by paragraph (c)(3) of this Section without regard to an employee's state of residency or location. An Employer Owned Life Insurance Policy, if delivered to the employer's principal place of business in this State or to its registered agent in this State, or, in the case of a policy issued to a trust established by an employer, if delivered to the place of business in Delaware of the trustee of said trust, shall be deemed to have been delivered in this State. The parties to an Employer Owned Life Insurance Policy may arrange for delivery in this State by means other than the method described in the preceding sentence. An Employer Owned Life Insurance Policy may be issued on an individual or group basis, and any group policy shall be exempt from Chapter 31 of this Title. A group insurance policy issued to an employer for the benefit of persons other than the employer, as permitted by Section 3102 of this Title, shall not constitute an Employer Owned Life Insurance Policy."

Section 4. Amend Section 2708(4), Chapter 27, Title 18 of the Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(4) An employer or the trustee of a trust established by the employer may effectuate insurance under an Employer Owned Life Insurance Policy, as defined in Section 2704(e) of this Title, upon any employee in whom it has an insurable interest, and the employer shall not be required to notify employees of the effectuation of such insurance or obtain their consent. An employer or trustee that receives funds as the beneficiary of an Employer Owned Life Insurance Policy shall establish depository arrangements with a Delaware banking institution as may be appropriate for the employee benefit plan, and the insurer and any investment subadvisors shall (1) use best efforts to direct securities transactions relating to such Employer Owned Life Insurance Policies and underlying assets, subject to best execution, through a securities agent licensed and located in this State and (2) direct all insurance and annuity transactions relating to such Employer Owned Life Insurance Policies through an insurance agent or broker licensed and located in this State."

Section 5. Amend Section 4403(b)(2), Chapter 44, Title 18 of the Delaware Code by deleting the period "." as it appears at the end of subparagraph "h" thereof and by substituting in lieu thereof the phrase "; or" and by adding a new subparagraph at the end thereof to read as follows:

"i. Any Employer Owned Life Insurance Policy, as defined in Section 2704(e) of this Title."

Section 6. Amend Section 702(a), Chapter 7, Title 18 of the Delaware Code by adding a new sentence at the end thereof to read as follows:

"Any premiums received for Employer Owned Life Insurance Policies, as defined in Section 2704(e) of this Title, and Trust Owned Life Insurance Policies, as defined in Section 2704(c)(5) of this Title, shall be itemized separately in the report, except that separate itemization for a Trust Owned Life Insurance Policy shall not be required if the insurer elects to pay tax on premiums received for such policy under paragraph (c)(1) of this Section."

Section 7. Amend section 702(c), Chapter 7, Title 18 of the Delaware Code by redesignating it as section 702(c)(1) and by adding a new section 702(c)(2) to read as follows:

"(2) In lieu of paragraph (1) above, there shall be paid a tax on a graduated basis at the rates set forth in the following table on net premiums per case for Employer Owned Life Insurance Policies, as defined in Section 2704(e) of this Title, and Trust Owned Life Insurance Policies, as defined in Section 2704(c)(5) of this Title. For purposes of this section, a 'case' is all contracts issued to a single employer or trust established by a single employer or individual (or group of employers or individuals that participate in a single private placement under federal securities laws). Said tax shall be paid on net premiums and all other considerations received on account of insurance contracts issued for delivery in this State, except that no premium tax shall be paid with respect to persons resident or located outside of this State upon whom premium tax is paid to the State of residency or location."

<u>Net Premiums Per Case</u>	<u>Premium Tax Rate</u>
First \$10,000,000	2.0%
\$10,000,001 to \$24,999,999	1.5%
\$25,000,000 to \$99,999,999	1.25%
\$100,000,000 and over	1.0%

The premium tax rate shall be calculated on the basis of net premiums (upon which taxes are payable to this State) received per case in each calendar year, except that in subsequent calendar years the premium tax rate shall not be higher than the rate established for the preceding year. A reduction in the premium tax rate for a subsequent calendar year shall not apply retrospectively to any previous calendar year. The following example illustrates calculation of the tax rates under this Section:

<u>Calendar Year</u>	<u>Premiums Per Case</u>	<u>Tax Rate</u>
1995	\$9,000,000	2%
1996	\$20,000,000	2% x \$10,000,000 + 1.5% x \$10,000,000
1997	\$30,000,000	1.5% x \$25,000,000 + 1.25% x \$5,000,000
1998	\$9,000,000	1.25%

The tax imposed by this subsection shall be the only tax imposed by this Chapter on Employer Owned Life Insurance Policies and Trust Owned Life Insurance Policies."

Section 8 This Act shall apply to insurance contracts issued for delivery on or after its date of enactment.

Section 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of 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 22, 1994.

CHAPTER 463
FORMERLY
HOUSE SUBSTITUTE NO. 1
TO

HOUSE BILL NO. 344
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE FRAUD,
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE
(Three-fifths of each House concurring therein):

Section 1. Amend Title 18 of the Delaware Code, by adding thereto a new
Chapter, designated as Chapter 24, which new chapter shall read as follows:

"Chapter 24. Insurance Fraud

- §2401. Title.
- §2402. Purpose.
- §2403. Definitions.
- §2404. Establishment of Delaware Insurance Fraud Prevention Bureau; Delaware Insurance Fraud Auxiliary Fund.
- §2405. Evidence, documentation, and related materials.
- §2406. Confidentiality.
- §2407. Insurance fraud.
- §2408. Duties of Insurers.
- §2409. Immunity.
- §2410. Other law enforcement authorities.
- §2411. Enforcement, investigations, hearings, administrative penalties, and appeals.
- §2412. Consent Orders.
- §2413. Criminal prosecution.
- §2414. Application of Administrative Procedures Act.

§2401. Title.

This Chapter shall be known as and may be cited as the Delaware Insurance Fraud Prevention Act.

§2402. Purpose.

The purpose of this Chapter is to confront aggressively the problem of insurance fraud in the State of Delaware by facilitating the detection of

insurance fraud, reducing the occurrence of such fraud through administrative enforcement and deterrence, requiring the restitution of fraudulently obtained insurance benefits, and reducing the amount of premium dollars used to pay fraudulent claims.

§2403. Definitions.

(a) "Attorney General" means the Attorney General of the State of Delaware or his/her designated representatives.

(b) "Authorized agency" means any appropriate law enforcement agency.

(c) "Bad Faith" means without any reasonable justification.

(d) "Bureau" means the Delaware Insurance Fraud Prevention Bureau established by this Chapter.

(e) "Director" means the Director of the Delaware Insurance Fraud Prevention Bureau.

(f) "Financial loss" includes, but is not limited to, loss of earnings, out of pocket and other expenses, repair and replacement costs and claims payments.

(g) "Insurer" includes, but is not limited to, an authorized insurer, self-insurer, reinsurer, broker, producer, or any agent thereof.

(h) "Practitioner" means a licensee of this State authorized to practice medicine, surgery, psychology, chiropractic or law or any other licensee or business of this State whose services are compensated, directly or indirectly, by insurance proceeds, or a licensee similarly licensed in any other state, or the practitioner of any non-medical treatment rendered in accordance with a recognized religious method of healing.

(i) "Statement" includes, but is not limited to, any notice statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, x-rays, test result or other evidence of loss, injury or expense.

§2404. Establishment of Delaware Insurance Fraud

Prevention Bureau: Delaware Insurance Fraud Auxiliary Fund.

(a) The Delaware Insurance Fraud Prevention Bureau is hereby established within the Department of Insurance and authorized to employ investigators and appropriate support staff as is necessary to carry out its mandate.

(b) The Commissioner shall appoint the full time supervisory and investigative personnel of the Bureau including the Director and Chief Investigator, who shall hold their employment at the pleasure of the Commissioner and who shall be qualified by training and experience to perform the duties of their positions. The Commissioner shall also appoint the clerical and other staff necessary for the Bureau to fulfill its responsibilities under this Chapter.

(c) It shall be the duty of the Bureau:

(1) To initiate independent inquiries and conduct independent investigations when the Bureau has cause to believe that an act of insurance fraud has been, or is currently being committed;

(2) To review reports or complaints of alleged insurance fraud from federal, state and local police, other law enforcement authorities, governmental agencies or units, insurers, and the general public and to determine whether such reports require further investigation and to conduct such investigations; and

(3) To conduct independent examinations of insurance fraud, and undertake independent studies to determine the extent of insurance fraud.

(d) There is hereby created within the Bureau a special revolving fund to be designated as the Delaware Insurance Fraud Auxiliary Fund which shall be used by the Bureau in the performance of the various functions and duties required of the Bureau by law.

§2405. Evidence, documentation, and related materials.

(a) If the Bureau seeks evidence, documentation, or related materials located within this State pertinent to an investigation or examination which

is in the possession or control of an insurer or an employee of an insurer, the Bureau may by request or subpoena gain access to the material. The person so requested or subpoenaed shall either make the material available to the Bureau, or shall make the matter available for inspection or examination by a designated representative of the Bureau. In the event of non-compliance with the Bureau's subpoena, the Superior Court of the State of Delaware shall have exclusive jurisdiction to enforce such subpoena in appropriate circumstances on proper application of the Bureau. In such enforcement proceedings the Respondent may assert, and the Superior Court shall honor, any claims of privilege otherwise available to the Respondent under the statutory and common law of the State of Delaware.

(b) If the Bureau seeks evidence, documentation, or related materials located outside this State pertinent to an investigation or examination, the Bureau may designate representatives or deputies, including officials of the State where the matter is located, to secure or inspect the evidence, documentation or materials on its behalf.

§2406. Confidentiality and immunity from subpoena.

(a) All papers, records, documents, reports, materials or other evidence relevant to an insurance fraud investigation or examination shall remain confidential and shall not be subject to public inspection so long as the Bureau deems it is reasonably necessary to protect the privacy of the person or matter investigated or examined, to protect the person furnishing the material, or to be in the public interest.

(b) Such papers, records, documents, reports, materials or other evidence relevant to an insurance fraud investigation or examination shall not be subject to subpoena until opened for public inspection by the Bureau.

§2407. Insurance fraud.

(a) It shall be a fraudulent insurance act for a person to knowingly, by act or omission, with intent to injure, defraud or deceive:

(1) Present, cause to be presented, prepare, assist, abet, solicit, or conspire with another to prepare or make any oral or written statement with knowledge or belief that it will be presented to an insurer in connection with, or in support of, any application for the issuance of an insurance policy, containing false, incomplete, or misleading information concerning any fact material to the application for issuance of an insurance policy;

(2) Prepare, present or cause to be presented to any insurer, any oral or written statement including computer-generated documents as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, containing false, incomplete or misleading information concerning any fact material to such claims; or

(3) Assist, abet, solicit, or conspire with another to prepare or present any oral or written statement, including computer-generated documents, that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, which contains false, incomplete or misleading information concerning any fact material to the claim.

(b) It shall be a fraudulent insurance act for a practitioner to knowingly and willfully assist, conspire with, or urge any person to violate any of the provisions of this Chapter, or for any person who due to such assistance, conspiracy or urging by said practitioner, knowingly and willfully benefits from the proceeds derived from the use of the fraud.

(c) It shall be a fraudulent insurance act for any insurer or any person acting on behalf of such insurer to knowingly, by act or omission, with intent to injure, defraud or deceive:

(1) Present or cause to be presented to an insurance claimant false, incomplete or misleading information regarding the nature, extent and terms of insurance coverage which may or might be available to such claimant under any policy of insurance, whether first or third party.

(2) Present or cause to be presented to any insurance claimant false, incomplete or misleading information regarding or affecting in any fashion the extent of any claimant's right to benefit under, or to make a claim against, any policy of insurance whether first or third party.

§2408. Duties of Insurers.

Any insurer which has a reasonable belief that an act of insurance fraud is being, or has been, committed shall send to the Bureau, on a form prescribed by the Bureau, any and all information and such additional information relating to such act as the Bureau may require.

§2409. Immunity.

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

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

(2) for any information relating to the suspected fraudulent insurance acts furnished to or received from other persons in this Title; or

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

§2410. Other law enforcement authorities.

This Chapter shall not:

(1) Pre-empt the authority or relieve the duty of any other law enforcement agency to investigate, examine, and prosecute suspected violations of law;

(2) Prevent or prohibit a person from voluntarily disclosing any information concerning insurance fraud to any law enforcement agency other than the Bureau; or

(3) Limit any of the powers granted elsewhere by the laws of this State to the Commissioner of Insurance or the Department of Insurance to investigate and examine possible violations of law and to take appropriate action.

§2411. Enforcement, investigations, hearings, administrative penalties, and appeals.

(a) The matters of enforcement, investigations, hearings, administrative penalties and appeals shall be conducted in accordance with Chapter 3 of this Title and Chapter 101 of Title 29 of the Delaware Code to the extent that such provisions are not in conflict with the provisions set forth in this Chapter.

(b) Upon a showing by a clear and convincing evidence that a violation of this Chapter has occurred, the Commissioner may impose an administrative penalty of not more than \$10,000 for each act of insurance fraud. An act of insurance fraud may be one of several such acts which taken

together comprise a fraudulent insurance scheme. Assessment of the administrative penalty shall be determined by the nature, circumstances, extent and gravity of the act or acts of insurance fraud, any prior history of such act or acts, the degree of culpability, and such other matters as justice may require.

