

LAWS
OF THE
STATE OF DELAWARE

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

On Tuesday, January 10, A.D.
1995

SECOND SESSION COMMENCED AND HELD AT DOVER

On Tuesday, January 9, A.D.
1996

VOLUME LXX
Part I

CHAPTER 1

FORMERLY

SENATE BILL NO. 1

AS AMENDED BY

SENATE AMENDMENT NO. 1

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(b) of Title 30 of the Delaware Code by striking paragraph (2) of said subsection in its entirety and substitute in lieu thereof 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; for food processing (as food processing is described in §2903 of this title), agribusiness processing, or the hatching of chickens in conjunction with either food processing or agribusiness processing 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 or food and agri-business processing within this State,' more than 70% of the employees employed at the business location must be employed in such activity 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 or food or agri-business processing facility are not employed exclusively in the manufacture of goods or food and agri-business processing within this State. For purposes of this subsection, the 'business location' means all contiguous real property in which the manufacturer or food or agri-business processor, as the case may be, has an interest, including a possessory interest. For purposes of this section 'agribusiness processing' means any processing, working, development, change, conditioning or reconditioning of raw materials or products into products of a different character, or effecting any combination or composition of materials, the inherent nature of which is changed such that the resulting product is food for consumption by livestock or is fertilizer for agricultural use."

Section 2. This Act shall be effective for services or commodities distributed on or after January 1, 1995.

Approved February 3, 1995

CHAPTER 2

FORMERLY

SENATE BILL NO. 2

AN ACT TO AMEND PART II OF CHAPTER 21, TITLE 21, DELAWARE CODE
RELATING TO SPECIAL FARM VEHICLE REGISTRATION.

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

Section 1. Amend §2113(2)(b), Title 21, Delaware Code by striking the number "5" as
the same appears therein and substituting in lieu thereof the number "10".

Approved February 3, 1995

CHAPTER 3

FORMERLY

SENATE BILL NO. 15

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 29 OF THE DELAWARE CODE RELATING
TO THE APPOINTMENT OF NOTARIES FOR POLICE AGENCIES.

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

Section 1. AMEND §4305, Chapter 43, Title 29 of the Delaware Code by adding thereto
a new inserting a new "subsection (d)" to read as follows:

"(d) The Governor shall, upon the request of the Chief of Police or acting Chief of
Police of a unit of government whose personnel are full-time police officers and statutorily
responsible for the prevention or investigation of crime involving injury to persons or property
and who are authorized to execute search warrants and to make arrests, appoint a sufficient
number of notaries public as may be requested by the Chief of Police or acting Chief of Police
for the proper administration of their agencies. The appointments shall be for a term of four
years, without charge to the appointee, Chief of Police or acting Chief of Police or police agency.
Any such notary, so appointed, shall have no authority to perform any duties with respect to such
office or to take affidavits or acknowledgments, except on documents and papers in connection
with, and for the benefit of, their respective police agency. The notaries public appointed shall
make no charge for any service rendered."

Approved February 1, 1995

CHAPTER 4

FORMERLY

HOUSE BILL NO. 39

AN ACT TO AMEND CHAPTER 214, VOLUME 65, LAWS OF DELAWARE, AS AMENDED, BEING THE CHARTER OF THE TOWN OF NEWPORT.

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

Section 1. Amend Section 1.02, Chapter 214, Volume 65, Laws of

Delaware, as amended, by adding to the end of said section the following:

" ALL that certain parcel of land being located in Christiana Hundred, New Castle County, State of Delaware, beginning with the intersection of the centerline of Water Street and the centerline of Copper Drive, thence; running North 50 degrees-00'-00", West 40 feet more or less to the said point of beginning, being North 18 degrees-29'-17", West 30.00 feet more or less; thence running South 76 degrees-43'-35" West, with a radius of 5,411.56 feet and a chord of 933.64 feet, curving to the left; thence running South 5 degrees-30'-00", East 30.03 feet more or less, thence running North 76 degrees-44'-00" East with a radius of 5,441.56 feet and a chord of 990.42 feet curving to the right to the said point of beginning, containing 29,620 +/- square feet of land or 0.68 +/- acres. (Ordinance No. 422, July 12, 1990)

ALL that piece or parcel of land which joins and is contiguous to a portion of the southerly boundary of the Town of Newport in Christiana Hundred, State of Delaware BEGINNING at the intersection of the easterly terminal of Water Street, at 50 feet wide, with a line drawn parallel with and 60 feet southwardly at right angles from the southerly rail of the southerly tract of the four main line tracks of railroad of the Philadelphia, Baltimore and Washington Railroad Company;

Thence from the point and place of Beginning, along the southerly boundary line of said Railroad Company property, and parallel to said southerly rail of southerly track and distant 60.00 feet southerly therefrom when measured at right angles thereto, North 64 degrees-11'-30" 2.136.64 feet to the point of tangency of a curve having a radius of 2,994.57 feet;

Thence along the southerly boundary line of said Railroad Company property and parallel to said southerly rail of the southerly track of a Branch of Railroad known as the Shellpot Branch, and 60.00 feet southerly therefrom and at right angles and radially thereto, the following seven (7) courses and distances: (1) by said curve to the right in an easterly direction, an arc distance of 130.66 feet to the point of tangency of said curve; (2) North 66 degrees-41'-30" East, 200.10' to the point of curvature of a curve having a radius of 807.05'; (3) by said curve to the left in a northeasterly direction, an arc distance of 35.21' to the point of tangency of said curve; (4) North 64 degrees-11'-30" East, 1,367.18' to the point of tangency of a curve having a radius of 6,449.69' (5) by said curve to the left in a northeasterly direction, an arc distance of 262.63' to the point of tangency of said curve; (6) North 61 degrees-51'-31" East 272.33' to the point of curvature of a curve having a radius of 9,999.39' and (7) by said curve to the right in an easterly direction, an arc distance of 464.71' to a point. Thence North 25 degrees-28'-43" West 5.00' to a point 55.00' southerly from said southerly rail of southerly track of said Shellpot Branch of Railroad. Thence parallel to the said southerly rail and 55.00' southerly therefrom when measured at right angles thereto, the two (2) following courses and distances (1) North 64 degrees-11'-1" East, 254.38' to the point of curvature of a curve having a radius of 11,322.70'; and (2) by said curve to the right in an easterly direction an arc distance of 428.55' to a point in the northerly side of interstate highway I-95 at 400 feet wide. Thence thereby South 40

degrees-13'-40" West 587.43' to a point in the mean high water line on the north side of the Christina River. Thence along the said mean high water line on the north side of the Christina River, its various meandering courses thereof, in a southwesterly direction, 5840 feet, more or less, to a corner for lands of Matthew K. Kelter, Thence along said lands of Matthew K. Kelter the three (3) following described courses and distances: (1) North 44 degrees-04'-22" West, 262.60' to a point; (2) South 78 degrees-47'-38" West 84.30' to a point; and (3) South 59 degrees-43'-51" West, 451.97' to a point in the northeasterly side of Marsh Lane at 50 feet wide; Thence along said northeasterly side of Marsh Lane the three (3) following described courses and distances: (1) North 36 degrees-53'-22" West 11.41' to a point (2) North 74 degrees-29'-22" West, 470.73' to a point; and (3) North 70 degrees-00'-22" West, 254.83' to the point of intersection of the said northeasterly side of Marsh Lane with the southerly side of Water Street extended; Thence along the terminal end of Water Street, North 25 degrees-48'-30" West, 35.93 to a point in the southerly property line of The Philadelphia, Baltimore and Washington Railroad Company property to the first mentioned point and place of Beginning. Containing within the said described metes and bounds, 23.5 +/- acres of land, be the same more or less. (Ordinance No. 426, adopted February 14, 1991)

All that certain piece, parcel or tract of land which adjoins and is contiguous to the westerly and southerly boundary of the Town of Newport, in Christiana Hundred, New Castle County, State of Delaware, more particularly described as follows, to wit: Beginning at a point on the southerly side of the Philadelphia, Baltimore and Washington Railroad, said point being 40 feet off the centerline of tracks 2 and 3, a common corner for that portion of lands of Ciba-Geigy which is presently within the Town of Newport and lands herein being described and located the following five courses and distances along the southerly side of the Philadelphia, Baltimore and Washington Railroad from the point formed by the intersection of the southerly side of the Philadelphia, Baltimore and Washington Railroad (49 feet off the centerline of tracks 2 and 3) with the westerly side of James Street (55 feet wide); 1) 49 feet off and parallel to the centerline of tracks 2 and 3, South 88 degrees, 00 minutes, 08 seconds West, 100.00 feet to a point thence; 2) North 01 degrees, 59 minutes, 52 seconds West, 16.00 feet to a point, thence; 3) 33 feet off and parallel to the centerline of tracks 2 and 3, South 88 degrees, 00 minutes, 08 seconds West, 255.00 feet to a point, thence; 4) South 01 degrees, 59 minutes, 52 seconds East, 7.00 feet to a point, thence; 5) 40 feet off and parallel to the centerline of tracks 2 and 3, South 88 degrees, 00 minutes, 08 seconds West, 324.69 feet to the Point of Beginning. Thence, from said Point of Beginning the following twenty courses and distances: (1) through lands now or formerly of Ciba-Geigy and with the Town of Newport limits, South 00 degrees, 03 minutes, 37 seconds East, 734 feet more or less to a point on the northerly low water line of the Christina River, thence, with same; (2) 554 feet, more or less to a corner for lands now or formerly of E. I. du Pont de Nemours and Company, thence with same the following fourteen courses and distances; (3) North, 224.20 feet to a point, thence; (4) West, 71.25 feet to a point, thence; (5) South 64 degrees, 32 minutes, 45 seconds West, 153.05 feet to a point, thence; (6) West, 267.70 feet to a point, thence; (7) crossing Christina Street, parallel to a 20 foot wide paved roadway and 2.5 feet more or less easterly and parallel to an existing 8" sewer, north, 300.76 feet to a point, thence; (8) 0.5 feet more or less southerly and parallel to the southerly foundation wall of Building A-216, East, 103.20 feet to a point, thence; (9) parallel to Building A-216 and 11.0 feet more or less parallel to Building A-202, North, 192.50 feet to a point, thence; (10) West, 16.20 feet to a point, thence; (11) North 45.30 feet to a point, thence; (12) radially crossing a spur track, North 64 degrees, 54 minutes, 52 seconds East, 20.00 feet (crossing the centerline of the spur track at 10.00 feet) to a point, thence; (13) North, 121.82 feet to a point in the southerly side of an existing walkway for Water Street, thence, with same; (14) East, 116.10 feet to a point, thence; (15) North, 99.35 feet to a non-tangent point of curvature, thence; (16) by an arc curving to the left having a radius of 390.78 feet, an arc distance of 143.91 feet (chord = North 67 degrees, 04 minutes, 05 seconds West, 143.10 feet) to a non-radial point of reverse curvature on the southerly side of the Philadelphia, Baltimore and Washington Railroad, thence; (17) 60 feet off and parallel to the centerline of tracks 2 and 3, by an arc curving to the right having a radius of 9,762.13 feet, an arc distance of 261.66 feet to a point, thence; (18) radially, North 04 degrees, 12 minutes, 22 seconds West, 20.00 feet to a point, thence; (19) 40 feet off and parallel to the centerline of tracks 2 and 3 this and the next course and distance by an arc curving to the right having a radius of 9,782.13 feet, an arc distance of 377.03 feet to a point

of tangency, thence; (20) North 88 degrees, 00 minutes, 08 seconds East, 192.02 feet to the Point of Beginning. Containing within said metes and bounds 24.854 acres of land, be they the same, more or less. (Ordinance No. 437, November 11, 1993)"

Section 2. Amend Section 3-01, Chapter 214, Volume 65, Laws of

Delaware, as amended, by adding the following to the end of said

section:

"in which case the form of government established shall be known as the Council - Town Manager form."

Section 3. Amend Section 3-08, Chapter 214, Volume 65, Laws of

Delaware, as amended, paragraph B. Appointment and removals by striking the words "and removal" from the fifth line of the paragraph.

Section 4. Amend Section 3-15, Chapter 214, Volume 65, Laws of

Delaware, as amended, by deleting the first sentence thereof in its entirety and replacing in lieu thereof the following:

"An organizational meeting of the Commissioners of Newport shall be held on the second Thursday in April, immediately prior to the regularly scheduled meeting."

Section 5. Amend Section 4-01, Chapter 214, Volume 65, Laws of

Delaware, as amended, Paragraph B. Use of County Assessments by striking the third sentence in its entirety and replacing in lieu thereof the following:

"The Commissioners then shall order the adoption of such County assessment for municipal purposes or the adoption of assessments as determined by the Town assessment authority; provided, however, that adoption of the County assessment for municipal purposes shall not preclude the Town from modifying the County assessment list to take into account new construction, tax exemption status, or use not reflected in the County assessment list, or clear cases of inequitable assessment."

Section 6. Amend Section 4-01, Chapter 214, Volume 65, Laws of

Delaware, as amended, Paragraph D. Assessment Board of Appeals by striking in its entirety and substituting in lieu thereof the following:

" D. Assessment Board of Appeals. Each year, at least 30 days before the beginning of the tax year, the Commissioners shall, upon receipt of a application for an assessment appeal, hold a Board of Appeals, during which time the Commissioners shall hear and determine appeals from assessments and shall make such corrections and additions as deemed necessary and proper. The decision of a majority of the Commissioners sitting on appeals shall be final and conclusive in respect to all appeals.

No Commissioner shall sit on his/her own appeal, but the same shall be heard and determined by the other Commissioners. After the said valuation and assessment shall be examined and adjusted by the Commissioners, all property taxes shall be levied on real and personal property thus assessed in just and equal proportions.

Section 7. Amend Section 4-02, Chapter 214, Volume 65, Laws of

Delaware, as amended, by deleting all text after the word "shall" in the third sentence, and replacing in lieu thereof the following:

"prior to the first day for the fiscal year, the Commissioners shall adopt a tax rate for that year."

Section 8. Amend Section 4-03, Chapter 214, Volume 65, Laws of

Delaware, as amended, by deleting the first sentence of the section in its entirety without replacement; and that the second sentence of the section be amended to read as follows:

"All taxes shall be paid to the Town by the close of business on June 30th, or the next banking day if June 30th falls during a weekend or a holiday, of each year."

Section 9. Amend Section 4-04, Chapter 214 Volume 65 Laws of

Delaware, as amended, paragraph B. Debt action by deleting the words "Town Clerk" whenever said words occur, and replace in lieu thereof the word "Town".

Section 10. Amend Section 5-01, Chapter 214 Volume 65, Laws of

Delaware, as amended, by changing the last word of said section from "ordinance" to "ordain".

Section 11. Amend Section 5-05, Chapter 214, Volume 65, Laws of

Delaware, as amended, by deleting the words "Town Clerk" and substituting in lieu thereof the words "Town Secretary".

Section 12. Amend Section 6-02, Chapter 214, Volume 65, Laws of

Delaware, as amended, by striking in its entirety and substituting in lieu thereof the following:

"All payments out of the Town bank accounts shall be by check. Two signatures must be affixed to all checks. The Mayor, Commissioners and the Town Manager shall be authorized to sign checks."

Section 13. Amend Section 6-03, Chapter 214, Volume 65, Laws of

Delaware, as amended, by striking in its entirety and substituting in lieu thereof the following:

"Section 6-03. Annual Revenue and Operating Budget

Annually, and not later than sixty (60) days before the beginning of the fiscal year, the town manager shall submit to the Commissioners a budget for the ensuing fiscal year and an accompanying message.

A. **Budget Message.** The town manager's message shall explain the budget both in terms of work programs and in fiscal terms. It shall describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes; summarize

the town's debt position; and include such other material as the town manager deems desirable.

B. Budget. The budget shall present the financial plan for conducting the affairs of the town for the ensuing fiscal year and shall comprehend all departments, offices and agencies, and all funds and monies anticipated to be realized by and expended by the town during said fiscal year. In organizing the budget, the town manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, activity and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures for the current year. It shall include in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs; and
- (2) Proposed capital expenditures during the ensuing fiscal year.

The total of proposed expenditures shall not exceed the total of estimated income."

Section 14. Amend Section 6-04, Chapter 214, Volume 65, Laws of

Delaware, as amended, by striking it in its entirety and substituting in

lieu thereof the following:

"Section 6-04. Commissioners Action on the Budget

The Commissioners shall cause to be posted in at least five (5) prominent places located in the town, a general summary of the proposed budget, a notice of the times and places where copies of the budget are available for inspection and the time and place for a public hearing on said budget. Such notice shall be posted at least seven (7) days prior to each such hearing.

After the public hearing, the Commissioners may adopt, by resolution, the budgets with or without amendment. The Commissioners may insert new items or expenditures or may increase, decrease or strike out items of expenditure, except that no item of appropriation of debt service shall be reduced.

The budget for the ensuing fiscal year shall be adopted by the Commissioners not later than the last day of the fiscal year currently ending. The tax rate for the ensuing fiscal year shall be adopted at the time the budget is adopted. If it fails to so adopt, the budget submitted by the town manager for operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. Also, during such period, the Commissioners may appropriate amounts requested by the town manager for specific capital improvement projects, provided that the town manager certify that the necessary funds are available therefore."

Section 15. Amend Section 6-05, Chapter 214, Volume 65, Laws of

Delaware, as amended, by striking it in its entirety and substituting in

lieu thereof the following:

"Section 6-05. Budget Amendments after Adoption

If at any time during the fiscal year it appears probable to the town manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicated the estimated amounts of the deficit, any remedial action taken by him, and his recommendations as to any other steps to be taken. The Commissioners shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose, it may reduce one or more appropriations.

The town manager may at any time during the fiscal year transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency; and at any time during the fiscal year, upon written request of the town manager, the Commissioners may transfer part or all of any unencumbered appropriation balance from one department, agency to another.

All actions taken under the provisions of this section shall be at regular council meetings and shall be recorded in the council minutes."

Section 16. Amend Chapter 214, Volume 65, Laws of Delaware, as amended, by re-numbering Section 6-06 to Section 6-07; Section 6-07 to Section 6-08; Section 6-08 to Section 6-09; and Section 6-09 to Section 6-10; and by inserting a new Section 6-06 to read as follows:

"Section 6-06. Capital Program

A. Submission to the Commissioners. The town manager shall prepare and submit to the Commissioners a five-year capital program at least four (4) months prior to the final date for the submission of the budget. The capital program shall include the following elements and information:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing with appropriate supporting information as to the necessity for such improvements.
- (3) Cost estimates, method of financing, and recommended time schedules for such improvements; and
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

B. The Commissioner Action on Capital Program. The Commissioners shall hold such deliberations and hearings as it deems desirable concerning the proposed capital program. It shall adopt the final program, with or without amendments, deletions or additions, no later than sixty days prior to the end of the current fiscal year.

The town manager shall incorporate the approved capital program and projects for the current year into the budget.

C. Definition of "Capital". For the purpose of this section, "capital" shall be defined as any project or equipment, including any extension or addition thereto or thereof, having a life expectancy in excess of, or to be financed over a period greater than six (6) years, or a value exceeding five thousand dollars (\$5,000.00).

D. Perpetuation of Program. The capital program shall be revised and extended each year with regard to capital improvements still pending or in process

of construction or acquisition. New projects will be added as their need becomes apparent."

Section 17. Amend Section 6-08, Chapter 214, Volume 65, Laws of

Delaware, as amended, by striking the last sentence in Paragraph B. in.

its entirety and substituting in lieu thereof the following:

"Provided however; that any sum of money borrowed by the Town Council on the full faith and credit of the Town as aforesaid, shall be paid in full, together with all interest and charges thereon, within a period not to exceed the useful life of the capital asset, or ten (10) years, whichever is less, except for real estate, in which case real estate should be financed within a period not to exceed twenty-five (25) years."

Section 16. Amend Section 7-02, Chapter 214, Volume 65, Laws of

Delaware, as amended, by striking it in its entirety and substituting in

lieu thereof the following:

" If and when the Mayor and Commissioners choose not to use the County assessments as specified in Section 4-01, Paragraph B. of this charter, the Mayor, with the advice and consent of three Commissioners shall appoint an officer of the Town who shall have the title of Town Assessor. He/she shall be a certified real estate assessor in his/her state of incorporation, and shall have practiced the determination of real estate assessments for at least five years prior to appointment."

Section 18. Amend Section 7-03, Chapter 214, Volume 65, Laws of

Delaware, as amended, by striking it in its entirety and substituting in

lieu thereof the following:

" The Mayor shall appoint, with the approval of three Commissioners, an officer of the town who shall have the title Town Secretary. The Town Secretary shall be appointed at the organizational meeting for a term of one year. The Town Secretary shall authenticate by his/her signature and record in full, in a properly indexed book for that purpose, all ordinances, resolutions, regulations, and meeting minutes adopted and or approved by the council. The Town Secretary shall file and keep in a safe place the Seal of the Town, attest the same when authorized by the Mayor, the Commissioners or the town manager, and perform other duties as may be designated by the Mayor and Commissioners, town manager, this Charter or ordinance."

Section 19. Amend Section 7-04, Chapter 214, Volume 65, Laws of

Delaware, as amended, by striking the first sentence of the section and

substituting in lieu thereof the following:

" If and when the Mayor and Commissioners choose not to appoint a Town Manager as set forth in Article IX of this Charter, the Mayor shall, with the advice and consent of three Commissioners, appoint a Town Clerk."

Section 20. Amend Chapter 214, Volume 65, Laws of Delaware, as

amended, by striking Section 7-07. **Town Fire Marshall** in its entirety

without replacement; and by renumbering Section 7-08 as Section 7-07;

and Section 7-09 as Section 7-08.

Section 21. Amend Section 7-07, Chapter 214, Volume 65, Laws of

Delaware, as amended, by adding the following to the end of said

section:

"The Building Inspector shall report to and received direction from the Town Manager."

Section 22. Amend Section 7-08, Chapter 214, Volume 65, Laws of

Delaware, as amended, by adding the following to the end of said

section:

"The Plumbing Inspector shall report to and received direction from the Town Manager."

SYNOPSIS

1. ARTICLE I, Section 1-02. Geographic Boundaries

This section is amended to reflect the annexation of property which has occurred since the last charter was adopted in 1985.

2. ARTICLE III, Section 3-01. Form of Government

Establishes the form of government when a Town Manager is appointed as the "Council - Town Manager" form of government.

3. ARTICLE III, Section 3-08. Commissioners Prohibitions

This section is changed so as to not grant the Commissioners license to freely discuss with the Town Manager their views relating to the removal of an employee. Such discussion should be limited due to the fact that the Commissioners are required to serve as a Board of Appeal for employee appeals from disciplinary actions, pursuant to Article IX, Section 9-04.

4. ARTICLE III, Section 3-15. Organizational Meeting

Changes the time for the annual organizational meeting to the second Thursday in April.

5. ARTICLE IV, Section 4-01. Property Assessment Procedure.

Changes the circumstances in which the town may modify the County assessment list to include tax exemption status, and to exclude change in ownership; and changes the date requirements for the determination to use County assessments.

6. ARTICLE IV, Section 4-01. Property Assessment Procedure

Establishes that upon proper receipt of an application for an assessment appeal, such hearing shall be held.

7. ARTICLE IV, Section 4-02 Levy of Taxes

Eliminates outdated reference to the "Town Treasurer position, and established the requirement that the Commissioners establish the tax rate prior to the first day of the fiscal year.

8. ARTICLE IV, Section 4-03. Payment of Taxes

Eliminates the reference to the "Town Clerk" position as it relates to the payment of taxes.

9. ARTICLE IV, Section 4-04. Collection of Delinquent Taxes - Generally

Eliminates the reference to the "Town Clerk" position as it relates to the collection of taxes.

10. ARTICLE V., Section 5-01. Ordinances Generally

Corrected a typographical error in the original by changing the word "ordinance" to "ordain".

11. ARTICLE V, Section 5-05. Authentication and Recordation

Replaces the title "Town Clerk" with the title "Town Secretary" as it relates to authentication and recordation of ordinances, resolutions and regulations adopted by the Commissioners.

12. ARTICLE VI, Section 6-02. Payment of Monies out of Town Treasury

Removes the reference to the title "Town Clerk" as it relates to the drafting of checks for payment and establishes that any combination of two of the Town Manager and the Mayor and the Commissioners shall be authorized to sign checks.

13. ARTICLE VI, Section 6-03. Annual Revenue and Operating Budget

Establishes formal requirements for the submission and approval of the annual revenue and operating budget.

14. ARTICLE VI., Section 6-04. Commissioners Action on the Budget

ARTICLE VI., Section 6-05. Budget Amendments after Adoption

Restates the requirements of the Commissioners in regards to action on the budgets. Sets procedures for the funding of town operations and capital projects in the event no budget is adopted prior to the start of the fiscal year. Establishes procedures for the amendment of the budget, including allowing the Town Manager to transfer unencumbered appropriation balances among programs within any department.

15. ARTICLE VI, Section 6-04. The Capital Plan and Capital Budget

Restates the formal requirements relating to the proposal and adoption of the capital plan and the capital budget.

16. ARTICLE VI, Section 6-07. Borrowing for Current Expense and Capital Expenditures

Changes the term for which monies borrowed must be repaid to not to exceed the useful life of the asset or ten (10) years, whichever is less, except for real estate which should be financed within a period not to exceed twenty five years.

17. ARTICLE VII, Section 7-02. Assessor

Restates the requirements for the "Assessor" position, allowing for the position to be vacant in the event the Commissioners choose to adopt the County assessment rolls for the town and restating the qualifications for the position.

18. **ARTICLE VII, Section 7-03. Town Secretary**

Restates the language regarding the "Town Secretary" position.

19. **ARTICLE VII, Section 7-04. Town Clerk**

Restates the charter requirement relating to the "Town Clerk" position by establishing that the position shall be used only when there is not a Town Manager appointed by the Commissioners.

20. **ARTICLE VII, Section 7-07. Town Fire Marshall**

Deletes said section without replacement.

21. **ARTICLE VII, Section 7-08. Town Building Inspector**

Restates the charter requirements relating to the "Town Building Inspector" to state that the position shall be under the direction of the Town Manager.

22. **ARTICLE VII, Section 7-09. Town Plumbing Inspector**

Restates the charter requirements relating to the "Town Plumbing Inspector" to state that the position shall be under the direction of the Town Manager.

Approved February 3, 1995

CHAPTER 5

FORMERLY

SENATE BILL NO. 14

AN ACT TO AMEND CHAPTER 358, VOLUME 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 358, Volume 69, Laws of Delaware, being House Bill No. 611 of the 137th General Assembly, by striking the date "March 1, 1995" as the same appears therein and substituting in lieu thereof the following: "The State Register shall be implemented six months following the hiring of the Registrar".

Approved February 10, 1995

CHAPTER 6

FORMERLY

SENATE BILL NO. 20

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 1, 7, 9, 11, 22, 23, 27, 29, AND 32 OF TITLE 5, DELAWARE CODE RELATING TO BANKS AND OTHER FINANCIAL INSTITUTIONS.

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

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

"§144. Restrictions on use of words 'savings' or trust' in corporate name.

No financial institution established under this title shall have or use the word 'savings' in its title or name, nor shall any financial institution established, licensed or authorized to transact business under this title which is not a bank and trust company, a limited purpose trust company or a trust company have or use the word 'trust' in its title or name."

Section 2. Amend Chapter 7 of Title 5, Delaware Code, by deleting Section 721 in its entirety.

Section 3. Amend Section 906 of Title 5, Delaware Code, by deleting the words "; which penalty shall be sued for by the State Bank Commissioner in the name of the State unless he" and inserting in lieu thereof "unless the Commissioner".

Section 4. Further amend Section 906 of Title 5, Delaware Code, by adding the following sentence to the end thereof: "Any penalty that may be imposed by the Commissioner hereunder shall be paid to the State Treasurer for deposit in the General Fund."

Section 5. Amend subsection (a) of Section 928 of Title 5, Delaware Code, by deleting the words "not more than \$200 or imprisoned not more than 1 year, or both." immediately following the words "shall be fined" as they appear therein and by inserting in lieu thereof "\$1,000 per day in accordance with §143 of this title, except that subsection 143(c) shall not apply. In addition, any such person or agent or official of any such corporation, firm or association of individuals may be imprisoned not more than one year."

Section 6. Amend subsection (e) of Section 1101 of Title 5, Delaware Code, by deleting the words "subsection (a)" as they appear in the second sentence and by inserting in lieu thereof "subsection (a)(1)b."

Section 7. Amend subsection (f) of Section 1101 of Title 5, Delaware Code, by deleting the words "subsection (a)" as they appear in the first sentence and by inserting in lieu thereof "subsection (a)(1)b."

Section 8. Amend the title of Section 2206 of Title 5, Delaware Code, by deleting the period (.) at the end thereof and by adding the words "; acquisition" in lieu thereof. Section 9. Further amend Section 2206 of Title 5, Delaware Code, by designating the entire existing section as "subsection (a)" and by adding a new subsection (b) to read as follows:

"(b) Upon written request, the Commissioner may in his discretion grant conditional approval for the acquired licensee to conduct its business under its existing license for a

period not to exceed 60 days in cases where the control of the licensee changes and where a new application for licensure has been filed in accordance with §2203 of this chapter."

Section 10. Amend Section 2310 of Title 5, Delaware Code, by deleting the words "on or before January 1, applicant shall file with the Commissioner" as they appear in the first sentence and by inserting in lieu thereof the words "at least 30 days prior to the expiration of such license, applicant shall file with the Commissioner a renewal application together with".

Section 11. Further amend Section 2310 of Title 5, Delaware Code, by deleting the words "on or before each January 1" as they appear in the fourth sentence and by inserting in lieu thereof the words "together with a renewal application not less than 30 days prior to the expiration of such license".

Section 12. Further amend Section 2310 of Title 5, Delaware Code, by adding the following sentences to the end thereof: "The Commissioner may mandate that applications for renewal shall be treated as new applications if said renewal applications are not on file with the Office of the State Bank Commissioner by January 1 of each year. Licensees which have not complied with supervisory letters may be refused license renewal."

Section 13. Amend Section 2720 of Title 5, Delaware Code, by deleting the last sentence and by inserting in lieu thereof the following language:

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

Section 14. Amend Chapter 29 of Title 5, Delaware Code, by adding a new Section 2903 and redesignating the existing Section 2903 as Section 2904 and renumbering all subsequent sections sequentially thereafter. The new Section 2903 shall read as follows:

"§2903. Renewal of license.