(c) In the event of nonpayment of the administrative penalty after all rights of appeal have been waived or exhausted, a civil action may be brought by the Commissioner in Superior Court for the collection of the administrative penalty, including interest, attorneys' fees and costs, in the following manner:

(1) A praecipe and complaint shall be filed setting forth that Administrative action was taken against the Defendant in accordance with this Chapter, that the Defendant either voluntarily entered into a Consent Order which called for the payment of a specified monetary penalty, or in the alternative, that after proper notice and hearing, the Defendant was determined to be in violation of this Chapter and that by Order of the Commissioner a specified monetary penalty had been assessed against the Defendant, that all rights of appeal have been waived or exhausted, and that payment in full has not been made in accordance with the terms of the Consent Order or other Order of the Commissioner. The Department shall attach to the complaint a certified copy of that Consent Order or other Order of the Commissioner.

(2) The Court shall enter judgment in favor of the Department for the amount specified in the Complaint upon the Department establishing the following:

a. The Defendant is the same person against whom the Consent Order or other Order of the Commissioner applies; and

b. Payment in full has not been made by or on behalf of the Defendant according to the terms of the Consent or other Order of the Commissioner.

(3) Any judgment entered shall be final to the same extent as a judgment entered after trial.

(4) Except as otherwise provided in this section the Superior Court Civil Rules shall govern these proceedings.

(d) Any person who is found to have committed an act of insurance fraud, or violated an order of the Commissioner pursuant to a hearing, shall be liable for costs incurred by the Bureau. The assessment for costs shall be 15% of each penalty assessed pursuant to this section.

(e) In addition to the above, the Commissioner shall have authority to order restitution to the insurer of any insurance proceeds paid pursuant to a fraudulent claim.

(f) The expenses or administrative penalties collected by the Bureau under this Chapter are appropriated to the Bureau in accordance with §2404 of this Chapter. All monies received by the Commissioner from insurers and agents pursuant to this Chapter shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Delaware Insurance Fraud Auxiliary Fund. All such monies which are deposited in the Auxiliary Fund shall be appropriated to the Bureau to be used exclusively for the support of the Bureau.

§2412. Consent Orders.

Any person so requested may enter into a Consent Order whereby such person, without admitting the conduct complained of, consents to the imposition of an administrative penalty and when so requested agrees to cease and desist the acts or omissions complained of.

§2413. Criminal Prosecution.

The imposition of any fine or other sanction under this Chapter shall not preclude prosecution for a violation of any of the criminal laws of this State.

§2414. Application of Administrative Procedures Act.

Except as otherwise provided in this Chapter, the State Administrative Procedures Act (Chapter 101 Of Title 29 of the Delaware Code) applies to and governs all administrative actions taken by the Bureau."

Section 2. The provisions of this Act shall expire three years from the effective date of its enactment.

Section 3. Amend Chapter 5, Title 18 of the Delaware Code by striking in its entirety section 533 thereof.

Section 4. Assessments. The costs of administration and operation of the Delaware Insurance Fraud Prevention Bureau shall be borne by all of the insurers and agents admitted to transact the business of insurance in this State. The Commissioner shall divide these costs among all of the insurers and agents, assessing \$250 annually against each insurer and \$10 annually against each agent to provide the funds necessary for three fiscal years of operation of the Bureau after its initial start-up date. To the extent the assessments against insurers and agents are not sufficient to fund the entire operation of the Bureau, other monies appropriated to the Department, if available, may be used, at the Commissioner's discretion, to fund those operations not covered by the assessments.

Section 5. Severability. If any provision of this Act or application thereof to any person, entity or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act and to this end the provisions of this Act are severable.

Section 6. Authorization. The Controller General and the Budget Director shall be authorized to create the positions necessary to carry out the mandate of this Act.

Approved July 22, 1994.

CHAPTER 464

FORMERLY

HOUSE BILL NO. 247
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14, DELAWARE CODE, BY ADDING A NEW CHAPTER 16 AND BY AMENDING CHAPTERS 13 AND 17, RELATING TO THE ESTABLISHMENT OF A COMPREHENSIVE STATEWIDE PROGRAM TO IMPROVE STUDENT DISCIPLINE IN THE PUBLIC SCHOOLS.

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

Section 1. Amend Title 14, Delaware Code by adding thereto a new Chapter 16 to read as follows:

"CHAPTER 16. COMPREHENSIVE SCHOOL DISCIPLINE IMPROVEMENT PROGRAM

§1601. Purpose.

It is the purpose of this chapter to provide for the establishment of a statewide comprehensive program to improve student discipline in the public elementary and secondary schools of the State. The program shall provide for the treatment of pupils who are exhibiting discipline problems and for the establishment of services to school pupils which will reduce the rate and severity of discipline problems in the future. The program shall operate under the supervision and direction of the State Board of Education.

§1602. Appropriation.

The General Assembly shall annually provide an appropriation for the operation of the Comprehensive School Discipline Improvement Program in the Budget Appropriation Bill. From the funds appropriated, the State Board may allocate funds to the public school districts for the financial support of various components of the program.

§1603. Rules and regulations.

The State Board of Education shall, from time to time, adopt and promulgate such rules and regulations as will be necessary for the implementation of the program authorized by this chapter.

§1604. Treatment of severe discipline problems component.

The State Board of Education shall establish a program component which will provide alternative educational and related services for the more severe discipline problems in the public schools. This component will serve primarily secondary school students, including but not limited to: youngsters who have been expelled from regular schools, students who may be subject to expulsion, and others who have serious violations of the local school district discipline code. The State Board of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations:

(a) School districts shall make application to the State Board of Education for funding to implement programs authorized under this section. Preference shall be given to applications from consortia of school districts. 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 consortia of school districts within a county.

(b) Any application submitted under this section shall specify the types and level of services to be provided and an estimate of the number of youngsters to be served. The application shall also include a budget of proposed expenditures during a fiscal year. That budget shall indicate, at a minimum, the funds being requested from appropriations authorized under this section and funds to be obtained from all other sources.

(c) All applications submitted to the State Board of Education under this section shall indicate an agreement to fund at least thirty (30) percent of the total cost of services provided from sources of funding other than those authorized under this section.

(d) All projects funded under this section shall submit an annual evaluation report on the effectiveness of the program to the State Board of Education. Such report shall incorporate the data and information specified by the State Board.

(e) School districts shall be permitted to use funds collected in accordance with the provisions of Chapter 6 of this title to make tuition payments for youngsters assigned to programs authorized under this section.

(f) Nothing in this section shall prohibit a consortia of school districts from contracting for educational or related services with public or private agencies when operating programs authorized under this section.

(g) The provisions of §4130 of this title shall not apply to youngsters enrolled in programs authorized under this section.

§1605. School and district level component.

The State Board of Education shall be authorized to approve and provide financial support for programs to provide alternative educational and related services to disruptive students in the public schools. This component will serve students, in schools enrolling pupils in grades 6 through 12, who are causing disruptions in the regular classes to which they are assigned. Services may be delivered in a variety of modes with students assigned to the specific programs for short or long-term assistance. Programs authorized under this section could also serve as a transition for youngsters returning from programs operated under the provisions of §1604 of this title. The State Board of Education shall provide rules and regulations for the conduct of programs authorized under this section subject to the following limitations.

(a) School districts shall be permitted to use personnel authorized by any of the provisions of this title to establish alternative educational and related service programs for disruptive students. Such personnel shall continue to be paid in accordance with salary schedules specified in Chapter 13 of this title.

(b) In the event that a school district uses personnel authorized under various sections of this title to establish and operate a program for disruptive students, the district may elect to employ two service aides or two instructional aides, paid in accordance with §1324 of this title, in lieu of one staff member paid in accordance with §1305 of this title.

(c) Any school which enrolls pupils in at least two of the grades 6 through 12 and which establishes a program for disruptive students in accordance with the provisions of this section and the rules and regulations of the State Board of Education may make application to the State Board for an incentive grant to help defray the cost of operating such program. No school may qualify for more than one incentive grant per fiscal year, and all applications for such grants must have the prior approval of the board of education of the school district in which the applicant school is located. The maximum dollar value of an incentive grant shall be specified in the annual Budget Appropriation Bill. Funds available to the State Board of Education shall be allocated on a competitive basis if in any fiscal year more schools are eligible for funding than there are funds appropriated for the incentive grants.

(d) Funds provided to a school under an incentive grant provided under subsection (c) of this section may be used for any purpose that Division I or II funds may be used, provided, however, that such funds shall not be used to pay salaries to employees beyond the state-supported salaries specified in Chapter 13 of this title.

(e) Nothing in this section shall prohibit a school or school district from contracting for educational or related goods and services with the incentive funds authorized in accordance with the provisions of subsection (c) of this section.

(f) All schools receiving an incentive grant pursuant to subsection (c) of this section shall submit an annual evaluation report on the effectiveness of the program to the State Board of Education. The report shall be in a format and shall include the data and information specified by the State Board.

§1606. State Board waiver authority.

The State Board of Education shall have the authority to waive or suspend provisions of the Delaware Code in the implementation of programs authorized under this chapter, provided, however, that such waiver or suspension of a provision of the Code shall not result in an increased financial obligation to the State of Delaware. The State Board of Education is also authorized to waive or suspend its rules and regulations in order to maximize the projected impact of programs authorized under this chapter.

§1608. Interagency cooperation.

The State Board of Education and the public school districts are to work cooperatively with other State agencies, particularly the Department of Health and Social Services and the Department of Services for Children, Youth and Their Families, in the development and implementation of programs authorized under this chapter. The intent of such cooperation is to avoid redundancy in services and to maximize the impact of resources authorized under this chapter."

Section 2. Amend Chapter 17, Title 14, Delaware Code by adding thereto a new section to read as follows:

"§1723. Comprehensive school discipline improvement programs.

In addition to the funds appropriated to school districts by other sections of this chapter, school districts shall be eligible to make application to the State Board of Education for the development and implementation of school discipline improvement programs as specified in Chapter 16 of this title."

Section 3. The provisions of this Act are severable. If any provision of this Act or its application to any person or circumstance is held to be invalid, that invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application.

Section 4. Prevention Component. There is a need in Delaware to establish a program to offer prevention-related student support services ("prevention services") to youngsters so as to prevent them from becoming discipline problems in our schools. In the long run, addressing the root causes of discipline problems is much more cost-effective than trying to deal with them after they occur. However, the establishment of a program that will effectively deliver necessary prevention services in a cost-effective manner requires careful planning and coordination among school districts, State and local government agencies, community organizations and private, non-profit agencies. Ideally, the roles of these various agencies would be identified and coordinated into a plan for delivering prevention services that maximizes the impact of the limited resources available for such services by avoiding duplication of effort. To begin to address this need in Delaware, in fiscal year 1995, the Family Services Cabinet Council (the "Council") shall develop comprehensive plans for delivering such prevention services in three communities in Delaware using the coordinated efforts of school districts, State and local government agencies, community organizations and private, non-profit agencies. The Council, with the Department of Public Instruction and the Department of Services to Children, Youth and Their Families acting as lead agencies, shall establish a process for identifying three communities with which to undertake this joint community-Council planning process. Applications by communities wishing to participate in the planning process shall be made by school districts in accordance with standards and a timetable established by the Council. Each application shall set forth a preliminary plan by the community to establish an integrated plan to deliver prevention services, including, but not limited to: outreach programs to promote parental, family and community involvement in reducing and resolving school discipline problems; school-linked support services to help youngsters with family or health problems that may be adversely affecting their academic performance and their conduct at school; training to help students and school personnel resolve conflicts peacefully and non-disruptively; and assistance, through training and other methods, to help teachers better manage the behavior of students in their classrooms. In selecting the three communities to be included in the planning process, the Council shall give preference to applications submitted by two or more school districts working in concert, where appropriate. The Council shall also give preference to applications

in which the applicant's preliminary plan includes private, non-profit agencies and community organizations as partners in the application and identifies the roles those agencies and organizations are to play in delivering prevention services in the community; indicates how grants from the Federal government and foundations will be used or sought to help deliver prevention services in the community; and expresses an intent to use the services of State and local agencies as part of their prevention plan and identifies the roles those agencies are to play in delivering prevention services in the community. The timetable established by the Council shall require that the three comprehensive plans be completed no later than January 15, 1995, so that adequate consideration may be given by the Council to funding pilot projects based on the plans in the three communities using such funds as are appropriated for such purpose in the fiscal year 1995 annual appropriations bill."

Approved July 22, 1994.

CHAPTER 465

FORMERLY

HOUSE BILL NO. 596
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 25 OF THE DELAWARE CODE RELATING TO MORTGAGE SATISFACTIONS.

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

Section 1. Amend Chapter 21, Title 25 of the Delaware Code by adding a new §2120 which shall read as follows:

"§2120. Authorization to satisfy mortgage.

(a) An attorney authorized to practice law in the State of Delaware who has paid in full or caused to be paid in full a debt owed by any debtor to any creditor holding a mortgage securing such debt and encumbering a property owned by the debtor, may, at any time after the expiration of four (4) months after such debt has been paid in full, and after giving a minimum of fifteen (15) days notice to said creditor, record with the Recorder of Deeds in the County in which such property is located, an affidavit and request which shall contain the following information:

- (1) the mortgage record, volume and page of the mortgage proposed to be marked fully paid and satisfied;
- (2) the full name and address of the original mortgagee;
- (3) the name of the original mortgagor(s);
- (4) the original date of the mortgage;
- (5) the original amount of the mortgage;
- (6) a satisfactory description of the property which is encumbered by the mortgage, including, but not limited to:
 - (a) the property address and/or lot number;
 - (b) subdivision name, if any, and;
 - (c) the tax parcel number assigned to such property;
- (7) the name of each entity to whom the mortgage was subsequently assigned, together with the dates and recording information of said assignments;
- (8) the full name and address of the last mortgagee in interest which appears of record on the mortgage;
- (9) the full name and address of the creditor who was fully paid;
- (10) if the fully paid creditor is other than the last mortgagee of record on the date of said payment, a statement that the attorney whose signature appears on the affidavit was given written authorization by said last mortgagee to pay said creditor;
- (11) if the mortgage secured a home equity or other consumer open line of credit, affiant attorney, where requested in writing by the mortgagee, shall, also in writing, instruct said mortgagee to close, effective upon the date and time of receipt of the mortgage "payoff figure" the open line of credit and that no additional funds are to be advanced under the open line of credit;
- (12) the date on which the debt was fully paid;

- (13) that at least four months have elapsed since the debt was fully paid;
 - (14) that the affiant attorney has fully paid said debt to the creditor and retains evidence thereof;
 - (15) that after a minimum of fifteen (15) days notice, by certified mail, return receipts requested, the mortgagee of record at the time of the full payment described in the affidavit, has failed to accomplish satisfaction of the mortgage in the mortgage record, volume and page in which such mortgage appears in the public records;
 - (16) that the attorney requests the Recorder of Deeds in the County in which such property is located to indicate in the property records of that County that such mortgage is fully paid and satisfied;
 - (17) that the attorney whose signature appears on said affidavit has personally reviewed all of the information and each of the facts contained in said affidavit and request; and
 - (18) that the information contained in said affidavit and request is true and correct to the best of the attorney's knowledge.
- (b) The Recorder of Deeds, or a duly appointed deputy, in the County in which the debtor's property encumbered by such mortgage is located shall be authorized to cause said mortgage to be satisfied upon receipt of such affidavit and request by the attorney fully paying such debt.
- (c) The Recorder of Deed's Office may charge a fee for accepting and recording the affidavit and satisfying the mortgage.
- (d) This section shall, in no way, limit the authority of the Recorder of Deeds to otherwise satisfy mortgages as provided by law.
- (e) The following or substantially consistent revisions by the Recorder of Deeds shall be a sufficient form of mortgage satisfaction affidavit pursuant to this section:

AFFIDAVIT CERTIFYING MORTGAGE PAYOFF
AND REQUEST FOR MORTGAGE
SATISFACTION PURSUANT TO
25 DEL. C. §2119

STATE OF DELAWARE)

) SS.

NEW CASTLE COUNTY)

I, the undersigned, an attorney authorized to practice law in the State of Delaware, after having first been duly sworn, depose and say as follows:

- (1) The mortgage proposed to be marked fully paid and satisfied appears
In Mortgage Record____, Volume____, Page____;
- (2) The full name and address of the original mortgagee
is _____;
- (3) The name of the original mortgagor(s) is
(are)_____;

- (4) The original date of the mortgage is _____;
- (5) The original amount of the mortgage is _____;
- (6) A satisfactory description of the property which is encumbered by the mortgage, including, but not limited to the following is:
- (a) the property address and/or lot number is _____
_____;
- (b) subdivision name, if any, _____;
and _____
- (c) the county tax parcel number assigned to such property is _____;
- (7) After the original mortgage was recorded, the mortgage was subsequently assigned of record to each of the following entities on the date and at the Book and Page there noted:
- to _____ on _____ at Book/Volume _____ and Page No. _____
- to _____ on _____ at Book/Volume _____ and Page No. _____
- to _____ on _____ at Book/Volume _____ and Page No. _____
- to _____ on _____ at Book/Volume _____ and Page No. _____
- (8) The full name and address of the last mortgagee in interest on the mortgage is _____;
- (9) The full name and address of the creditor who was fully paid is _____;
- (10) _____, who is the creditor that was fully paid, is other than _____;
- the last mortgagee in interest which appeared of record on the date of said payment. I did, however, obtain the written authorization of _____ said _____ last mortgagee, to pay _____, the creditor noted at the beginning of this paragraph.
- (11) I have, where applicable, instructed the mortgagee, in writing, effective the date and time of receipt of the mortgage "payoff figure", to close and decline any further advances on the home equity or other consumer open line of credit which was secured by the affected mortgage.
- (12) The date on which the debt was fully paid is _____;
- (13) At least four months have elapsed since the debt was fully paid and the amount of the debt so paid is not in dispute;
- (14) I fully paid or caused to be fully paid such debt to the creditor and retain evidence of said payment;
- (15) After a minimum of fifteen (15) days notice by me, by certified mail, return receipt requested, the last mortgagee in interest has failed to take appropriate steps to accomplish satisfaction of the mortgage in the mortgage in the mortgage record, volume and page where such mortgage appears in the public records;
- (16) I request the Recorder of Deeds in _____ County to indicate in the record of said County that such mortgage is fully paid and satisfied;

- (17) I have personally reviewed all of the information and each of the facts contained in this affidavit and request; and
- (18) The information contained in this affidavit and request is true and correct to the best of my knowledge.
- (f) An affidavit given in the form above shall be notarized by a notary public."

Approved July 20, 1994.

CHAPTER 466

FORMERLY

SENATE BILL NO. 401
AS AMENDED BY SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTERS 13, TITLE 19 OF THE DELAWARE CODE RELATING TO THE RIGHT OF PUBLIC EMPLOYEES TO ORGANIZE FOR PURPOSES OF COLLECTIVE BARGAINING.

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

Section 1. Amend Chapter 13, Title 19 of the Delaware Code, by striking said Chapter in its entirety and substituting in lieu thereof a new Chapter 13 which shall be known as the "Public Employment Relations Act" and shall read as follows:

"CHAPTER 13. PUBLIC EMPLOYMENT RELATIONS ACT

§1301. Statement of policy.

It is the declared policy of the State and the purpose of this Chapter to promote harmonious and cooperative relationships between public employers and their employees and to protect the public by assuring the orderly and uninterrupted operations and functions of the public employer. These policies are best effectuated by:

- (1) Granting to public employees the right of organization and representation;
- (2) Obligating public employers and public employee organizations which have been certified as representing their public employees to enter into collective bargaining negotiations with the willingness to resolve disputes relating to terms and conditions of employment and to reduce to writing any agreements reached through such negotiations; and
- (3) Empowering the Public Employment Relations Board to assist in resolving disputes between public employees and public employers and to administer this Chapter.

§1302. Definitions.

- (a) 'Appropriate bargaining unit' or 'bargaining unit' means a group of public employees designated by the Public Employment Relations Board as appropriate for representation by an employee organization for purposes of collective bargaining.
- (b) 'Board' means the Public Employment Relations Board established by §4006 of Title 14 and made applicable to this Chapter by §1306 of this Title.
- (c) 'Certification' means official recognition by the Board, following a secret-ballot election, that an employee organization is the exclusive representative for all employees in an appropriate bargaining unit.
- (d) 'Collective bargaining' means the performance of the mutual obligation of a public employer through its designated representatives and the exclusive bargaining representative to confer and negotiate in good faith with respect to terms and conditions of employment, and to execute a written contract incorporating any agreements reached. However, this obligation does not compel either party to agree to a proposal or require the making of a concession.
- (e) 'Confidential employee' means any employee whose essential job function and advanced knowledge about the issues involved in collective bargaining would make it unduly burdensome for the employer to negotiate effectively if the employee were a member of an appropriate bargaining unit.

(f) 'Decertification' means the withdrawal by the Board of an employee organization's official designation as exclusive representative following a decertification election which shows that the exclusive representative no longer has the support of a majority of the members in an appropriate bargaining unit.

(g) 'Discretionary subject' means, for the State as an employer only, any subject covered by Merit Rules which apply pursuant to 29 Del.C. §5938(c), and which Merit Rules have been waived by statute.

(h) 'Employee organization' means any organization which admits to membership employees of a public employer and which has as a purpose the representation of such employees in collective bargaining, and includes any person acting as an officer, representative or agent of said organization.

(i) 'Exclusive bargaining representative' or 'exclusive representative' means the employee organization which as a result of certification by the Board has the right and responsibility to be the collective bargaining agent of all employees in that bargaining unit.

(j) 'Fact-finding' means the procedure by which a qualified impartial third party shall make written findings of fact and recommendations for resolution of an impasse.

(k) 'Impasse' means the failure of a public employer and the exclusive bargaining representative to reach agreement in the course of collective bargaining.

(l) 'Mediation' means an effort by an impartial third party confidentially to assist in reconciling an impasse between the public employer and the exclusive bargaining representative regarding terms and conditions of employment.

(m) 'Public employee' or 'employee' means any employee of a public employer except: (1) any person elected by popular vote or appointed to office by the Governor; (2) any person who is a prisoner or inmate or who is otherwise held in lawful custody by an agency of the State; (3) any person appointed to serve on a board or commission; (4) any employee, as defined in Chapter 40 of Title 14 of a public school employer, as defined in Chapter 40 of Title 14; (5) any police officers and firefighters employed by the State or political subdivisions of the State or any agency thereof, or any municipal corporation, municipality, city or town located within the State or any agency thereof which, upon the affirmative legislative act of its common council or other governing body, has elected to come within Chapter 16 of this chapter, or which hereafter elects to come within Chapter 16 of this title. Any police officers and firefighters included in this subsection shall be subject to Chapter 16 of this title; (6) Confidential employees of the public employer; and (7) Supervisory employees of the public employer, provided, however, that any supervisory position in a bargaining unit deemed to be appropriate prior to the effective date of this Chapter shall so continue, unless said unit is decertified in accordance with §1311(b) of this Title, or is modified in accordance with procedures authorized by §1310(e) of this Title.

(n) 'Public employer' or 'employer' means the State, any county of the State or any agency thereof, and/or any municipal corporation, municipality, city or town located within the State or any agency thereof, which upon the affirmative legislative act of its common council or other governing body has elected to come within the former Chapter 13 of this title or which hereafter elects to come within this chapter, or which employs 100 or more full-time employees.

(o) 'Strike' means a public employee's failure, in concerted action with others, to report for duty, or his or her willful absence from his or her position, or his or her stoppage or deliberate slowing down of work, or his or her withholding in whole or in part from the full, faithful and proper performance of his or her duties of employment, or his or her involvement in a concerted interruption of operations of a public employer for the purpose of inducing, influencing or coercing a

change in the conditions, compensation rights, privileges or obligations of public employment; however, nothing shall limit or impair the right of any public employee to lawfully express or communicate a complaint or opinion on any matter related to terms and conditions of employment.

(p) 'Supervisory employee' means any employee of a public employer who has the authority, in the interest of the public employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such actions, if the exercise of such authority is not a merely routine or clerical nature, but requires the use of independent judgement.

(q) 'Terms and conditions of employment' means matters concerning or related to wages, salaries, hours, grievance procedures and working conditions; provided, however, that such term shall not include those matters determined by this Chapter or any other law of the State to be within the exclusive prerogative of the public employer.

§1303. Public employee rights.

Public employees shall have the right to:

(1) Organize, form, join, or assist any employee organization except to the extent that such right may be affected by a collectively bargained agreement requiring the payment of a service fee as a condition of employment.

(2) Negotiate collectively or grieve through representatives of their own choosing.

(3) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by this Chapter or any other law of the State.

(4) Be represented by their exclusive representative, if any, without discrimination.

§1304. Employee organization as exclusive representative.

(a) The employee organization designated or selected for the purpose of collective bargaining by the majority of the employees in an appropriate collective bargaining unit shall be the exclusive representative of all the employees in the unit for such purpose and shall have the duty to represent all unit employees without discrimination. Where an exclusive representative has been certified, a public employer shall not bargain in regard to matters covered by this Chapter with any employee, group of employees or other employee organization.

(b) Nothing contained in this Section shall prevent employees individually, or as a group, from presenting complaints to a public employer and from having such complaints adjusted without the intervention of the exclusive representative for the bargaining unit of which they are a part, as long as the representative is given an opportunity to be present at such adjustment and to make its view known, and as long as the adjustment is not inconsistent with the terms of an agreement between the public employer and the exclusive representative which is then in effect. The right of the exclusive representative shall not apply where the complaint involves matters of personal, embarrassing and confidential nature, and the complainant specifically requests, in writing, that the exclusive representative not be present.

(c) Upon the written authorization of any public employee within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues or service fee as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative. Such authorization is revocable at the employee's

written request. Such deduction shall commence upon the exclusive representative's written request to the employer. Such right to deduction shall be in force for so long as the employee organization remains the exclusive bargaining representative for the employees in the unit. The public employer is expressly prohibited from any involvement on the collection of fines, penalties or special assessments levied on members by the exclusive representative. representative's written request to the employer.

§1305. Public employer rights.

A public employer is not required to engage in collective bargaining on matters of inherent managerial policy, which include, but are not limited to, such areas of discretion or policy as the functions and programs of the public employer, its standards of services, overall budget, utilization of technology, the organizational structure and staffing levels, and the selection and direction of personnel.

§1306. Public Employment Relations Board.

The Board, established by §4006 of Title 14, known as the 'Public Employment Relations Board', shall be empowered to administer this Chapter under the rules and regulations which it shall adopt and publish.

§1307. Unfair labor practices.

(a) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

(1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this Chapter.

(2) Dominate, interfere with or assist in the formation, existence or administration of any labor organization.

(3) Encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure or other terms and conditions of employment.

(4) Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint, or has given information or testimony under this Chapter.

(5) Refuse to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit, except with respect to a discretionary subject.

(6) Refuse or fail to comply with any provision of this Chapter or with rules and regulations established by the Board pursuant to its responsibility to regulate the conduct of collective bargaining under this Chapter.