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

Section 15. Amend Chapter 32 of Title 5, Delaware Code, by deleting the existing Section 3210 in its entirety and by adding a new Section 3210 to read as follows:

"§3210. Renewal of license; annual license fee.

Every holder of a license or a renewal thereof, as provided for in this section, desiring to continue the transaction of business as provided for in this chapter, shall at least 30 days prior to the expiration of such license or renewal thereof make application to the Commissioner on forms to be provided by the Commissioner for a license renewal. Each licensee shall pay to the Commissioner annually, together with its application for license renewal, a license fee of \$200 for the ensuing calendar year. The Commissioner may mandate that applications for renewal shall be treated as new applications if said renewal applications are not on file with the Office of the State Bank Commissioner by January 1 of

each year. Licensees who have not complied with supervisory letters or who have not paid examination fees when due may be refused license renewal."

Section 16. If any provision of this act or the application of any section or part thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this act which can be given effect without the invalid provision or application.

Section 17. This act shall take effect immediately upon its adoption except that Sections 6 and 7 all become effective January 1, 1996.

Approved February 10, 1995

CHAPTER 7

FORMERLY

SENATE BILL NO. 31

AN ACT TO AMEND THE STATUTORY PROVISIONS OF §106 (a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF ELIZABETH BINGHAM AND SCOTT DOUGLAS.

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

Section 1. Elizabeth Bingham and Scott Douglas are hereby exempted from the provisions of 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 Alexander J. Smalls of the Delaware Court of Common Pleas is hereby authorized to solemnize the marriage between Elizabeth Bingham and Scott Douglas. The Clerk of the Peace for New Castle County shall issue to Elizabeth Bingham and Scott Douglas one official marriage license pursuant to this Act, the provisions of the 13 Del. C. 106 to the contrary notwithstanding.

Approved February 10, 1995

CHAPTER 8

FORMERLY

SENATE BILL NO. 74

AS AMENDED BY

SENATE AMENDMENT NOS. 2 AND 4

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE CLEAN AIR ACT TITLE V OPERATING PERMIT PROGRAM.

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 § 6097(c), Title 7, Delaware Code by deleting the existing subsection in its entirety and inserting in lieu thereof the following:

"The Department shall collect annual permit fees, payable annually or in quarterly installments, which will result in the collection during calendar years 1995-1999, in the aggregate, from the sources listed in subsection (a) of this section, of a fee in dollars in proportion to tons of emission of each regulated air pollutant, except carbon monoxide, as follows:

- (1) For sources with emissions between 0-9 tons, \$1,000;
- (2) For sources with emissions between 10-25 tons, \$2,000;
- (3) For sources with emissions between 26-50 tons, \$3,000;
- (4) For sources with emissions between 51-75 tons, \$5,500;
- (5) For sources with emissions between 76-100 tons, \$7,000;
- (6) For sources with emissions between 101-200 tons, \$12,000;
- (7) For sources with emissions between 201-400 tons, \$20,000;
- (8) For sources with emissions between 401-800 tons, \$40,000;
- (9) For sources with emissions between 801-1,600 tons, \$75,000;
- (10) For sources with emissions between 1,601-3,200 tons, \$100,000;
- (11) For sources with emissions between 3,201-6,000 tons, \$120,000;
- (12) For sources with emissions between 6,001-10,000 tons, \$130,000; and
- (13) For sources with emissions greater than 10,000 tons, \$225,000.

For sources in existence as of December 31, 1990, such fees shall be based upon the inventory of such emissions conducted by the Department set forth in the document entitled "The 1990 Delaware Point Source Emission Inventory of Estimate Actual Regulated Air Pollutants." Sources not in existence as of December 31, 1990, or not included in the above noted document, shall be assessed on the amount of permitted emissions, until such time as estimates of actual emissions can be derived by the Division from records of the source and inspections. Synthetic minor Title V sources shall pay the appropriate Title V fees as established within this subsection. These fees may be increased on annual basis by no more than the Federal Consumer Price Index for the previous calendar year. Any increases in fees are subject to review and approval by the committee established pursuant to Section 6098 of this Chapter. After December 31, 1999, no

fees shall be collected pursuant to this subsection unless authorized by a further Act of the General Assembly."

Section 2. Amend § 6097(d), Title 7, Delaware Code by inserting a period "." after the word "pollutant" and before the word "or" in the first sentence thereof and deleting the remaining text of that sentence.

Section 3. Amend § 6098, Title 7, Delaware Code by deleting the last three sentences thereof and inserting in lieu thereof the following:

"The Committee shall provide the Governor and the General Assembly with a report on or before February 1 of each year, for the previous calendar year, identifying the amounts and sources of fees collected pursuant to § 6097 of this subchapter, the expenditures made by the Department to implement the Program, information regarding the performance of the Program, whether the fees collected by § 6097 of this subchapter are adequate to ensure the effective implementation of the Program, and recommendations to remedy or improve any deficiencies or elements of the Program. The Committee shall submit its final report on or before February 1, 2000 and shall cease to exist on that date absent a further Act of the General Assembly."

Section 4. The fee schedule established in this Act shall apply retroactively to January 1, 1995 provided, however, that any fees paid in 1995 under the Title V Operating Permit Program fee schedule in effect before the enactment of this Act shall be credited against fees due under this Act.

Approved March 28, 1995

CHAPTER 9

FORMERLY

SENATE BILL NO. 3

AN ACT TO AMEND TITLE 21, DELAWARE CODE RELATING TO SPECIAL LICENSE PLATES.

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

Section 1. Amend Title 21, Delaware Code by striking §2137(d) §2138(d) §2121A(d) §2139(d) §2139A(d) §2139B(d) §2139C(d) and §2140(f).

Approved April 3, 1995

CHAPTER 10

FORMERLY

SENATE BILL NO. 10

AN ACT TO AMEND CHAPTER 128, VOLUME 33, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF MIDDLETOWN" TO GIVE THE MAYOR THE LIMITED RIGHT TO VOTE.

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 7, Chapter 128, Volume 33, Laws of Delaware, as amended, be and the same is hereby further amended by adding a new paragraph at the end thereof to read as follows:

"In addition to the duties and powers set out above, the Mayor shall have the power to vote on any matter before council, but only in the event of a tie vote."

Approved April 3, 1995

CHAPTER 11

FORMERLY

SENATE BILL NO. 12

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

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

Section 1. Amend §131(a)(2), Title 23, Delaware Code, by striking the language commencing with the words "Effective January 1, 1993" and ending with the number and words "\$5.02 per unit" and inserting immediately after the words "Effective January 1, 1995.....\$5.32 per unit" the following:

"Effective January 1, 1996.....\$5.75

Effective January 1, 1997.....\$6.21

Effective January 1, 1998.....\$6.58".

Section 2. Amend §131(b)(2), Delaware Code, by striking the language commencing with the words "Effective January 1, 1993" and ending with the number and words "\$5.02 per unit" and inserting immediately after the words "Effective January 1, 1995.....\$5.32 per unit" the following:

"Effective January 1, 1996.....\$5.75

Effective January 1, 1997.....\$6.21

Effective January 1, 1998.....\$6.58"

Approved April 3, 1995

CHAPTER 12

FORMERLY

HOUSE BILL NO. 2

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLE REGISTRATIONS.

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

Section 1. Amend subsection 2140(g), Chapter 21, Title 21 of the Delaware Code by creating a new subsection to be designated as subsection (4), to read as follows:

"(4) Members of Delaware Nur Temple, the Marine Corps League, Delaware Veterans of World War 2 Inc., and the Service Alumni Association, provided that at least 100 applications for special plates must be received from members before the Division of Motor Vehicles will approve the issuance of the special plate."

Approved April 3, 1995

CHAPTER 13

FORMERLY

HOUSE BILL NO. 28

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO HOUSE ARREST FOR ADJUDICATED JUVENILES.

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

Section 1. Amend §1009(c), Title 10 of the Delaware Code by redesignating paragraph (14) as (15) and adding a new paragraph (14) which shall read as follows:

“(14) Order the child to be placed under house arrest under the same requirements set forth in §4332 and Subchapter IX, Chapter 43, Title 11 of the Delaware Code.”

Approved April 7, 1995

CHAPTER 14

FORMERLY

HOUSE BILL NO. 74

AN ACT TO AMEND AN ACT BEING CHAPTER 291, VOLUME 69 LAWS OF DELAWARE, ENTITLED “AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF 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” TO PERMIT THE PURCHASE OF EQUIPMENT FOR ELECTRONIC MONITORING OF ADJUDICATED JUVENILES.

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

Section 1. Amend Section 209, page 154, Chapter 291, Volume 69, Laws of Delaware by striking lines 26 and 27 in their entirety.

Approved April 7, 1995

CHAPTER 15
FORMERLY
SENATE BILL NO. 21
AS AMENDED BY

SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 19, DELAWARE CODE RELATING TO EXCLUSIONS FROM MINIMUM WAGE.

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

Section 1. Amend §901(5) of Title 19, Delaware Code by adding thereto a new subsection (h) to read as follows:

"(h) Any inmate in the custody of the Department of Correction and any inmate on work release who participates in the Prison Industries programs or other programs sponsored for inmates by the Department of Correction pursuant to Chapter 65 of Title 11 or other applicable Delaware law, unless said inmate is employed by an employer other than the State or a political subdivision thereof."

Approved April 7, 1995

CHAPTER 16
FORMERLY
SENATE BILL NO. 71

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO THE ACTIVITIES AND TAXATION OF EDGE ACT CORPORATIONS.

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

Section 1. Amend §101 (9) Title 5 of the Delaware Code by redesignating the existing paragraph e. as f., and by adding thereto a new paragraph e. as follows:

"(e) The underwriting, distributing and dealing in debt and equity securities outside of the United States and the conduct of any activities permissible to a banking organization described in paragraph c. of subsection (7) of this section, or any of its subsidiaries, in connection with the transaction of banking or other financial operations."

Section 2. Amend the redesignated paragraph f. of §101 (9) Title 5 of the Delaware Code by striking the letter and punctuation "d." as the same appears in said paragraph, and substituting therefor the letter and punctuation "e."

Section 3. Amend §1101 Title 5 of the Delaware Code by adding thereto a new subsection (h) as follows:

"(h) For purposes of this chapter, an Edge Act corporation as defined in §101 (7)c. of this Title which is not 'engaged in banking' as defined at 12 C.F.R. §211.2 (f), or any subsidiary thereof, may elect to be taxed in accordance with Chapter 19 of Title 30 in lieu of this Chapter."

Approved April 12, 1995

CHAPTER 17

FORMERLY

SENATE BILL NO. 82

AN ACT TO AMEND THE LAWS OF DELAWARE RELATED TO HEALTH PLANNING
AND RESOURCES MANAGEMENT.

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

Section 1. Title, 16, Section 9304 of the Delaware Code shall not apply to application
number 94-015 submitted to the Bureau of Health Planning by the Mary Campbell Center on
December 19, 1994.

Approved April 12, 1995

CHAPTER 18

FORMERLY

SENATE BILL NO. 43

AS AMENDED BY

SENATE 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:

Section 1. Amend the last sentence of the first paragraph of Subsection 2707(b)(7), Title
21, Delaware Code, by deleting the word "revoke" and substituting in lieu thereof the word
"suspend".

Approved April 13, 1995

CHAPTER 19

FORMERLY

SENATE BILL NO. 58

AN ACT TO AMEND CHAPTER 70, TITLE 21, DELAWARE CODE RELATING TO FIRE LANES.

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

Section 1. Amend Chapter 70, Title 21, Delaware Code by striking §7001(f) thereof and substituting in lieu thereof the following:

“(f) Whoever violates this section shall be fined not less than \$50.00 or more than \$100.”

Approved April 13, 1995

CHAPTER 20

FORMERLY

HOUSE BILL NO. 17

AN ACT TO AMEND CHAPTER 5, SUBCHAPTER VII, SUBPART E, 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, Subchapter VII, Subpart E, §1448A, Title 11 of the Delaware Code by striking existing subsection (e) in its entirety and in lieu thereof, substituting the following:

“(e) The SBI shall establish a toll-free telephone number which shall be operational between the hours of 9:00 a.m. and 9:00 p.m., Monday through Saturday, and 9:00 a.m. to 5:00 p.m. Sunday for purposes of responding to inquiries as described in this section from licensed manufacturers, licensed importers and licensed dealers. The foregoing notwithstanding, the telephone number need not be operational on Christmas Day, Thanksgiving Day or on Easter Sunday. The SBI shall employ and maintain such personnel as are necessary to administer the provisions of this section.”

Approved April 13, 1995

CHAPTER 21

FORMERLY

HOUSE BILL NO. 32

AS AMENDED BY

HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 29, DELAWARE CODE, BY ADDING THERETO A NEW CHAPTER AUTHORIZING A LEAVE OF ABSENCE WITH PAY FOR STATE EMPLOYEES PARTICIPATING IN SPECIALIZED DISASTER RELIEF SERVICES FOR THE AMERICAN RED CROSS.

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 29, Delaware Code, by adding thereto a new Chapter, which Chapter shall read in its entirety as follows:

"Chapter 60. Disaster Service Volunteer Leave.

§6001. Short Title. This Act may be cited as the Disaster Service Volunteer Leave Act.

§6002. Definitions. As used in this Chapter, unless the context indicates a different intent:

(a) 'State Agency' or 'Agency' means any State office, officer, official, department, board, commission, institution, bureau, agency, division or unit of the State, including those within the legislative and judicial branches of State government.

(b) 'Disaster' means any disaster designated at Level III or higher in the American National Red Cross Regulations and Procedures, including both national and State disasters.

(c) Certified Disaster Service Volunteer' or 'Volunteer' means any person who has completed the necessary training for and been certified as a disaster service specialist by the American Red Cross

§6003. Disaster Service Volunteer Leave.

(a) An employee of a State agency who is a Certified Disaster Service Volunteer may be granted leave from work with pay, in accordance with subsection (b) below, for up to an aggregate of fifteen work days, consecutively or non-consecutively, in any twelve-month period to participate in specialized disaster relief services for the American Red Cross in connection with any disaster, upon the request of the American Red Cross for such employee's services and upon the approval of such employee's employing agency.

(b) An employee of a State agency granted leave pursuant to subsection (a) above shall be compensated by his employing agency at his regular rate of pay for those regular work hours during which the employee is absent from work, but shall not receive overtime pay, shift differential pay, hazardous duty pay or any other form of pay or compensation in addition to his regular pay. An employee of a State agency who is granted leave pursuant to subsection (a) shall not lose any seniority or any already accumulated vacation time, sick time or earned overtime due to such leave.

(c) The State of Delaware shall not be liable for workers' compensation claims arising from accident or injury while the State employee is on assignment as a certified disaster service volunteer for the American Red Cross. Duties performed while on disaster leave shall not be considered to be a work assignment by a State agency. In determining whether to grant leave to an employee, his employing agency may consider the needs of the American Red Cross for expertise in a particular certified area. The employee's activities and job functions while on leave, however, shall not be directed by the State but shall be determined and controlled solely by the American Red Cross.

(d) An employee who is on leave pursuant to this section shall not be deemed to be an employee of the State for purposes of the Delaware Tort Claims Act."

Approved April 13, 1995

CHAPTER 22

FORMERLY

HOUSE BILL NO. 43

AN ACT TO AMEND CHAPTER 92, TITLE 10 OF THE DELAWARE CODE RELATING TO JUSTICES OF THE PEACE.

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

Section 1. Amend §9210(d), Chapter 92, Title 10, Delaware Code, by striking the words "Delaware Law School" as they appear therein and substituting in lieu thereof the words "Widener University School of Law".

Approved April 13, 1995

CHAPTER 23

FORMERLY

HOUSE BILL NO. 59

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO
PRIVACY IN FAMILY COURT PROCEEDINGS.

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

Section 1. Amend §1063, Title 10 of the Delaware Code by striking the existing subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) All records concerning any child shall be made available to the Superior Court and the Department of Services for Children, Youth and Their Families, and whenever a child is arrested, convicted or acquitted for a crime classified by Title 11 as a felony, or a class A misdemeanor for juveniles ages 13 through 17, the Clerk of the Family Court, or any state or local police authority, shall release the name and address of the child and the name of the child's parents upon request by a responsible representative of public information media."

Approved April 13, 1995

CHAPTER 24

FORMERLY

HOUSE BILL NO. 90

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING TO THE REGISTRATION OF MOTOR VEHICLES.

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

Section 1. Amend Chapter 21, Title 21 of the Delaware Code by adding thereto a new section which shall read as follows:

"Section 2139D. Special License Plates for Recipients of Medals or Commendations for Valor.

(a)(1) The owner of any vehicle described in paragraph (2) of this subsection may apply to the Department for assignment to that vehicle of a special Valor registration number; provided, however, that the owner of the vehicle must possess official documentation which indicates that such owner is the recipient of a medal or commendation for valor while serving in the United States Armed Forces, including, but not limited to, the Congressional Medal of Honor, the Silver Star, the Bronze Star, the Flying Cross, the Navy Cross, or a Letter of Commendation if awarded for valor under combat conditions.

(2) This section applies only to:

- a. A private passenger vehicle; or
- b. A truck with a 3/4-ton or less manufacturer's rated capacity.

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

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a \$10.00 administrative fee which shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of administering this section and to fund Department projects notwithstanding the provisions of Chapter 13 and 14 of Title 2, Delaware Code to the contrary.

(d) The Department shall reserve sufficient special license plates including the letter "V" and numbered consecutively beginning with the numeral "1" as are necessary to implement this section. In addition, any special license plate issued pursuant to this section shall include an insignia of the specific medal or commendation awarded to the applicant.

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within ninety (90) days."

Approved April 13, 1995

CHAPTER 25

FORMERLY

SENATE BILL NO. 57

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE STATUTORY PROVISIONS OF §106 (a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF DANA BALICK AND PAUL HERDMAN.

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

Section 1. Dana Balick and Paul Herdman are hereby exempted from the provisions of Section 106(a) of Title 13 of the Delaware Code which states that a clergyman or minister of a recognized religion, or the clerks of the peace of various counties may solemnize marriages; and the Honorable Bernard Balick of the Delaware Court of Chancery is hereby authorized to solemnize the marriage between Dana Balick and Paul Herdman. The Clerk of the Peace for New Castle County shall issue to Dana Balick and Paul Herdman one official marriage license pursuant to this Act, the provisions of Section 106 of Title 13 of the Delaware Code to the contrary notwithstanding.

Approved April 13, 1995

CHAPTER 26

FORMERLY

HOUSE BILL NO. 89

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2
AND SENATE AMENDMENT NOS. 2 AND 3

AN ACT TO AMEND CHAPTERS 27 AND 41, TITLE 21 OF THE DELAWARE CODE
RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR
DRUGS.

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

Section 1. Amend Section 4177, Title 21 of the Delaware Code by deleting the catchline in its entirety and inserting, in lieu thereof, the following:

"§4177. Driving a vehicle while under the influence; evidence; arrests; and penalties."

Section 2. Amend Section 4177(a), Title 21 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(a) No person shall drive a vehicle:

- (1) when the person is under the influence of alcohol;
- (2) when the person is under the influence of any drug;
- (3) when the person is under the influence of a combination of alcohol and any drug;
- (4) when the person's alcohol concentration is .10 or more; or
- (5) when the person's alcohol concentration is, within four hours after the time of driving, .10 or more."

Section 3. Amend Section 4177(b), Title 21 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) In a prosecution for a violation of subsection (a) of this section:

- (1) the fact that any person charged with violating this section is, or has been, legally entitled to use alcohol or a drug shall not constitute a defense.
- (2) it shall be an affirmative defense to a prosecution premised on subsection (a)(5) if the person proves by a preponderance of evidence that the person consumed a sufficient quantity of alcohol after the time of driving and before any sampling to cause the person's alcohol concentration to exceed .10. Such evidence shall not be admitted unless notice of this defense is given to the prosecution at least twenty days before trial.

(3) the charging document may allege a violation of subsection (a) without specifying any particular subparagraph of subsection (a) and the prosecution may seek conviction under any of the subparagraphs of subsection (a)."

Section 4. Amend Section 4177(c), Title 21 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(c) For purposes of Subchapter III of Chapter 27 of this title, this section, and §4177B of this title, the following definitions shall apply:

(1) 'alcohol concentration of .10 or more' shall mean:

(a) an amount of alcohol in a sample of a person's blood equivalent to .10 or more grams of alcohol per hundred milliliters of blood; or

(b) an amount of alcohol in a sample of a person's breath equivalent to .10 or more grams per two hundred ten liters of breath.

(2) 'chemical test' or 'test' shall include any form or method of analysis of a person's blood, breath, or urine for the purposes of determining alcohol concentration or the presence of drugs which is approved for use by the Forensic Sciences Laboratory, Office of the Chief Medical Examiner, the Delaware State Police Crime Laboratory, any state or federal law enforcement agency, or any hospital or medical laboratory. It shall not, however, include a preliminary screening test of breath performed in order to estimate the alcohol concentration of a person at the scene of a stop or other initial encounter between an officer and the person.

(3) 'drive' shall include driving, operating, or having actual physical control of a vehicle.

(4) 'vehicle' shall include any vehicle as defined in §101(48) of this title, any off-highway vehicle as defined in §101(54) of this title, any moped as defined in §101(53) of this title, and any bicycle as defined in §101(52) of this title.

(5) 'while under the influence' shall mean that the person is, because of alcohol or drugs or a combination of both, less able than the person would ordinarily have been, either mentally or physically, to exercise clear judgment, sufficient physical control, or due care in the driving of a vehicle.

(6) 'alcohol concentration of .20 or more' shall mean:

a. An amount of alcohol in a sample of a person's blood equivalent to .20 or more grams of alcohol per hundred milliliters of blood; or

b. An amount of alcohol in a sample of a person's breath equivalent to 20 or more grams per two hundred ten liters of breath."

Section 5. Amend Section 4177(e), Title 21 of the Delaware Code by adding as the second paragraph thereto the following:

"No person who violates subsection (a) of this section shall receive a suspended sentence. However, for the first offense, the period of imprisonment may be suspended."

Section 6. Amend Section 4177(f), Title 21 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(f) For purposes of a conviction premised upon subsection (a) of this section, or any proceeding pursuant to this Code in which an issue is whether a person was driving a vehicle while under the influence, evidence establishing the presence and concentration of alcohol or drugs in the person's blood, breath, or urine shall be relevant and admissible. Such evidence may include the results from tests of samples of the person's blood, breath or urine taken within four hours after the time of driving or at some later time. In any proceeding, the resulting alcohol or drug concentration reported when a test, as defined in subsection (c)(2) of this section, is performed shall be deemed to be the actual alcohol or drug concentration in the person's blood, breath or urine without regard to any margin of error or tolerance factor inherent in such tests.

(1) Evidence of an alcohol concentration of .05 or less in a person's blood, breath or urine sample taken within four hours of driving and tested as defined in subsection (c)(2) of this section is prima facie evidence that the person was not under the influence of alcohol within the meaning of this statute. Evidence of an alcohol concentration of more than .05 but less than .10

in a person's blood, breath or urine sample taken within four hours of driving and tested as defined in subsection (c)(2) of this section shall not give rise to any presumption that the person was or was not under the influence of alcohol, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol.

(2) Evidence obtained through a preliminary screening test of a person's breath in order to estimate the alcohol concentration of the person at the scene of a stop or other initial encounter between a law enforcement officer and the person shall be admissible in any proceeding to determine whether probable cause existed to believe that a violation of this Code has occurred. However, such evidence shall not be admissible in the determination of guilt under this section.

(3) Nothing in this section shall preclude conviction of an offense defined in this Code based solely on admissible evidence other than the results of a chemical test of a person's blood, breath or urine to determine the concentration or presence of alcohol or drugs.

(4) A jury shall be instructed by the court in accordance with the applicable provisions of this subsection in any proceeding pursuant to this Code in which an issue is whether a person was driving a vehicle while under the influence of alcohol or drugs or a combination of both."

Section 7. Amend Section 4177(g), Title 21 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(g) (1) For the purpose of introducing evidence of a person's alcohol concentration pursuant to this section, a report signed by the Forensic Toxicologist, Forensic Chemist or State Police Forensic Analytical Chemist who performed the test or tests as to its nature is *prima facie* evidence, without the necessity of the Forensic Toxicologist, Forensic Chemist, or State Police Forensic Analytical Chemist personally appearing in court:

(a) that the blood delivered was properly tested under procedures approved by the Forensic Sciences Laboratory, Office of the Chief Medical Examiner, or the Delaware State Police Crime Laboratory;

(b) that those procedures are legally reliable;

(c) that the blood was delivered by the officer or persons stated in the report; and,

(d) that the blood contained the alcohol therein stated.

(2) Any report introduced under paragraph (1) of this subsection must:

(a) identify the Forensic Toxicologist, Forensic Chemist or State Police Forensic Analytical Chemist as an individual certified by the Forensic Sciences Laboratory, Office of the Chief Medical Examiner, the Delaware State Police Crime Laboratory, or any county or municipal police department employing scientific analysis of blood, as qualified under standards approved by the Forensic Sciences Laboratory, Office of the Chief Medical Examiner, or the Delaware State Police Crime Laboratory to analyze the blood;

(b) state that the person made an analysis of the blood under the procedures approved by the Forensic Sciences Laboratory, Office of the Chief Medical Examiner, or the Delaware State Police Crime Laboratory; and,

(c) state that the blood, in his or her opinion, contains the resulting alcohol concentration within the meaning of this section. Nothing in this subsection precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in the report entered pursuant to paragraphs (1) and (2) of this subsection.

(3) For purposes of establishing the chain of physical custody or control of evidence defined in 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 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(3).

(4) In a criminal proceeding, the prosecution shall, upon written demand of a defendant filed in the proceedings at least fifteen days prior to the trial, require the presence of the Forensic Toxicologist, Forensic Chemist, State Police Forensic Analytical Chemist, or any person in the chain of custody as a witness in the proceeding."

Section 8. Amend Section 4177(h), Title 21 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(h) In addition to any other powers of arrest, any law enforcement officer is hereby authorized to arrest without a warrant any person who the officer has probable cause to believe has violated the provisions of this section, regardless of whether the alleged violation was committed in the presence of such officer. This authority to arrest extends to any hospital or other medical treatment facility located beyond the territorial limits of the officer's jurisdiction provided there is probable cause to believe that the violation of this section occurred within the officer's jurisdiction. This authority to arrest also extends to any place where the person is found within four hours of the alleged driving of a vehicle if there is reason to believe the person has fled the scene of an accident in which he or she was involved, and provided there is probable cause to believe that the violation of this section occurred within the officer's jurisdiction."

Section 9. Amend Section 4177B(a)(4), Title 21 of the Delaware Code by striking said paragraph in its entirety and substituting in lieu thereof the following:

"(4) did not have an alleged alcohol concentration of .20 or more at the time of driving or within four hours of driving; and".

Section 10. Amend Section 4177B(e), Title 21 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(e) For purposes of §§2742, 4177, and 4177B of this title, the following shall constitute a prior or previous conviction:

(1) participation in a course of instruction or program of rehabilitation pursuant to §§2742(h), 4177, 4177B, or 4177D of this title, or any similar statute of any state, local jurisdiction, any federal or military reservation, or the District of Columbia, within the five years immediately preceding the date of the present offense, regardless of the existence or validity of any accompanying attendant plea or adjudication of guilt.

(2) a conviction pursuant to §4177 of this title, or a similar statute of any state, local jurisdiction, any federal or military reservation, or the District of Columbia, within the five years immediately preceding the date of the present offense;

(3) a conviction, under a criminal statute encompassing death or injury caused to another person by the person's driving, where driving under the influence or with a prohibited alcohol concentration was an element of the offense.

For the purpose of computing the periods of time set out in this subsection, the period shall run from the completion of the course of instruction or from the entry of the judgment of conviction, whichever is later, to the date of the commission of the charged offense.

In any proceeding under §§2742, 4177, or 4177B of this title a person may not challenge the validity of any prior or previous conviction unless he or she first successfully challenges the prior or previous conviction in the court in which the conviction arose and provides written notice of the challenge in the present proceeding to the prosecution at least twenty days before trial."

Section 11. Amend Section 2742(f)(2), Title 21 by deleting the entire second sentence of said paragraph and substituting in lieu thereof the following:

"For purposes of this subsection an alcohol concentration of .10 or more pursuant to testing provided for in this section, or §4177 of this title, or a positive indication of the presence of drugs, shall be conclusive evidence of said violation."

Section 12. 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 severable.

Section 13. Any action, case, prosecution, trial or any other legal proceeding in progress under or pursuant to the previous wording of the sections amended by this Act, no matter what the stage of the proceeding, shall be preserved and shall not become illegal or terminated upon the effective date of this Act. For purposes of such proceedings in progress the prior law shall remain in full force and effect.

Section 14. This Act shall become effective upon signature of the Governor.

Approved April 27, 1995

CHAPTER 27

FORMERLY

HOUSE BILL NO. 173

AN ACT TO AMEND AN ACT TO AMEND §508 AND §518, TITLE 7 OF THE DELAWARE CODE RELATING TO LICENSE FEES FOR NONRESIDENTS.

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

Section 1. Amend §508, Title 7 of the Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"§508. License fees for nonresidents.

Nonresidents shall pay to the Department or its duly constituted agents the following license fees:

- (1) \$86.00 for a general hunting license.
- (2) \$25.00 for a trapping license.
- (3) \$15.00 for a general fishing license.
- (4) \$5.20 for a 7-day fishing license (good for 7 consecutive days from the date of issuance).
- (5) \$35.00 for a small game hunting license good for 3 consecutive days from the date of issue and not valid for hunting waterfowl, deer or turkeys and not valid for hunting on any publicly owned land.
- (6) \$10.00 for an additional permit to kill a single deer."

Section 2. Amend §518, title 7 of the Delaware Code by deleting the dollar value "\$5." as it appears in subsection (c) of that section and substituting in lieu thereof: "\$6."

Approved April 27, 1995

CHAPTER 28

FORMERLY

SENATE BILL NO. 46

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO WAIVER OF INSPECTIONS OF TRUCKS.

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

Section 1. Amend Section 2143, Chapter 21, Title 21 of the Delaware Code by adding the following subsection (f) thereto:

"(f) The Department shall waive the requirement for inspection for all vehicles or motor vehicles registered under the International Registration Plan pursuant to Chapter 4 of this Title. The Department may adopt rules and/or procedures to implement this subsection."