(7) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

(8) Refuse to disclose any public record as defined by Chapter 100 of Title 29.

(b) It is unfair labor practice for a public employee or for an employee organization or its designated representative to do any of the following:

(1) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under this Chapter.

(2) Refuse to bargain collectively in good faith with the public employer or its designated representative if the employee organization is an exclusive representative.

(3) Refuse or fail to comply with any provision of this Chapter or with rules and regulations established by the Board pursuant to its

responsibility to regulate the conduct of collective bargaining under this Chapter.

(4) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

(5) Distribute organizational literature or otherwise solicit public employees during working hours in areas where the actual work of public employees is being performed in such a way as to hinder or interfere with the operation of the public employer. This paragraph shall not be construed to prohibit the distribution of literature during the employee's meal period or duty-free periods or in such areas not specifically devoted to the performance of the employee's official duties.

(6) Hinder or prevent, by threats, intimidation, force or coercion of any kind the pursuit of any lawful work or employment by any person, or interfere with the entrance to or egress from any place of employment.

§1308. Disposition of complaints.

(a) The Board is empowered and directed to prevent any unfair labor practice described in §1307 (a) and (b) of this Title and to issue appropriate remedial orders. Whenever it is charged that anyone has engaged or is engaging in any unfair practice as described in §1307(a) and (b) of this Title, the Board or any designated agent thereof shall have authority to issue and cause to be served upon such party a complaint stating the specific unfair practice charge and including a notice of hearing containing the date and place of hearing before the Board or any designated agent thereof. Evidence shall be taken and filed with the Board.

(b)(1) If, upon all the evidence taken, the Board shall determine that any party charged has engaged or is engaging in any such unfair practice, the Board shall state its findings of fact and conclusions of law and issue and cause to be served on such party an order requiring such party to cease and desist from such unfair practice, and to take such reasonable affirmative action as will effectuate the policies of this Chapter, such as payment of damages and/or the reinstatement of an employee; provided, however, that the Board shall not issue:

a. Any order providing for binding interest arbitration on any or all issues arising in collective bargaining between the parties involved; or

b. Any order, the effect of which is to compel concessions on any items arising in collective bargaining between the parties involved.

(2) If, upon the evidence taken, the Board shall determine that any party charged has not engaged or is not engaging in any such unfair practice, the Board shall state, in writing, its findings of fact and conclusions of law and issues and dismiss the complaint.

(c) In addition to the powers granted by this Section, the Board shall have the power, at any time during proceedings authorized by this Section, to issue orders providing such temporary or preliminary relief as the Board deems just and proper subject to the limitations of paragraph (b) of this Section.

§1309. Appeals: petitions for enforcement.

(a) Any party adversely affected by a decision of the Board under §1308 of this Title may appeal that decision to the Chancery Court of this State. Such an appeal must be filed within fifteen (15) days of the date upon which the decision was rendered and shall not automatically act as a stay.

(b) The Board may petition the Chancery Court of this State for enforcement of any order issued under §1308 of this Title.

§1310. Bargaining unit determination.

(a) An employee organization desiring to be certified as the exclusive representative shall file a petition with the Board, accompanied by the uncoerced signatures of at least thirty percent (30%) of the public employees in the unit claimed to be appropriate, indicating a desire to be represented for the purpose of bargaining collectively with the public employer.

(b) If the Board or its duly authorized designee determines that a petition is properly filed and is accompanied by the requisite number of valid signatures, the Board or its designee shall proceed toward defining the appropriate bargaining unit by setting a date for hearing on the matter. If a petition is not properly filed and/or if it is not accompanied by the requisite number of valid signatures, the Board or its designee shall dismiss the petition.

(c) After holding such hearings as it deems necessary the Board shall determine the appropriate bargaining unit. The Board may, by rule, delegate its unit definition authority to one or more of its members or to its Executive Director, provided that a unit definition order may be subject to review by the Board at the request of any party or upon the Board's own motion in accordance with rules and procedures established by the Board.

(d) In making its determination as to the appropriate bargaining unit, the Board or its designee shall consider community of interests including such factors as the similarity of duties, skills and working conditions of the employees involved; the history and extent of the employee organization; the recommendations of the parties involved; the effect of overfragmentation of bargaining units on the efficient administration of government; and such other factors as the Board may deem appropriate. The Board or its designee shall exclude supervisory employees from all appropriate units created subsequent to the effective date of this Chapter.

(e) Procedures for redefining or modifying a unit shall be set forth in the rules and procedures established by the Board.

(f) Any bargaining unit designated as appropriate prior to the effective date of this Chapter, for which an exclusive representative has been certified, shall so continue without the requirement of a review and possible redesignation until such time as a question concerning appropriateness is properly raised under this Chapter. The appropriateness of the unit may be challenged by the public employer, 30 percent (30%) of the members of the unit, an employee organization, or the Board not more than 180 days nor less than 120 days prior to the expiration of any collective bargaining agreement in effect on the date of the passage of this Chapter. The continued appropriateness of any bargaining unit designated as appropriate prior to the effective date of this Chapter, for which an exclusive representative is not certified, may be challenged by the public employer, 30 percent (30%) of the members of the unit, an employee organization, or the Board at any time up until thirty (30) days prior to the holding of an election to determine representation.

§1311. Determination and certification of exclusive representative.

(a) Any employee organization seeking certification as exclusive representative in a designated appropriate bargaining unit shall file a petition with the Board. The petition must contain the uncoerced signatures of at least 30 percent (30%) of the employees within the designated appropriate bargaining unit. If the designated appropriate bargaining unit is sufficiently similar to the bargaining unit claimed to be appropriate in the petition filed pursuant to §1310(a) of this Title, such that the signatures submitted at that time represent 30 percent (30%) of the employees within the designated appropriate bargaining unit, those signatures shall be deemed sufficient for the purpose of this subsection. If the designated bargaining unit is not sufficiently similar to the bargaining unit claimed to be appropriate, the employee organization may continue to rely on the previously submitted uncoerced signatures of the employees who are in the

designated bargaining unit and must supplement these signatures with uncoerced signatures of other employees within the designated appropriate bargaining unit, such that the signatures submitted represent at least 30 percent (30%) of the employees within the designated appropriate bargaining unit. No signature shall be considered valid if it was signed more than twelve (12) months prior to the date on which the petition is filed.

(b) Where an employee organization has been certified as the exclusive representative, a group of employees within the bargaining unit may file a petition with the Board for decertification of the exclusive bargaining representative. The petition must contain the uncoerced signatures of at least 30 percent (30%) of the employees within the bargaining unit and allege that the employee organization presently certified is no longer the choice of the majority of the employees in the bargaining unit. If a lawful collective bargaining agreement of no more than three (3) years' duration is in effect, no petition shall be entertained unless filed not more than 180 days nor less than 120 days prior to the expiration of such agreement. A decertification petition also may be filed if more than one year has elapsed from the date of certification of an exclusive bargaining representative and no collective bargaining agreement has been executed, and the procedures for mediation and fact-finding have been invoked and completed as provided in this Chapter.

(c) If the Board determines that a petition is properly supported, timely filed and covers the designated appropriate bargaining unit, the Board shall cause an election of all eligible employees to be held within a reasonable time after the unit determination has been made, in accordance with procedures adopted by the Board, to determine if and by whom the employees wish to be represented. The election ballot shall contain, as choices to be made by the voter, the name of the petitioning employee organization and the certified employee organization, the name or names of any other employee organization showing written proof of at least 10 percent (10%) representation of the public employees within the designated appropriate bargaining unit, in accordance with rules and procedures adopted by the Board, and a choice that the public employee does not desire to be represented by any of the named employee organization(s).

(d) The employee organization, if any, which receives the majority of the votes cast in an election shall be certified by the Board as the exclusive representative. In any election where there are more than two choices on the ballot and none of the choices receives a majority of the votes cast, a run-off election shall be conducted. The ballot in the run-off election shall contain the two choices on the original ballot that received the largest number of votes.

(e) No election shall be held pursuant to this Section within twelve (12) months from the date of a preceding valid election.

§1312. Employee organizations required to register and submit annual reports.

Every employee organization which has or seeks recognition as a representative of public employees under this Chapter shall file with the Board a registration report, signed by its president or other designated officer. Such report shall be updated on an annual basis by any organization which continues to have or seeks recognition, shall be in a form prescribed by the Board and shall be accompanied by two copies of the employee organization's constitution and bylaws. All changes or amendments to such constitutions and bylaws shall be promptly reported to the Board.

§1313. Collective bargaining agreements.

(a) Collective bargaining shall commence at least ninety (90) days prior to the expiration date of any current collective bargaining agreement or in the case of a newly certified exclusive representative within a reasonable time after certification.

(b) Negotiating sessions including strategy meetings of public employers, mediation and the deliberative process of fact-finders shall be exempt from Chapter 100 of Title 29. Hearings conducted by fact-finders shall be open to the public.

(c) The public employer and the exclusive bargaining representative shall negotiate written grievance procedures by means of which bargaining unit employees, through their collective bargaining representatives, may appeal the interpretation or application of any term or terms of an existing collective bargaining agreement; such grievance procedures shall be included in any agreement entered into between the public employer and the exclusive bargaining representative.

(d) Any contract or agreement reached between a public employer and any exclusive representative organization shall be for a minimum period of two (2) years from the effective date of such contract or agreement unless otherwise mutually agreed upon by the public employer and the exclusive representative.

(e) No collective bargaining agreement shall be valid or enforceable if its implementation would be inconsistent with any statutory limitation on the public employer's funds, spending or budget, or would otherwise be contrary to law.

(f) Public employers shall file with the Board a copy of any agreements that have been negotiated with public employee representatives following the consummation of negotiations. The Board shall maintain a current file of all such agreements.

§1314. Mediation

(a) If, after a reasonable period of negotiations over the terms of an agreement or after a reasonable time following certification of an exclusive representative, no agreement has been signed, the parties may voluntarily submit to mediation. If, however, no agreement is reached between the parties by sixty(60) days prior to the expiration date of an existing collective bargaining agreement, or, in the case of a newly certified exclusive representative, within sixty (60) days after negotiations have commenced, both parties shall immediately notify the Board of the status of negotiations.

(b) If the parties have not voluntarily agreed to enlist the services of a mediator and less than thirty (30) days remain before the expiration date of the existing collective bargaining agreement, or, in the case of a newly certified exclusive representative, more than ninety (90) days have elapsed since negotiations began, the Board must appoint a mediator if so requested by the public employer or the exclusive bargaining representative. The mediator shall be chosen from a list of qualified persons maintained by the Board, or upon agreement of the parties, from the Federal Mediation and Conciliation Service, and shall be representative of the public.

(c) If the labor dispute has not been settled after a reasonable period of mediation, during which both parties have made a good faith effort to settle their differences, the parties jointly or individually may petition the Board in writing to initiate fact-finding. In lieu of a petition, the mediator may inform the Board that further negotiations between the parties, at that time, are unlikely at to be productive and recommend that fact-finding be initiated. The public employer and the exclusive bargaining representative may initiate fact-finding at any time, by mutual agreement.

(d) Any costs involved in retaining a mediator to assist the parties in reaching a negotiated agreement shall be paid by the Board.

§1315. Fact-finding.

(a) Within seven (7) working days of receipt of a petition or recommendation to initiate fact-finding, the Board shall make a determination, with or without a formal hearing, as to whether a good faith effort has been made by both parties to resolve their labor dispute through negotiations and mediation and as to whether the

initiation of fact-finding would be appropriate and in the public interest; except that any discretionary subject shall not be subject to fact-finding.

(b) If the Board initiates fact-finding, the public employer and the exclusive bargaining representative may, by mutual agreement, select their own fact-finder.

(c) Where the parties have not selected their own fact-finder within seven (7) working days after the fact-finding has been initiated, the Board shall submit to the parties a list of nine (9) qualified, disinterested persons. Only those persons who possess the qualifications contained in §4006(d) of Title 14 will be considered minimally qualified and disinterested. Each party shall alternatively strike two names from the list. The order of striking shall be determined by lot. The remaining individual shall be designated the fact-finder.

(d) When the parties have not designated the fact-finder and notified the Board of their choice within five (5) working days after receipt of the list, the Board shall appoint the fact-finder from the list. However, if one of the parties strikes the names as prescribed in this Section and the other party fails to do so, the Board shall appoint the fact-finder only from the names remaining on the list.

(e) The fact-finder shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute and to render a recommendation on unresolved contract issues. The hearings shall be held at times, dates and places to be established by the fact-finder in accordance with rules promulgated by the Board. The fact-finder shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on his own behalf.

(f) The fact-finder shall make written findings of facts and recommendations for the resolution of the dispute; provided, however, that the recommendation shall be limited to a determination of which of the parties' last, best, final offers shall be accepted in its entirety. In arriving at recommendations, the fact-finder shall specify the basis for his or her findings, taking into consideration,

In addition to any other relevant factors, the following:

(1) The interests and welfare of the public.

(2) Comparison of the wages, salaries, benefits, hours and conditions of employment of the employees involved in the fact-finding proceedings with the wages, salaries, benefits, hours and conditions of employment of other employees performing the same or similar services or requiring similar skills under similar working conditions in the same community and in comparable communities and with other employees generally in the same community and in comparable communities.

(3) The overall compensation presently received by the employees inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the public employer.

(6) The financial ability of the public employer based on existing revenues, to meet the costs of any proposed settlements; provided, that, any enhancement to such financial ability derived from savings experienced by such public employer as a result of a strike shall not be considered by the fact-finder.

(7) Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding or

otherwise between parties, in the public service or in private employment.

In making recommendations, the fact-finder shall give due weight to each relevant factor. All of the above factors shall be presumed relevant. If any factor is found not to be relevant, the fact-finder shall detail in his or her findings the specific reason why that factor is not judged relevant in arriving at his or her recommendations. No single factor in this subsection shall be dispositive.

(g) Within thirty (30) days after the conclusion of the hearings but not later than 120 days from the day of appointment, the fact-finder shall serve his or her written findings of fact and recommendations for resolution of the dispute on the public employer, the certified exclusive representative and the Board.

(h) Not more than five (5) working days after the findings and recommendations have been served, the Board shall hold a meeting which shall include the fact-finder, representatives of the public employer and representatives of the exclusive bargaining representative, for the purposes of discussing the fact-finder's recommendations and determining whether the parties are able to conclude their labor dispute at that time with a voluntarily reached agreement.

(i) If the dispute continues, the Board shall forthwith publicize the fact-finder's findings of fact and recommendations along with position statements by the accepting and rejecting parties.

(j) The cost of fact-finding shall be borne equally by the parties involved in the dispute.

(k) Nothing in this Chapter shall be construed to prohibit or otherwise impede a public employer and certified exclusive representative from continuing to bargain in good faith over terms and conditions of employment or from using the services of a mediator at any time during the conduct of collective bargaining. If, at any point in the impasse proceedings invoked under this Chapter, the parties are able to conclude their labor dispute with a voluntarily reached agreement, the Board shall be so notified, and all impasse resolution proceedings shall be forthwith terminated.

§1316. Strikes prohibited.

(a) No public employee shall strike while in the performance of his or her official duties.

(b) No public employee shall be entitled to any daily pay, wages, reimbursement of expenses, benefits or any consideration in lieu thereof, for the days on which he engaged in a strike.

(c) Where a public employee has lost entitlement to any daily pay or other consideration pursuant to subsection (b) of this section, any agreement between such public employee or employee organization bargaining on his behalf and a public employer which provided for the direct or indirect restoration of such entitlement shall be void as against public policy.

§1317. Injunctions.

(a) Chancery Court is vested with the authority to hear and determine all actions alleging violations of §1316 of this Title. Suits to enjoin violations of §1316 of this Title will have priority over all matters on the Court's docket except other emergency matters.

(b) Where it appears that any public employee, group of employees, employee organizations or any officer or agent thereof, threaten or are about to do, or are doing, any act in violation of §1316 of this Title, the public employer may forthwith apply to the Court of Chancery for an injunction against such violation.

(c) If an order of the Court enjoining or restraining a violation of §1316 of this Title does not receive immediate compliance, the public

employer shall apply to the Court for appropriate contempt sanctions against any party in violation of such order. Upon a proper showing that any person or organization has failed to comply with such an order, the Court shall, in addition to any other remedy it deems appropriate, fine such violating party an amount on a daily, weekly or monthly basis without limitation as determined by the Court.

(d) In determining an appropriate amount for fines imposed pursuant to subsection (c) of this section, the Court shall consider and receive evidence of:

(1) The extent and value of services lost due to the violation of §1316 of this Title.

(2) Any unfair labor practices committed by either party during the collective bargaining process.

(3) The extent of the willful defiance or resistance to the Court's order.

(4) The impact of the strike on the health, safety and welfare of the public.

§1318. Status of existing exclusive representative.

An employee organization that has been certified as the exclusive representative of a bargaining unit deemed to be appropriate prior to the effective date of this Chapter shall so continue without the requirement of an election and certification until such time as a question concerning representation is appropriately raised under this Chapter in accordance with §1311(b) of this Title, or until the Board would find the unit not be appropriate in accordance with §1310(f) of this Title.

Section 2. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 3. This Act shall not apply to any contract negotiations between a public employer and its employees initiated, pending, or in litigation prior to the effective date of this Act.

Section 4. This Act shall be effective sixty (60) days following enactment into law.

Approved July 25, 1994.

CHAPTER 467
FORMERLY
SENATE SUBSTITUTE NO. 1
TO

SENATE BILL NO. 198
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTERS 16, 25, AND 58, TITLE 29, DELAWARE CODE AND CHAPTER 417, VOLUME 67, LAWS OF DELAWARE BY ESTABLISHING THE STATE PUBLIC INTEGRITY COMMISSION AND DEFINING ITS AUTHORITY AND RESPONSIBILITIES, AND THE DUTIES OF PERSONS SUBJECT TO ITS AUTHORITY.

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

Section 1. This Act shall be referred to as the "Public Integrity Act of 1994."

Section 2. Amend §5804(2), Title 29, Delaware Code by striking it in its entirety and substituting in lieu thereof a new §5804(2) as follows:

"(2) "Commission" means the State Public Integrity Commission established by this chapter."

Section 3. Amend §5804, Title 29, Delaware Code by adding thereto a new §5804(3) to read as follows and by renumbering the remaining subparagraphs:

"(3) "Commission Counsel" means the legal counsel appointed by the Commission pursuant to this chapter."

Section 4. Amend §5805(d), Title 29, Delaware Code by adding the following words at the end thereof: "Nor shall any former state employee, state officer or honorary state official disclose confidential information gained by reason of his public position nor shall he otherwise use such information for personal gain or benefit."

Section 5. Amend §5806(d), Title 29, Delaware Code by striking the word "subchapter" as it appears in the second sentence and replacing it with the word "chapter".

Section 6. Amend §5807(c), Title 29, Delaware Code by striking the word "subchapter" in the first sentence and replacing it with the word "chapter" and by adding the words "or a public officer as defined in §5812 of this chapter" between the words "state agency" and "," in the same sentence.

Section 7. Amend §5807(d), Title 29, Delaware Code by striking the word "subchapter" in subsection (d)(2) and replacing it with the word "chapter" and by adding a new subsection (d)(4) to read as follows:

"(4) The Commission shall prepare a summary of its advisory opinions for public distribution without disclosing the identity of the applicants."

Section 8. Amend §5808, Title 29, Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§ 5808. State Public Integrity Commission; establishment, membership, offices.

"(a) The State Ethics Commission is hereby renamed and reestablished as the State Public Integrity Commission to assume the functions of the State Ethics Commission and to administer and implement this chapter, and to perform such other responsibilities as may be entrusted to it by law.

(b) The Commission shall consist of 7 members appointed by the Governor with the concurrence of the Senate. Not more than 4 members shall be registered with the same political party. No member shall hold any elected or appointed office under the government of the United States or the State or be a candidate for any such office. No member shall hold any political party

office or an office in any political campaign. Members of the Commission may be removed by the Governor, with the concurrence of the Senate, for substantial neglect of duty, gross misconduct in office or violation of this chapter.

(c) A member of the Commission shall be appointed for a term of office of seven years and until his successor has been appointed and has qualified, except that initially the Commission shall consist of the members of the former State Ethics Commission as of the date of its renaming and reestablishment, and said members shall serve the remaining portion of their terms and until their successors have been appointed and have qualified. No member shall serve for more than 1 full 7-year term. When a vacancy occurs in the membership of the Commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as original appointments.

(d) The Commission shall elect a chairperson from among its membership. Four members of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least 4 members. Otherwise the Commission may delegate authority to the chairperson to act for the Commission between meetings.

(e) Each member of the Commission shall be compensated at the rate of \$100 for each day devoted to the performance of his or her official duties. Each member of the Commission shall be reimbursed for reasonable and necessary expenses incurred in the performance of official duties.

(f) The principal office of the Commission shall be in Dover but it may meet, and exercise its power, at any other place in the State."

Section 9. Amend Subchapter I, Chapter 58, Title 29, Delaware Code by adding new §§5808A and 5808B thereto to read as follows:

"§ 5808A. Commission Counsel; powers and duties.

"(a) There shall be a Commission Counsel who shall be the legal representative of the Commission and have the following powers and duties:

(1) To assist the Commission in preparing and publishing manuals and guides explaining the duties of individuals covered by this chapter and in other activities, such as seminars and workshops, educating individuals covered by this chapter about its requirements and purposes; and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.

(2) To provide legal counsel to the Commission concerning any matter arising in connection with the exercise of its official powers or duties.

(3) To review information coming to the attention of the Commission relating to potential violations of this chapter.

(4) To investigate information coming to the attention of the Commission that, if true, would constitute a violation of any provision of this chapter and/or to recommend that possible violations of these, or other State and federal laws, be referred by the Commission to the Attorney General or the United States Attorney for investigation and prosecution. Matters may be so referred to the Attorney General or the United States Attorney only upon a determination by at least a majority of the Commission that there are reasonable grounds to believe that a violation may have occurred.

(5) To prosecute disciplinary proceedings, if a determination has been made by at least a majority of the Commission that there are reasonable grounds to believe that a violation may have occurred, before the Commission and to assist the Commission in drafting educational materials, waiver decisions and advisory opinions.

(6) To employ and supervise staff necessary to perform his or her investigatory and prosecutorial functions.

CHAPTER 467
FORMERLY
SENATE SUBSTITUTE NO. 1
TO

SENATE BILL NO. 198
AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTERS 16, 25, AND 58, TITLE 29, DELAWARE CODE AND CHAPTER 417, VOLUME 67, LAWS OF DELAWARE BY ESTABLISHING THE STATE PUBLIC INTEGRITY COMMISSION AND DEFINING ITS AUTHORITY AND RESPONSIBILITIES, AND THE DUTIES OF PERSONS SUBJECT TO ITS AUTHORITY.

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Section 3. Amend §5804, Title 29, Delaware Code by adding thereto a new §5804(3) to read as follows and by renumbering the remaining subparagraphs:

"(3) "Commission Counsel" means the legal counsel appointed by the Commission pursuant to this chapter."

Section 4. Amend §5805(d), Title 29, Delaware Code by adding the following words at the end thereof: "Nor shall any former state employee, state officer or honorary state official disclose confidential information gained by reason of his public position nor shall he otherwise use such information for personal gain or benefit."

Section 5. Amend §5806(d), Title 29, Delaware Code by striking the word "subchapter" as it appears in the second sentence and replacing it with the word "chapter".

Section 6. Amend §5807(c), Title 29, Delaware Code by striking the word "subchapter" in the first sentence and replacing it with the word "chapter" and by adding the words "or a public officer as defined in §5812 of this chapter" between the words "state agency" and "," in the same sentence.

Section 7. Amend §5807(d), Title 29, Delaware Code by striking the word "subchapter" in subsection (d)(2) and replacing it with the word "chapter" and by adding a new subsection (d)(4) to read as follows:

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(b) The Commission shall consist of 7 members appointed by the Governor with the concurrence of the Senate. Not more than 4 members shall be registered with the same political party. No member shall hold any elected or appointed office under the government of the United States or the State or be a candidate for any such office. No member shall hold any political party

office or an office in any political campaign. Members of the Commission may be removed by the Governor, with the concurrence of the Senate, for substantial neglect of duty, gross misconduct in office or violation of this chapter.

(c) A member of the Commission shall be appointed for a term of office of seven years and until his successor has been appointed and has qualified, except that initially the Commission shall consist of the members of the former State Ethics Commission as of the date of its renaming and reestablishment, and said members shall serve the remaining portion of their terms and until their successors have been appointed and have qualified. No member shall serve for more than 1 full 7-year term. When a vacancy occurs in the membership of the Commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as original appointments.

(d) The Commission shall elect a chairperson from among its membership. Four members of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least 4 members. Otherwise the Commission may delegate authority to the chairperson to act for the Commission between meetings.

(e) Each member of the Commission shall be compensated at the rate of \$100 for each day devoted to the performance of his or her official duties. Each member of the Commission shall be reimbursed for reasonable and necessary expenses incurred in the performance of official duties.

(f) The principal office of the Commission shall be in Dover but it may meet, and exercise its power, at any other place in the State."

Section 9. Amend Subchapter I, Chapter 58, Title 29, Delaware Code by adding new §§5808A and 5808B thereto to read as follows:

"§ 5808A. Commission Counsel; powers and duties.

"(a) There shall be a Commission Counsel who shall be the legal representative of the Commission and have the following powers and duties:

(1) To assist the Commission in preparing and publishing manuals and guides explaining the duties of individuals covered by this chapter and in other activities, such as seminars and workshops, educating individuals covered by this chapter about its requirements and purposes; and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.

(2) To provide legal counsel to the Commission concerning any matter arising in connection with the exercise of its official powers or duties.

(3) To review information coming to the attention of the Commission relating to potential violations of this chapter.

(4) To investigate information coming to the attention of the Commission that, if true, would constitute a violation of any provision of this chapter and/or to recommend that possible violations of these, or other State and federal laws, be referred by the Commission to the Attorney General or the United States Attorney for investigation and prosecution. Matters may be so referred to the Attorney General or the United States Attorney only upon a determination by at least a majority of the Commission that there are reasonable grounds to believe that a violation may have occurred.

(5) To prosecute disciplinary proceedings, if a determination has been made by at least a majority of the Commission that there are reasonable grounds to believe that a violation may have occurred, before the Commission and to assist the Commission in drafting educational materials, waiver decisions and advisory opinions.

(6) To employ and supervise staff necessary to perform his or her investigatory and prosecutorial functions.

(7) To maintain permanent records of all advisory, waiver, investigatory and prosecutorial matters.

(8) To perform any other tasks requested by the Commission concerning any matter arising in connection with the exercise of its official powers or duties.

(b) The Commission Counsel may recuse from a matter before the Commission when, in the view of Commission Counsel or of the Commission, such recusal is deemed necessary or appropriate. In situations where Commission Counsel recuses, the duties of the Commission Counsel may be exercised by the Attorney General or by outside counsel chosen by the Commission."