Approved April 27, 1995

CHAPTER 29

FORMERLY

SENATE BILL NO. 64

AS AMENDED BY

SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 27, OF TITLE 29 OF THE DELAWARE CODE RELATING TO THE LOCAL GOVERNMENT INVESTMENT POOL.

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

Section 1. Amend §2718(a), Title 29, Delaware Code by striking the first sentence commencing with the words "The governing body" and ending with the words "State Treasurer" and substituting a new sentence to read as follows:

"The governing body or investing authority of a local government, meaning any city, town, or county in Delaware, or any conservation district organized pursuant to Chapter 39 of Title 7 of the Delaware Code, or any volunteer fire company organized pursuant to Chapter 66 of Title 16 of the Delaware Code, or the Delaware Volunteer Fireman's Association, the three county Volunteer Fireman's Associations, Volunteer Ambulance Companies, and the Volunteer Fireman's Ladies Auxilliary Mutual Relief Association, Inc., may pay moneys of the local government or organization into the Local Government Investment Pool which shall be in the custody of the State Treasurer."

Approved April 27, 1995

CHAPTER 30

FORMERLY

SENATE BILL NO. 127

AN ACT TO AMEND SECTION 106 OF TITLE 13, DELAWARE CODE, RELATING TO
THE SOLEMNIZATION OF MARRIAGES

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

Section 1. Amend Section 106, Title 13, Delaware Code, by redesignating current subsection (d) as (e) and inserting a new subsection (d) as follows:

"(d) In the case of absence or disability of the duly elected clerk of the peace, the chief deputy or, if there is no chief deputy, a deputy employed in the office of the clerk of the peace, shall be authorized to solemnize marriages."

Approved May 4, 1995

CHAPTER 31

FORMERLY

HOUSE BILL NO. 205

AN ACT TO WAIVE CERTAIN STATUTORY PROVISIONS OF CHAPTER 1, TITLE 13 OF
THE DELAWARE CODE RELATING TO THE MARRIAGE OF KRIS DEYERLE
AND JOSEPH CANNATELLI.

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

Section 1. Kris Deyerle and Joseph Cannatelli 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 Poppiti of the Delaware Family Court is hereby authorized to solemnize the marriage between Kris Deyerle and Joseph Cannatelli. The Clerk of the Peace for New Castle County shall issue to Kris Deyerle and Joseph Cannatelli one official marriage license pursuant to this Act, the provisions of 13 Del. C. Chapter 1 to the contrary notwithstanding.

Approved May 4, 1995

CHAPTER 32

FORMERLY

HOUSE BILL NO. 206

AN ACT TO WAIVE CERTAIN STATUTORY PROVISIONS OF CHAPTER 1, TITLE 13,
OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF MEGAN
BALLARD AND DAVID MAZER.

Section 1. Megan Ballard and David Mazer 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 Poppiti of the Delaware Family Court is hereby authorized to solemnize the marriage between Megan Ballard and David Mazer. The Clerk of the Peace for New Castle County shall issue to Megan Ballard and David Mazer one official marriage license pursuant to this Act, the provisions of 13 Del. C. Chapter 1 to the contrary notwithstanding.

Approved May 4, 1995

CHAPTER 33

FORMERLY

SENATE BILL NO. 50

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 42, TITLE 11, DELAWARE CODE, RELATING TO THE
METHOD AND IMPOSITION OF SENTENCE OF DEATH.

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

Section 1. Amend §4209(f) of Chapter 42 of Title 11, Delaware Code, by inserting the following immediately after the word "witnesses" as it appears in the first sentence:

"which shall not exceed ten,".

Approved May 15, 1995

CHAPTER 34

FORMERLY

HOUSE BILL NO. 98

AS AMENDED BY

HOUSE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS.

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

Section 1. Amend Section 4177(d), Title 21 of the Delaware Code by inserting a new paragraph "(3)" to read as follows:

"(3) In addition to the penalties otherwise authorized by this subsection, any person convicted of a violation of subsection (a) of this section committed while a person who has not yet reached his or her seventeenth birthday is on or within the vehicle shall:

a. for the first offense, be fined an additional minimum of \$230 and not more than an additional \$1,150 and sentenced to perform a minimum of forty hours of community service in a program benefiting children.

b. for each subsequent like offense, be fined an additional minimum of \$575 and not more than an additional \$2,300 and sentenced to perform a minimum of eighty hours of community service in a program benefiting children.

c. Violation of this paragraph shall be considered as an aggravating circumstance for sentencing purposes for a person convicted of a violation of subsection (a) of this section. Nothing in this paragraph shall prevent conviction for a violation of both subsection (a) of this section and any offense as defined elsewhere by the laws of this State.

d. Violation of or sentencing pursuant to this paragraph shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim, nor shall a violation of or sentencing pursuant to this paragraph be admissible as evidence in the trial of any civil action."

Section 2. Amend Section 4177B(a), Title 21 of the Delaware Code by adding thereto a new subparagraph "(6)" after the phrase "at the time of the offense in question;" as follows:

"and (6) is not subject to the enhanced penalties of §4177(d) (3) for carrying a child on or within his or her vehicle while driving under the influence;"

Section 3. Amend Section 4177B(f), Title 21 of the Delaware Code by changing the number "(5)" to the number "(6)" as it appears in the first sentence of that subsection.

Approved May 15, 1995

CHAPTER 35

FORMERLY

HOUSE BILL NO. 111

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF CHAPTER 1, TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF PATRICIA GALLAGHER AND TERRY MC CANDLISH.

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

Section 1. Patricia A. Gallagher and Terry L. McCandlish 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 Carolyn Berger of the Delaware Supreme Court is hereby authorized to solemnize the marriage between Patricia A. Gallagher and Terry L. McCandlish. The Clerk of the Peace for New Castle County shall issue to Patricia A. Gallagher and Terry L. McCandlish one official marriage license pursuant to this Act, the provisions of 13 Del. C. Chapter 1 to the contrary notwithstanding.

Approved May 15, 1995

CHAPTER 36

FORMERLY

HOUSE BILL NO. 91

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 & 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 27 AND 41, TITLE 21 OF THE DELAWARE CODE RELATING TO UNDERAGE POSSESSION OR CONSUMPTION OF ALCOHOL, DRIVERS' LICENSES, AND RULES OF THE ROAD.

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 41, Title 21 of the Delaware Code by adding thereto a new section "4177I" to read as follows:

"§ 4177I. Driving by person under the age of 21 after consumption of alcohol; penalties.

(a) Whoever, being under the age of 21 years, drives, operates, or has actual physical control of a vehicle, an off-highway vehicle, or a moped while consuming or after having consumed alcoholic liquor, shall have his or her driver's license and/or privileges revoked for a period of 2 months for the first offense and not less than 6 months nor more than 12 months for each subsequent offense. If the underage person does not have a driver's license and/or privileges, the person shall be fined \$200 for the first offense and not less than \$400 nor more than \$1,000 for each subsequent offense.

(b) In any proceeding under this section, evidence may be admitted of the amount of alcohol in the blood or breath of such underage person as determined by a specimen taken within 4 hours of the time when such person is alleged to have driven, operated, or been in control of a vehicle after having consumed alcoholic liquor as shown by an analysis of his or her breath, blood, urine, or saliva. Evidence that there was at the time of the test an alcohol concentration of .02 or more in his or her blood or breath is prima facie evidence that the person had consumed alcoholic liquor. 'Alcohol concentration of .02 or more in his or her blood or breath' shall mean (1) an amount of alcohol in a sample of a person's blood equivalent to .02 or more grams of alcohol per hundred milliliters of blood; or, (2) an amount of alcohol in a sample of a person's breath equivalent to .02 or more grams per two hundred ten liters of breath. This provision shall not preclude a conviction based upon other admissible evidence.

(c) In addition to any other powers of arrest, any police officer is hereby authorized to arrest without a warrant any person who the officer has probable cause to believe has violated the provisions of this section, regardless of whether the alleged violation was committed in the presence of such officer."

Section 2. Amend Section 2740, Title 21 of the Delaware Code by deleting the symbol "§" and substituting in lieu thereof the symbol "§§" and by inserting the phrase, "and 4177I" between the number "4177" and the word "or" as they appear in the first sentence of said section; and further amend said section by inserting the phrase ", 4177I" between the number "4177" and the word "or" as they appear in the second sentence of said section.

Section 3. Amend Section 2742(c), Title 21 of the Delaware Code by deleting the comma ",", as it appears the first time in the first sentence of said subsection and substituting in lieu thereof a colon ":"; and by redesignating the remaining portion of that subsection as paragraph "(1)".

Section 5. Amend Section 2742(c), Title 21 of the Delaware Code by adding a new paragraph "(2)" to said subsection to read as follows:

"(2) Upon certification by the police officer that there existed probable cause to believe that the person was in violation of § 4177I of this title or a local ordinance substantially conforming thereto, and the person was arrested on that occasion for a violation of § 4177I of this title or a local ordinance substantially conforming thereto, the Secretary shall revoke the person's driver's license and/or driving privileges for a period of 2 months for the first offense under said section or from 6 to 12 months for each subsequent offense pursuant to said section."

Section 6. Amend Section 2742(f)(2), Title 21 of the Delaware Code by deleting the phrase "subsection (c)" as it appears in said paragraph and substituting in lieu thereof the phrase "subsection (c)(1)".

Section 7. Amend Section 2742(f), Title 21 of the Delaware Code by redesignating the current paragraph "(3)" as paragraph "(4)" and by inserting a new paragraph "(3)" to read as follows:

"(3) With respect to subsection (c)(2) of this section, whether by a preponderance of the evidence it appears that the person was in violation of § 4177I of this title or a local ordinance substantially conforming thereto. For purposes of this subsection an alcohol concentration of .02 or more pursuant to the testing referred to in this section shall be conclusive evidence of said violation."

Section 8. Amend Section 2749, Title 21 of the Delaware Code by inserting the phrase "or § 4177I" between the number "4177" and the word "of" as they appear in said section.

Section 9. Amend Section 4177F, Title 21 of the Delaware Code, by striking the word 'or' as it appears the first time in that section and inserting the phrase ', or 4177I' between the number "4177E" and the word "of" as they appear in that section.

Section 10. Amend Section 2743(b), Title 21 of the Delaware Code, by striking the phrase "\$2742(c)" as it appears in that subsection and inserting in lieu thereof the phrase "\$2742(c)(1)."

Section 11. Amend Section 2743(c), Title 21 of the Delaware Code, by striking the phrase "\$2742(b) or (c)" as it appears in that subsection and inserting in lieu thereof the phrase "\$2742(b)(1) or (c)(1)."

Section 12. Amend Section 2741(a), Title 21 of the Delaware Code, by inserting the phrase "(1)" between the word "be" and the word "revoked" as they appear in the first sentence in that subsection and by inserting the phrase "if a violation of §4177I is alleged; or (2) revoked for a period of at least 2 months if a violation of §4177I is alleged" between the word "year" and the period "." as they appear in that same sentence.

Section 13. Amend Section 2742(b), Title 21 of the Delaware Code, by redesignating the entirety of that subsection as paragraph "(1)" and adding a new paragraph "(2)" to said subsection to read as follows:

"(2) Upon certification by the police officer that there existed probable cause to believe that the person had been acting in violation of §4177I of this Title or a local ordinance substantially conforming thereto and that the person refused to submit to a chemical test after being informed of the penalty of revocation for such refusal, the Secretary shall revoke the person's driver's license and/or driving privilege for a period of 2 months for a person with no previous violation of §4177I of this Title or this Section or a similar statute of any state or the District of Columbia or local government; 6 months for a person with a previous violation of such statutes as described above; and 12 months revocation for a person with 2 or more previous violations of such statutes as described above.

Section 14. Amend Section 2742(e), Title 21 of the Delaware Code, by inserting the phrase "or §4177I" between the numeral "4177" and the word "of" as they appear in that subsection.

Section 15. Amend Section 2742(f)(1), Title 21 of the Delaware Code, by inserting the phrase "or §4177I" between the numeral "4177" and the word "of" as they appear in that paragraph.

Section 16. Amend Section 2743(a), Title 21 of the Delaware Code, by deleting the phrase "§2742(b)" as it appears in the paragraph and inserting the phrase "§2742(b)(1)".

Section 17. Amend Section 2743 by redesignating subsections "(d)" and "(e)" as subsections "(f)" and "(g)" and inserting new subsections "(d)" and "(e)" to read as follows:

"(d) Any revocation pursuant to §2742(b)(2) of this Title shall be for a period of 2 months, 6 months or 12 months as appropriate, from the effective date of the revocation.

"(e) Any revocation pursuant to §2742(c)(2) of this Title shall be for a period of 2 months, 6 months or 12 months as appropriate, from the effective date of the revocation."

Section 18. This Act shall become effective sixty days (60) after its enactment into Law.

Approved May 18, 1995

CHAPTER 37

FORMERLY

SENATE BILL NO. 96

AN ACT TO AMEND CHAPTER 27, TITLE 21 RELATING TO CIVIL PENALTIES FOR UNLAWFUL APPLICATION FOR, OR USE OF, A DRIVER'S LICENSE OR IDENTIFICATION CARD.

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

Section 1. Amend §2733(a)(5), Title 21 of the Delaware Code by deleting said paragraph in its entirety and substituting in lieu thereof the following:

"(5) Has violated subsection (a) or (b) of §2751 of this title;"

Approved May 18, 1995

CHAPTER 38

FORMERLY

HOUSE BILL NO. 57

AS AMENDED BY

HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO RULES OF THE ROAD.

WHEREAS, enactment of this legislation will help reduce many bike-related head injuries and deaths suffered by children; and

WHEREAS, each year in the United States, eight thousand children are killed and fifty thousand more are permanently disabled; and

WHEREAS, in 1990, an estimated three hundred eighty-three thousand, four hundred fifty-nine children were treated in emergency rooms for bike-related injuries; and

WHEREAS, seventy-five percent of all bike-related injuries include trauma to the head; and WHEREAS, this Act will help mitigate these injuries within the State of Delaware by requiring children to wear approved bicycle helmets; and

WHEREAS, a BIPED (Bicycle Injury Prevention Education, Delaware) program serving a minimum of eight thousand students each year has now been offered to the public for five years

NOW, THEREFORE:

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

Section 1. Amend Subchapter XII, Chapter 41, Title 21 of the Delaware Code by adding thereto a new section to read:

"§4198J. Helmet Requirements.

(a) A person under sixteen years of age shall not operate, ride upon, or ride as a passenger any bicycle, unless that person is wearing a properly fitted and fastened bicycle helmet which meets or exceeds the standard of the American National Standards Institute (ANSI Z90.4 bicycle helmet standard or subsequent standard) or the Snell Memorial Foundation's 1984 Standard (or subsequent standard) for Protective Headgear for Use in Bicycling. This requirement shall apply to a person who rides upon a bicycle while in a restraining seat which is attached to the bicycle or in a trailer towed by the bicycle.

(b) Any guardian who fails to cause his child to wear a bicycle helmet, as provided herein, shall be fined for the first offense twenty-five dollars, and for each subsequent offense, fifty dollars.

(c) The Court may dismiss all charges pursuant to this Section upon presentation of evidence that a violator hereof has purchased or obtained a bicycle helmet which meets or exceeds the standards set forth herein subsequent to the violation.

(d) The requirements of this Section shall apply at all times while a bicycle is being operated on any property open to the public or used by the public for pedestrian and vehicular purposes.

(e) Failure to wear a bicycle helmet as herein described shall not be considered evidence of either comparative or contributory negligence in any civil suit arising out of

any accident in which a person under sixteen years of age is injured, nor shall failure to wear a bicycle helmet be admissible as evidence in the trial of any civil action."

Section 2. (1) The Delaware Bicycle Council, in cooperation with the Departments of Public Safety and Public Instruction and the Cooperative Extension Services of the University of Delaware and Delaware State University, shall sustain and improve the program of bicycle safety education offered to the public in each of the counties of the State.

(2) The State shall initiate a statewide bicycle helmet bank for those that cannot afford to purchase bicycle helmets to be in place by the date this Act becomes effective.

(3) This Act shall become effective April 1, 1996.

Approved May 23, 1995

CHAPTER 39

FORMERLY

HOUSE BILL NO. 110

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 81, TITLE 9 OF THE DELAWARE CODE RELATING TO THE POWER OF THE SUSSEX COUNTY GOVERNMENT TO IMPOSE AND COLLECT A TAX UPON THE PLACEMENT OF A MOBILE HOME.

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

Section 1. Amend Chapter 81, Title 9 of the Delaware Code by designating present section 8104 as '§8105' and renumbering the remaining sections of Chapter 81, Subchapter I, Title 9, in sequence and by adding a new section §8104 to read as follows:

"§ 8104. Placement of mobile homes subject to Sussex County taxation.

Notwithstanding any statute to the contrary, the Sussex County government shall have the power by ordinance to impose and collect a tax, to be paid by the applicant, upon the application for a permit for the placement of a mobile home within the unincorporated areas of the county; provided, however, that any tax upon the placement of a mobile home shall not be greater than one percent of the value of the mobile home as represented by the permit application; and further provided, that nothing herein shall limit or otherwise affect the power of the county to impose and collect by ordinance fees for placement permits for mobile homes; and further provided, that the county government shall by ordinance exempt from taxation mobile homes owned by those organizations contained in § 8105 and § 8106, Subchapter I, Chapter 81, Title 9 of the Delaware Code; and further provided, that the county government shall by ordinance exempt from taxation mobile homes which are not subject to taxation pursuant to § 8363, Subchapter II, Chapter 83, Title 9 of the Delaware Code. The funds realized by the county pursuant to this tax shall be segregated from the county's general fund and the funds, and all interest thereon, shall be expended solely for the benefit of the county's independent libraries. The government of Sussex County may adopt by ordinance or ordinances to provide for the effective administration and regulation of any taxes adopted pursuant to the authority conferred to this Act."

Approved May 25, 1995

CHAPTER 40

FORMERLY

SENATE BILL NO. 141

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE TO INCREASE THE JURISDICTION OF THE VIOLENT CRIMES COMPENSATION BOARD.

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

Section 1. Amend Title 11 of the Delaware Code by adding a new Section 9019 thereto to read as follows:

"§9019. Payment for forensic medical examinations for victims of sexual offense.

(a) The cost of a forensic medical examination done for the purpose of gathering evidence that can be used in the prosecution of a sexual offense may be paid from the Victim Compensation Fund.

(b) 'Forensic medical examination' shall be defined as medical diagnostic procedures examining for physical trauma, and determining penetration, force, or lack of consent. The cost of the examination shall include collecting all evidence as called for in the sexual offense evidence collection kits and may include any of the following, if done as part of the forensic medical examination:

1. Physician's fees for the collection of the patient history, physical, collection of specimens, and treatment for the prevention of venereal disease, including one return follow-up visit;

2. Emergency department expenses, including emergency room fees and cost of pelvic tray, and

3. Laboratory expenses for wet mount for sperm, swabs for acid phosphates and ABH antigen; blood typing; serology for syphilis and Hepatitis B; cultures for gonorrhea, chlamydia, trichomonas, and other sexually transmitted diseases; pregnancy testing; urinalysis; and any other laboratory test needed to collect evidence that could be used in the prosecution of the offense.

(c) Hospitals and health care professions shall provide forensic medical examinations free of charge to the victims of sexual offenses. Any hospital or health care professional performing a forensic medical examination shall seek reimbursement for the examination from the patient's insurance carrier, including Medicaid and Medicare, if available. If insurance is unavailable, or does not cover the full costs of the forensic medical examination, the service provider may seek reimbursement from the Compensation Fund. The Board shall authorize the repayment for reasonable expenses incurred during the forensic medical examination. Such reimbursement shall not exceed a maximum amount to be determined by the Board. If the hospital or health care professional has recovered from insurance, the Board shall only provide compensation sufficient to total the maximum amount provided for in the Board's rules and regulations.

(d) The victim of the sexual offense shall not pay any out-of-pocket costs associated with the forensic medical examination and shall not be required to file an application with the Board. Notwithstanding other language in this Chapter, all forensic medical examinations of victims of a sexual offense not covered by insurance shall be paid for through the Victim Compensation Fund and such payment shall be considered full compensation to the hospital or health care professional providing such services.

(e) In addition to, and at the same time as, any other fine or penalty assessed on any criminal defendant, all defendants convicted of a sexual offense as defined in 11 Del. C. §761

shall be assessed an additional fine that shall be used to reimburse the Victim Compensation Fund for forensic medical examination payments. All defendants convicted of sexual offenses shall pay \$50 for each misdemeanor level count for which they are convicted and \$100 for each felony level count for which they are convicted. All fines paid in accordance with this section shall be deposited into the Victim Compensation Fund.

(f) Nothing in this section shall preclude victims from applying to the Board for other costs incurred."

Approved May 26, 1995

CHAPTER 41

FORMERLY

SENATE BILL NO. 144

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE
DELAWARE TECHNICAL AND COMMUNITY COLLEGE.

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

Section 1. Amend Title 14 of the Delaware Code by adding thereto a new §9111 to
read as follows:

"§9111. Name of campus in Sussex County.

The Sussex County campus of the Delaware Technical and Community College
shall be named 'Jack F. Owens Campus'."

Approved May 26, 1995

CHAPTER 42

FORMERLY

HOUSE BILL NO. 189

AN ACT TO AMEND CHAPTER 83, TITLE 9 OF THE DELAWARE CODE RELATING TO
THE VALUATION OF LAND DEVOTED TO AGRICULTURE, HORTICULTURAL
OR FOREST USE.

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

Section 1. Amend § 8335(d)(1), Chapter 83, Title 9 of the Delaware Code by striking said paragraph in its entirety and substituting in lieu thereof a new § 8335(d)(1) to read as follows:

"(1) If in the tax year in which a change in use of land occurs the land was not valued, assessed and taxed under this Chapter, then such land shall be subject to roll-back taxes in the following manner. If the change of the use of land occurs prior to January 1, 1996, then such land shall be subject to roll-back taxes for the five tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1996, and December 31, 1996, then such land shall be subject to roll-back taxes for the six tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1997, and December 31, 1997, then such land shall be subject to roll-back taxes for the seven tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1998, and December 31, 1998, then such land will be subject to roll-back taxes for the eight tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs between January 1, 1999, and December 31, 1999, then such land shall be subject to roll-back taxes for the nine tax years immediately preceding in which the land was valued, assessed and taxed hereunder. If the change in use of land occurs on January 1, 2000, or thereafter, then such land shall be subject to roll-back taxes for the ten tax years immediately preceding in which the land was valued, assessed and taxed hereunder."

Approved May 26, 1995

CHAPTER 43

FORMERLY

SENATE BILL NO. 60

AS AMENDED BY

SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 31 AND 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 3163, Chapter 31, Title 19 of the Delaware Code by adding the phrase "and/or self-employment assistance allowances" after the word "benefits" as this word appears in the first, second, third, fifth and sixth sentences of this section.

Section 2. Amend Section 3302, Chapter 33, Title 19 of the Delaware Code by redesignating subsections "5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21" of the Delaware Code as they appear therein as subsections "6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22" respectively.

Section 3. Amend Section 3302, Chapter 33, Title 19 of the Delaware Code by inserting a new subsection "5" to read:

"(5) 'Regular benefits' means benefits payable to an individual under this chapter or under any other State law (including benefits payable to Federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. Chapter 85) other than additional and extended benefits."

Section 4. Amend Chapter 33, Title 19, Delaware Code by adding a Section 3328 to read as follows:

"Section 3328. Self-employment Assistance Program.

(a) As used in this section:

(1) 'Self-employment assistance activities' means activities (including entrepreneurial training, business counseling, and technical assistance) approved by the Secretary of Labor or his/her designee in which an individual identified through a worker profiling system as likely to exhaust regular benefits participates for the purpose of establishing a business and becoming self-employed.

(2) 'Self-employment assistance allowance' means an allowance, payable in lieu of regular benefits and from the Unemployment Compensation Fund established under Section 3161, Chapter 31 of this title, to an individual participating in self-employment assistance activities who meets the requirements of this Section.

(3) 'Full-time basis' means that the individual is devoting such amount of time as is determined by the Department to be necessary to establish a business which will serve as a full-time occupation for that individual.

(b) The weekly allowance payable under this section to an individual will be equal to the weekly benefit amount for regular benefits payable under Section 3313 of this chapter. The sum of (1) the allowance paid under this Section and (2) regular benefits paid under this chapter with respect to any benefit year shall not exceed the maximum benefit amount as established by Section 3313(k) of this chapter with respect to such benefit year.

(c) The allowance described in subsection (a) shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits under this chapter, except that --

(1) The requirements of Sections 3314 (1), 3314 (3), and 3315 (3) of this chapter relating to availability for work, active search for work, and refusal to accept work are not applicable to such individual;

(2) The reduction provided in Section 3313 (i) relating to wages paid is not applicable to income earned from self-employment by such individual;

(3) An individual who meets the requirements of this section shall be considered to be unemployed under Section 3302 (16) of this chapter; and

(4) An individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities (which may include training) relating to the establishment of a business and becoming self-employed shall be disqualified for the week such failure occurs.

(5) The aggregate number of individuals receiving the self-employment assistance allowance under this section at any time shall not exceed 5 percent of the number of individuals receiving regular benefits for such week. The Secretary of Labor shall prescribe such actions as are necessary to assure the requirements of this subsection are met.

(6) Self-employment assistance allowances paid under this Section shall be charged to employers as provided under the provisions of this chapter relating to the charging of regular benefits. Benefits shall be noncharged as provided under Section 3315 of this chapter.

(7) The provisions of this section will apply to weeks beginning after the date of enactment or weeks beginning after any plan required by the U. S. Department of Labor is approved by said Department, whichever date is later. The authority provided by this section shall terminate as of the end of the week preceding the date when Federal law no longer authorizes the provisions of this section, unless such date is a Saturday in which case the authority shall terminate as of such date."

Approved June 1, 1995

CHAPTER 44

FORMERLY

SENATE BILL NO. 13

AS AMENDED BY

SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 68, TITLE 9, DELAWARE CODE REGARDING THE MEMBERSHIP OF THE SUSSEX COUNTY PLANNING AND ZONING COMMISSION.

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

Section 1. Amend §6803(a)(1), Title 9 of the Delaware Code by adding after the phrase "Department of Transportation," and before the phrase "an appointee of the State Board of Health" the following:

"An appointee of the Department of Agriculture,"

Section 2. Further amend §6803(a) by striking the number "10" as it appears in the first sentence and insert in lieu thereof the number "11".

Section 3. Further amend §6803(a)(1) by striking the word "five" as it appears therein and insert in lieu thereof the word "six".

Section 4. Further amend §6803(a)(1) by striking the words "State Board of Health" as they appear therein and inserting in lieu thereof the words "Department of Health and Social Services".

Section 5. Delete §6803 (b), Title 9 of the Delaware Code in its entirety and replace said subsection with the following:

"(b) The term of the county government member and the County Engineer shall come to an end at the end of the term for which they were elected or chosen respectively. The members of the Commission appointed by the Department of Transportation, Department of Health and Social Services, the Department of Natural Resources and Environmental Control and the Department of Agriculture shall serve at the pleasure of the appointing authority."

Approved June 1, 1995

CHAPTER 45

FORMERLY

HOUSE BILL NO. 250

AN ACT WAIVING THE STATUTORY PROVISIONS OF SECTION 107(A) OF CHAPTER 1, TITLE 13, DELAWARE CODE AS IT RELATES TO THE MARRIAGE OF RON FORRISTAL AND SHELLIE MERSINO, NON-RESIDENTS OF THE STATE OF DELAWARE.

WHEREAS, Ron Forristal, of Fort Riley, Kansas, wishes to marry Shellie Mersino, of Allentown Pa, both of whom are non-residents of the State of Delaware; and

WHEREAS, the couple has become enamored by the beauty of the First State during their annual summer vacations at South Bowers Beach; and

WHEREAS, the groom to be, is currently employed with the National Guard in Missouri; and

WHEREAS, the couple wish to be married on June 3, 1995, in Delaware; and

WHEREAS, because of the working circumstances of both parties, it is extraordinarily difficult for them to comply with the provisions of §107(a), Chapter 1, Title 13, Delaware Code requiring non-residents to obtain a marriage license at least 96 hours prior to the marriage ceremony.

NOW THEREFORE:

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

Section 1. Ron Forristal of Fort Riley, Kansas, and Shellie Mersino of Allentown, Pa, are hereby exempted from the provisions of §107(a), Chapter 1, Title 13, Delaware Code and are specifically authorized to marry on June 3, 1995, or within 30 days thereafter; the Clerk of the Peace for Kent County shall issue to Ron Forristal and Shellie Mersino one official marriage license pursuant to this Act, the provisions of §107(a) of Chapter 1, Title 13, Delaware Code or any other law of this State to the contrary notwithstanding.

Approved June 1, 1995

CHAPTER 46

FORMERLY

SENATE BILL NO. 93

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND HOUSE AMENDMENT NO. 1

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(4), Title 19 of the Delaware Code by adding a third sentence to this subsection that reads as follows:

"However, in no calendar year shall the "state experience factor" be increased by more than 2.0% from the previous calendar year whenever the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is equal to or greater than \$200 million as of September 30 of that preceding calendar year, and in no calendar year shall the "state experience factor" be increased by more than 4.0% from the previous calendar year."

Section 2. Amend Section 3350(9), Title 19 of the Delaware Code by redesignating subsection "(d)" as it appears therein as subsection "(e)".

Section 3. Amend Section 3350(9), Title 19 of the Delaware Code by inserting a new subsection (d) to read as follows:

"(d) For any calendar year beginning January 1, 1996, and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is equal to or greater than \$200 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the following table:

New Employer/ Basic Assessment Rate	=	Supplemental Assessment Rate
0.1 - 3.9%	=	.7%
4.0 - 5.9%	=	.7%
6.0 - 7.9%	=	.7%
8.0%	=	.7%

Section 4. Amend Section 3350(9), Title 19 of the Delaware Code by adding a new subsection (f) to read as follows:

"(f) For any calendar year beginning January 1, 1996, and thereafter, with respect to which the balance in the Unemployment Insurance Trust Fund, as certified by the Director of Unemployment Insurance to the Secretary of Labor, is less than \$200 million as of the preceding September 30, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" in accordance with the table in paragraph a., paragraph b., or paragraph c. of this subdivision as determined by the balance in the Unemployment Insurance Trust Fund."

Section 5. Amend Section 3313, Chapter 33, Title 19 of the Delaware Code by designating the subsections "(h), (i), (j), (k), (l), and (m), as they appear therein as subsections "(i), (j), (k), (l), (m), and (n)", respectively.

Section 6. Amend Section 3313, Chapter 33, Title 19 of the Delaware Code by inserting a new subsection (h) to read as follows:

"(h) For claims establishing a benefit year beginning July 1, 1995, and thereafter, an individual's weekly benefit amount shall be determined in accordance with subsection (c) or subsection (d) of this section as determined by the balance in the Unemployment Insurance Trust Fund. However, for such claims, the minimum and maximum weekly benefit amount shall not be less than \$20 nor more than \$300 unless the Unemployment Insurance Trust Fund balance, as certified by the Director of Unemployment Insurance to the Secretary of Labor, as of the preceding September 30, is less than \$200 million. When the Unemployment Insurance Trust Fund balance is less than \$200 million, but equal to or greater than \$165 million, the maximum weekly benefit amount shall be no more than \$265. When the Unemployment Insurance Trust Fund balance is less than \$165 million, but equal to or greater than \$150 million, the maximum weekly benefit amount shall be no more than \$245. When the Unemployment Insurance Trust Fund balance is less than \$150 million, but equal to or greater than \$90 million, the maximum weekly benefit amount shall be no more than \$225. When the Unemployment Insurance Trust fund balance is less than \$90 million, the maximum weekly benefit amount shall be no more than \$205. Computation for any change in the maximum weekly benefit amount shall commence with new claims filed to establish a benefit year on or after January 1 of each year."

Approved June 8, 1995

CHAPTER 47

FORMERLY

HOUSE BILL NO. 67

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO THE PUBLIC SERVICE COMMISSION'S BILLING PROCEDURES FOR CABLE TELEVISION SYSTEMS.

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 §610(a), Subchapter VI, Title 26, Delaware Code by striking said subsection (a) in its entirety and replacing it with a new subsection (a) to read as follows:

"(a) The Commission is authorized to bill to and collect the cost of regulation of Cable Television Systems, as a franchise fee from every Commission regulated Franchisee. Such billing and collection shall be accomplished in the following manner:

(1) On or before March 31st of each year, each Franchisee subject to the provisions of this subchapter shall file with the Commission a report of Total Annual Basic Service Regulated Revenue containing a statement of its total annual basic service regulated revenues for the immediately preceding calendar year, and a check in payment of the Annual Assessment which shall be an amount equal to the product of two (2) mills multiplied by the total annual basic service regulated revenue of such Franchisee.

(2) Whenever the Commission, in a proceeding upon its own initiative or upon complaint or upon written application to it, shall deem it necessary in order to carry out its statutory duties, to investigate the operations, services, practices, accounting records and/or procedures, rates, charges, rules and regulations, of any Franchisee and/or to enter into and hold a hearing or hearings in connection therewith, such Franchisee shall be charged with and pay such portions of the expenses of the Commission, and the compensation and expenses of its agents, representatives, consultants, and employees, including but not limited to those temporarily employed or retained, as is reasonably attributable to such investigation, hearing or hearings or any appeal from a Commission Order. No charge shall be made for the compensation of Commissioners and all such bills shall be due and payable within thirty (30) days of rendition by the Commission. If more than one (1) Franchisee is involved in such proceedings, each shall pay its pro rata share of such expenses as determined by the Commission.

(3) If the Annual Assessment or any amount billed by the Commission is not paid within thirty (30) days from the due date the Franchisee shall pay in addition a penalty to the Commission of one (1) percent of the amount due for each month or fraction thereof that such amount is unpaid.

(4) The total aggregate amount to be charged by the Commission to any Franchisee under authority of this section in any calendar year shall not exceed 2 percent of such Franchisee's total annual basic service regulated revenue in the last preceding calendar year. This limitation shall not include amounts payable as a penalty. For purposes of this Section, the term "Total Annual Basic Service Regulated Revenue" shall only include the revenue received by the Franchisee from equipment and services which would be subject to Basic Service Rate Regulation by the Commission in the absence of effective competition including the basic monthly service charges for cable television reception service outside the boundaries of incorporated municipalities which on June 28, 1974, have the

power either express or implied to grant franchises for a system and shall include moneys received as installation charges, charges for reconnection, inspection, repairs, or modifications of any installation. It shall not include local, state, or federal taxes or money received from : (1) Sale of advertising time on cable channels; (2) the furnishing of special programming not covered by the basic monthly service charge; (3) the furnishing of other communications services either by private contract or as a carrier, including by way of example but not limited to leasing of channels, burglar alarm, AM or FM radio broadcast, data transmission information storage and retrieval, the facsimile reproduction services; and (4) any source other than directly from the installation and carriage of television signals and such other basic cable television services as are subject to regulation by the Commission."

Approved June 12, 1995

CHAPTER 48

FORMERLY

HOUSE BILL NO. 69

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLES 26 AND 29 OF THE DELAWARE CODE RELATING TO THE REGULATION OF PUBLIC UTILITIES.

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

Section 1. Amend Subchapter II, §201(c), Title 26, Delaware Code by striking said subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) (1) In the exercise of supervision and regulation over public utilities, the Commission may, upon application or on its own motion, after notice and hearing, forbear from ("deregulate") in whole or in part, its supervision and regulation over some or all public utility products or services and over some or all public utilities where the Commission determines that a competitive market exists for such products and services and where the Commission finds that such deregulation will be in the public interest.

(2) Any application under this subsection shall, at a minimum, include specific proposal(s), supporting statements or testimony, an analysis of the effects on the utility's regulated customers and an implementation plan. The application shall affirmatively establish that the deregulation being considered will not adversely affect the availability, cost, or quality of utility services provided to the utility's regulated customers.

(3) The Commission shall approve or disapprove any such deregulation applications within 180 days after submission thereof, except that, for good cause found, the Commission may enter an Order extending this period for an additional 90 days.

(4) The Commission shall determine how a public utility shall account for such deregulated products or services (including cost allocations where found to be appropriate) so as to ensure that the utility's regulated customers neither benefit unduly from nor unduly provide a subsidy to the deregulated products or services; provided that such accounting determination shall not thereafter be changed by the Commission except for good cause shown.

(5) In connection with any application under this subsection for forbearance from Commission supervision and regulation, the Commission shall find, among other relevant things, the following:

"(a) Whether a competitive market exists for the particular utility product or service being requested to be wholly or partly deregulated. Conditions and factors to be considered may include, but are not limited to, the following:

(i) the existing or prospective market power of the utility with respect to its products or services for which deregulation is sought; and

(ii) if there are significant entry or exit costs or other barriers to potential competitors; and

(iii) if there is a reasonable basis to expect that prices of wholly or partly deregulated products or services will reflect the incremental costs of supply;

(b) Whether any safeguards are necessary to prevent a material adverse effect on utility service quality or rate levels;

(c) Whether or not an option to remain under the Commission's supervision and regulation should be made available for customers whose utility products and services would be deregulated by the proposal;

(d) Whether or not the public utility shall unbundle each service or function on which a service depends to its fundamental elements and shall make those elements separately available to any customer whose utility service is being deregulated by the proposal under terms and conditions, including price, that are the same or comparable to those used by the public utility in providing its own service. The public utility shall not unreasonably discriminate between affiliated and unaffiliated providers of services in offering unbundled features, functions and capabilities; and

(e) Whether the Commission should forbear from regulating competing providers of such products or services.

(6) Where the Commission has made a determination to forbear from its supervision and regulation under this section, the Commission shall have the ongoing right to review, examine and audit the books and records of the applicable utility, and the relevant books and records of any relevant non-regulated affiliate. This right shall be the same as the Commission's right of access to inspection and examination of the utility's regulated books, accounts and records and appropriate safeguards regarding disclosure of confidential information shall be provided.

(7) Thirty months after any approval of forbearance from regulation hereunder, the utility shall file a report with the Commission summarizing its activities for that wholly or partly deregulated activity during its first 24 months of operation. Such report shall, at a minimum, address the criteria that the Commission deemed relevant in approving the request to deregulate such product or service. The report shall also describe the service provider's investment during the previous 24 months. Such report shall also describe the level of planned investment over the next five years. The Commission may require that similar reports be submitted biannually thereafter.

(8) The Commission, after notice and hearing, may prospectively revoke or reverse any forbearance of regulation granted hereunder where it finds that doing so is in the public interest. Where the Commission revokes or reverses a prior decision made under paragraph (1) of this subsection, the Commission shall determine that the current rates for the related products or services are just and reasonable or shall establish new rates that are just and reasonable.

(9) This subsection shall not apply to a telecommunications service provider for so long as such provider is governed under the provisions of Subchapter VII-A, Chapter 1 of this Title."

Section 2. Amend Subchapter II, §201, Title 26, Delaware Code by adding a new subsection to read as follows:

"(d)(I) In the exercise of supervision and regulation over public utilities, the Commission may, upon application or on its own motion, after notice and hearing, alter, in whole or in part, its supervision and regulation over some or all public utility products or services and over some or all public utilities to the extent necessary to promote and sustain adequate service at just and reasonable rates where the Commission determines that alternatives to supervision and regulation including the competitive provision of such products and services are in the public interest. Alternatives include, but are not limited to: incentive regulation, earnings sharing, categorization of services for the purposes of pricing, price caps, price indexing, ranges of authorized returns, and different returns for different services. The Commission is specifically authorized to depart from rate base, rate of return regulation when it is in the public interest and when such departure is found to promote just and reasonable rates.

(2) Any application under this subsection shall, at a minimum, include specific proposal(s), supporting statements or testimony, an analysis of the effects on the utility's regulated services provided to its customers and an implementation plan. The application shall affirmatively establish that the alteration of regulation will not adversely affect the availability, cost or quality of the regulated utility services provided to the utility's customers.

(3) The Commission shall approve or disapprove any such requests for alternative supervision and regulation within 180 days after submission thereof, except that, for good cause found, the Commission may enter an Order extending this period for an additional 90 days.

(4) The Commission shall determine how a public utility shall account for such alternatives (including cost allocations where found to be appropriate) so as to ensure that public utility customers to which such alternatives are not made available neither benefit unduly from nor unduly provide a subsidy to public utility customers to whom such alternatives are made available; provided that such accounting determination shall not thereafter be changed by the Commission except for good cause shown.

(5) The Commission, after notice and hearing, may prospectively revoke or reverse any alternative form of regulation granted hereunder where it finds that doing so is in the public interest. Where the Commission revokes or reverses a prior decision made under paragraph (1) of this subsection, the Commission shall determine that the current rates for the related products or services are just and reasonable or shall establish new rates that are just and reasonable.

(6) This subsection shall not apply to a telecommunications service provider for so long as such provider is governed by the provisions of Subchapter VII-A, Chapter I of this Title."

Section 3. Amend §215, Chapter 1, Title 26, Delaware Code by redesignating (e) and (f) as "(f)" and "(g)" respectively.

Section 4. Amend §215 (e), Chapter 1, Title 26, Delaware Code by adding a new subsection (e) to read as follows:

"(e)(f) Any public utility may satisfy the requirements of Section (a) (2) and (3) hereof by filing with the Commission a statement of a financing plan stating in detail:

- a. those issuances or assumptions described in subsections paragraph (a) (2) and (3) hereof that it intends to make within three years following the filing; and
- b. the anticipated times thereof; and
- c. the anticipated costs thereof; and
- d. the anticipated capitalization ratios for the public utility during that period; and
- e. such other information as the Commission may require.

(2) The Commission shall review the plan for consistency with efficient and reasonable financing principles. The Commission may make such investigation and hold such hearings in the matter as it deems necessary, and thereafter may approve the plan in whole or in part with such modification and upon such terms and conditions as it deems appropriate. The Commission shall approve any financing plan when the proposed financings are to be made in accordance with law, for proper purposes and are consistent with the public interest. The Commission may require the filing of periodic reports as to the action taken pursuant to the plan. The Commission shall approve, modify, refuse, or prescribe appropriate terms and conditions with respect to any such plan within 60 days of its filing. In the absence of such action within such period of time, the proposed plan shall be deemed to be approved as filed as if the Commission itself had acted favorably thereon.

The public utility may then, without further application to the Commission, make any issuance or assumption approved by the Commission.

(3) Thereafter, the public utility may file an application for approval of an amendment to an approved plan or for approval of a substitute for an approved plan, which application will be reviewed under the criteria and by the procedures provided therein for review of and action on a filing of a financing plan except that the period of review shall be 30 days. In the absence of action by the Commission within such period of time, the amendment or substitute shall be deemed to be approved."

Section 5. Amend §303 (c), Title 26, Delaware Code by striking said subsection (c) in its entirety and substituting in lieu thereof a new subsection (c) to read as follows:

"(c) (1) The Commission shall authorize a public utility to establish an individual or joint rate for any product supplied or service rendered within the State for the purposes of ensuring the State's current and future economic well-being and growth where prior to authorizing such individual or joint rate the Commission finds:

(a) that such rate is in the public interest;

(b) that such rate prevents the loss of customers, encourages customers to expand present facilities and operations in Delaware and/or attracts new customers where necessary or appropriate to promote economic development in Delaware. This finding shall include, but is not limited to, a determination that the new or existing customer or the growth in an existing customer represents at least 25 jobs and/or at least \$2 million in capital expenditures;

(c) that such rate shall provide recovery of at least the incremental cost (including capital cost) of providing the relevant utility services;

(d) if, how, and to what extent any discount being authorized below a relevant standard tariff rate shall be recovered; and,

(e) the period of time during which such rate shall remain in effect, normally up to five years.

(2) In addition to the above specific findings, the Commission shall also consider, among other things, the following items:

(a) the utility's load and capacity situation;

(b) the portion that the relevant utility service makes up of the customer's total operating expenses;

(c) viable economic alternatives to the utility service available to the customer;

(d) the customer's ability to relocate, if relevant;

(e) reasonable efforts that the customer has made to secure government grants and/or other concessions; and,

(f) the effect, if any, on competitors located in Delaware of the customer(s) to which such rate may apply."

Section 6. Amend §304, Title 26, Delaware Code by designating the current section as (a) and adding a subsection (b) to read as follows:

"(b) In prescribing conditions for rate changes, the Commission is specifically authorized and empowered to conduct proceedings in which it limits the number or type of issues it will consider in determining whether or not to permit or allow such changes. The Commission may adopt or change regulations to govern such limited issue rate proceedings."

Section 7. Amend §306 (c) of Title 26 of the Delaware Code by deleting the symbol and number "\$1,000,000" and substituting in lieu thereof "\$2,500,000" and by adding at the end of the subsection the following:

"This subsection shall not apply to any proposed rate change sought by a public utility under regulations adopted pursuant to §304 (b) of this chapter."

Section 8. Amend Subchapter V, Chapter 1, Title 26, Delaware Code by adding a new §512 to read as follows:

"§512. Settlements Are To Be Encouraged.

(a) Insofar as practicable, the Commission shall encourage the resolution of matters brought before it through the use of stipulations and settlements.

(b) The Commission's staff may be an active participant in the resolution of such matters.

(c) The Commission may upon hearing approve the resolution of matters brought before it by stipulations or settlements whether or not such stipulations or settlements are agreed to or approved by all parties where the Commission finds such resolutions to be in the public interest."

Section 9. Amend §8827 (a), Title 29, Delaware Code by striking the words "\$30,000 annually" and substituting in lieu thereof the words "set as appropriate".

Section 10. Amend §8828 (4), Title 29, Delaware Code by striking the words "and, to the extent staff of the Public Service Commission cannot be utilized" as they appear in the first sentence; and by striking the word "transportation" as it appears in the first sentence and substituting in lieu thereof the word "other" and by striking the words "An aggregate sum of not less than \$10,000" as it appears in the second sentence and substituting in lieu thereof the words "A budget", and by striking the words "in the budget, and if not used for this purpose shall revert to the General Fund" as they appear in the second sentence and substituting in lieu thereof the words "through the Delaware Public Service Commission Regulatory Revolving Fund".

Section 11. Amend §8830, Title 29, Delaware Code by deleting it in its entirety.

Approved July 12, 1995

CHAPTER 49

FORMERLY

HOUSE BILL NO. 66

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 16 AND 26 OF THE DELAWARE CODE RELATING TO
THE REGULATION OF PUBLIC WATER SUPPLIERS.

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 §219, Title 26, Delaware Code by deleting said Section in its entirety.

Section 2. Amend §107 of Title 16 of the Delaware Code by redesignating the present
Section as subsection "(a)" and by adding a new subsection (b) to §107 so that §107 will read as
follows:

"§107. Neglect of Duty; Penalty.

(a) Whoever refuses, fails or neglects to perform the duties required under
this Chapter, or violates, neglects, or fails to comply with the duly adopted
regulations or orders of the Board, shall be fined not less than \$100 and not more
than \$1000, together with costs, unless otherwise provided by law.

(b) Notwithstanding the foregoing, whoever refuses, fails, or neglects to
perform the duties required of public water suppliers under Section 122(3)c of this
Chapter; or who violates, neglects, or fails to comply with duly adopted
regulations or orders of the Board regarding the duties of public water suppliers,
shall be subject to a penalty of up to \$1,000 per day, together with costs, for every
day from and after the effective date of an order of the Board, specifically
directing compliance until such compliance has been achieved. Observance of
orders of the Board concerning public water suppliers may also be compelled by
mandamus or injunction, in appropriate cases, or by an action to compel the
specific performance of the orders so made, or of the duties imposed by law upon
such public water supplier. The Board may investigate the financial operations of
a public water supplier to the extent necessary to enter an adequate compliance
order.

(c)(1) The term 'public water supplier' as used in this section means any
person that furnishes water for potable or domestic purposes for consumption in
more than 3 dwelling units, or furnishes water for potable or domestic purposes to
employees, tenants, members, guests or the public at large in commercial offices,
industrial areas, multiple dwellings or semi-public buildings, including, but not
limited to, rooming and boarding houses, hotels, motels, tourists cabins, mobile
home parks, restaurants, camps of all types, day and boarding schools,
clubhouses, hospitals and other institutions, or for use in connection with the
manufacture or handling of ice, dairy products, food or drink, or offers any water
for sale for potable or domestic purposes.

(2) 'Person' shall include corporations, companies, associations, firms,
municipally owned water utilities, partnerships, societies and joint stock
companies, as well as individuals.

(3) 'Dwelling unit' means 1 or more rooms arranged for the use of 1 or more individuals as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities."

Approved June 12, 1995

CHAPTER 50

FORMERLY

HOUSE BILL NO. 52

AN ACT TO AMEND TITLE 11 DELAWARE CODE, RELATING TO TRADING IN HUMAN REMAINS AND ASSOCIATED FUNERARY OBJECTS.

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

Section 1. Amend Title 11, Delaware Code by adding thereto a new Section 1333 to read as follows:

"Section 1333. Trading in Human Remains and Associated Funerary Objects

(a) As used in this section:

(1) 'Associated Funerary Objects' means an item of human manufacture or use that is intentionally placed with human remains at the time of interment in a burial site or later as a part of a death rite or ceremony of a culture, religion, or group. 'Associated Funerary Object' includes any gravestone, monument, tomb, or other structure in or directly associated with a burial site.

(b) A person is guilty of Trading in Human Remains and Associated Funerary Objects when he knowingly sells, buys, or transports for sale or profit, or offers to buy, sell or transport for sale or profit, within this state, any unlawfully removed human remains or any associated funerary objects.

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

(1) Any person acting in the course of medical, archaeological, educational, or scientific study authorized by an accredited educational institution or governmental entity; or

(2) A licensed mortician or other professional who transports human remains in the course of carrying out the individual's professional duties and responsibilities.

(d) Nothing in this Section shall be construed to interfere with the normal operation and maintenance of a public or private cemetery including correction of improper burial siting, and, with the consent of any person who would qualify as an heir of the deceased, moving the remains within a public or private cemetery.

(e) Trading in Human Remains and Associated Funerary Objects is a Class B Misdemeanor."

Approved June 12, 1995

CHAPTER 51

FORMERLY

HOUSE BILL NO. 54

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 AND TITLE 30 OF THE DELAWARE CODE TO PROVIDE ADDITIONAL BENEFITS TO OWNERS OF REAL PROPERTY WHO PLACE QUALIFYING REAL PROPERTY INTO AGRICULTURAL PRESERVATION DISTRICTS, AND A RECORDING COST EXEMPTION.

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

Section 1. Amend § 911 of Title 3 of the Delaware Code by adding a new subsection (c) to read as follows:

"(c) Real property, and the improvements situate thereon, located in Agricultural Preservation Districts shall not be subject to inheritance tax under Chapter 13 of Title 30, if all the beneficiaries of the real property and improvements execute a document in a form provided by the Foundation extending the term for inclusion of all the real property under a District Agreement for an additional ten-year (10) period. The Foundation shall provide verification to appropriate taxing authorities when the condition for entitlement to the tax exemption provided hereunder has been satisfied." If the real property and improvements subject to tax exemption hereunder are part of an asset subject to taxation, such as shares of stock, partnership interests, or other forms of interests, then the value of the real property and improvements which comprise a portion of the value of such an asset shall be deducted from the total asset value so as to render such real property and improvements exempt from inheritance tax under Chapter 13 of Title 30."

Section 2. Amend § 918 of Title 3 of the Delaware Code by adding a new sentence at the end of such Section to read as follows:

"In the event the ownership interest in real property and improvements subject to tax exemption hereunder are part of an asset subject to taxation, such as shares of stock, partnership interests, or other forms of interests, then the value of the real property and improvements which comprise a portion of the value of such an asset shall be deducted from the total asset value so as to render such real property and improvements exempt from inheritance tax under Chapter 13 of Title 30 and gift tax under Chapter 14 of Title 30."

Section 3. Amend § 925 of Title 3 of the Delaware Code by adding a new sentence at the end of such Section to read as follows:

"No recording cost, fee or charge of any nature shall be imposed for the recording of any documents or other materials submitted by the Foundation for purposes of implementing the provisions of this chapter."

Section 4. Amend § 1314 of Title 30 of the Delaware Code by adding thereto a new paragraph to read as follows:

"(f) The provisions of this section shall apply, if election is made, to estates including farmland enrolled in Agricultural Preservation District pursuant to Title 3, Chapter 9, of the Delaware Code."

Approved June 12, 1995

CHAPTER 52

FORMERLY

HOUSE BILL NO. 88

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 2

**AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE
RELATING TO THE CRIME OF HINDERING PROSECUTION.**

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

Section 1. Amend §1244, Chapter 5, Title 11 of the Delaware Code by striking the last sentence of said section; and by re-designating the remainder of said section as new subsection (a) of §1244.

Section 2. Amend §1244, Chapter 5, Title 11 of the Delaware Code by adding thereto two new subsections, designated as subsections (b) and (c), which new subsections shall read as follows:

“(b) Hindering prosecution is a Class G felony if the person commits any of the acts set forth in subsection (a) with intent to prevent, hinder or delay the discovery or apprehension of, or the lodging of a criminal charge against, a person whom he knows committed acts constituting a felony, or is being sought by law-enforcement officers for the commission of a felony.

(c) Hindering prosecution is a Class A misdemeanor if the person commits any of the acts set forth in subsection (a) with intent to prevent, hinder or delay the discovery or apprehension of, or the lodging of a criminal charge against, a person whom he knows committed acts constituting a crime other than a felony, or is being sought by law-enforcement officers for the commission of a crime other than a felony.”

Approved June 12, 1995

CHAPTER 53

FORMERLY

HOUSE BILL NO. 102

**AN ACT TO AMEND CHAPTER 60, TITLE 7 OF THE DELAWARE CODE RELATING TO
THE PLACEMENT OF LEGAL NOTICES FOR ACTIVITIES PERMITTED BY THE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.**

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

Section 1. Amend §6004, Chapter 60, Title 7 of the Delaware Code by adding a new subsection to read as follows:

“(d) Advertisements required under subsection (b) of this section may be placed by persons desiring to obtain a permit under §6003 of this chapter, provided the advertisement meets the requirements contained in subsection (b) of this section and any additional requirements as may be specified by the Department.”

Approved June 12, 1995

CHAPTER 54

FORMERLY

HOUSE BILL NO. 105

AN ACT TO AMEND SUBCHAPTER VI, CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO OFFENSES AGAINST PUBLIC ADMINISTRATION.

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 §1250, Subchapter VI, Chapter 5, Title 11 of the Delaware Code by deleting said Section in its entirety and by substituting in lieu thereof the following new Section:

“§1250. Offenses Against Law-enforcement Animals.

(a) Harassment of law-enforcement animals. A person is guilty of harassment of a law-enforcement animal when such person intentionally harasses, taunts, menaces, challenges or alarms a law-enforcement animal in such a manner as is likely to provoke from such animal a violent, defensive or threatening response, such as lunging, baring of teeth, kicking, spinning or jumping, if such response from the animal causes alarm, distress, fear or risk of injury to any person or to the animal.

Harassment of a law-enforcement animal is an unclassified misdemeanor.

(b) Assault in the second degree against a law-enforcement animal. A person is guilty of assault in the second degree against a law-enforcement animal when such person intentionally or recklessly engages in conduct which creates a substantial risk of physical injury or death to a law-enforcement animal, including, but not limited to, beating, poisoning or torturing such animal.

Assault in the second degree against a law-enforcement animal is a class A misdemeanor.

(c) Assault in the first degree against a law-enforcement animal. A person is guilty of assault in the first degree against a law-enforcement animal when such person intentionally or recklessly causes serious physical injury or death to such law-enforcement animal.

Assault in the first degree against a law-enforcement animal is a class D felony.

(d) For purposes of this section, the words 'law-enforcement animal' shall mean any animal, including, but not limited to, canines, K-9 dogs and horses utilized by any law-enforcement officer, including any corrections officer, in the performance of such officer's duties.”

Approved June 13, 1995

CHAPTER 55

FORMERLY

HOUSE BILL NO. 128

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 9 OF TITLE 7 OF THE DELAWARE CODE RELATING TO SIZE LIMITS FOR WHITE PERCH.

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 § 929(b), Chapter 9, Title 7, Delaware Code, by adding thereto a new subsection (8) to read as follows:

"(8) White perch (*Marone americana*): The minimum length of white perch shall be eight(8) inches."

Section 2. This Act shall become effective on the date signed by the Governor.

Approved June 12, 1995

CHAPTER 56

FORMERLY

HOUSE BILL NO. 129

AS AMENDED BY

HOUSE AMENDMENT NO. 2 AND SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 9 OF TITLE 7 OF THE DELAWARE CODE RELATING TO COMMERCIAL FOOD FISHING LICENSES.

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

Section 1. Amend §914, Title 7, Delaware Code, by inserting an "(a)" before the first paragraph designating the first paragraph as subsection (a).

Section 2. Amend §914, Title 7, Delaware Code, by adding thereto a new subsection (b) to read as follows:

"(b) The Department shall not issue any commercial food fishing license to any person who, prior to April 1, 1995, has not filed with the Department at least one (1) monthly report required by §914(a)(6) that reported his or her catch during that month to be at least 100 pounds of food fish taken with a hook and line. This subsection shall not apply to any person who obtains from the Department a commercial food fishing license to sell food fish he or she takes with some type of food fishing equipment other than a hook and line."

Section 3. This Act shall become effective on the date signed by the Governor.

Approved June 12, 1995

CHAPTER 57

FORMERLY

SENATE BILL NO. 61

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 35, TITLE 24 OF THE DELAWARE CODE RELATING
TO PSYCHOLOGY.

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

Section 1. Amend Title 24 of the Delaware Code by striking Chapter 35 in its
entirety and substituting in lieu thereof the following:

"CHAPTER 35. PSYCHOLOGY

Subchapter I. Board of Examiners of Psychologists

§3501. Objectives.

The primary objective of the Board of Examiners of Psychologists, to which all
other objectives and purposes are secondary, is to protect the general public, specifically
those persons who are the direct recipients of services regulated by this chapter, from
unsafe practices and from occupational practices which tend to reduce competition or fix
the price of services rendered.

The secondary objectives of the Board are to maintain minimum standards of practitioner
competency; and, to maintain certain standards in the delivery of services to the public. In
meeting its objectives, the Board shall develop standards assuring professional
competence; shall monitor complaints brought against practitioners regulated by the
Board; shall adjudicate at formal hearings; shall promulgate rules and regulations; and
shall impose sanctions where necessary against practitioners, both licensed and
unlicensed.

§3502. Definitions.

The following words, terms and phrases, when used in this chapter shall have the
meanings ascribed to them under this section, except where the context clearly indicates
a different meaning:

(1) 'Board' shall mean the State Board of Examiners of Psychologists established
in this chapter.

(2) 'Excessive use or abuse of drugs' shall mean any use of narcotics, controlled
substances, or illegal drugs without a prescription from a licensed physician, or the abuse
of alcoholic beverage such that it impairs his or her ability to perform the work of a
psychologist.

(3) 'Person' shall mean a corporation, company, association and partnership, as
well as an individual.

(4) 'Psychologist' shall mean a person who represents himself or herself to the
public by any title or description of services incorporating the words 'psychology,'
'psychological,' 'psychologist,' or who engages in the practice of psychology.

(5) 'Psychological Assistant' shall mean a person, who is registered with the Board to perform certain functions within the practice of psychology, only under the direct supervision of a supervising psychologist, and who is authorized by the Board to use the title 'psychological assistant.' The Board in its Rules and Regulations will specify the arrangements for supervision by the licensed psychologist.

(6) 'Practice of Psychology' shall mean the observation, description, evaluation, interpretation, and/or modification of human behavior by the application of psychological principles, methods, and/or procedures, for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior, and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health.

The practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics, such as, intelligence, personality, abilities, interests, aptitudes, and neuropsychological function; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, organizations, institutions and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether or not payment is received for services rendered.

(a) 'Psychological testing' shall mean, but not be limited to: administration and interpretation of standardized intelligence and neuropsychological tests which yield an intelligence quotient and /or are the basis for a diagnosis of organic brain syndromes for the purposes of classification and/or disability determination; and,

(b) the administration and interpretation of psychological tests which are the basis of a diagnosis of mental or emotional disorder.

(7) 'Supervising Psychologist' shall mean a psychologist licensed in this state who has practiced as a licensed psychologist for two years in this or any other jurisdiction and who applies to the Board for the registration of a psychological assistant.

(8) 'Supervision' shall mean the face-to-face consultation between the registered psychological assistant and the supervising psychologist as required by the nature of the work of the psychological assistant. The supervising psychologist is responsible for insuring that the extent, kind, and quality of the services rendered by the psychological assistant are consistent with the person's education, training and experience.

§3503. Board of Examiners of Psychologists: appointments: qualifications: term: vacancies: suspension or removal: unexcused absences: compensation.