§5808B. Commission Counsel's appointment contingent upon appropriations.

The Commission Counsel established by §5808A of this chapter shall not be appointed by the Commission until adequate funds have been appropriated for such purpose. In the absence of such appointment, the Attorney General shall provide legal assistance to the Commission and shall exercise any duties assigned to the Commission Counsel by this chapter. Such duties may also be exercised by outside counsel chosen by the Commission, if adequate funds are appropriated for such purpose."

Section 10. Amend §5809, Title 29, Delaware Code by striking the word "subchapter" wherever it appears in that section and replacing it with the word "chapter".

Section 11. Amend §5809(3), Title 29, Delaware Code by striking it in its entirety and substituting in lieu thereof a new subsection (3) to read as follows:

"(3) To refer to Commission Counsel to investigate any alleged violation of this chapter and, after notice and hearing, to recommend by resolution, such disciplinary action as it may deem appropriate to such appropriate official or agency as the Commission shall determine or to take such other disciplinary action as is authorized by §5810(d) of this chapter or other provisions of this Code. The Commission may also dismiss any complaint that it determines is frivolous or fails to state a violation."

Section 12. Amend §5809(11) and (12), Title 29, Delaware Code by striking them in their entirety and substituting in lieu thereof new subsections (11) and (12) as follows:

"(11) To prepare an annual report by March 1st of each year describing its activities for the previous year and to prepare such other reports and studies as may advance the purposes of this chapter.

(12) To appoint a lawyer admitted to practice in the State to serve as Commission Counsel."

Section 13. Amend § 5809, Title 29, Delaware Code by adding thereto new subsections (14),(15),(16) and (17) to read as follows:

"(14) To contract for any services which cannot satisfactorily be performed by the Commission Counsel or other Commission staff.

(15) Commencing January 15, 1995, to administer and implement the financial disclosure provisions of subchapter II of this chapter and to maintain the records filed pursuant thereto.

(16) Commencing January 15, 1996, to administer and implement the lobbyist registration provisions of this Code and to maintain the records filed pursuant thereto.

(17) To perform such other responsibilities as may be assigned to it by law."

Section 14. Amend the first two sentences of § 5810(a), Title 29, Delaware Code by striking them in their entirety and substituting in lieu thereof the following:

"Upon the sworn complaint of any person or on its own initiative, the Commission may refer to the Commission Counsel for investigation any alleged violations of this chapter. The Commission Counsel shall be the prosecuting attorney in disciplinary proceedings before the Commission."

Section 15: Amend §5810(b), (e) and (g), Title 29, Delaware Code by striking the word "subchapter" as it appears in those subsections and replacing it with the word "chapter".

Section 16: Amend §5810(f), Title 29, Delaware Code by deleting the words "Attorney General" and inserting the words "Commission Counsel" in lieu thereof.

Section 17. Amend §5810(h), Title 29, Delaware Code by striking §§5810(h)(1), (2) and (3) in their entirety and replacing them with a new §5810(h)(1) to read as follows and by renumbering the remaining subparagraphs:

"(1) All proceedings relating to a charged violation of this Chapter shall be maintained confidential by the Commission unless (i) public disclosure is requested in writing by the person charged; or (ii) the Commission determines after a hearing that a violation has occurred."

Section 18. Amend current §5810(h)(4), Title 29, Delaware Code by striking the words "paragraphs (1)-(3)" and replacing them with the words "paragraph (1)" and amend current §§5810(h)(4) and (5) by replacing the word "subchapter" wherever it appears with the word "chapter".

Section 19. Amend §5810A, Title 29, Delaware Code by striking the word "subchapter" as it appears in the first sentence and replacing it with the word "chapter".

Section 20. Amend §5812, Title 29, Delaware Code by adding thereto a new subsection (p) to read as follows:

"(p) "Commission" means the State Public Integrity Commission.

Section 21. Effective January 15, 1995, amend the second sentence of § 5813(a), Title 29, Delaware Code by striking the words "Controller General" and substituting in lieu thereof the word "Commission".

Section 22. Amend §5813(a)(4)e., Title 29, Delaware Code by adding a second sentence to §5813(a)(4)e. to read as follows:

"For purposes of compliance with this gift reporting obligation, the recipient may rely in good faith upon the representation of the source of the gift as to the gift's value."

Section 23. Effective January 15, 1995, amend §5813(d), Title 29, Delaware Code by striking it in its entirety and substituting in lieu thereof a new subsection (d) as follows:

"(d) Each report required by this section shall be filed with the Commission."

Section 24. Effective January 15, 1995, amend §5814, Title 29, Delaware Code by striking it in its entirety and substituting in lieu thereof a new section as follows:

"§5814. Retention of Reports.

(a) The Commission shall keep the reports required by this subchapter on file for so long as the person submitting such report is a public officer of this State, as defined in § 5812 of this title, and for at least 5 years thereafter. All reports on file with agencies other than the Commission as of January 15, 1995 shall be transferred to the Commission by April 15, 1995.

(b) The reports filed pursuant to this subchapter shall be made available at reasonable hours for public inspection and copying pursuant to Chapter 100 of this title."

Section 25. Amend §5815(c), Title 29, Delaware Code by striking it in its entirety and substituting in lieu thereof a subsection (c) as follows:

"(c) The Commission may refer to the Commission Counsel for investigation and/or may refer any suspected violation of this subchapter to the Attorney General for investigation and prosecution, provided, however, that the Commission shall refer any suspected violation of this subchapter by a member of the General Assembly or the Judiciary to the Attorney General, who shall have the exclusive authority to investigate and prosecute or otherwise recommend remedies or sanctions for such suspected violation."

Section 26. Amend §5823(b), Title 29, Delaware Code by inserting the words "Public Integrity Commission for investigation pursuant to §5810 of this title and/or to the" between the words "the" and "Office" as they appear therein.

Section 27. Amend §5805(a), §5806(d), §§5807(a) and (c) and the first sentence of §5809, Title 29, Delaware Code by striking the phrase "Ethics Commission" whenever it appears in the existing language and substituting in its place the word "Commission".

Section 28. Effective January 15, 1996, amend Title 29, Delaware Code by striking Chapter 16 in its entirety and adding a new subchapter IV to Chapter 58 to read as follows:

"SUBCHAPTER IV. Registration of Lobbyists

§ 5831. Definitions.

(a) As used in this subchapter, the following terms shall have the meanings indicated:

(1) "Lobbyist" means any individual who acts to promote, advocate, influence or oppose any matter pending before the General Assembly by direct communication with the General Assembly or any matter pending before a state agency by direct communication with that state agency, and who in connection therewith either:

a. Has received or is to receive compensation in whole or in part from any person; or

b. Is authorized to act as a representative of any person who has as a substantial purpose the influencing of legislative or administrative action; or

c. Expends any funds during the calendar year for the type of expenditures listed in subsection (b) of § 5835 of this title.

(2) "Compensation" means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employer" means any person on whose behalf a lobbyist acts.

(4) "Person" means any individual, partnership, corporation, trust, joint venture and any other association of individuals or entities."

(5) "General Assembly" includes any member, committee or subcommittee of either House of the General Assembly.

(6) "State agency" means any office, department, board, commission, committee, school district, board of education and all public bodies existing by virtue of an act of the General Assembly or of the Constitution of the State, excepting only political subdivisions of the State, their agencies and other public agencies not specifically included in this definition that exist by virtue of State law and whose jurisdiction:

a. Is limited to a political subdivision of the State or to a portion thereof; or

b. Extends beyond the boundaries of the State.

(7) "Matter" means any application, petition, request, business dealing, transaction or decision of any sort.

(8) "Commission" means the State Public Integrity Commission.

(9) "State employee" means person who receives compensation as an employee of a state agency (including the elected or appointed heads of such agencies) or who serves as an appointed member, trustee, director or the like of any state agency.

(b) Subparagraphs a. and b. of paragraph (1) of subsection (a) of this section shall not apply to:

(1) Persons performing professional services in drafting bills or regulations or in advising and rendering opinions to clients as to the construction or effect of proposed, pending or enacted legislation or regulations who do not otherwise act as lobbyists;

(2) Persons appearing pursuant to their official duties as employees or elected officials of the State, or any political subdivision thereof, or of the United States, and not as representatives of any other person; moreover, expenditures listed in §5835 of this Title made by such persons or their employers in connection with these official duties shall not qualify such persons as lobbyists under subparagraph c. of paragraph (1) of subsection (a) of this section.

(3) Persons who, in relation to the duties or interests of their employment or at the request or suggestion of their employer, communicate with the General Assembly or a state agency concerning any legislation, regulation or other matter before the General Assembly or such state agency, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of their employment;

(4) Persons communicating with the General Assembly or a state agency if such communication is undertaken by them as a personal expression and not as an agent of their employers as to matters of interest to a person by whom or by which they are employed and if they receive no additional compensation or reward, in money or otherwise, for or as a result of such communication;

(5) Persons testifying at public hearings conducted by the General Assembly or a state agency who do not otherwise act as lobbyists;

(6) Persons appearing on behalf of any religious organization with respect to subjects of legislation or regulation that directly relate to the religious beliefs and practices of that organization who do not otherwise act as lobbyists;

(7) Attorneys representing clients in administrative adjudications governed by the provisions of subchapter III of Chapter 101 of this title, representing clients before the Tax Appeals Board, or in other administrative procedures where *ex parte* communications with the state agency with authority over the matter are prohibited;

(8) Attorneys representing clients with regard to criminal or civil law enforcement proceedings, or in any judicial proceedings.

§ 5832. Registration of lobbyists with the State Public Integrity Commission.

(a) Every lobbyist shall register with the Commission in a lobbyist docket and file, at that time, the authorization from his employer as required by §5833 of this title. A person who qualifies as a lobbyist in accordance with §5831(a)(1)a. or b. of this title shall register prior to performing any acts as a lobbyist. A person who qualifies as a lobbyist in accordance with §5831(a)(1)c. of this title must register within 5 days after so qualifying, if not already registered as a lobbyist.

(b) The information recorded in the Commission's lobbyist docket shall include for each separate employer:

- (1) The name, residence or business address and occupation of each lobbyist;
- (2) The name and business address of the employer of such lobbyist;
- (3) The date on which the employment as lobbyist commenced;
- (4) The length of time the employment is to continue; and
- (5) The subject matter of legislation, regulation or administrative action as to which the employment relates at that time.

(c) Upon any change in the information recorded in the lobbyist docket, the lobbyist shall within 10 business days report such changes to the Commission, which shall record the change in the docket.

(d) The Commission shall promptly furnish copies of each entry in the lobbyist docket to the Chief Clerk of the House of Representatives, the Secretary of the Senate, the Governor and the head of any state agency upon request of such persons.

§ 5833. Employer's authorization to act.

Every employer of a lobbyist shall furnish to such lobbyist a written and signed authorization to act, which shall be filed with the Commission by the lobbyist at the time of registration or as soon as available and not later than 15 business days after the lobbyist has registered with the Commission. If the employer is a corporation, association or labor union, any authorized officer or agent who is not the lobbyist shall furnish and sign the written authorization. The authorization shall include the full and legal name and business address of both the employer and the lobbyist, the period of time during which the lobbyist is authorized to act and the subject or subjects of legislation, regulation or administrative action upon which the employer is represented.

§ 5834. Compensation of lobbyist not to be substantially dependent on outcome of legislative or administrative action.

No person shall employ a lobbyist nor shall any person be employed as a lobbyist pursuant to any compensation agreement that permits more than half of the compensation to be paid to such a lobbyist to be dependent upon the outcome of any legislative or administrative action.

§ 5835. Reports by lobbyists.

(a) On or before the twentieth day of the month following each calendar quarter, each lobbyist shall file a written report covering the immediately preceding calendar quarter and containing the information required by this subchapter.

(b) A lobbyist shall file separate reports for each employer which he or she represents. Each report shall contain the total expenditures during the reporting period for all direct expenditures, costs or values, whichever is greater, provided for members of the General Assembly or for employees or members of any state agency for the following:

- (1) Food and refreshment;
- (2) Entertainment, including the cost of maintaining a hospitality room;
- (3) Lodging expenses away from home;
- (4) Fair value of travel if the trip exceeds 100 miles;
- (5) Recreation expenses; and
- (6) Gifts or contributions, excluding political contributions as defined in Chapter 80 of Title 15 provided to members of the General Assembly.

(c) The information shall be reported on a form which shall be available from the Commission and shall show the total expenditures for the reporting period and shall also list the recipient any time the expenditures exceed \$50 per diem. The lobbyist shall also affirm that he or she has provided the recipient of any gift in excess of \$50 with a representation as to the value of the gift. The records shall be retained for a period of 4 years from the date of filing.

§ 5836. When registration, report or authorization is considered as filed; access to records.

(a) Any registration, report or authorization form shall be considered filed as of the date it is physically filed with the Commission or is mailed if sent by registered or certified mail.

(b) The lobbyist docket maintained by the Commission and any reports, authorizations or other documents filed with the Commission pursuant to this subchapter shall be made available at reasonable hours for public inspection and copying pursuant to Chapter 100 of this title.

§ 5837. Violation and penalties.

(a) Any person who knowingly fails to register as a lobbyist as required by this subchapter shall be guilty of a misdemeanor.

(b) Any person who knowingly furnishes false information in any registration, authorization or report required by this subchapter shall be guilty of a misdemeanor.

(c) Any person who fails to file an authorization or report as required by this subchapter shall be deemed to have voluntarily cancelled his or her registration as a lobbyist and shall be prohibited from reregistering or acting as a lobbyist until all delinquent authorizations and/or reports have been filed.

(d) The Commission may refer to the Commission Counsel for investigation and/or refer any suspected violation of this subchapter to the Attorney General for investigation and prosecution. The Speaker of the House, the presiding officer of the Senate, the Legislative Council or any member of the General Assembly shall refer, or any other person may refer, any suspected violation of this subchapter to the Commission and/or the Attorney General of the State.

(e) The Superior Court shall have exclusive jurisdiction over all offenses under this subchapter."

Section 29. Amend §2515, Chapter 25, Title 29, Delaware Code by designating the present section as subsection (a) and by adding subsection (b) thereof:

"(b) Notwithstanding §2507 of this title, the provisions of this chapter relating to the supplying of legal advice, counsel, services and representation in proceedings shall not apply to the State Public Integrity Commission established pursuant to chapter 58 of this title."

Section 30. Amend §1605(c), Chapter 16, Title 29, Delaware Code by adding a new sentence after the first sentence of §1605(c) to read as follows:

"The legislative agent shall also affirm that he or she has provided the recipient of any gift in excess of \$50 with a representation as to the value of the gift."

Section 31. The legislative agent reports on file with the Legislative Council as of January 15, 1996 shall be transferred to the Public Integrity Commission by April 15, 1996.

Section 32. This Act shall take effect July 15, 1994, except as to those sections where another effective date is expressly indicated.

Approved July 26, 1994.

CHAPTER 46B

FORMERLY

HOUSE BILL NO. 540

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE PRESERVATION OF INLAND BAYS, AND CREATING THE INLAND BAYS' WATERSHED ENHANCEMENT ACT.

WHEREAS, the deterioration of water quality and the loss of natural habitat threaten public health and the environment, the viability of the economic base, and the quality of life around Delaware's Inland Bays' watershed; and

WHEREAS, the Inland Bays watershed is affected by actions in many communities, by activities of many individuals, and by decisions made by many agencies and organizations; and

WHEREAS, since 1969, State of Delaware, federal government, and local officials, scientists, organizations, and citizens have worked to identify the most significant environmental programs affecting the Inland Bays' watershed, to investigate the causes of these problems, and to consent on the strategy for solving these problems; and

WHEREAS, for the past five years, participants in the Inland Bays Estuary Program have targeted nutrient overenrichment and habitat loss as priority environmental problems; and

WHEREAS, the Inland Bays Estuary Program has developed the Comprehensive Conservation and Management Plan (CCMP) to mitigate these priority problems; and

WHEREAS, commitments from federal, State, and local agencies and organizations responsible for the implementation of the CCMP are critical to its success; and

WHEREAS, hundreds of citizens have expressed strong support for the CCMP and its implementation to protect and restore the Inland Bays' watershed;

NOW, THEREFORE:

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

Section 1. AMEND Title 7 of the Delaware Code by creating a new Chapter 76, which new chapter shall read as follows:

"§7601. Title.

This chapter shall be known, and may be cited as 'The Inland Bays' Watershed Enhancement Act.'

§7602. Center For the Inland Bays.

(a) The Center For the Inland Bays is hereby created as a nonprofit organization. The Center shall apply for nonprofit status under the Federal Internal Revenue Service, U.S.C.A. The purpose of the Center shall be to oversee and facilitate the implementation of a long-term approach for the wise use and enhancement of the Inland Bays' Watershed.

(b) The Center shall receive federal funds for coordinating implementation of the federal Comprehensive Conservation and Management Plan (CCMP), and shall raise private grant monies to support educational activities, restoration and land acquisition efforts.

§7603. Board of Directors.

(a) The Center shall be administered by a 7 person Board of Directors consisting of the following members:

(1) Secretary of Delaware Dept. of Agriculture;

(2) Secretary of Delaware Department of Natural Resources and Environmental Control;

- (3) Representative from the Sussex Conservation District;
- (4) Administrator from Sussex County;
- (5) Representative from Sussex County Association of Towns;
- (6) Chair of the Inland Bays Scientific and Technical Advisory Committee; and
- (7) Chair of the Inland Bays Citizens Advisory Committee.

(b) The United States Environmental Protection Agency and other federal agencies may serve as non-voting, ex-officio members of the Board. In addition, the President Pro-Tem of the Delaware State Senate and the Speaker

of the Delaware State House of Representatives may each designate one non-voting, ex-officio member to the Board, which member shall be a resident of Sussex County.

(c) The Inland Bays Estuary Program and the Inland Bays Scientific and Technical Advisory Committee (STAC) and the Citizens Advisory Committee (CAC) shall continue to serve as formal advisory bodies to the Board.

§7604. Duties of the Board of Directors.

(a) The Board shall be responsible for the procurement and administration of federal and private monies secured to fulfill the responsibilities pursuant to the protection and restoration of the Inland Bays' watershed. The Board shall review and consider recommendations made by the Executive Director concerning priorities for protecting and restoring the Inland Bays' watershed and to oversee fundraising activities and the distribution of monies received.

(b) The Board of Directors shall oversee and facilitate the implementation of the CCMP upon its adoption, tracking and monitoring its progress leading to improvements to the Inland Bays, facilitating an ongoing dialogue on issues concerning their protection, educating the public and students about how to protect the Bays, and determining priorities for restoration, enhancement and land acquisition projects.

(c) Meetings of the Board of Directors shall be held at least quarterly, or as deemed necessary, and shall be open to the public and advertised according to Delaware law. Experts in various subject matters may be invited to address the Board of Directors as needed and appropriate.

(d) Staff support for the Board shall be provided by and Executive Director who will convene its meetings; develop and carry out its agreements; develop grant proposals and fundraising events to support its educational, restoration, and land acquisition activities; prepare solicitations for proposals and make recommendations for the award of grants for educational and restoration projects; prepare progress reports, work plans, and budgets for the Board's approval; support advisory committees; supervise staff, and perform other duties as assigned by the Board.

(e) The Board shall submit a progress report annually to the General Assembly. The General Assembly may order periodic general audits of the Center for the Inland Bays."

Approved July 26, 1994.

CHAPTER 469

FORMERLY

SENATE BILL NO. 381

AN ACT TO AMEND CHAPTER 43, TITLE 11 OF THE DELAWARE CODE RELATING TO SENTENCING, PROBATION, PAROLE AND PARDONS NOTIFICATION REQUIREMENTS.

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

Section 1. Amend Subchapter III, Chapter 43, Title 11 of the Delaware Code by adding a new section to read as follows:

"Section 4336. Community notice of offenders on probation, parole, conditional release, or release from confinement.

(a) Before any person who is serving a sentence imposed following a conviction for a sexual offense committed against a victim who is less than 16 years old, as set forth in Subpart D of Chapter 5 of this title, or following a conviction for any violent felony committed against a victim who is less than 16 years old, is placed on probation, conditional release or parole, or is otherwise released from confinement at Level V or IV, the Department shall cause notice of said release to be published at least twice in a newspaper of general circulation. Said newspaper shall have an average daily statewide circulation of at least 15,000 copies, and shall have an average daily circulation of at least 5,000 copies in the county in which the released person will reside upon release. The notice shall contain the released person's name, address upon release and a statement of the offenses for which he or she has been convicted, along with a statement that the victim of the offense was a child. If such person is being released from confinement at Level V or IV, such notice shall be published not more than 30 days before the release. If such person is being directly sentenced to probation at Levels III, II or I, such notice shall be published within 10 days of the sentencing.

(b) The Court in which the person described in subsection (a) sentenced shall designate for the Department of Corrections at the time of sentencing that notice in accordance with subsection (a) shall be required.

(c) The costs of the notice required by subsection (a) of this section shall be reimbursed to the Department by the person being placed on probation, conditional release, or otherwise released from confinement at Level V or IV, as a condition of release."

Approved July 27, 1994.

CHAPTER 470

FORMERLY

HOUSE JOINT RESOLUTION NO. 6

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1993.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "No appropriation, supplemental appropriation, or Budget Act shall cause the aggregate State general fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State general fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year"; and

WHEREAS, Section 6(b) also requires that "The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent Joint Resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor";

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 137th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1993 is \$1,422.0 million, estimated revenue refunds are \$118.0 million, estimated net State general fund revenue is \$1,304.0 million and estimated unencumbered funds are \$56.1 million.

Approved July 1, 1993.

CHAPTER 471

FORMERLY

HOUSE JOINT RESOLUTION NO. 8

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1994.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "No appropriation, supplemental appropriation, or Budget Act shall cause the aggregate State general fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State general fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year"; and

WHEREAS, Section 6(b) also requires that "The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent Joint Resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor";

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives and the Senate of the 137th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1994 is \$1,432.9 million, estimated revenue refunds are \$120.5 million, estimated net State general fund revenue is \$1,312.4 million and estimated unencumbered funds are \$90.9 million.

Approved July 1, 1993.

CHAPTER 472

FORMERLY

HOUSE JOINT RESOLUTION NO. 29

MEMORIALIZING THE INTENT OF THE 137TH GENERAL ASSEMBLY IN THE MATTER RELATING TO THE FISCAL YEAR 1995 \$70-MILLION DOLLAR BUDGET SURPLUS.

WHEREAS, State funds available for appropriation are expected to exceed the expenses associated with the 1995 proposed budget and Grants-In-Aid Bill by \$70-million dollars; and

WHEREAS, the intent of this General Assembly is to use the \$70-million surplus in a judicious manner which provides the greatest benefit for the taxpayers of Delaware; and

WHEREAS, legislative leaders, on behalf of their respective caucuses and in consultation with the Governor's Office, have agreed that a judicious use of the surplus would include a plan for dedicating \$20-million to reduce the State's bonded indebtedness; and

WHEREAS, agreement was also reached on a plan to allocate \$21-million of the surplus to the Bond Bill Committee where it will be combined with the \$9.5-million appropriation recommended by the Governor, with the expectation that a substantial portion of the total sum of \$30-million be used to fund needed school construction and other pending construction projects, with another \$5-million dollars being dedicated to the Strategic Fund where it will be combined with the \$5-million already recommended by the Governor in January to form a total sum of \$10-million which will be used to spur State economic development and job creation efforts; and

WHEREAS, agreement was also reached on the need to utilize the remaining \$20-million dollars for tax reduction in a way that best serves the people of Delaware; and

WHEREAS, the tax relief proposal includes plans to reduce the Utility Tax burden by \$2-million and plans to remove the last six months of the Gross Receipts Tax Surcharge leaving \$4.3-million dollars in the private economy; and

WHEREAS, the tax relief proposal reflects the intent of this General Assembly to return \$13-million dollars to taxpayers as soon as practicable, but not later than the end of the 1995 fiscal year, after careful consideration has been given to the potential financial burdens facing the State, such as the possible closing of the G.M. plant and its related revenue loss, and/or the pending decision by the United States Congress in the matter regarding Interstate Banking and its potential negative financial impact and the need to develop prudent and timely financial contingency plans should these factors come to pass; and

WHEREAS, the tax relief proposal also reflects the intent of this General Assembly to avail itself of any opportunities to enhance the amount of individual tax relief, which could come about as the result of a favorable conclusion to the abandoned property issue being debated in Congress, or as the result of improved DEFAC revenue forecasts during the summer and fall; and

WHEREAS, it is our intent to formalize the commitment of this body to use the fiscal year 1995 surplus in the most practical, efficient, and fiscally responsible way, that: reduces Delaware's bonded indebtedness; finances needed public construction projects; funds economic development and job creation projects; and reduces the tax burden and, in so doing, best serves the people of Delaware.

NOW, THEREFORE:

BE IT RESOLVED by the House of Representatives of the 137TH General Assembly of the State of Delaware, the Senate concurring therein, that our expressed intent in passing this Resolution is to formalize the longstanding commitment of this body to use the \$70-million dollar 1995 surplus in the most practical, efficient and fiscally responsible way that benefits the people and quality of life of Delaware.

BE IT FURTHER RESOLVED that the plan described herein, to: reduce Delaware's bonded indebtedness; finance needed public construction projects; fund economic development and job creation projects, develop contingency plans for potential financial burdens; and reduce the tax burden, represents the informed agreement and intent of the 137th General Assembly to best serve the people of Delaware.

Approved July 22, 1994.

CHAPTER 473

FORMERLY

SENATE JOINT RESOLUTION NO. 7

REJECTING IN ITS ENTIRETY THE REPORT OF THE DELAWARE COMPENSATION COMMISSION.

WHEREAS, Chapter 33, Title 29 of the Delaware Code provides for the Delaware Compensation Commission; and

WHEREAS, a commission was appointed, selected a chairman, met several times, collected information about comparable salaries in a number of States, prepared a report; and

WHEREAS, the report recommended salary increases for the members of the judiciary, members of the General Assembly and for other state officers; and

WHEREAS, the merit employees of the State of Delaware received an increase of only 3% in 1992; and

WHEREAS, THE Commission's recommendation for the increase of the Family Court Judges' salaries is only 3%; and

WHEREAS, the Commission based its recommendations in part upon the salaries of Federal judges and neighboring State judges' salaries all of which presently are experiencing more significant economic difficulties than Delaware and;

WHEREAS, there are many poor, indigent or unemployed found in this State who desperately need the resources which would be utilized to increase the salaries as recommended by the Commission; and

WHEREAS, an increase of 3% of the present salaries to all affected positions would be more fair and more economically prudent in these troubled financial times; and

WHEREAS, unless the commission's report is rejected by joint resolution of the General Assembly the increase in remuneration will become law.