(a) There is created a State Board of Examiners of Psychologists which shall administer and enforce this chapter.

(b) The Board shall consist of 9 members appointed by the Governor, who are residents of this state: Five of whom shall be psychologists licensed under this chapter and 4 public members. At least 3 members of the Board shall be engaged full time in the practice of psychology. The public members shall not be, nor ever have been, psychologists or psychological assistants, nor members of the immediate family of a psychologist or psychological assistant; shall not have been employed by a psychologist or psychological assistant; shall not have a material interest in the providing of goods and services to psychologists or psychological assistants; nor have been engaged in an activity directly related to psychology. The public members shall be accessible to inquiries, comments and suggestions from the general public.

(c) Except as provided in subsection (d) of this section, each member shall serve a term of 3 years, and may succeed himself or herself for one additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only one additional full term. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment; however, the Board member shall remain eligible to participate in Board proceedings unless and until replaced by the Governor. Persons who are members of the Board on the effective date of this Act shall complete their terms.

(d) A person who has never served on the Board may be appointed to the Board for 2 consecutive terms; but no such person shall thereafter be eligible for 2 consecutive appointments. No person, who has been twice appointed to the Board or who has served on the Board for six years within any 9-year period, shall again be appointed to the Board until an interim period of at least 1 year has expired since such person last served.

(e) Any act or vote by a person appointed in violation 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 (d) of this section, unless such an amendment or revision amends this section to permit such an appointment.

(f) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetency or neglect of duty. A member subject to disciplinary hearing shall be disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(g) No member of the Board, while serving on the Board, shall hold elective office in any professional association of psychologists.

(h) The provisions set forth for 'employees' in Chapter 58, Title 29 of the Delaware Code shall apply to all members of the Board, and to all agents appointed, or otherwise employed, by the Board.

(i) Any member who is absent without adequate reason for 3 consecutive meetings, or fails to attend at least half of all regular business meetings during any calendar year, shall be guilty of neglect of duty.

(j) Each member of the Board shall be reimbursed for all expenses involved in each meeting, including travel; and in addition shall receive not more than \$50 for each meeting attended but not more than \$500 in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

§3504. Organization: meetings: officers: quorum.

(a) The Board shall hold regularly scheduled business meetings at least once in each quarter of a calendar year, and at such times as the President deems necessary; or, at the request of a majority of the Board members.

(b) The Board shall elect annually a President, Vice-President and Secretary. Each officer shall serve for 1 year, and shall not succeed himself or herself for more than 2 consecutive terms.

(c) A majority of the members shall constitute a quorum for the purpose of transacting business. No disciplinary action shall be taken without the affirmative vote of 5 members of the Board.

(d) Minutes of all meetings shall be recorded, and copies shall be maintained by the Division of Professional Regulation. At any hearing where evidence is presented, 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.

§3505. Records.

The Division of Professional Regulation shall keep a register of all applications for license as a psychologist or for registration of psychological assistants, and complete records relating to meetings of the Board, examinations, rosters, changes and additions to the Board's rules and regulations, complaints, hearings and such other matters as the Board shall determine. Such records shall be prima facie evidence of the proceedings of the Board.

§3506. Powers and duties.

(a) The Board of Examiners of Psychologists shall have authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act of this State. Each rule or regulation shall implement or clarify a specific section of this chapter.

(2) Designate the application form to be used by all applicants, and to process all applications;

(3) Designate the written, standardized Examination for Professional Practice in Psychology (EPPP) to be taken by all persons applying for licensure; applicants who qualify for licensure by reciprocity shall have achieved a passing score on the EPPP;

(4) Provide for the administration of all examinations, including notice and information to applicants. The Board shall adopt the administration, grading procedures, and passing score of the Association of State and Provincial Psychology Boards (ASPPB), or of a comparable alternative national or regional examination, if a national examination is not available;

(5) Establish minimum education, training, and experience requirements for licensure as psychologists and for registration as psychological assistants;

(6) Evaluate the credentials of all persons applying for a license to practice psychology in Delaware and persons for whom registration as a psychological assistant is requested, in order to determine whether such persons meet the qualifications for licensing or registration set forth in this chapter.

(7) Grant licenses to, and renew licenses and registrations of, all persons who meet the qualifications for licensure and/or renewal of licenses; and, register persons who meet the qualifications to act as psychological assistants under the direct supervision of a licensed psychologist;

(8) Establish by rule and regulation continuing education standards required for license and registration renewal;

(9) Evaluate certified records to determine whether an applicant for licensure or registration, who has been previously licensed, certified, or registered in another jurisdiction to practice psychology, has engaged in any act or offense that would be grounds for disciplinary action under this chapter and whether there are disciplinary proceedings or unresolved complaints pending against such applicants for such acts or offenses.

(10) Refer all complaints from licensees and the public concerning licensed psychologists and registered psychological assistants, or concerning practices of the Board or of the profession, to the Division of Professional Regulation for investigation pursuant to §8810(i) of Title 29 of the Delaware Code; and, assign a member of the Board to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint;

(11) Conduct hearings and issue orders in accordance with procedures established pursuant to this Chapter, Chapter 101 of Title 29 of the Delaware Code, and §8810(i), Chapter 88, of Title 29 of the Delaware Code. Where such provisions conflict with the provisions of this chapter, this chapter shall govern. The Board shall determine whether or not a psychologist shall be subject to a disciplinary hearing, and if so, shall conduct such hearing in accordance with this chapter and the Administrative Procedures Act.

(12) Where it has been determined after a disciplinary hearing, that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty after time for appeal has lapsed;

(13) Suspend or revoke a supervising psychologist's authorization to supervise a psychological assistant; and, to otherwise discipline a supervising psychologist whenever a psychological assistant is in violation of this chapter or guilty of any of the acts or offenses that are grounds for disciplinary action under this chapter;

(14) Determine the number of psychological assistants that a supervising psychologist may supervise, and the requirements of their supervision.

Subchapter II. License and Registration

§3507. License: registration required.

(a) No person shall engage in the practice of psychology or hold himself or herself out to the public in this State as being qualified to practice psychology; or use in connection with his or her name, or otherwise assume or use, any title or description conveying or tending to convey the impression that he or she is qualified to practice psychology, unless such person has been duly licensed under this chapter.

(b) Whenever a license to practice as a psychologist in this state has expired or been suspended or revoked, it shall be unlawful for the person to practice psychology in this state.

(c) No person shall act as a psychological assistant or hold himself or herself out as a psychological assistant, unless such person has been duly registered by the Board under this chapter.

§3508. Qualifications of applicant: report to Attorney General: judicial review.

(a) An applicant who is applying for licensure as a psychologist under this chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(1) has received a doctoral degree based on a program of studies which is psychological in content and specifically designed to train and prepare psychologists. The doctoral degree must be from an accredited college or university having a graduate program which states its purpose to be the training and preparation of psychologists. The college or university must be accredited by the United States Department of Education or by an accrediting agency which is recognized by the Council on Postsecondary Accreditation, or its successor. Persons holding degrees from programs outside the United States or its territories must provide evidence of training and degree equivalent to accredited programs. These applicants are responsible for providing the Board with an educational credential evaluation from an agency or institution recognized by the Board for this purpose; and,

(2) has had, after receiving the doctoral degree, at least 2 years of supervised professional experience in psychological work of a type satisfactory to the Board; and,

(3) has achieved the passing score on the written standardized Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provincial Psychology Boards (ASPPB), or its successor; and,

(4) has not engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter; and, has no disciplinary proceedings or unresolved complaints pending against him or her in any jurisdiction where the applicant has previously been or currently is licensed or certified as a psychologist.

(b) Where the Board has found to its satisfaction that an application has been intentionally fraudulent, or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

(c) Where the application of a person has been refused or rejected and such applicant feels that the Board has acted without justification; has imposed higher or different standards for him or her than for other applicants or licensees; or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§3509. Qualifications of applicants for registration as a psychological assistant; number of psychological assistants; requirements of supervision.

(a) Any psychologist licensed in this state, who has practiced as a licensed psychologist for two years in this state or in any other jurisdiction, and, who applies to the Board for the registration of a psychological assistant shall:

(1) provide the Board with a statement which clearly shall delineate the specific functions which the psychological assistant will perform under the supervisor's direct supervision and control; and,

(2) submit evidence, verified by oath and satisfactory to the Board that such person:

a. Has received a master's degree based on a program of studies which is psychological in content and specifically designed to train and prepare psychologists; or, is actively engaged in the pursuit of a doctoral degree in psychology, having completed all course requirements for such doctoral degree. The college or university must be accredited by the United States Department of Education or by an accrediting agency which is recognized by the Council on Postsecondary Accreditation, or its successor. Persons holding degrees from programs outside the United States or its territories must provide evidence of training and degree equivalent to accredited programs; and these applicants are responsible for providing the Board with an educational credential evaluation from an agency or institution recognized by the Board for this purpose; and,

b. Has completed, as part of his or her program of studies, an internship, externship or practica of 450 hours supervised by a licensed psychologist; and,

c. Will perform the specific functions, which are delineated by the supervising psychologist in the statement of intended area(s) of practice, from the office of the supervising psychologist; and,

d. Will receive proper training and fulfill continuing education requirements and be supervised, directed, and evaluated in accordance with a specific supervisory plan that shall include face-to-face consultation as required by the nature of the work of the psychological assistant; and,

e. Has not engaged in any acts or offenses that would be grounds for disciplinary action under this chapter; and, has no disciplinary proceedings or unresolved complaints pending against him or her in any

jurisdiction where the individual has been or currently is licensed, registered, or certified to practice psychology.

(b) Persons, who are presented to the Board by a supervising psychologist for registration as psychological assistants, shall provide statements under oath to the Board that they:

(1) Shall perform only those specific functions which have been delineated in the supervising psychologist's statement; and ,

(2) Shall not practice independently, but only under the supervision of a licensed psychologist; and,

(3) Shall not represent themselves as licensed psychologists.

(c) The Board in its regulations shall determine the number of psychological assistants that a supervising psychologist may supervise; and, the requirements of their supervision.

§3510. Licensing or registration under special conditions: interstate practice of psychology.

(a) Persons who are currently licensed as psychologists or registered as psychological assistants in this state prior to the effective date of this Act shall be considered to have been licensed or registered under this Act and fully qualified to act as licensed psychologists or registered psychological assistants.

(b) The Board will qualify for licensing without examination any person who applies for licensure and who is a diplomate of the American Board of Professional Psychology, subject to the provisions of this chapter.

(c) Nothing in this Chapter shall be construed to prohibit the practice of psychology in this state by a person holding an earned doctoral degree in psychology from an institution of higher education, who is licensed or certified as a psychologist under the laws of another jurisdiction, provided that the aggregate of six (6) days of professional services as a psychologist, per calendar year, under the provision of this subsection is not exceeded.

§3511 Reciprocity.

Where an applicant is already licensed or certified as a doctoral-level psychologist in another jurisdiction and has practiced continually for two years in that jurisdiction, the Board shall accept a certificate or other evidence that he or she is currently licensed or certified, has practiced continually for two years, and has achieved the passing score set by the Board on the written standardized Examination for Professional Practice of Psychology (EPPP), developed by the Association of State and Provincial Psychology Boards (ASPPB), or its successor, in lieu of all other requirements for licensure provided for in this chapter.

Upon receipt of an application from an applicant who has been or who currently is licensed, certified, or registered as a psychologist, or is registered as a psychological assistant, in another jurisdiction, the Board shall contact the licensing authority, or comparable agency, in such other jurisdiction(s) and request a certified statement to determine whether or not there are disciplinary proceedings or unresolved complaints pending against the applicant or whether the applicant has engaged in any of the acts or offenses that would be grounds for disciplinary action under this chapter. In the event that a disciplinary proceeding or unresolved complaint is pending, the applicant shall not be licensed until the proceeding or complaint has been resolved. Applicants for licensure to practice psychology in this state shall be deemed to have given consent to the release of such information and to waive all objections to the admissibility of such evidence.

§3512. Fees.

The amount to be charged for each fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its service on behalf of the Board. There shall be a separate fee charged for each service or activity, but no fee shall be charged for a purpose not specified in this chapter. The application fee shall not be combined with any other fee or charge. At the beginning of each calendar year, the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute, for each separate service or activity, the appropriate Board fees for the coming year.

§3513. Issuance and renewal of licenses; registration.

The Board shall issue a license or register each applicant, who meets the requirements of this chapter for licensure as a psychologist or registration as a psychological assistant and who pays the fee established under §3512 of this chapter.

Each license or registration shall be renewed biennially, in such manner as is determined by the Division of Professional Regulation, and upon payment of the appropriate fee and submission of a renewal form provided by the Division of Professional Regulation, and proof that the licensee or registrant has met the continuing education requirements established by the Board.

The Board, in its rules and regulations, shall determine the period of time within which a licensed psychologist or registered psychological assistant may still renew his or her license, notwithstanding the fact that such licensee or registrant has failed to renew on or before the renewal date.

§3514. Grounds for refusal, revocation or suspension of licenses and registrations.

(a) A practitioner licensed or registered under this chapter shall be subject to disciplinary actions set forth in §3516 of this chapter, if, after a hearing, the Board finds that the psychologist or psychological assistant:

(1) has employed or knowingly cooperated in fraud or material deception in order to acquire a license as a psychologist or registration as a psychological assistant; has impersonated another person holding a license or registration, or allowed another person to use his or her license or registration, or aided or abetted a person not licensed as a psychologist or registered as a psychological assistant to represent himself or herself as a psychologist or psychological assistant;

(2) has been convicted of a felony or a crime involving the violation of a patient's trust; a copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence therefor;

(3) has excessively used or abused drugs (including alcohol, narcotics, or chemicals);

(4) has engaged in an act of consumer fraud or deception; engaged in the restraint of competition; or participated in price-fixing activities;

(5) has not conducted his or her professional activities in conformity with the American Psychological Association's Ethical Principles of Psychologists and Code of Conduct (hereinafter referred to as the Ethics Code); and, in conformity with the rules and regulations adopted by the Board to implement the Ethics Code.

(6) has had his or her license, certification, or registration as a psychologist suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute one or more of the acts defined in this chapter. Every person licensed as a psychologist or person

registered as a psychological assistant in this state shall be deemed to have given consent to the release of this information by the Board of Examiners of Psychologists or other comparable agencies in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses;

(7) has failed to notify the Board that his or her license, certification or registration as a psychologist or a psychological assistant in another state has been subject to discipline, or has been surrendered, suspended or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof;

(8) while acting as a supervising psychologist, has failed to supervise and take reasonable steps to see that psychological assistants perform services responsibly, competently, and ethically, in accordance with rules and regulations established by the Board. Supervising psychologists shall be subject to disciplinary action for any acts or offenses which are grounds for such action when such acts or offenses are undertaken by the psychological assistant acting under the supervising psychologist's direction or control.

(b) Where a practitioner fails to comply with the Board's request that he or she attend a hearing, the Board may petition the Superior Court to order such attendance, and the said Court or any judge assigned thereto shall have the jurisdiction to issue such order.

(c) Subject to the provisions of this chapter and Subchapter IV of Chapter 101 of Title 29 of the Delaware Code, no license or registration shall be restricted, suspended or revoked by the Board, and no practitioner's right to practice psychology or to act as a psychological assistant shall be limited by the Board until such practitioner has been given notice, and an opportunity to be heard, in accordance with the Administrative Procedures Act.

§3515. Complaints.

All complaints shall be received and investigated by the Division of Professional Regulation in accordance with §8810(i) of Title 29 of the Delaware Code, and the Division shall be responsible for issuing a final written report at the conclusion of its investigation.

When it is determined that an individual is engaging in the practice of psychology or is using the title 'psychologist' and is not licensed under the laws of this state, the Board shall apply to the Office of the Attorney General to issue a cease and desist order after formally warning the unlicensed practitioner in accordance with the provisions of this Chapter.

Any complaints involving allegations of unprofessional conduct or incompetence shall be investigated by the Division of Professional Regulation.

§3516. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that one of the conditions or violations set forth in §3514 of this chapter applies to a practitioner regulated by this Chapter:

(1) Issue a letter of reprimand.

(2) Censure a practitioner.

(3) Place a practitioner on probationary status, and require the practitioner to:

a. report regularly to the Board upon the matters which are the basis of the probation;

b. Limit all practice and professional activities to those areas prescribed by the Board;

(4) Suspend any practitioner's license.

(5) Revoke any practitioner's license.

(6) Impose a monetary penalty not to exceed \$500 for each violation in addition to suspension or revocation of a license.

(b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies which required such action have been remedied.

(c) The Board may temporarily suspend a practitioner's license in advance of a final adjudication, during the appeals process; but only in cases where there is clear and immediate danger to the health and safety and welfare of the public if the licensee is allowed to continue to practice. Such suspension may be appealed to Superior Court.

(d) Where a license has been suspended due to a disability of the licensee, the Board may reinstate such license if, after a hearing, the Board is satisfied that the licensee is able to practice with reasonable skill and safety.

(e) As a condition to reinstatement of a suspended license, or removal from probationary status, the Board may impose such disciplinary or corrective measures as are authorized under this chapter.

§3517. Hearing Procedures.

(a) If a complaint is filed with the Board pursuant to §8810(i) of Title 29 of the Delaware Code, alleging violation of §3514 of this chapter, the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29 of the Delaware Code.

(b) All hearings shall be informal without use of rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this chapter as it deems necessary. The Board's decision shall be in writing and shall include its reasons for such decision. The Board's decision shall be mailed immediately to the practitioner.

(c) Where the practitioner is in disagreement with the action of the Board, he or she may appeal the Board's decision to the Superior Court within 30 days of service, or of the postmarked date of the copy of the decision mailed to him or her. Upon such appeal the Court shall hear the evidence on the record. Stays shall be granted in accordance with §10144 of Title 29 of the Delaware Code.

§3518. Reinstatement of a suspended license; removal from probationary status; replacement of license and registration.

(a) As a condition to reinstatement of a suspended license or registration, or removal from probationary status, the Board may reinstate such license or registration if, after a hearing, the Board is satisfied that the licensee or registrant has taken the prescribed corrective actions and otherwise satisfied all of the conditions of the suspension and/or the probation.

(b) Where a license or registration has been suspended due to the licensee's or registrant's inability to practice pursuant to this chapter, the Board may reinstate such license or registration, if, after a hearing, the Board is satisfied that the licensee or registrant is again able to perform the essential functions of a psychologist or psychological assistant, with or without reasonable accommodations; and/or, there is no longer a significant risk of substantial harm to the health and safety of the individual or others.

(c) Applicants for reinstatement must pay the appropriate fees and submit documentation required by the Board as evidence that all the conditions of a suspension and/or probation have been met. Proof that the applicant has met the continuing education requirements of this chapter may also be required, as appropriate.

(d) A new license or registration to replace any license or registration lost, destroyed or mutilated may be issued subject to the rules of the Board. A charge shall be made for such issuance.

Subchapter III. Other Provisions

§3519. Exemptions.

(a) Nothing in this chapter shall be construed to prevent the teaching of psychology, the conduct of psychological research, or the provision of services or consultation to organizations or institutions, provided that such teaching, research, or service does not involve the direct practice of psychology with individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services. Persons holding an earned doctoral degree in psychology from an institution of higher education may use the title 'psychologist' in conjunction with the activities permitted by this subsection.

(b) Nothing in this chapter shall be construed to prevent qualified members of other recognized professions from rendering services consistent with their professional training, the code of ethics of their respective professions, and the laws of this state, provided that they do not hold themselves out to the public by any title or description stating or implying that they are psychologists or psychological assistants or are licensed to practice psychology or registered to act as psychological assistants.

(c) Nothing in this chapter shall be construed to restrict the activities of rabbis, priests, ministers or the clergy of any synagogue, religious denomination or sect, when such activities are within the scope of the performance of their regular or specialized ministerial duties, and no separate charge is made, or when such activities are performed, whether with or without charge, for, or under auspices or sponsorship, individually, or in conjunction with others, of an established and legally recognizable church, synagogue, denomination or sect; and, the person rendering service remains accountable to its established authority, provided that they do not represent themselves to be psychologists or psychological assistants.

(d) Individuals who have been certified as school psychologists by the Department of Public Instruction shall be permitted to use the term 'school psychologist' and/or 'certified school psychologist.' Such persons shall be restricted in their practice to employment within those settings under the purview of the Department of Public Instruction and the State Board of Education.

(e) Matriculated graduate students in psychology, whose activities constitute a part of the course of study for a graduate degree in psychology, at an institution of higher education, and individuals pursuing postdoctoral training or experience in psychology, shall be permitted to use the terms 'psychological trainee' or 'psychological intern' or other titles clearly indicating their training status and may engage in activities defined as the practice of psychology, provided that such persons perform their activities under the direct supervision and responsibility of a psychologist licensed in Delaware; and, provided further that such persons shall not represent themselves by the title 'psychologist.'

Notwithstanding any contrary provisions in this Chapter, any person who is a full-time faculty member in a nationally accredited doctoral level clinical training program in the State of Delaware, and who is actively pursuing licensure under this Chapter for a period not to exceed six years, may participate in and may supervise matriculated graduate students in activities defined as the practice of psychology within the context of such program; and may conduct any research and teaching activities related to the activities of such program.

§3520. Penalty.

A person not currently licensed as a psychologist, or registered as a psychological assistant, under this chapter, when guilty of engaging in the practice of psychology, or of acting as a psychological assistant or using in connection with his or her name, or otherwise assuming or using any title or description conveying, or tending to convey the impression that he or she is qualified to practice psychology, or to act as a psychological assistant, such offender shall be guilty of a misdemeanor. Upon the first offense, he or she shall be fined not less than \$500.00 dollars nor more than \$1000.00 dollars for each offense; and, in addition, may be imprisoned for not more than 1 year. For a second or subsequent conviction, the fine shall be not less than \$1000.00 nor no more than \$2000.00 for each offense. Superior Court shall have jurisdiction over all violations of this Chapter."

Section 2. Rules and Regulations.

Rules and Regulations in effect on the date of enactment of this Act shall remain valid to the extent they are not inconsistent with this Act.

Section 3. Severability.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Act, which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

Approved June 12, 1995

CHAPTER 58

FORMERLY

HOUSE BILL NO. 121

AN ACT TO AMEND TITLE 11 AND TITLE 14 OF THE DELAWARE CODE RELATING TO ARREST WITHOUT WARRANT AND TO REPORTING OF CRIMINAL ACTIVITY ON SCHOOL PROPERTY.

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

Section 1. Amend Title 11, Delaware Code, § 1904(a) by striking the period at the end of paragraph (5) and by inserting "; or" in its place; and by adding a new paragraph to read as follows:

"(6) Out of his presence and within the State for any misdemeanor occurring on school property."

Section 2. Amend Title 14, Delaware Code, § 4112(b) by striking the third sentence of subsection (b) in its entirety.

Approved June 12, 1995

CHAPTER 59

FORMERLY

SENATE BILL NO. 65

AS AMENDED BY

SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 29, TITLE 14 OF THE DELAWARE CODE RELATING TO THE AWARD AND TRANSFER OF SCHOOL TRANSPORTATION CONTRACTS.

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

Section 1. Amend Subsection (c), Section 2908, Title 14 of the Delaware Code by deleting that subsection in its entirety and substituting in its place a new subsection (c) to read as follows:

“(c)(1) A school transportation contract may be transferred from a contractor to another party contingent upon approval of the local board of education. In the event that a transfer is proposed by the current contractor, the advertising requirement contained in Subsection (a) shall not apply.

(2) A local board of education may disapprove the transfer of a transportation contract to another party only for just cause. Just cause shall be limited to the following criteria: Financial stability, insurability, record of service in that or another Delaware school district, and personal and/or business resume including references.

(3) If the school board decides to reject the prospective contractor, it shall notify that contractor of its decision and provide reasons why that contractor is not acceptable to the district. This discussion may be held in a closed session and the results and reasons shall be disclosed only with the approval of the proposed contractor. In the event that the district rejects the proposed contractor, the current contractor shall have the following options:

(i) Continue to operate the bus; or

(ii) Give up the contract at the end of the year or sooner if allowed by the district;

or

(iii) Find a new contractor which will meet the criteria.

(4) In the event the contractor cannot reach agreement with another party which meets the criteria and is acceptable to the school district, the district may use the process identified in subsection (a) of this section to find a new contractor. In the event that the bus associated with the transportation contract is less than seven years old and still on the depreciation schedule in the transportation formula, the district shall require that the new contractor make an offer to purchase the bus of the current contractor at least at fair market value as described in a national publication. It shall not be mandatory for the current contractor to accept this offer.

(5) No contract shall be deemed effectively transferred until said transfer is approved by the local board of education and the State Board of Education.”

Section 2. Amend Section 2901 Chapter 29, Title 14 of the Delaware Code by designating it as subsection “(a) and by adding a new subsection (b) thereto which shall read as follows:

"(b) The regulations adopted relating to the award of school transportation contracts shall provide as follows:

(1) A school transportation contract may be awarded to a party contingent upon approval of the local board and the State Board of Education. Such award may be made only after notice is provided to all interested persons by means of a notice published in at least 2 Delaware newspapers of general circulation.

(2) A local board of education must approve the awarding of a transportation contract to a party based on the following criteria: financial stability, insurability, record of service in that or another school district, if applicable, and personal and/or business resumé including references. A local board may use a lottery system to select from among the qualified applicants.

(3) No contract shall be deemed effectively awarded until said award is approved by the local board of education and the State Board of Education."

Section 3. Amend Subsection (a), Section 2908, Title 14 of the Delaware Code by deleting the last sentence of that subsection in its entirety.

Approved June 12, 1995

CHAPTER 60

FORMERLY

HOUSE BILL NO. 4

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE II OF THE DELAWARE CODE RELATING TO
CRIMES AND CRIMINAL PROCEDURE.

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

Amend Chapter 5, Subchapter VII, § 1325, Title 11 of the Delaware Code by
adding new subsections (c), (d) and (e) to read as follows:

"(c) Any person convicted of a misdemeanor violation of this section shall be prohibited from owning or possessing any animal for five years after said conviction, except for animals grown, raised, or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least twenty-five percent of the person's annual gross income from such sale or resale.

A violation of this subsection is subject to a fine in the amount of one thousand dollars (\$1,000) in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7907.

(d) Any person convicted of a felony violation of this section shall be prohibited from owning or possessing any animal for fifteen years after said conviction, except for animals grown, raised, or produced within the State for resale, or for sale of a product thereof, where the person has all necessary licenses for such sale or resale, and receives at least twenty-five percent of the person's annual gross income from such sale or resale.

A violation of this subsection is subject to a fine in the amount of five thousand dollars (\$5,000) in any court of competent jurisdiction and to forfeiture of any animal illegally owned in accordance with the provisions of 3 Del. C. § 7907.

(e) Any agent of the Delaware Society for the Prevention of Cruelty to Animals, or, in Kent County of this State of the Kent County Society for the Prevention of Cruelty to Animals, may impound an animal owned or possessed in apparent violation of this Section, consistent with 3 Del. C. § 7907."

Approved June 12, 1995

CHAPTER 61

FORMERLY

HOUSE BILL NO. 134

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO HEALTH CARE INSURANCE.

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

Section 1. Amend Title 29, Delaware Code, Chapter 52, § 5202(d) by deleting said subsection in its entirety and replacing it with:

“(d) For the purposes of this chapter, a husband and wife may each qualify as a regular officer, employee or eligible pensioner of the State. In the case where 2 members of a family qualify, the following options are set forth:

(1) the two employees, or each eligible pensioner, and all eligible dependents may elect to enroll under 1 family contract.

(2) each employee, or each eligible pensioner, may elect to enroll under a separate contract. Eligible dependents may be enrolled under either contract, but no dependent shall be enrolled more than once under the State health insurance program.

(3) the increment of cost of the options selected by the two employees, which exceeds the cost of two basic family plans, shall be deducted by the State Treasurer from salary or pension. The provisions of this paragraph shall continue to apply to a surviving spouse after the death of one of the spouses covered pursuant to this paragraph has occurred, as long as the surviving spouse is entitled to a survivor's pension pursuant to § 5528 of this Title.

(4) In no case shall there be a monetary credit or return to the spouse for his or her basic credits.”

Approved June 12, 1995

CHAPTER 62

FORMERLY

HOUSE BILL NO. 178

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS.

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

Section 1. Amend §4177(d)(1), Title 21 of the Delaware Code by adding to the end of that paragraph the following:

"Any period of imprisonment imposed under this paragraph may be suspended."

Section 2. Amend §4177(d)(2), Title 21 of the Delaware Code by striking said paragraph in its entirety and inserting in lieu thereof the following:

"(2) For a second offense occurring within 5 years from a prior offense, be fined not less than \$575 nor more than \$2,300 and imprisoned not less than 60 days nor more than 18 months. No person sentenced under this paragraph shall receive a suspended sentence."

Section 3. Amend §4177(d), Title 21 of the Delaware Code by adding a new paragraph "(3)" to read as follows and by redesignating the current paragraph "(3)" as paragraph "(5)" of that section:

"(3) For a third offense occurring within 5 years from a prior offense, be guilty of a Class G felony, be fined not less than \$1,000 nor more than \$3,000 and imprisoned not less than one year nor more than two years. The provisions of §4205(b)(7) or §4217 of Title 11 or any other statute to the contrary notwithstanding, the first 3 months of the sentence shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. No conviction for violation of this section for which a sentence is imposed pursuant to this paragraph shall be considered a predicate felony conviction for sentencing pursuant to §4214 of Title 11. No offense for which sentencing pursuant to this paragraph is applicable shall be considered an underlying felony for a murder in the first degree charge pursuant to §636(a)(2) of Title 11."

Section 4. Amend §4177(d), Title 21 of the Delaware Code by adding a new paragraph "(4)" to read as follows:

"(4) For a fourth or subsequent offense occurring any time after three prior offenses, be guilty of a Class E felony, be fined not less than \$2,000 nor more than \$6,000 and imprisoned not less than two years nor more than five years. The provisions of §4177B(e) of this title or any other statute notwithstanding, a court may consider prior offenses outside a five year period for sentencing pursuant to this paragraph. The provisions of §4205(b)(5) or §4217 of Title 11 or any other statute to the contrary notwithstanding, the first 6 months of the sentence shall not be suspended, but shall be served at Level V and shall not be subject to any early release, furlough or reduction of any kind. No conviction for violation of this section for which a sentence is imposed pursuant to this paragraph shall be considered a predicate felony conviction for sentencing pursuant to §4214 of Title 11. No offense for which sentencing pursuant to this paragraph is applicable shall be considered any underlying felony for a murder in the first degree charge pursuant to §636(a)(2) of Title 11."

Section 5. Amend §4177(d), Title 21 of the Delaware Code by adding a new paragraph "(6)" to read as follows:

"(6) A person who has been convicted of prior or previous offenses of this section, as defined in §4177B(e) of this title, need not be charged as a subsequent offender in the complaint, information or indictment against him in order to render him liable for the punishment imposed by this section on a person with prior or previous offenses under this section. However, if at any time after conviction and before sentence, it shall appear to the Attorney General or to the sentencing Court that by reason of such conviction and prior or previous convictions, a person should be subjected to paragraphs (3) or (4) of this subsection, the Attorney General shall file a motion to have the defendant sentenced pursuant to those provisions. If it shall appear to the satisfaction of the Court at a hearing on the motion that the defendant falls within paragraphs (3) or (4) of this subsection, the Court shall enter an order declaring the offense for which he is being sentenced to be a felony and shall impose a sentence accordingly."

Section 6. Amend §4177(d), Title 21 of the Delaware Code by adding a new paragraph "(7)" to read as follows:

"(7) The Court of Common Pleas and Justice of the Peace Courts shall not have jurisdiction over offenses which must be sentenced pursuant to paragraphs (3) or (4) of this subsection."

Section 7. Amend §4177(e), Title 21 of the Delaware Code to add the letter "s" to the end of the word "paragraph" thereby making it plural and insert after the symbol "(2)" the phrase ", (3) and (4)" and strike the words "occurring within 5 years from the former offense."

Section 8. Amend §4177(e), Title 21 of the Delaware Code by striking in its entirety the sentence:

"No person who violates subsection (a) of this section shall receive a suspended sentence. However, for the first offense, the period of imprisonment may be suspended."

Section 9. Amend §4177B(a)(1), Title 21 of the Delaware Code by striking the phrase "not within 5 years" and inserting in lieu thereof the word "never".

Section 10. Amend §4177B(f), Title 21 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(f) The Attorney General may move the sentencing court to apply this section to any person who would otherwise be disqualified from consideration under this section because of the applicability of:

(1) Subsection (a)(1), if any prior offense as defined in subsection (e) of this section is not within five years of the offense for which the person is being sentenced; or

(2) Subsections (a)(2) through (a)(6) of this section.

In the event of such a motion by the Attorney General, the Court may in its discretion apply the terms of this section to such person."

Section 10. Amend §4177B(e) by inserting the phrase "or offense" between the word "conviction" and the colon ":" as they appear in the first sentence of that subsection; and, by striking the phrase "2742(h)" as it appears in subparagraph (1) of that subsection and inserting in lieu thereof the phrase "4175(b)"; and, by striking the sentence:

"For the purpose of computing the periods of time set out in this subsection, the period shall run from the completion of the course of instruction or from the entry of the judgment of conviction, whichever is later, to the date of the commission of the charged offense." in its entirety and inserting in lieu thereof the following:

"For the purpose of computing the periods of time set out in §§2742, 4177, or 4177B of this title, the period shall run from the date of the commission of the prior or previous offense, to the date of the commission of the charged offense. However, in any case in which the prior offense is defined in subparagraph (1) of this subsection the date of the driving incident which caused the program participation shall be the date of the prior or previous offense."

Approved June 12, 1995

CHAPTER 63

FORMERLY

HOUSE BILL 113

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE BY CREATING THE
OFFENSE OF HOME IMPROVEMENT FRAUD.

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

Section 1. Amend Title 11, Chapter 5, Subchapter III, Subpart 1 of the
Delaware Code by adding thereto a new section to read as follows:

"§ 916. Home improvement fraud; class G felony, class A
misdemeanor.

(a) For the purpose of this Section, the following definitions shall
apply:

(1) 'Home improvement' means any alteration, repair, addition,
modification or improvement to any dwelling or the property on
which it is situated, including but not limited to the construction,
painting or coating, installation, replacement, or repair of
driveways, sidewalks, swimming pools, unattached structures,
porches, kitchens, bathrooms, chimneys, fireplaces, stoves, air
conditioning or heating systems, hot water heaters, water treatment
systems, electrical wiring or systems, plumbing fixtures or systems,
doors or windows, roofs, gutters, downspouts, and siding.

(2) A 'home improvement contract' is any agreement, whether
written or oral, whereby a person offers or agrees to provide home
improvements in exchange for a payment of money regardless of
whether any such payments have been made.

(3) 'Contract price' means the total price agreed upon under a
home improvement contract.

(4) A 'material fact' is a fact that a reasonable person would
consider important when purchasing a home improvement of the
variety being offered.

(b) A person is guilty of home improvement fraud who enters, or
offers to enter, into a home improvement contract as the provider of home
improvements to another person, and who with the intent specified in §
841 of this Title:

(1) uses or employs any false pretense or false promise as
those acts are defined in §§ 843-44 of this Title;

(2) creates or reinforces a person's impression or belief
concerning the condition of any portion of that person's dwelling or
property involved in said home improvement contract knowing that
the impression or belief is false;

(3) makes any untrue statement of a material fact or omits to
state a material fact relating to the terms of the home improvement
contract or the existing condition of any portion of the property
which is the subject of said contract;

(4) receives money for the purpose of obtaining or paying for services, labor, materials or equipment and intentionally fails to apply such money for such purpose by either failing to substantially complete the home improvement for which the funds were provided or failing to pay for the services, labor, materials or equipment provided incident to such home improvement, and diverts said funds to a use other than that for which the funds were received; or

(5) fails to provide his or her true name, or provides a false name, address or phone number of the business offering said home improvements.

(c) For home improvement fraud under this section, it shall be prima facie evidence of the intent specified in § 841 of this Title that the person offering or agreeing to provide home improvements:

(1) has been previously convicted under this section or under a similar statute of the United States or of any state or of the District of Columbia within ten years of the home improvement contract in question.

(2) is currently subject to any administrative orders, judgments or injunctions that relate to home improvements under Chapter 25, Title 6 of the Delaware Code;

(3) failed to comply with Chapter 44, Title 6 of the Delaware Code with respect to the home improvement contract in question; or

(4) used or threatened the use of force against the person or property of the person purchasing said home improvement and said person is 65 years of age or older.

(d) Home improvement fraud is a class A misdemeanor, unless:

(1) the contract price or the total amount actually paid to the defendant by or on behalf of the person who purchased the home improvement is \$500.00 or more;

(2) the person who purchased the home improvement is age 65 or older; or

(3) the defendant has previously been convicted under this section;

in which case it is a class G felony."

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 June 14, 1995

CHAPTER 64

FORMERLY

HOUSE BILL NO. 103

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT AUTHORIZING AND DIRECTING THE DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL, DIVISION OF FISH & WILDLIFE, TO ISSUE A COMMERCIAL GILL NET FOODFISHING PERMIT TO ANDREW M. HICKMAN, AGE 85, OF DAGSBORO, DELAWARE WHO IS PRESENTLY PROHIBITED FROM OBTAINING A PERMIT UNDER DELAWARE FINFISHING STATUTES.

WHEREAS, Mr. Andrew M. Hickman, age 85, of Dagsboro, Delaware P.O. Box 58, Rt. 1 has engaged in commercial gill net fishing all his life, but has not engaged himself in the business since the state enacted the Delaware Finfishing statute back in 1984 which requires a person to have a commercial gill net foodfishing permit to fish a drafting gill net; and

WHEREAS, Mr. Hickman did not apply for a commercial gill net permit immediately after passage of the new law in 1984; and

WHEREAS, Mr. Hickman, now 85 years of age, would like to have the opportunity in his last remaining years of his life to have the opportunity to do some commercial gill net fishing which he has well over 50 years of experience in prior to the state limiting the number of licenses that can be issued; and

WHEREAS, Mr. Hickman has in excess of 100 gill nets from past years when he used to commercial fish for a living.

WHEREAS, notwithstanding the fact that the state has a quota on the number of permits issued, Mr. Hickman at age 85 should be given the opportunity to live the remaining years of his life doing what he dearly enjoys and loves.

NOW THEREFORE:

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

"Section 1. The Department of Natural Resources and Environmental Control, Division of Fish & Wildlife is hereby authorized and directed to issue a commercial gill net foodfishing permit to Mr. Andrew M. Hickman of Dagsboro, Delaware P.O. Box 58, R.D. 1, notwithstanding the provisions of §915(f), Chapter 9, Title 7, Delaware Code."

Section 2. The aforesaid commercial gill net foodfishing permit issued to Mr. Andrew M. Hickman shall not be transferable to any other person, entity or association.

Approved June 15, 1995

CHAPTER 65

FORMERLY

SENATE BILL NO. 102
AS AMENDED BY
SENATE AMENDMENT NOS. 1 AND 4

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO WELFARE REFORM.

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

Section 1. This Act shall be referred to as the "Welfare Reform Act of 1995".

Section 2. Amend § 501, Title 31, Delaware Code by inserting between the words "its" and "needy" the word "eligible" and inserting as a new sentence at the end of the existing text the following:

"It is further declared to be the legislative intent that public assistance be administered, to the extent practicable, in such a way that: private sector work is more economically attractive than public assistance; public assistance recipients exercise personal responsibility in exchange for government assistance; public assistance is transitional, not a way of life, for recipients; both parents are held responsible for supporting and parenting their children; recipients are not encouraged to have additional children while receiving public assistance; and the formation and maintenance of two-parent families is encouraged and teenage pregnancy is discouraged."

Section 3. Amend § 502(1), Title 31, Delaware Code by inserting between the words "person" and "who" the words "or family".

Section 4. Amend § 502(2), Title 31, Delaware Code by deleting existing subsection (2) and inserting in lieu thereof the following:

"(2) 'Assistance' means assistance to or on behalf of eligible needy persons or eligible families to enable them to improve their standard of living, including money payments, child care, job training, education, other support services, medical or surgical care, nursing, burial, board and care in a private institution, adult foster care, rest residential facility for adults, public medical institution as a patient, or such other aid as may be deemed necessary."

Section 5. Amend § 502(4), Title 31, Delaware Code by deleting the word "Board" where it appears both between the words "the" and "composed" and between the words "the" and "may" and inserting in lieu thereof "Secretary of the Department of Health and Social Services" and by deleting the words "and the Department".

Section 6. Amend § 502(5), Title 31, Delaware Code by deleting it in its entirety and inserting in lieu thereof the following:

"(5) 'Medical assistance' means medical care furnished on behalf of recipients who are eligible for assistance in any of the categories in § 505 of this Title."

Section 7. Amend § 502(6), Title 31, Delaware Code by deleting it in its entirety and inserting in lieu thereof:

"(6) 'Medical Care' means payment of all or part of the costs on behalf of eligible recipients, provided that such payments are within the limitations of the funds appropriated by the General Assembly and the United States Congress for this purpose, for (i) inpatient hospital services; (ii) outpatient hospital services; (iii) other laboratory and X-ray services; (iv) nursing services; (v) physician's services, whether furnished in the office, the patient's house, a hospital, a skilled nursing home, or elsewhere; (vi) drugs and medicine, or (vii) such other health services and supplies as specified by the Department on recommendation by the Medical Advisory

Committee. Such payments shall be made only to persons, institutions, and entities which meet the standards as established by the Department of Health and Social Services and which promote safe and adequate treatment of individuals in the interest of public health and safety."

Section 8. Amend § 502(7), Title 31, Delaware Code by inserting between the words "person" and "to" the words "or family".

Section 9. Amend § 502(8), Title 31, Delaware Code by deleting existing subsection (8) and inserting in lieu thereof the following:

"(8) 'Standard of need' means the subsistence level for a decent standard of living established by regulations of the Department of Health and Social Services."

Section 10. Amend § 502, Title 31, Delaware Code by creating a new subsection (10) as follows:

"(10) 'Underemployment' and 'Unemployment' means as defined pursuant to regulations of the Department of Social Services in consultation with the Department of Labor."

Section 11. Amend § 503, Title 31, Delaware Code by deleting subsections (a),(b),(c),and (d), and inserting in lieu thereof the following:

"(a) **Anti-Fraud.** Assistance shall not be granted under this chapter to any person or family otherwise eligible for assistance under the categories described in § 505 of this Title, having conveyed or transferred real or personal property of a value of \$500 or more without fair consideration within 2 years preceding the date of application for assistance or subsequently while receiving assistance, or to any person who is an inmate of any public institution (except as a patient in a medical institution).

(b) **Medicaid.** Medical assistance may be granted to medically and financially eligible persons in accordance with Titles IV-A, IV-E, XVI, and XIX of the Social Security Act, federally approved waivers of these sections of the Act, and rules and regulations established by the Department of Health and Social Services. Eligibility for and payment of medical assistance shall be determined under policies and regulations established by the Department of Health and Social Services. Eligibility standards, recipient copay, and provider reimbursement shall be set in accordance with state and federal mandates, state and federal funding levels, approved waivers, and rules and regulations established by the Department. The amount of assistance in each case of medical care shall not duplicate any other coverage or payment made or available for the costs of such health services and supplies.

(c) **General Assistance.** Eligibility for and the amount of General Assistance granted to recipients shall be determined in accordance with rules and regulations made by the Department with due regard to the resources, income, necessary expenditures of the recipient, the limit of funds appropriated therefor, and the legislative intent expressed in § 501 of this chapter.

(d) **Aid to Families With Dependent Children.** Eligibility for and the amount of assistance granted to families under Aid to Families with Dependent Children shall be determined in accordance with rules and regulations made by the Department with due regard to the resources, income, and necessary expenditures of Delaware families the limit of funds appropriated therefor, and the legislative intent expressed in § 501 of this chapter.

In order to receive assistance under this subsection, the parent, guardian, or persons standing in loco parentis to a dependent child must have instituted suit for nonsupport in the Family Court or must cooperate with the Department of Health and Social Services for the purpose of instituting proceedings for nonsupport in Family Court on the behalf of such parent, guardian, or person standing in loco parentis."

Section 12. Amend § 503, Title 31, Delaware Code by deleting subsection (e) and (f) in their entirety.

Section 13. Amend § 503, Title 31, Delaware Code by redesignating existing § 503(g) as § 503(e) and by inserting as a title to newly designated § 503(e) before the words

"Such monetary assistance" the following: **"Form of Payment."** and by deleting the words "to any needy person who has insufficient income or other resources to provide reasonable subsistence compatible with decency and health".

Section 14. Amend § 503, Title 31, Delaware Code by deleting § 503(h) in its entirety.

Section 15. Amend § 504(b), Title 31, Delaware Code by inserting the words "or the Department of Health and Social Services" in between the words "Court" and "that" in the first line thereof and by inserting the words "or the Department may" in place of the word "shall"; by deleting the word "father" as it appears both between the words "the" and "of" and "the" and "by" and inserting in lieu thereof the words "a child support obligor".

Section 16. Amend § 505(7), Title 31, Delaware Code by deleting the words "Health, Education & Welfare" where they appear both in § 505(7)(a) and § 505(7)(b) and insert in lieu thereof the words "Health and Human Services" and by redesignating § 505(7) as new § 512(8) of Title 31.

Section 17. Amend § 505, Title 31, Delaware Code by deleting it in its entirety and inserting in lieu thereof the following:

"§ 505. Categories of assistance.

Assistance may be granted, in accordance with rules and regulations established by the Department of Health and Social Services pursuant to § 503 of this Chapter, in the following categories:

(1) Aid to Families with Dependent Children; assistance with respect to needy families with children. Aid to families with dependent children means aid granted to a family, as that term is defined pursuant to Department of Health and Social Service Regulations, with respect to a child or children under the age of 18 who has or have been deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity, unemployment, or underemployment.

If found feasible by and in accordance with regulations prescribed by the Department, the term Aid to Families with Dependent Children shall also include aid granted with respect to children who are removed from their home and placed in foster care as a result of a judicial determination initiated during the month in or for which such a family was receiving such aid or initiated during the month in or for which such a family would have received the aid if application for aid had been made, or if such children, who within 6 months prior to the month court proceedings were initiated, had been living with a specified relative and would have been eligible for assistance in or for such month except for failure to meet the 'living with' requirements, that continuation in the parent's or relative's home would be contrary to the child's welfare.

(2) General assistance; assistance granted to eligible needy persons residing in Delaware who are unemployable.

(3) Medicaid Assistance; Assistance granted in the form of medical care to individuals eligible in accordance with Title IV-A, XVI, XIX of the Social Security Act, federally approved waivers, and rules and regulations established by the Department of Health and Social Services."

Section 18. Amend § 512, Title 31, Delaware Code by deleting existing subsections (1),(2), and (3) and inserting in lieu thereof the following:

"(1) Establish rules and regulations to carry out the provisions of this chapter consistent with the intent as expressed in § 501, including but not limited to, rules, regulations and standards as to eligibility for assistance, the nature, duration, and extent of such assistance as well as sanctions for noncompliance with such rules, regulations and standards for eligibility for assistance;

(2) Cooperate with the Federal Department of Health and Human Services or with any successor department or agency thereof, in any reasonable manner not contrary to law, as may be

required to qualify for federal aid with respect to functions and programs coming within the purview of this chapter, shall make such reports to the Department of Health and Human Services in such form and containing such information as that Department may from time to time require, shall comply with such provisions as said agency may from time to time find necessary to assure the correctness and verification of such reports, and shall apply to the Department of Health and Human Services and other relevant federal departments for waivers of federal rules and regulations deemed to impede the achievement of the legislative intent expressed in § 501 of this chapter.

(3) Make periodic surveys of cost-of-living factors in relation to the needs of recipients of assistance and welfare services, in order that the standards for such assistance and welfare services remain reasonably sufficient and at the same time provide recipients with incentive to seek and maintain private sector work."

Section 19. Amend § 514, Title 31, Delaware Code by deleting the section in its entirety.

Section 20. Amend § 518, Title 31, Delaware Code by deleting it in its entirety and inserting in lieu thereof the following:

"§ 518. Failure to comply with job placement, education, training, work eligibility, parenting, or personal responsibility requirements.

The Department of Health and Social Services may issue and implement rules and regulations establishing sanctions for families receiving Aid to Families With Dependent Children who fail to comply with work, education, training, work eligibility, parenting, or personal responsibility requirements established by the Department pursuant to § 512(1) of this chapter. Such sanctions may, among other things, reduce assistance to such a family and may include, for a family who has failed to comply with job placement, education, training, or work eligibility requirements on three or more occasions, a permanent prohibition on further assistance under the Aid to Families with Dependent Children program. The Department shall afford recipients due process as provided under applicable rules and regulations prior to the implementation of any such sanctions."

Section 21. Amend § 521, Title 31, Delaware Code by deleting between "household" and "shall" the words "(all clients, regardless of category, living in a single residential unit and using the same kitchen facilities)" and inserting in lieu thereof the following: "(except those households specifically excluded by the regulations)".

Section 22. Amend § 522, Title 31, Delaware Code by deleting the words "§ 505 (6) of" throughout § 522.

Section 23. Amend § 603, Title 31, Delaware Code by adding a new subsection (8) thereto to read as follows:

"(8) Develop and implement, to the extent permitted by applicable federal law, eligibility requirements and sanctions for the violation thereof for recipients of food stamps who are also recipients of assistance under the Aid to Families With Dependent Children program, which are consistent with the eligibility requirements and sanctions established by the Department pursuant to § 503(d) and § 512(1) of this title."

Section 24. Amend § 901, Title 31, Delaware Code by deleting the existing language and inserting in lieu thereof the following:

"The purpose of this chapter is to provide a time-limited opportunity for employable adults of families who receive Aid to Families with Dependent Children to earn their public assistance during the time they are receiving such assistance, obtain job skills, develop strong work ethics, and establish work histories so as to better enable them to obtain private sector employment and become self-sufficient."

Section 25. Amend § 903, Title 31, Delaware Code by deleting the existing language and inserting in lieu thereof the following:

"§ 903. Application for assignment of assistance recipients.

Whenever the governing body of a county, city or town within this state, or the board or executive officer of any state agency or other public agency or public institution or private non-profit organization, has any work to be done with the county, city, town, agency, institution or organization, or as a function of such agency, institution or organization, which it appears may be properly performed by one or more employable adults of families who receive assistance, the appropriate authority shall make application to the Department of Health & Social Services or the Department of Labor, in the form prescribed by the respective Department, for the establishment of a work project."

Section 26. Amend § 905(e), Title 31, Delaware Code by deleting the existing language and inserting in lieu thereof the following:

"(e) Employable adults of families receiving assistance shall be assigned to work projects for a number of hours determined by the amount of the assistance grant to the family divided by the minimum wage provided in § 902 of Title 19 of this Code. No employable adult shall be assigned for more hours than are necessary to work out his or her grant as determined above."

Section 27. Amend § 906, Title 31, Delaware Code, by deleting the existing text and inserting in lieu thereof:

"§ 906. Department to establish rules and regulations.

The Department of Health and Social Services shall establish such rules and regulations as it deems necessary for the efficient administration of this chapter and the achievement of the legislative intent expressed in § 901 of this chapter and § 501 of this title."

Section 28. Amend § 909, Title 31, Delaware Code by deleting the existing language and inserting in lieu thereof the following:

"§ 909. Effect of refusal to work.

The Department, as part of its authority pursuant to §§ 503, 512(1), 509, and 518 of this Title, may establish sanctions for any assistance recipient who refuses without good cause to report for or to perform that work to which he or she has been assigned by the Department, or who refuses without good cause to report for and participate in any training project designed to improve employability to which he or she has been referred."

Section 29. If any provision of this Act or the application hereof 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 we declared to be severable.

Section 30. Amend § 512, Title 31, Delaware Code by adding thereto new subsections (9) and (10) to read as follows:

"(9) The Social Services Advisory Council, which is appointed by the Governor, will review rules and regulations established by the Department to implement major changes in assistance programs.

(10) As part of welfare reform implementation, the Department will conduct an evaluation of the impact of changes with input and guidance from the Social Services Advisory Council."

Approved June 19, 1995

CHAPTER 66

FORMERLY

HOUSE BILL NO. 251

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE AND THE LAWS OF DELAWARE RELATING TO THE EMPLOYMENT OF WELFARE RECIPIENTS.

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

Section 1. This Act shall be known as the "Delaware Welfare Employment Act."

Section 2. Amend Title 31 of the Delaware Code by adding thereto a new chapter, designated as Chapter 15, which new chapter shall read as follows:

"DELAWARE WELFARE EMPLOYMENT PROGRAM

§ 1501. Statement of Purpose.

It is the purpose of the Delaware Welfare Employment Program to:

(a) create expanded opportunity for increased personal responsibility and advancement toward economic independence and self-sufficiency by Delaware's welfare recipients through the acquisition of useful work skills and performance in productive employment which will end their dependence on public assistance; and

(b) enlist Delaware's private businesses in an expanded effort to provide job opportunities and reduce dependency, and to enhance their work forces and increase their competitiveness; and

(c) complement and strengthen other important state incentives designed to move welfare recipients into private sector jobs, including child care, medical care, and job training and placement; and

(d) authorize the creation of personal advancement accounts as an additional incentive for workers to achieve self-sufficiency and increased skills; and

(e) achieve the foregoing purposes in a cost-effective manner.

§ 1502. Establishment of Program.

(a) The Delaware Welfare Employment Program (the "Program") is created within the Department of Health and Social Services (the "Department") as a critical component of the State's welfare-to-work strategy; provided, however, that the Program shall, as with the State's other welfare-to-work strategies, be administered by the Department in cooperation with the Department of Labor, the Delaware Economic Development Office and the Delaware Work Force Development Council (hereinafter the "Cooperating Agencies"). To the extent necessary to enable the Department to make use of the Program for appropriate cases, the Department shall amend the State plans for the Aid to Families with Dependent Children ("AFDC") program and the jobs and basic skills ("JOBS") program and shall seek federal approval for plan amendments and any waivers from federal law. The Department shall implement the Program with maximum federal financial participation.

(b) In lieu of receiving cash payments from the AFDC program during a placement, participants in the Program shall be provided with productive jobs and paid in a way that promotes self-sufficiency and the opportunity for advancement in the work force.

(c) Job placement services shall be used by the State to the maximum extent possible to assist participants to take unsubsidized private sector jobs. Only if no suitable unsubsidized job or more cost-effective job can be found within a reasonable time may participants be assigned to jobs under the Program.

§ 1503. Individual Participation in the Program.

(a) Unless otherwise exempted, the following persons may be required by the Department to participate in the program:

(1) adult and caretaker relatives of children who are receiving AFDC program benefits; and

(2) unemployed non-caretaker parents of children who are receiving AFDC program benefits.

(b) The following recipients of public assistance may not be required by the Department to participate but may elect, to the extent resources are available, to participate in the Program:

(1) any person who is receiving Supplemental Security Income ("SSI") benefits or other continuing State or federal maintenance benefits based on age or disability;

(2) a parent who is the sole caretaker of a child who is incapacitated as determined by receipt of social security disability benefits or benefits under the SSI Program;

(3) any individual, including caretakers, under 16 years of age;

(4) any individual unable to participate because of a temporary medical condition preventing employment and training, as certified by a written statement from a physician, such exemption to be reevaluated every sixty days; and

(5) any individual 62 years of age or older.

(c) Parents under the age of 20 who are enrolled full-time in a secondary school shall be exempt from participation in the Program.

(d) Any person enrolled full-time in an accredited post-secondary degree program who demonstrates adequate progress toward completion of such program shall be exempt from participation in the Program for a period not to exceed two years and may be permitted an extension to continue his or her studies for an additional two years provided that such person works sufficient hours to earn his or her AFDC program grant during such period.

(e) Notwithstanding subsection (a), any AFDC recipient working full time in a job not subsidized under the Program shall be exempt from participation in the Program.

§ 1504. Financing.

Within the limit of its appropriations, the Department may expend such portion of the moneys appropriated to it for expenditure by or apportioned to the State for operation of the AFDC and the JOBS programs as the Department deems necessary to make maximum advantage of the Program. The Department may also expend such monies as are received from grants and contributions from individuals, corporations, trusts, foundations, and the federal government for growth of the Program.

Not less than once a year, the Department shall review the cost-effectiveness of the Program and shall take necessary action to modify or suspend the Program to ensure the Program is a cost-effective use of the appropriations available to it for the AFDC and JOBS programs.

§ 1505. Participating Employers.

(a) Any employer subject to the State unemployment insurance tax, or reimbursement in lieu thereof pursuant to § 3345 of Title 19 of this code, shall be eligible for assignment of Program participants as temporary employees, but no employer shall be required to participate in the Program.

(b) As part of the State's overall effort to place employable recipients in unsubsidized private sector jobs, the Department and the Cooperating Agencies, in cooperation with the Welfare Employment Committee, shall recruit participating employers from among those employers subject to the unemployment insurance tax, through public invitation and through cooperative efforts with business associations, chambers of commerce, local governments, and other such organizations.

(c) Each participating employer shall enter into an agreement with the Department to abide by all requirements of the Program, and to repay reimbursements in the event that the employer violates program rules. If the Department finds that a participating employer has violated the rules of the Program, the Department shall withhold any amounts due to the employer under this chapter, and may seek repayment of any amounts paid to employers under this chapter.

(d) The maximum number of program participants that any employer may utilize at one time shall not exceed 10 percent of the total number of the employer's employees in the State, but any employer may utilize one participant. The Secretary may waive this limitation in special circumstances.

(e) The Department shall assign available jobs on the basis of a preference schedule developed by the Department. In consultation with the participant, the Department shall try to match the prior training and education, work profile and desires of the participant with the needs of an employer when making a placement; provided, however, that non-cooperation by the participant shall give rise to sanctions pursuant to § 1508 of this chapter and §§ 512 and 518 of this title.

(f) Either the employer or the participant may terminate a placement by contacting the appropriate Department office. If a participant terminates a placement with good cause, the Department shall reassess the needs and skills of the participant and determine an appropriate course of action, such as whether to place the participant in another private sector job, another Program placement, a work force job, or a job training or educational program. If a participant terminates a placement without good cause, the participant shall be subject to sanctions established pursuant to § 1508 of this chapter and §§ 512 and 518 of this title. If an employer terminates a placement with good cause, the Department may, at the employer's request, provide the employer with another participant. If an employer terminates a placement without good cause, such employer may be precluded from further participation in the Program and shall be permitted to participate subsequently only upon application to the Department and a determination by the Department that the employer is likely to comply with the Program's rules and regulations.

(g) The Department shall establish criteria for excluding employers from participation for failure to abide by Program requirements or other demonstrated unwillingness to comply with the stated intent of the Program.

(h) Employers making jobs available to Program participants shall:

(1) endeavor to make placements positive learning, training and employment experiences for Program participants:

(2) maintain health, safety and working conditions for participants at or above levels comparable to those of other employees of the employer;

(3) offer such on-the-job training, including workplace monitoring, as may be necessary to enable the participants to perform their duties;

(4) conform to § 3304(a)(5) of the Federal Unemployment Tax Act, which requires that the job offered cannot be available as a result of a strike or labor dispute, that the job cannot require the employee to join or prohibit the employee from joining a labor organization, and that program participants are not used to displace regular workers;

(5) pay a wage that is substantially equal to the wage paid for similar jobs in the local economy, with appropriate adjustments for experience and training, and including provision for advance receipt of the federal Earned Income Tax Credit ("EITC"), but in no case lower than the State minimum wage provided in § 902 of Title 19;

(6) withhold from each participant's paycheck, and pay as required by federal and State law, federal and State income taxes, and social security contributions;

(7) provide worker's compensation coverage as required by State law;

(8) allow sick leave, holiday and vacation absences in conformity to the individual employer's policy for temporary employees;

(9) offer group health insurance benefits if, and to the extent that, State or federal law requires the employer to provide such benefits;

(10) make an additional contribution to the participant's Personal Advancement Account, as provided in § 1507 of this chapter.

(i) For a maximum of six months, the Department shall reimburse the employer for each participant hour worked in the amount of the State minimum wage. The employer shall be responsible for each participant's unemployment insurance taxes and worker's compensation insurance premiums, and the employer's share of the Federal Insurance Contributors Act.

(j) If after four months in a placement, a participant has not been hired for an unsubsidized position, the employer shall allow the worker to undertake eight hours of job search per week. Participating employers shall consider such time as hours worked for the purpose of paying wages.