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 137th General Assembly of the State of Delaware, with the approval of the Governor, that:

The report submitted by the Delaware Compensation Commission pursuant to Chapter 33, Title 29 of the Delaware Code, is hereby rejected in its entirety.

Approved February 10, 1993.

CHAPTER 474

FORMERLY

SENATE JOINT RESOLUTION NO. 14
AS AMENDED BY SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1

ESTABLISHING A FUTURES COMMISSION, TO BE KNOWN AS "COMMISSION ON DELAWARE COURTS 2000," TO OPERATE AS A TASK FORCE ON COURT STRUCTURES AND LONG-RANGE PLANNING FOR COURT SYSTEMS IN THE STATE OF DELAWARE.

WHEREAS, the Delaware judiciary is held in the highest regard by corporate decisionmakers, lawyers, and judges around the world; and

WHEREAS, Delaware's national preeminence has been driven by over 70 years of scholarly and even-handed decisions, the predictability of the law and the skill and honesty of our judges; and

WHEREAS, the citizens of the State of Delaware have benefited from the extraordinary competence, hard work, and preeminence of the Delaware judiciary; and

WHEREAS, it is important that Delaware be preeminent not only in the quality of its judiciary and judicial decisions, but also in the structure of its judicial system; and

WHEREAS, the structure of the judicial system in Delaware needs attention, possible revision, new resources, and coordinated planning to achieve excellence as we approach the twenty-first century; and

WHEREAS, the mission of the judiciary is to provide fair, prompt, competent, and inexpensive resolutions of disputes; and

WHEREAS, it is necessary and desirable to examine areas where statutory, constitutional, and administrative improvements in the judicial system should be considered (consistent with the separation of powers principles of the Delaware Constitution, particularly Article IV, Section 13), in order that the State of Delaware will have a model, state-of-the-art judicial system appropriate for the twenty-first century; and

WHEREAS, some of the problem areas have been the subject of separate recent excellent studies such as the Court Consolidation Commission (1986), the Superior Court Study Committee (1991), and the Court of Common Pleas Study Committee (1992); and

WHEREAS, the Delaware Courts Planning Committee, a committee appointed by the Chief Justice, operates very effectively on an ongoing basis as a short-term, medium-term and long-term study and advisory committee for the judiciary; and

WHEREAS, 33 states have conducted some form of studies of the future of their courts, and 21 states have used the services of futures commissions or committees in their forward planning and consideration of change; and

WHEREAS, it is not necessary or desirable to replicate the scope or methodology of the work of many of such futures studies, but it is necessary and desirable for Delaware to have a very specific, focused, and comprehensive study of the judicial system of the State of Delaware; and

WHEREAS, in addition to the various studies and proposals dealing with separate parts of the system, an integrated and comprehensive analysis of the interconnected and interdependent aspects of the various Delaware courts is needed urgently; and

WHEREAS, it is desirable to establish a commission consisting of members of the legislative, executive, and judicial branches of the government and the public to make such a comprehensive study and recommendations.

NOW THEREFORE:

BE IT RESOLVED by the Senate of the 137th General Assembly of the State of Delaware, the House of Representatives concurring therein with the approval of

the Governor, that a commission be created, known as Commission on Delaware Courts 2000 (the "Commission"), to operate as a task force to recommend such constitutional or statutory changes in the structure of the judicial branch of government as the Commission shall deem appropriate.

BE IT FURTHER RESOLVED that the subjects to be considered comprehensively by the Commission shall include, but shall not be limited to, the following:

1. The future position of the Court of Common Pleas within the judicial structure of the State of Delaware, including an analysis of its jurisdiction and the interrelationship between the exercise of its jurisdiction and that of the Superior Court and the Justice of the Peace Courts.

2. Whether or not the Wilmington Municipal Court should operate as part of a statewide court system or whether other changes should be made in the scope of its jurisdiction and its organizational structure.

3. Whether there should be changes in the jurisdiction, method of appointment, and operation of the Alderman Courts of various cities, towns, and municipalities within the State of Delaware, including the issue of whether or not the functions of such courts should be brought under the statewide judicial system as part of the Justice of the Peace Courts, or in some cases as a municipal court or otherwise.

4. The desirability of a unified general trial court with divisions such as a Criminal Division, Civil Division, Family Court Division, Common Pleas Division, and Appellate Division, including the question of whether or not some hybrid system of partial unification is appropriate for Delaware.

5. Whether the Family Court and/or the Court of Common Pleas should be constitutional courts.

6. The jurisdiction and functioning of the Justice of the Peace Courts as part of the overall judicial system, including appeals from the decisions of the Justice of the Peace Courts.

7. A focus on the impact of "minor offenses," the current jury system, and mandatory minimum sentencing on the efficient functioning of the courts and recommendations, if any, for change.

8. A permanent solution to the security problems in Delaware courts, including consideration of the feasibility of a new and effective system deploying personnel along the lines of the U.S. Marshal Service model.

9. A permanent solution to space problems (e.g., the Georgetown Courthouse situation and the Wilmington Justice Center), and creative methods for funding such capital improvements.

10. An ongoing, fair, and reliable compensation system for judges so as to attract and retain persons of the highest levels of skill, honesty, judicial temperament, and work ethic.

11. The desirability of revisions in the budgetary and personnel systems consistent with the flexibility of the Chief Justice in the management of the judicial branch; and

12. The desirability of a senior judge system and recommendations as to the adoption of the second leg of a pending constitutional revision and implementing legislation.

13. Consideration of the feasibility of establishing goals involving enhanced non-judicial staffing (e.g., commissioners, staff attorneys, law clerks, etc.), advanced technology, other court resources, and court-annexed alternate dispute resolution mechanisms.

BE IT FURTHER RESOLVED that the Commission shall be composed of 16 members to be named or appointed as follows:

1. O. Francis Blondl, Esquire, and Rodman Ward, Jr., Esquire, shall be the co-chairs of the Commission;

2. The Governor may appoint four members, not more than two of whom shall be of the same political party, at least one of whom shall be a resident in Kent County or Sussex County, and at least one of whom shall be a member of the general public who is not a member of the legal profession or the judiciary and who does not hold any public office of the State of Delaware;

3. The Chief Justice may appoint four members, not more than two of whom shall be of the same political party, at least one of whom shall be resident in Kent County or Sussex County, and at least one of whom shall be a member of the general public who is not a member of the legal profession or the judiciary and who does not hold any public office of the State of Delaware.

4. The President Pro Tempore of the Senate may appoint two members of the Senate, one from each caucus;

5. The Speaker of the House of Representatives may appoint two members of the House of Representatives, one from each caucus;

6. The Attorney General or his designee shall be a member; and

7. The Public Defender or his designee shall be a member.

8. The foregoing appointments shall be made within 15 days of the effective date of this resolution.

BE IT FURTHER RESOLVED that the Commission shall be authorized, with the consent of the Chief Justice, to work with the Administrative Office of the Courts, the administrators of the various courts, and the Delaware Courts Planning Committee as resources in the work of the Commission.

BE IT FURTHER RESOLVED that the Commission shall be authorized to seek special appropriations from the General Assembly for the furtherance of the work of the Commission at such time and in such amounts as the Commission shall deem appropriate.

BE IT FURTHER RESOLVED that the Commission shall operate by majority vote with the opportunity for a minority report, if necessary, on any of the findings or recommendations of the Commission.

BE IT FURTHER RESOLVED that the Commission shall organize and conduct its first meeting no later than 30 days from the effective date of this joint resolution.

BE IT FURTHER RESOLVED that the Commission shall issue its preliminary report to the Governor, the Chief Justice, the President Pro Tempore of the Senate, and the Speaker of the House, not later than February 21, 1994, and shall issue its final report to such officials not later than May 16, 1994.

BE IT FURTHER RESOLVED that the preliminary report and the final report of the Commission shall include recommendations for statutory or constitutional change in the structure of the judicial system and recommendations to the Chief Justice for administrative and supervisory improvements consistent with Article IV, §13.

BE IT FURTHER RESOLVED that the Commission shall remain in existence for the duration of the 137th General Assembly to monitor the work and recommendations of the Commission and to make such supplemental reports as the Commission deems appropriate.

Approved July 17, 1993.

CHAPTER 475

FORMERLY

SENATE JOINT RESOLUTION NO. 38

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1994.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "No appropriation, supplemental appropriation, or Budget Act shall cause the aggregate State general fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State general fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year"; and

WHEREAS, Section 6(b) also requires that "The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent Joint Resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor";

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 137th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1994 is \$1,550.7 million, estimated revenue refunds are \$109.4 million, estimated net State general fund revenue is \$1,441.3 million and estimated unencumbered funds are \$105.7 million.

Approved July 1, 1994.

CHAPTER 476

FORMERLY

SENATE JOINT RESOLUTION NO. 37

THE OFFICIAL ESTIMATE OF GENERAL FUND REVENUES FOR FISCAL YEAR 1995.

WHEREAS, the State Constitution, Article 8, Section 6(b) requires that "No appropriation, supplemental appropriation, or Budget Act shall cause the aggregate State general fund appropriations enacted for any given fiscal year to exceed 98 percent of the estimated State general fund revenue for such fiscal year from all sources, including estimated unencumbered funds remaining at the end of the previous fiscal year"; and

WHEREAS, Section 6(b) also requires that "The amount of said revenue estimate and estimated unencumbered funds remaining shall be determined by the most recent Joint Resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor";

NOW, THEREFORE:

BE IT RESOLVED by the Senate and the House of Representatives of the 137th General Assembly of the State of Delaware with the approval of the Governor, that the estimated gross general fund revenue for Fiscal Year 1995 is \$1,583.0 million, estimated revenue refunds are \$122.0 million, estimated net State general fund revenue is \$1,461.0 million and estimated unencumbered funds are \$177.7 million.

Approved July 1, 1994.

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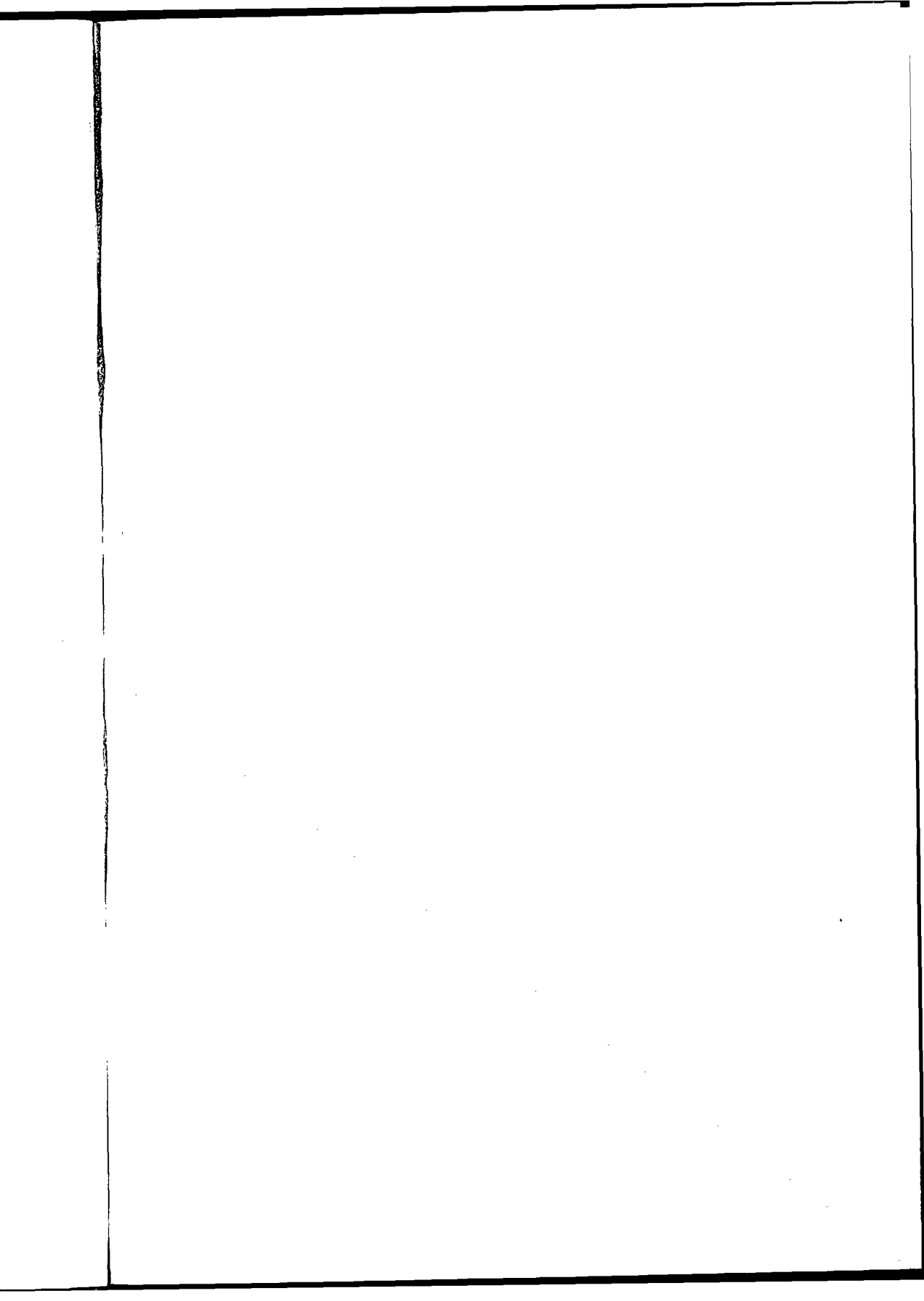
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