(k) If after six months in a placement a participant has not been hired for an unsubsidized position, the placement shall be terminated and the employer shall file a statement with the Department explaining its reason for not hiring the participant in an unsubsidized position. At that time, the Department, or one of the Cooperating Agencies as the case may be, shall reassess the participant's employability and determine an appropriate course of action such as whether to place the participant in another private sector job, a workfare job, or a job training or educational program, another Program placement, or to sanction the participant pursuant to its authority under § 1508 of this chapter and §§ 512 and 518 of this title.

(l) The Department and the Cooperating Agencies may provide the following types of services: job readiness, job development, job training and placement, job support, program evaluation, and other services incident to the operation of the Program, and to that end, shall, to the extent such services may be provided more cost-effectively in such manner, subcontract for such services with qualified public and private organizations.

§ 1506. Participant Compensation and Benefits.

(a) Participants shall receive the following benefits so long as they satisfactorily participate in the Program:

(1) compensation for their work effort substantially equal to the wage paid for similar jobs in the local economy, with appropriate adjustments for experience, training, and productive effort;

(2) the EITC, with advancible portions paid as a part of the wage payment;

(3) continuation of federal and State medical assistance benefits for which the participants was eligible at the time of entering the Program;

(4) child care benefits as may be necessary to permit participation in the Program;

(5) job training and job search counseling as otherwise available under the JOBS program;

(6) such portion of the child support payments collected by the Department as the Department determines, in addition to, and not in lieu of, the payments for work provided in the Program;

(7) accumulation of an earned Personal Advancement Account as provided for in § 1507 of this chapter.

(b) AFDC benefits shall be suspended for the duration of the placement at the end of the first calendar month in which an employer makes the first wage payment to a participant who is a custodial parent in a family that receives AFDC program benefits.

(c) The Department shall also make supplemental payments to families for which the participant's wages, together with the EITC, represent less spendable income than the value of the AFDC program benefits that the family would otherwise receive. The supplemental payments shall be in amounts which when added to the amount of participant wages together with the EITC will be equal to the value of the AFDC program benefits that the family would otherwise receive. The Department shall determine and pay in advance supplemental payments to participants on a monthly basis as necessary to ensure equivalent net program wages. Such supplemental payments shall not be subject to federal income taxes and social security contributions.

(d) The Department may provide life skills classes and opportunities for participants to achieve high school graduation equivalency diplomas in conjunction with participation in the Program.

§ 1507. Personal Advancement Account.

(a) In accordance with rules adopted by the Department, each participant in the Program shall create a Personal Advancement Account in his or her name. The account may be held by the employer, by a bank, savings and loan association, or credit union, or by another suitable organization approved by the Secretary. The account may be designed to take advantage of any relevant federal or State tax exemption or tax deferral privileges. The account shall be the property of the participant but shall not be subject attachment for judgments arising from causes antedating the establishment of the account, other than obligations for child support.

(b) Beginning with the 30th day of each participant's employment with an employer and ending six months thereafter, in addition to the participant's wage as defined in § 1506 of this chapter and at the same time that such wages are paid, the employer shall pay into the participant's Personal Advancement Account, one dollar for each participant hour worked, less any required deductions for income tax withholding, FICA, and the Federal Unemployment Tax Act.

(c) During the period specified in subsection (b), the participant may make withdrawals from the Account, in accordance with rules adopted by the Department, for the following purposes:

- (1) tuition and charges for qualified education and training programs;
- (2) participation in a contributory benefit program offered by the employer, including but not limited to a medical savings account;
- (3) the purchase of tools, vehicles or equipment necessary to start the participant's business;
- (4) the payment of medical expenses of the participant's family, not covered by insurance;
- (5) other approved expenditures made in response to emergencies or severe hardships.

(d) At the end of period specified in subsection (b), any balance in the Account shall inure to the participant's benefit.

§ 1508. Sanctions for Refusal to Participate.

Pursuant to its authority under § 512 and § 518 of this title, the Department shall establish sanctions for participants who fail to comply with the requirements of the Program.

§ 1509. Welfare Employment Committee.

(a) The Welfare Employment Committee (the "Committee") is established to assist the Department and the Cooperating Agencies in placing AFDC recipients in unsubsidized private sector jobs, and to advise them on the policy, direction and implementation of all of Delaware's welfare-to-work efforts, including the Program. The Committee shall operate in close cooperation with the Delaware Workforce Development Council (the "Council") and shall provide the Council with its advice with respect to the allocation of job training and placement funds for implementation of the State's welfare-to-work efforts.

(b) The Committee shall have seven members appointed by the Governor, who shall designate one member to serve as Chairperson at the Governor's pleasure. At least five of those members shall be representatives of employers, two of the members shall be current members of the Council. No more than four members may belong to the same political party.

(c) The initial appointees to the Committee shall serve until February 1, 1997. Three of the appointees who begin service after February 1, 1997, shall have terms of three years, two shall have terms of two years, and two shall have terms of one year, as designated by the Governor at the time of their appointment. Vacancies shall be filled for the duration of the unexpired term. Committee members shall be eligible for reappointment.

(d) The Committee shall recruit employers for AFDC recipients. For that purpose and to assist the State in placing AFDC recipients in private sector jobs, the Committee may hold public meetings and meet periodically with employers, AFDC recipients, and relevant State agencies to remove barriers to the placement of public assistance recipients in private sector jobs and to adapt State policies, including the Program, so as to better accomplish such placements.

(e) The Council shall include a section in its annual report prepared by the Committee regarding the status and implementation of the State's efforts to place AFDC recipients in private sector jobs, including the Committee's recommendations for improvements in such efforts.

§ 1510. Annual Report.

The Department shall submit an annual written report to the Governor and the General Assembly containing a full and complete analysis of the operation of the Program, recommendations for the improvement of the Program, and an analysis of the cost projections of the Program. If the analysis concludes that the Program is not likely to achieve or maintain long-term budget neutrality, allowing for expected price inflation, the Department shall present a plan for the modification or termination of the Program."

Section 3. Waiver of Federal Requirements.

The Department is authorized and directed to apply for and expedite the acquisition of all federal waivers and amendment approvals needed for implementation of the Program. The Department, after consultation with the Welfare Employment Committee, is authorized to make the minimum changes in the Program as may be necessary to secure required federal approval. Any such changes shall advance the purposes of the Program as set for in § 1501 of Section 2 of this Act and the purposes set forth in § 501 of Title 31.

Section 4. Severability.

If any of the provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of 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. Effective Date.

This Act shall take effect on January 1, 1996, or upon receipt of the required federal waivers, whichever occurs later.

Approved June 19, 1995

CHAPTER 67

FORMERLY

HOUSE BILL NO. 30

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO INMATE FURLOUGHS.

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

Section 1. Amend §6538, Title 11 of the Delaware Code, by redesignating subsection (d) thereof as subsection (e), and by inserting a new subsection to read:

"(d) The Department may permit inmates to participate in Community Service Projects by granting special furloughs for the period of such projects, not to exceed fourteen days. Such furloughs shall not be considered personal furloughs under the Department rules and regulations. The time spent participating in a Community Service Project may be counted towards a restitution or community service component of a sentence. During a Community Service Project, the inmate need not be under the continual escort and supervision of custodial officers. All associated transportation and custodial costs shall be the responsibility of the organization which sponsors the Community Service Project."

Approved June 19, 1995

CHAPTER 68

FORMERLY

SENATE BILL NO. 182

AN ACT TO AMEND CHAPTER 339, VOLUME 62, LAWS OF DELAWARE, ENTITLED
"AN ACT TO REINCORPORATE THE TOWN OF SMYRNA".

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

Section 1. Amend Section 5, Chapter 339, Volume 62, Laws of Delaware, by deleting
the same in its entirety and in place thereof, inserting a new Section 5 as follows:

"Section 5. Board of Assessment.

(a) The Town shall have a Board of Assessment, the members of which
shall have the same qualifications as members of Council.

(b) The Board shall consist of one member, except that every third year,
beginning in 1996, the Board shall consist of three (3) members.

(c) The members of the Board of Assessment shall be approved by the
Mayor, subject to confirmation by the Council.

(d) The term of office for each member shall be one (1) year commencing
the date of his appointment and continuing until his successor has been duly
appointed and qualified.

(e) The members of the Board of Assessment, before entering upon the
duties of their office, shall be sworn or affirmed by the Mayor or Vice-Mayor to
faithfully and impartially perform the duties of their office.

(f) Members of the Board of Assessment shall each receive such
reasonable compensation as the Council shall fix.

(g) Vacancies; Forfeiture of Office.

(1) Vacancies. Any seat on the Board of Assessment shall become
vacant forthwith upon death, resignation, or forfeiture of office.

(2) Forfeiture of Office. A forfeiture of office shall occur when
any member of the Board of Assessment:

(i) lacks, at any time during his or her term of office, any
qualification for the office prescribed by this Charter or by law; or

(ii) is convicted of any felony or any crime involving
moral turpitude; or

(iii) is physically, mentally, or emotionally incapable of
performing the function of his or her office.

Forfeiture proceedings shall be as provided for the Mayor and
Councilmembers in Section 3, Subsection (d) of this Charter.

(3) Filling Vacancies. Where any vacancy occurs in any seat on
the Board of Assessment, such vacancy shall be filled by appointment of Council
for the residue of that term."

Section 2. Amend subparagraph 3, paragraph (a), Section 7, Chapter 339, Volume 62, Laws of Delaware, by deleting the same in its entirety and in place thereof inserting the following:

"(3) It shall be within the discretion of the Council to retain the services of professional appraisers to assist the Board of Assessment in performing its duties, but the Board shall in all instances be responsible for making the final determination."

Section 3. Amend paragraph (4), subsection (a), Section 6, Chapter 339, Volume 62, Laws of Delaware, by deleting the same in its entirety and substituting in lieu thereof the following:

"The Town Manager shall be authorized to employ all such personnel as necessary to fill those positions of municipal employment (other than within the police department) authorized and funded by the Town Council. The Town Manager shall also be authorized to discipline, suspend with or without pay, layoff, and/or terminate and discharge all municipal employees of the Town (other than employees within the police department), subject to any applicable state statutes and subject also to any applicable Town personnel rules, regulations, policies, or ordinances.

All employees of the Town shall be under the supervision of the Town Manager while engaged in any municipal activity which has been placed in his charge."

Section 4. Amend paragraph (2), subsection (b), ("Chief of Police"), Section 6, Chapter 339, Volume 62, Laws of Delaware, by deleting the same in its entirety and substituting in place thereof the following:

"(2) The Chief of Police shall employ all personnel as necessary to fill those positions within the police department as authorized and funded by the Town Council. Subject to all applicable state statutes and subject to any applicable Town personnel rules, regulations, policies or ordinances, the Chief of Police shall also be authorized to discipline, suspend, with or without pay, layoff, and/or terminate and discharge any employee within the Smyrna Police Department. The Chief of Police shall be the Chief Administrative Officer of the Town's Police Department."

Section 5. Amend subsection (c), Section 6, Chapter 339, Volume 62, Laws of Delaware, by deleting said subsection ("Deputy Treasurer") in its entirety.

Section 6. Amend subsection (a), Section 20, Chapter 339, Volume 62, Laws of Delaware, by deleting the words "Two Thousand Five Hundred Dollars (\$2,500.00)," and in place thereof inserting the words "Ten Thousand Dollars (\$10,000.00)."

Section 7. Amend paragraph (1), subsection (b), Section 4, Chapter 339, Volume 62, Laws of Delaware, by: replacing the period (".") at the end of Section 1 with a semicolon (";"), and adding thereafter "and shall perform such other duties as may be prescribed by resolution or ordinance of Council."

Section 8. Amend paragraph (2) subsection (b), Section 4, Chapter 339, Volume 62, Laws of Delaware, by deleting the words "The Mayor shall sign all warrants on the Treasurer for the payment of any Town money and shall perform such other duties as may be prescribed by resolution or ordinance of Council."

Section 9. Amend paragraph (3), subsection (a), Section 6, Chapter 339, Volume 62, Laws of Delaware, by deleting the second sentence thereof which reads: "The Town Manager shall pay all monies collected by him to the Town Treasurer at least monthly;" and by deleting the words: "and for the settlement of his tax accounts with the Treasurer of said Town, not later than the last day of each fiscal year, and oftener and at such other times as the Council may require;" and replacing the comma (",") at the end of the phrase "collection of taxes due said Town" with a period (".").

Section 10. Amend Sections 11, 12, and 18, of Chapter 339, Volume 62, Laws of Delaware, by deleting the word "Treasurer" wherever it appears and in place thereof inserting the word "Manager."

Section 11. **Savings Clause.** The current Treasurer, Deputy Treasurer, and member(s) of the Board of Assessment who hold office at the time of approval of this Act shall continue to serve until the expiration of their respective terms of office, or until the Town Council's organizational meeting following the 1996 Town Election, whichever comes first.

Section 12. **Effective Date.** Subject to the savings provision of Section 11 of this Act, this Act shall take effect immediately upon signature by the Governor or otherwise according to law.

Approved June 22, 1995

CHAPTER 69

FORMERLY

HOUSE BILL NO. 176

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION.

WHEREAS, our State's schools should be safe, disciplined environments conducive to learning; and

WHEREAS, the education of our State's students should occur in an atmosphere free from as many distractions as possible; and

WHEREAS, among such distractions can be a student's clothing itself; and

WHEREAS, peer pressure causes students to ask their parents to spend large sums of money to ensure that they can wear designer clothes to school on a regular basis; and

WHEREAS, students have, regrettably, used particular articles of clothing on occasion to identify themselves as members of certain "gangs", to the detriment of discipline and safety at their schools; and

WHEREAS, the State's schools have experienced other disruptions as a result of the types of clothing worn by students; and

WHEREAS, uniformity and orderliness of dress can contribute to an orderly, disciplined school environment and conceal income disparities among students; and

WHEREAS, local boards of education are in the best position to determine the appropriateness of adopting school dress codes and authorizing schools to require students to wear uniforms; and

WHEREAS, the General Assembly believes it desirable to provide local school boards with clear legal authority to adopt dress code and school uniform policies;

NOW, THEREFORE:

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

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

"§ 4120. School dress codes and uniforms.

(a) The school board of each public school district shall have authority to establish and enforce a dress code program, which may include school uniforms, for students within the district to promote an orderly, disciplined school environment and to encourage uniformity of student dress. Any school board exercising its authority under this section shall promulgate rules and regulations governing the establishment and enforcement of its dress code program.

(b) In establishing a dress code that adopts school uniforms, the rules and regulations of the school board shall ensure that any uniform required is available at an affordable price, and shall include provision to assist economically disadvantaged students in obtaining school uniforms".

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved June 23, 1995

CHAPTER 70

FORMERLY

SENATE BILL NO. 7

AN ACT TO AMEND CHAPTER 13, SUBCHAPTER III, TITLE 30, DELAWARE CODE, RELATING TO INHERITANCE TAX.

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

Section 1. Amend §1341 of Chapter 13, Title 30, Delaware Code by striking subparagraph (a)(1) of said section and substituting the following:

"(a) Resident Returns - The executor of every resident decedent of this State shall make a return with respect to the inheritance tax imposed by Subchapter II of this Chapter according to the forms and regulations prescribed by the Secretary of Finance or his delegate if any one of the following conditions applies:

(1) The value of the gross estate at the death of the decedent passing to a surviving spouse exceeds \$250,000 (excluding real or personal property owned as tenants by the entirety or joint tenants with right of survivorship with a spouse); or one of the beneficiaries is a person described in Class A of §1322 of this title and there is imposed a tax under §1322(1) of this title;"

Approved June 23, 1995

CHAPTER 71

FORMERLY

SENATE BILL NO. 8

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, SUBCHAPTER I, TITLE 12, DELAWARE CODE
RELATING TO INHERITANCE TAX.BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend §2304 of Chapter 23, Title 12, Del. C. By striking said section and substituting the following:

"(a) Whenever a return is required under §1341 of Title 30, a certificate of the Division of Revenue shall be filed with the Register of Wills of the county in which letters have been granted and, in addition, with the Register of Wills in the county or counties in which the decedent owned real property.

(b) When no return is required under §1341 of Title 30 and (i) real property passed to a surviving spouse as a result of the death of the decedent, or (ii) letters have been granted by the Register of Wills in any county, an affidavit, in a form approved by the Division of Revenue, shall be completed and filed by the personal representative, surviving joint tenant or person in possession of the estate with the Register of Wills. The Secretary of Finance may, in addition, require that a copy of said affidavit be filed with him."

Approved June 23, 1995

CHAPTER 72

FORMERLY

SENATE BILL NO. 83

AN ACT TO AMEND TITLE 16, CHAPTER 76 OF THE DELAWARE CODE RELATING TO COUNTY AND MUNICIPAL BUILDING, PLUMBING, ELECTRICAL AND OTHER CODES.

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 76, Title 16 of the Delaware Code by striking §§ 7602-7603 in their entirety and substituting in lieu thereof the following:

“§ 7602. Code for Energy Conservation

(a) No county or municipal building or plumbing code shall contain any provision which shall be materially at variance with the Council of American Building Officials, Model Energy Code (MEC), 1993 Edition, jointly prepared by the Building Officials and Code Administrators International, Inc. (BOCA), the International Conference of Building Officials (ICBO), the National Conference of States on Building Codes and Standards (NCSBCS) and the Southern Building Code Congress International, Inc. (SBCCI). In effect, the Model Energy Code, 1993 Edition, shall be the referenced energy code for all new detached one and two story family dwellings and all other new residential buildings, three stories or less in height. Energy standards for all other new buildings, to include high rise residential, will be established in accordance with Chapter 7 of the 1993 MEC to reference the American Society of Heating, Refrigerating and Air Conditioning Engineers/Illuminating Engineering Society of North America (ASHRAE/IES) Standard 90.1 - 1989 or its codified version. All such codes shall require that existing non-residential and high rise residential buildings over 25,000 square feet in floor space comply with the referenced lighting standards of the ASHRAE/IES 100 series.

(b) The Division of Facilities Management in the Department of Administrative Services or its successor will promulgate procedures for certification of compliance with these codes and standards. However, the respective local government shall have exclusive authority to designate and shall designate the effective date for compliance of lighting standards for existing buildings.”

Approved June 23, 1995

CHAPTER 73

FORMERLY

SENATE BILL NO. 90

AN ACT TO AMEND THE CHARTER OF THE TOWN OF MILLSBORO, CHAPTER 457, VOLUME 60, LAWS OF DELAWARE, ENTITLED “AN ACT TO REINCORPORATE THE TOWN OF MILLSBORO”, AS AMENDED, RELATING TO THE IMPOSITION OF TAXATION UPON REAL ESTATE TRANSFERS WITHIN THE TOWN OF MILLSBORO.

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

Section 1. Chapter 457, Volume 60, Laws of Delaware, as amended by Chapter 243, Volume 68, Laws of Delaware, is hereby amended by deleting Section 26B(f) in its entirety.

Approved June 23, 1995

CHAPTER 74

FORMERLY

SENATE BILL NO. 98

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO POWERS OF THE SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

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

Section 1. Amend Title 29, Delaware Code by adding new §8003 (14) to read as follows:

"(14) The Secretary is empowered to apply for and accept grants which the Secretary deems necessary or desirable to the performance of the functions of the Department, subject to Chapter 76 of Title 29 of the Delaware Code. The Secretary is empowered to administer and distribute those funds in the form of grants to qualified entities when funds are available for such purposes. Qualified entities may include, but are not limited to, state, county and local agencies, educational institutions, not-for-profit organizations, corporations, and other businesses, and individual citizens."

Approved June 23, 1995

CHAPTER 75

FORMERLY

SENATE BILL NO. 109

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 deleting subsection "(13)", and by renumbering existing subsection "(14)" as subsection "(13)".

Section 2. Amend § 18-101(6), Chapter 18, Title 6 of the Delaware Code by substituting the number "1" for the number "2".

Section 3. Amend § 18-101(7), Chapter 18, Title 6 of the Delaware Code by deleting the words "a written" in the first sentence of the subsection and substituting in lieu thereof the word "any", by adding ", written or oral," after the word "agreement" in the first sentence of the subsection, and by adding the word "written" before the words "limited liability" in the second sentence of the subsection.

Section 4. Amend § 18-102(1), Chapter 18, Title 6 of the Delaware Code by adding the words "or the designation 'LLC'" following the words "or the abbreviation 'L.L.C.'".

Section 5. Amend § 18-201, Chapter 18, Title 6 of the Delaware Code by adding a new subsection to said section to be designated as subsection "(d)" to read as follows:

"(d) A limited liability company agreement may be entered into either before, after or at the time of the filing of a certificate of formation and, whether entered into before, after or at the time of such filing, may be made effective as of the formation of the limited liability company or at such other time or date as provided in the limited liability company agreement."

Section 6. Amend § 18-203, Chapter 18, Title 6 of the Delaware Code by adding "or § 18-1108" after "18-104(d)", and by deleting the words "less than 2" and by substituting in lieu thereof the word "no" in the first sentence of the section, and by deleting the words "not 2" and by substituting in lieu thereof the word "no" in the second sentence of the section.

Section 7. Amend § 18-206(a), Chapter 18, Title 6 of the Delaware Code by deleting the words "and of" immediately after the words "certificate of merger or consolidation" and inserting in lieu thereof a ", and" and by adding immediately after the words "restated certificate" the words ", and of any certificate of revival".

Section 8. Amend § 18-206(a), Chapter 18, Title 6 of the Delaware Code by adding the words ", a conformed signature or an electronically transmitted signature" after the word "facsimile".

Section 9. Amend § 18-206(a), Chapter 18, Title 6 of the Delaware Code by adding after the words "certificates of amendment, correction", the words ", amendment of a certificate of merger or consolidation".

Section 10. Amend § 18-206(a)(1), Chapter 18, Title 6 of the Delaware Code by deleting the word "or" immediately after the words "certificate of merger or consolidation" and inserting in lieu thereof a ", and" and by adding immediately after the words "restated certificate" the words "or the certificate of revival".

Section 11. Amend § 18-206(a)(1), Chapter 18, Title 6 of the Delaware Code by adding after the words "the certificate of correction," the words "the certificate of amendment of a certificate of merger or consolidation,".

Section 12. Amend § 18-206(b), Chapter 18, Title 6 of the Delaware Code by adding the following sentence at the end of said subsection:

"Upon the filing of a certificate of revival, the limited liability company is revived with the effect provided in § 18-1109 of this chapter."

Section 13. Amend § 18-206(b), Chapter 18, Title 6 of the Delaware Code by adding the following sentence immediately before the last sentence of said subsection:

"Upon the filing of a certificate of amendment of a certificate of merger or consolidation, the certificate of merger or consolidation identified in the certificate of amendment of a certificate of merger or consolidation is amended."

Section 14. Amend § 18-206(c), Chapter 18, Title 6 of the Delaware Code by deleting the word "or" immediately after the words "certificate of merger or consolidation" and inserting in lieu thereof a ";", and by adding immediately after the words "restated certificate" the words "or a certificate of revival."

Section 15. Amend § 18-206(c), Chapter 18, Title 6 of the Delaware Code by adding immediately following the words "a certificate of correction," the words "a certificate of amendment of a certificate of merger or consolidation,".

Section 16. Amend § 18-209(a), Chapter 18, Title 6 of the Delaware Code by adding after the words "or limited" the words "(including a registered limited liability limited partnership)".

Section 17. Amend § 18-209(d), Chapter 18, Title 6 of the Delaware Code by deleting the words "to change the future effective date or time", by deleting at three places in the subsection the words "or amended", and by adding the following sentence immediately before the last sentence 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 amended to change the future effective date or time, or to change any other matter described in the certificate of merger or consolidation so as to make the certificate of merger or consolidation false in any material respect, 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 amended by the filing of a certificate of amendment of a certificate of merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation which has been amended and shall state that the agreement of merger or consolidation has been amended and shall set forth the amendment to the certificate of merger or consolidation."

Section 18. Amend § 18-301(b)(3), Chapter 18, Title 6 of the Delaware Code by deleting the words "or a limited liability company agreement" immediately after the words "an agreement of merger or consolidation".

Section 19. Amend § 18-402, Chapter 18, Title 6 of the Delaware Code by adding the following new sentence immediately before the existing last sentence of the section.

"A limited liability company may have more than 1 manager."

Section 20. Amend § 18-801(3), Chapter 18, Title 6 of the Delaware Code by deleting the word "The" appearing in the subsection and inserting in lieu thereof "Unless otherwise provided in a limited liability company agreement, upon the".

Section 21. Amend § 18-802, Chapter 18, Title 6 of the Delaware Code by deleting "(a)" appearing before the first paragraph of said section and by deleting all of paragraph "(b)" of said section.

Section 22. Amend § 18-904(a), Chapter 18, Title 6 of the Delaware Code by adding the words "or the designation 'LLC'" following the words "or the abbreviation 'L.L.C.'".

Section 23. Amend § 18-1105(a)(1), Chapter 18, Title 6 of the Delaware Code by deleting "\$10", and by substituting in lieu thereof "\$75".

Section 24. Amend § 18-1105(a)(3), Chapter 18, Title 6 of the Delaware Code by deleting the word "or" appearing after the words "under § 18-211 of this chapter" and substituting in lieu thereof a ",", and by adding after the words "under § 18-1107(i) of this chapter," the words "or a certificate of revival under § 18-1109 of this chapter,".

Section 25. Amend § 18-1105(a)(3), Chapter 18, Title 6 of the Delaware Code by adding after the words "under § 18-208 of this chapter," the words "a certificate of amendment of a certificate of merger or consolidation under § 18-209(d) of this chapter,".

Section 26. Amend § 18-1105(a)(5), Chapter 18, Title 6 of the Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(5) The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of \$5 shall be paid for the first page and \$1 for each additional page. The Secretary of State may also issue microfiche copies of instruments on file as well as instruments, documents and other papers not on file, and for each such microfiche a fee of \$2 shall be paid therefor. Notwithstanding the State of Delaware's Freedom of Information Act or other provision of this Code granting access to public records, the Secretary of State shall issue only photocopies, microfiche or electronic image copies of records in exchange for the fees described above."

Section 27. Amend § 18-1105(b), Chapter 18, Title 6 of the Delaware Code by redesignating paragraphs "(1)" and "(2)" as paragraphs "(2)" and "(3)", respectively, and by adding before newly designated paragraph "(2)" the following new paragraph "(1)" reading as follows:

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

Section 28. Amend § 18-1107(a), Chapter 18, Title 6 of the Delaware Code by deleting the words "For purposes of taxation under Title 30," both times such words appear in said subsection and substituting in lieu thereof the words "For purposes of any tax imposed by the State of Delaware or any instrumentality, agency or political subdivision of the State of Delaware,".

Section 29. Amend Chapter 18, Title 6 of the Delaware Code by adding a new section designated § 18-1108 reading as follows:

"§ 18-1108. CANCELLATION OF CERTIFICATE OF FORMATION FOR FAILURE TO PAY TAXES.

(a) The certificate of formation of a domestic limited liability company shall be deemed to be canceled if the domestic limited liability company shall fail to pay the annual tax due under § 18-1107 of this chapter for a period of three years from the date it is due, such cancellation to be effective on the third anniversary of such due date.

(b) On or before October 31 of each calendar year, the Secretary of State shall publish once in at least 1 newspaper of general circulation in the State of Delaware a list of those domestic limited liability companies whose certificates of formation were canceled on June 1 of such calendar year pursuant to § 18-1108(a) of this chapter."

Section 30. Amend Chapter 18, Title 6 of the Delaware Code by adding a new section designated § 18-1109 reading as follows:

"§ 18-1109. REVIVAL OF DOMESTIC LIMITED LIABILITY COMPANY.

(a) A domestic limited liability company whose certificate of formation has been canceled pursuant to § 18-1104(d) or § 18-1108(a) of this chapter may be revived by filing in the office of the Secretary of State a certificate of revival accompanied by the payment of the fee required by § 18-1105(a)(3) of this chapter and payment of the annual tax due under § 18-1107 of this chapter and all penalties and interest thereon for each year for which such

domestic limited liability company neglected, refused or failed to pay such annual tax, including each year between the cancellation of its certificate of formation and its revival. The certificate of revival shall set forth:

(1) The name of the limited liability company at the time its certificate of formation was canceled and, if such name is not available at the time of revival, the name under which the limited liability company is to be revived;

(2) The date of filing of the original certificate of formation of the limited liability company;

(3) The address of the limited liability company's registered office in the State of Delaware and the name and address of the limited liability company's registered agent in the State of Delaware;

(4) A statement that the certificate of revival is filed by 1 or more persons authorized to execute and file the certificate of revival to revive the limited liability company; and

(5) Any other matters the persons executing the certificate of revival determine to include therein.

(b) The certificate of revival shall be deemed to be an amendment to the certificate of formation of the limited liability company, and the limited liability company shall not be required to take any further action to amend its certificate of formation under § 18-202 of this chapter with respect to the matters set forth in the certificate of revival.

(c) Upon the filing of a certificate of revival, a limited liability company shall be revived with the same force and effect as if its certificate of formation had not been canceled pursuant to § 18-104(d) or § 18-1108(a) of this chapter. Such revival shall validate all contracts, acts, matters and things made, done and performed by the limited liability company, its members, managers, employees and agents during the time when its certificate of formation was canceled pursuant to § 18-104(d) or § 18-1108(a) of this chapter, with the same force and effect and to all intents and purposes as if the certificate of formation had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited liability company at the time its certificate of formation was canceled pursuant to § 18-104(d) or § 18-1108(a) of this chapter or which were acquired by the limited liability company following the cancellation of its certificate of formation pursuant to § 18-104(d) or § 18-1108(a) of this chapter, and which were not disposed of prior to the time of its revival, shall be vested in the limited liability company after its revival as fully as they were held by the limited liability company at, and after, as the case may be, the time its certificate of formation was canceled pursuant to § 18-104(d) or § 18-1108(a) of this chapter. After its revival, the limited liability company shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its members, managers, employees and agents prior to its revival as if its certificate of formation had at all times remained in full force and effect."

Section 31. This Act shall become effective August 1, 1995, except that Section 18-1108, Chapter 18, Title 6 of the Delaware Code shall become effective December 31, 1995.

Approved June 23, 1995

CHAPTER 76

FORMERLY

SENATE BILL NO. 111

AN ACT TO AMEND CHAPTER 15, 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 (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend § 1546, Chapter 15, Title 6 of the Delaware Code by adding thereto the following new subsections "(e)" and "(f)" reading as follows:

"(e) Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership is in compliance with this section if:

(1) at the time a claim arising out of the kinds of negligence, wrongful acts or misconduct for which liability is limited by section 1515(b) of this title is asserted through service of a complaint or comparable pleading in a judicial or administrative proceeding, the partnership has in effect insurance, in the amount set forth in subsection (a) of this section, that is applicable to (A) claims made as of the date such claim is asserted or (B) events occurring on the date of the conduct giving rise to such claim; or

(2) within 30 days after the day such a claim is asserted as described in (1) above, the partnership has designated and segregated funds in the amount set forth in subsection (d) of this section.

(f) Notwithstanding any other provision of this section, if a registered limited liability partnership is otherwise in compliance with the terms of this section 1546 at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership, it shall be deemed to be in compliance with section 1546 during the pendency of the proceeding. A registered limited liability partnership which has been the subject of such a proceeding and which conducts business after the proceeding has ended must thereafter comply with section 1546(a) or (d) in order to thereafter obtain the limitations on liability afforded by section 1515(b) hereof."

Section 2. This Act shall be effective on August 1, 1995.

Approved June 23, 1995

CHAPTER 77

FORMERLY

SENATE BILL NO. 112

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE TO PROVIDE GROUP LIFE INSURANCE FOR STATE POLICE RETIREES AND SURVIVORS.

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

Section 1. Amend Title 11 of the Delaware Code by adding a new section to read as follows:

"8331 Group Life Insurance.

(a) Upon the death of an individual receiving a pension under this subchapter, a benefit will be paid from the Fund in the same manner as benefits provided under Title 29, §5546 of the Delaware Code.

(b) The benefit granted under this section shall not be construed as a contractual obligation of the State or of the Pension Fund and may be revised or terminated by an Act of the General Assembly."

Section 2. Amend Title 11 of the Delaware Code by adding a new section to read as follows:

"8395. Group Life Insurance.

(a) Upon the death of an individual receiving a pension under this subchapter, a benefit will be paid from the Fund in the same manner as benefits provided under Title 29, §5546 of the Delaware Code.

(b) The benefit granted under this section shall not be construed as a contractual obligation of the State or of the Pension Fund and may be revised or terminated by an Act of the General Assembly."

Section 3. The effective date of this act shall be July 1, 1995.

Approved June 23, 1995

CHAPTER 78

FORMERLY

SENATE BILL NO. 114

AN ACT TO AMEND CHAPTER 17, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED PARTNERSHIPS AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED PARTNERSHIPS.

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

Section 1. Amend § 17-102(1), Chapter 17, Title 6 of the Delaware Code by adding the words "or the designation 'LP'" following the words "or the abbreviation 'L.P.'".

Section 2. Amend § 17-106, Chapter 17, Title 6 of the Delaware Code by adding to the heading of the section "; powers" following the word "permitted", by adding "(a)" before the existing paragraph of the section, and by adding a new subsection to said section to be designated as subsection "(b)" to read as follows:

"(b) A limited partnership shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its partnership agreement, together with any powers incidental thereto, so far as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the limited partnership."

Section 3. Amend § 17-203, Chapter 17, Title 6 of the Delaware Code by adding "or § 17-1110" after "§ 17-104(d)", and by adding ", or upon the filing of a certificate of merger or consolidation if the limited partnership is not the surviving or resulting entity in a merger or consolidation" after the word "title" in the first sentence of the section, and by adding "to accomplish the cancellation of a certificate of limited partnership upon the dissolution and the completion of winding up of a limited partnership or at any other time there are no limited partners" before the word "and", and by adding the word "shall" after the word "and" in the second sentence of the section.

Section 4. Amend § 17-204(a), Chapter 17, Title 6 of the Delaware Code by deleting the word "and" at the end of paragraph "(3)", by deleting the "." at the end of paragraph "(4)" and inserting in lieu thereof the words "; and", and by adding a new paragraph "(5)" reading as follows:

"(5) A certificate of revival must be signed by at least 1 general partner."

Section 5. Amend § 17-204(a)(4), Chapter 17, Title 6 of the Delaware Code by adding at four places in the subsection immediately before the words "or certificate of termination of a merger or consolidation", the words ", certificate of amendment of a certificate of merger or consolidation".

Section 6. Amend § 17-206(a), Chapter 17, Title 6 of the Delaware Code by deleting the words "and of" immediately following the words "certificate of merger or consolidation" and inserting in lieu thereof a "," and by adding immediately after the words "restated certificate" the words "and any certificate of revival".

Section 7. Amend § 17-206(a), Chapter 17, Title 6 of the Delaware Code by adding the words ", a conformed signature or an electronically transmitted signature" after the word "facsimile".

Section 8. Amend § 17-206(a), Chapter 17, Title 6 of the Delaware Code by adding after the words "certificates of amendment, correction", the words ", amendment of a certificate of merger or consolidation".

Section 9. Amend § 17-206(a)(1), Chapter 17, Title 6 of the Delaware Code by deleting the word "or" immediately after the words "certificate of merger or consolidation" and inserting in lieu thereof a ",," and by adding immediately after the words "restated certificate" the words "or certificate of revival".

Section 10. Amend § 17-206(a)(1), Chapter 17, Title 6 of the Delaware Code by adding after the words "the certificate of correction," the words "the certificate of amendment of a certificate of merger or consolidation,".

Section 11. Amend § 17-206(b), Chapter 17, Title 6 of the Delaware Code by adding the following sentence at the end of said subsection:

"Upon the filing of a certificate of revival, the limited partnership shall be revived with the effect provided in § 17-1111 of this title."

Section 12. Amend § 17-206(b), Chapter 17, Title 6 of the Delaware Code by adding the following sentence immediately before the last sentence of said subsection:

"Upon the filing of a certificate of amendment of a certificate of merger or consolidation, the certificate of merger or consolidation identified in the certificate of amendment of a certificate of merger or consolidation is amended."

Section 13. Amend § 17-206(c), Chapter 17, Title 6 of the Delaware Code by deleting the word "or" immediately following the words "certificate of merger or consolidation" and inserting in lieu thereof a ",," and by adding immediately after the words "restated certificate" the words "or a certificate of revival".

Section 14. Amend § 17-206(c), Chapter 17, Title 6 of the Delaware Code by adding immediately following the words "a certificate of correction," the words "a certificate of amendment of a certificate of merger or consolidation,".

Section 15. Amend § 17-207(a), Chapter 17, Title 6 of the Delaware Code by adding after the word "correction" the word ", revival".

Section 16. Amend § 17-211(a), Chapter 17, Title 6 of the Delaware Code by adding after the words "or limited" the words "(including a foreign registered limited liability limited partnership)".

Section 17. Amend § 17-211(e), Chapter 17, Title 6 of the Delaware Code by deleting the words "to change the future effective date or time", by deleting at three places in the subsection the words "or amended", and by adding the following sentence immediately before the last sentence 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 amended to change the future effective date or time, or to change any other matter described in the certificate of merger or consolidation so as to make the certificate of merger or consolidation false in any material respect, as permitted by § 17-211(b) of this title prior to the future effective date or time, the certificate of merger or consolidation shall be amended by the filing of a certificate of amendment of a certificate of merger or consolidation which shall identify the certificate of merger or consolidation and the agreement of merger or consolidation which has been amended and shall state that the agreement of merger or consolidation has been amended and shall set forth the amendment to the certificate of merger or consolidation."

Section 18. Amend § 17-214(a)(3), Chapter 17, Title 6 of the Delaware Code by adding the words "or the designation 'LP'" following the words "or the abbreviation 'L.P.'".

Section 19. Amend § 17-301(b)(3), Chapter 17, Title 6 of the Delaware Code by deleting the words "or a partnership agreement" appearing after the words "agreement of merger or consolidation".

Section 20. Amend § 17-303(b)(2), Chapter 17, Title 6 of the Delaware Code by adding after the words "general partner" the words "or any other person", and by adding after the words "limited partnership" the words ", or to act or cause a general partner or any other person to take or refrain from taking any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any matter, including the business of the limited partnership".

Section 21. Amend § 17-303(b)(8), Chapter 17, Title 6 of the Delaware Code by redesignating paragraph "m." of said subsection as paragraph "n.", by amending paragraph "l." of said subsection by deleting the word "or" as it appears at the end of said paragraph, and by adding a new paragraph to said subsection to be designated as paragraph "m." to read as follows:

"m. The making of, or the making of other determinations in connection with or concerning, investments, including investments in property, whether real, personal or mixed, either directly or indirectly, by the limited partnership; or".

Section 22. Amend § 17-904(a), Chapter 17, Title 6 of the Delaware Code by adding the words "or the designation 'LP'" following the words "or the abbreviation 'L.P.'".

Section 23. Amend § 17-904(a), Chapter 17, Title 6 of the Delaware Code by adding after the words "from the name of any domestic or foreign corporation" the words ", business trust, limited liability company", and by adding after the words "with the written consent of the other corporation" the words ", business trust, limited liability company".

Section 24. Amend § 17-907(c), Chapter 17, Title 6 of the Delaware Code by adding after the words "solely by reason of the" the word "foreign".

Section 25. Amend § 17-1107(a)(3), Chapter 17, Title 6 of the Delaware Code by deleting the word "or" appearing after the words "under § 17-212 of this title" and substituting in lieu thereof a ",", and by adding after the words "under § 17-1109(h) of this title," the words "or a certificate of revival under § 17-1111 of this title,".

Section 26. Amend § 17-1107(a)(3), Chapter 17, Title 6 of the Delaware Code by adding after the words "under § 17-210 of this title," the words "a certificate of amendment of a certificate of merger or consolidation under § 17-211(e) of this title,".

Section 27. Amend § 17-1107(a)(5), Chapter 17, Title 6 of the Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(5) The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of \$5 shall be paid for the first page and \$1 for each additional page. The Secretary of State may also issue microfiche copies of instruments on file as well as instruments, documents and other papers not on file, and for each such microfiche a fee of \$2 shall be paid therefor. Notwithstanding the State of Delaware's Freedom of Information Act or other provision of this Code granting access to public records, the Secretary of State shall issue only photocopies, microfiche or electronic image copies of records in exchange for the fees described above."

Section 28. Amend § 17-1107(b), Chapter 17, Title 6 of the Delaware Code by redesignating paragraphs "(1)" and "(2)" as paragraphs "(2)" and "(3)", respectively, and by adding before newly designated paragraph "(2)" the following new paragraph "(1)" reading as follows:

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

Section 29. Amend Chapter 17, Title 6 of the Delaware Code by adding a new section designated § 17-1110 reading as follows:

"§ 17-1110. CANCELLATION OF CERTIFICATE OF LIMITED PARTNERSHIP FOR FAILURE TO PAY ANNUAL TAX.

(a) The certificate of limited partnership of a domestic limited partnership shall be deemed to be canceled if the limited partnership shall fail to pay the annual tax due under § 17-1109 of this title for a period of three years from the date it is due, such cancellation to be effective on the third anniversary of such due date.

(b) On or before October 31 of each calendar year, the Secretary of State shall publish in at least 1 newspaper of general circulation in the State of Delaware a list of those domestic limited partnerships whose certificates of limited partnership were canceled on June 1 of such calendar year pursuant to § 17-1110(a) of this title."

Section 30. Amend Chapter 17, Title 6 of the Delaware Code by adding a new section designated § 17-1111 reading as follows:

"§ 17-1111. REVIVAL OF DOMESTIC LIMITED PARTNERSHIP.

(a) A domestic limited partnership whose certificate of limited partnership has been canceled pursuant to § 17-104(d) or § 17-1110(a) of this title may be revived by filing in the office of the Secretary of State a certificate of revival accompanied by the payment of the fee required by § 17-1107(a)(3) of this title and payment of the annual tax due under § 17-1109 of this title and all penalties and interest thereon for each year for which such domestic limited partnership neglected, refused or failed to pay such annual tax, including each year between the cancellation of its certificate of limited partnership and its revival. The certificate of revival shall set forth:

(1) The name of the limited partnership at the time its certificate of limited partnership was canceled and, if such name is not available at the time of revival, the name under which the limited partnership is to be revived;

(2) The date of filing of the original certificate of limited partnership of the limited partnership;

(3) The address of the limited partnership's registered office in the State of Delaware and the name and address of the limited partnership's registered agent in the State of Delaware;

(4) A statement that the certificate of revival is filed by one or more general partners of the limited partnership authorized to execute and file the certificate of revival to revive the limited partnership; and

(5) Any other matters the general partner or general partners executing the certificate of revival determine to include therein.

(b) The certificate of revival shall be deemed to be an amendment to the certificate of limited partnership of the limited partnership, and the limited partnership shall not be required to take any further action to amend its certificate of limited partnership under § 17-202 of this title with respect to the matters set forth in the certificate of revival.

(c) Upon the filing of a certificate of revival, a limited partnership shall be revived with the same force and effect as if its certificate of limited partnership had not been canceled pursuant to § 17-104(d) or § 17-1110(a) of this title. Such revival shall validate all contracts, acts, matters and things made, done and performed by the limited

partnership, its partners, employees and agents during the time when its certificate of limited partnership was canceled pursuant to § 17-104(d) or § 17-1110(a) of this title, with the same force and effect and to all intents and purposes as if the certificate of limited partnership had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited partnership at the time its certificate of limited partnership was canceled pursuant to § 17-104(d) or § 17-1110(a) of this title, or which were acquired by the limited partnership following the cancellation of its certificate of limited partnership pursuant to § 17-104(d) or § 17-1110(a) of this title, and which were not disposed of prior to the time of its revival, shall be vested in the limited partnership after its revival as fully as they were held by the limited partnership at, and after, as the case may be, the time its certificate of limited partnership was canceled pursuant to § 17-104(d) or § 17-1110(a) of this title. After its revival, the limited partnership and its partners shall have the same liability for all contracts, acts, matters and things made, done or performed in the limited partnership's name and on its behalf by its partners, employees and agents as the limited partnership and its partners would have had if the limited partnership's certificate of limited partnership had at all times remained in full force and effect."

Section 31. This Act shall be effective on August 1, 1995, except that section 17-1110 of Chapter 17, Title 6 of the Delaware Code shall become effective December 31, 1995.

Approved June 23, 1995

CHAPTER 79

FORMERLY

SENATE BILL NO. 175

AN ACT TO AMEND 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 Section 102(a)(1), Title 8, Delaware Code, by inserting the numeral "(1)" after the word "which" and before the words "shall contain" in said paragraph.

Section 2. Amend Section 102(a)(1), Title 8, Delaware Code, by striking the comma after the parenthetical "(provided they are written in roman characters or letters)" in said paragraph, and inserting in lieu thereof the following:

"; provided, however, that the Division of Corporations in the Department of State may waive such requirement (unless it determines that such name is, or might otherwise appear to be, that of a natural person) if such corporation executes, acknowledges and files with the Secretary of State in accordance with §103 of this title a certificate stating that its total assets, as defined in subsection (i) of §503 of this title, are not less than 10 million dollars".

Section 3. Amend Section 102(a)(1), Title 8, Delaware Code, by striking the word "which" and inserting in its place the numeral "(2)" after the word "and" and before the words "shall be" in said paragraph.

Section 4. Amend Section 103(d) by adding a new sentence at the end of said subsection to read:

"If any instrument filed in accordance with sections 251, 252, 253, 254, 255, 256, 257, 258, 263, or 264 provides for a future effective date or time and if the merger or consolidation is terminated or amended to change the future date or time prior to the future effective date or time, the instrument shall be terminated or amended by the filing, prior to the future effective date or time set forth in such instrument, of a certificate of termination or amendment of a certificate of merger or consolidation, executed in accordance with subsection (a) of this section, which shall identify the instrument which has been terminated or amended and shall state that the instrument has been terminated or amended."

Section 5. Amend Section 136(a), Chapter 1, Title 8, Delaware Code by striking said subsection in its entirety and by inserting a new subsection in its place to read:

"(a) The registered agent of one or more corporations may resign without appointing a successor by filing a certificate of resignation with the Secretary of State; but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall be acknowledged by the registered agent, shall contain a statement that written notice of resignation was given to the corporation at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the corporation at its address last known to the registered agent, and shall set forth the date of such notice."

Section 6. Amend Section 136, Chapter 1, Title 8, Delaware Code by deleting subsection (b) in its entirety and redesignating subsection (c) to (b) and redesignating subsection (d) to (c).

Section 7. Amend Section 141(c), Subchapter IX, Chapter 1, Title 8 of the Delaware Code by inserting another "§" before the number "251", deleting the word "or" after the number

"251", inserting a comma after the number "251", and inserting immediately after the number "252" the following ", 254, 255, 256, 257, 258, 263 or 264".

Section 8. Amend Section 203(a), Title 8, Delaware Code, by deleting the word "date" the three times it appears in the section and inserting in lieu thereof the word "time"; and by deleting the word "On" at the beginning of subsection (a)(3) and inserting in lieu thereof the word "At".

Section 9. Amend Section 203(b), Title 8, Delaware Code, by inserting "be effective immediately in the case of a corporation that both (i) has never had a class of voting stock that falls within any of the three categories set out in subsection (b)(4) hereof, and (ii) has not elected by a provision in its original certificate of incorporation or any amendment thereto to be governed by this section. In all other cases, an amendment adopted pursuant to this paragraph shall" after the word "shall" in the second sentence of subsection (b)(3); deleting the words "an inter-dealer quotation system of a registered national securities association" in subsection (b)(4) and substituting "The NASDAQ Stock Market" in lieu thereof; inserting the words "itself of ownership of" after the word "divests" in subsection (b)(5); inserting the words "of ownership" after the word "acquisition" at the end of subsection (b)(5); deleting the word "or" immediately before subsection (b)(6); inserting "or during the period described in paragraph (7) of this subsection (b)" after the words "board of directors" in subsection (b)(6)(ii); deleting the words "Notwithstanding paragraphs (1), (2), (3) and (4) of this subsection, a corporation may elect by a provision of its original certificate of incorporation or any amendment thereto to be governed by this section; provided that any such amendment to the certificate of incorporation shall not apply to restrict a business combination between the corporation and an interested stockholder of the corporation if the interested stockholder became such prior to the effective date of the amendment." at the end of subsection (b)(6) and substituting "; or" in lieu thereof; adding the following language after subsection (b)(6): "(7) The business combination is with an interested stockholder who became an interested stockholder at a time when the restrictions contained in this section did not apply by reason of any of paragraphs (1) through (4) of this subsection (b), provided, however, that this paragraph (7) shall not apply if, at the time such interested stockholder became an interested stockholder, the corporation's certificate of incorporation contained a provision authorized by the last sentence of this subsection (b)"; and, at the end of subsection (b), add the following language: "Notwithstanding paragraphs (1), (2), (3) and (4) of this subsection, a corporation may elect by a provision of its original certificate of incorporation or any amendment thereto to be governed by this section; provided that any such amendment to the certificate of incorporation shall not apply to restrict a business combination between the corporation and an interested stockholder of the corporation if the interested stockholder became such prior to the effective date of the amendment."

Section 10. Amend Section 203(c), Title 8, Delaware Code, by deleting the words "or organization" in subsection (c)(2)(i) and inserting ", partnership, unincorporated association or other entity" in lieu thereof; by inserting ", partnership, unincorporated association or other entity" after the word "corporation" the first time it appears in subsection (c)(3)(i)(B); by deleting the word "corporation" the last time it appears in subsection (c)(3)(i)(B) and inserting the word "entity" in lieu thereof; by inserting the words "(B) pursuant to a merger under Section 251(g) of this title;" immediately following the words "stockholder became such;" and changing "(B)" to "(C)", "(C)" to "(D)", "(D)" to "(E)" and "(B) - (D)" to "(C) - (E)" in subsection (c)(3)(iii); by deleting the second sentence of subsection (c)(4) and inserting in lieu thereof the following sentence: "A person who is the owner of 20% or more of the outstanding voting stock of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary;" by deleting the word "corporation" at the end of subsection (c)(4) and substituting the word "entity" in lieu thereof; by inserting "either (I)" between the words "90 days thereafter and" and the words "continued to own shares" in subsection (c)(5); by inserting the language "or (II) is an affiliate or associate of the corporation and so continued (or so would have continued but for action by the corporation) to be the owner of 15% or more of the outstanding voting stock of the corporation at any time within the 3-year period immediately prior to the date on which it is sought to be determined whether such a person is an interested stockholder" after the words "but for action by the corporation" and before "or (B)" in subsection (c)(5); by deleting the word "he" and substituting the words "such person" in lieu thereof immediately before the

words "acquires additional shares of voting stock" in subsection (c)(5); by inserting a new definition at subsection (c)(7) to read as follows: "(7) 'Stock' means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest."; by deleting prior "(7)" of subsection (c) and substituting in lieu thereof "(8) 'Voting stock' means, with respect to any corporation, stock of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of such entity."; and be renumbering prior "(8)" in subsection (c) as "(9)".

Section 11. Amend Section 220(a), Title 8, Delaware Code, by inserting "of stock in a stock corporation and also a member of a nonstock corporation as reflected on the records of the nonstock corporation." at the end of the first sentence and the following as a second sentence: "As used in this section, the term 'list of stockholders' includes lists of members in a nonstock corporation."

Section 12. Amend Section 220(d), Title 8, Delaware Code, by inserting "(including a member of the governing body of a nonstock corporation)" after the second word in the first sentence; and by deleting the words "stocklist" in the third sentence and substituting in lieu thereof the words "list of stockholders".

Section 13. Amend Section 251(d), Subchapter IX, Chapter 1, Title 8 of the Delaware Code by deleting the words "filing of the agreement (or a certificate in lieu thereof) with the Secretary of State" where they appear in the first and second sentences thereof and inserting in lieu thereof in both sentences the words "time that the agreement (or a certificate in lieu thereof) filed with the Secretary of State becomes effective in accordance with §103 of this title."

Section 14. Amend Section 251(d), Subchapter IX, Chapter 1, Title 8 of the Delaware Code by inserting immediately before the "." at the end of the first sentence the following: "; in the event the agreement of merger or consolidation is terminated after the filing of the agreement (or a certificate in lieu thereof) with the Secretary of State but before the agreement (or a certificate in lieu thereof) has become effective, a certificate of termination or merger or consolidation shall be filed in accordance with §103 of this title", and add by inserting immediately before the "." at the end of the second sentence the following: "; in the event the agreement of merger or consolidation is amended after the filing thereof with the Secretary of State but before the agreement has become effective, a certificate of amendment of merger or consolidation shall be filed in accordance with §103 of this title."

Section 15. Amend Section 251, Title 8, Delaware Code, by adding a new subsection (g) as follows:

"(g) Notwithstanding the requirements of subsection (c) of this section, unless expressly required by its certificate of incorporation, no vote of stockholders of a constituent corporation shall be necessary to authorize a merger with or into a single direct or indirect wholly-owned subsidiary of such constituent corporation if: (1) such constituent corporation and the direct or indirect wholly-owned subsidiary of such constituent corporation are the only constituent corporations to the merger; (2) each share or fraction of a share of the capital stock of the constituent corporation outstanding immediately prior to the effective time of the merger is converted in the merger into a share or equal fraction of share of capital stock of a holding company having the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof, as the share of stock of the constituent corporation being converted in the merger; (3) the holding company and each of the constituent corporations to the merger are corporations of this State; (4) the certificate of incorporation and by-laws of the holding company immediately following the effective time of the merger contain provisions identical to the certificate of incorporation and by-laws of the constituent corporation immediately prior to the effective time of the merger (other than provisions, if any, regarding the incorporator or incorporators, the corporate name, the registered office and agent, the initial board of directors and the initial subscribers for shares and such provisions contained in any amendment to the certificate of incorporation as were necessary to effect a change, exchange, reclassification or cancellation of stock, if such change, exchange, reclassification or cancellation has become effective); (5) as a result of the merger the

constituent corporation or its successor corporation becomes or remains a direct or indirect wholly-owned subsidiary of the holding company; (6) the directors of the constituent corporation become or remain the directors of the holding company upon the effective time of the merger; (7) the certificate of incorporation of the surviving corporation immediately following the effective time of the merger is identical to the certificate of incorporation of the constituent corporation immediately prior to the effective time of the merger (other than provisions, if any, regarding the incorporator or incorporators, the corporate name, the registered office and agent, the initial board of directors and the initial subscribers for shares and such provisions contained in any amendment to the certificate of incorporation as were necessary to effect a change, exchange, reclassification or cancellation of stock, if such change, exchange, reclassification or cancellation has become effective); provided, however, that (i) the certificate of incorporation of the surviving corporation shall be amended in the merger to contain a provision requiring that any act or transaction by or involving the surviving corporation that requires for its adoption under this Chapter or its certificate of incorporation the approval of the stockholders of the surviving corporation shall, by specific reference to this subsection, require, in addition, the approval of the stockholders of the holding company (or any successor by merger), by the same vote as is required by this Chapter and/or by the certificate of incorporation of the surviving corporation, and (ii) the certificate of incorporation of the surviving corporation may be amended in the merger to reduce the number of classes and shares of capital stock that the surviving corporation is authorized to issue; and (8) the stockholders of the constituent corporation do not recognize gain or loss for United States federal income tax purposes as determined by the board of directors of the constituent corporation. As used in this subsection only, the term "holding company" means a corporation which, from its incorporation until consummation of a merger governed by this subsection, was at all times a direct or indirect wholly-owned subsidiary of the constituent corporation and whose capital stock is issued in such merger. From and after the effective time of a merger adopted by a constituent corporation by action of its board of directors and without any vote of stockholders pursuant to this subsection: (i) to the extent the restrictions of §203 of this Chapter applied to the constituent corporation and its stockholders at the effective time of the merger, such restrictions shall apply to the holding company and its stockholders immediately after the effective time of the merger as though it were the constituent corporation, and all shares of stock of the holding company acquired in the merger shall for purposes of §203 be deemed to have been acquired at the time that the shares of stock of the constituent corporation converted in the merger were acquired, and provided further that any stockholder who immediately prior to the effective time of the merger was not an interested stockholder within the meaning of §203 shall not solely by reason of the merger become an interested stockholder of the holding company, and (ii) if the corporate name of the holding company immediately following the effective time of the merger is the same as the corporate name of the constituent corporation immediately prior to the effective time of the merger, the shares of capital stock of the holding company into which the shares of capital stock of the constituent corporation are converted in the merger shall be represented by the stock certificates that previously represented shares of capital stock of the constituent corporation. If an agreement of merger is adopted by a constituent corporation by action of its board of directors and without any vote of stockholders pursuant to this subsection, the secretary or assistant secretary of the constituent corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and that the conditions specified in the first sentence of this subsection have been satisfied. The agreement so adopted and certified shall then be filed and become effective, in accordance with §103 of this title. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing."

Section 16. Amend Section 262(b)(1), Title 8, Delaware Code, by deleting the words "subsection (f)" and inserting in lieu thereof the words "subsections (f) or (g)".

Section 17. Amend Section 277, Chapter 1, Title 8, of the Delaware Code by inserting after the word "dissolved" the words "or merged."

Section 18. Amend Section 381(a)(1), Chapter 1, Title 8, of the Delaware Code by deleting same and replacing said subsection with the following:

"(1) A certificate executed in accordance with §103 of this title, stating that it surrenders its authority to transact business in the state and withdraws therefrom; and stating the address to which the Secretary of State may mail any process against the corporation that may be served upon the Secretary of State, or"

Section 19. Amend Subchapter XVI, Chapter 1, Title 8, Delaware Code, by deleting "of Non-United States Corporations" in the title line.

Section 20. Amend Subchapter XVI, Chapter 1, Title 8, Delaware Code, by adding a new section 390 as follows:

"§390 Transfer and continuance of domestic corporations.

(a) Upon compliance with the provisions of this section any corporation existing under the laws of this State may transfer to any jurisdiction other than the United States, any State, the District of Columbia, Puerto Rico, Guam or any possession or territory of the United States, which permits the transfer to or domestication or continuance in such jurisdiction of a corporation existing under the laws of this State.

(b) The board of directors of the corporation which desires to transfer to another jurisdiction shall adopt a resolution approving such transfer specifying the jurisdiction in which the corporation shall be domesticated or continued and recommending the approval of such transfer by the stockholders of the corporation. Such resolution shall be submitted to the stockholders of the corporation at an annual or special meeting. Due notice of the time, place and purpose of the meeting shall be mailed to each holder of stock, whether voting or nonvoting, of the corporation at the address of the stockholder as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. At the meeting, the resolution shall be considered and a vote taken for its adoption or rejection. If all outstanding shares of stock of the corporation, whether voting or nonvoting, shall be voted for the adoption of the resolution, the corporation shall file with the Secretary of State a certificate of transfer, executed in accordance with §103 of this title, which certifies:

(1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated.

(2) The date of filing of its original certificate of incorporation with the Secretary of State.

(3) The jurisdiction to which the corporation will transfer or in which it will be domesticated or continued.

(4) That the transfer of the corporation has been approved in accordance with the provisions of this section.

(5) The agreement of the corporation that it may be served with process in this State in any proceeding for enforcement of any obligation of the corporation arising while it was a corporation of this State which shall also appoint the Secretary of State as its agent to accept service of process in any such proceeding and specify the address to which a copy of such process shall be mailed by the Secretary of State.

(c) Upon compliance by the corporation with subsection (b) of this section and payment to the Secretary of State of all fees prescribed under this title, the Secretary of State shall certify that the corporation has filed all documents and paid all fees required by this title, and thereupon the corporation shall cease to exist as a corporation of this State. Such certificate of the Secretary of State shall be *prima facie* evidence of the transfer by such corporation out of this State.

(d) The transfer of a corporation out of this State shall not be deemed to affect any obligations or liabilities of the corporation incurred prior to such transfer, nor shall it be deemed to affect the choice of law applicable to the corporation with respect to matters arising prior to such transfer."

Section 21. Amend Section 391(a), Subchapter XVII, Chapter 1, Title 8, Delaware Code, by inserting new subparagraph (a)(24) as follows:

"(24) For receiving and filing and/or indexing by the Secretary of State of a certificate of transfer prescribed in §390 of this title, a fee of \$1,000 shall be paid."

Section 22. Amend Section 505(c), Title 8, of the Delaware Code by adding the following sentence at the end of such subsection:

"Any refund due to a corporation which has merged into another Delaware domestic corporation shall be credited to the surviving Delaware corporation."

Section 23. This Act shall be effective on July 1, 1995.

Approved June 23, 1995

CHAPTER 80

FORMERLY

HOUSE BILL NO. 5

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 47, TITLE 16, DELAWARE CODE RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT.

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

Section 1. Amend §4751, Chapter 47, Title 16, Delaware Code, by inserting a new subsection (b) to read as follows, and by redesignating the subsequent subsections:

"(b) Except as authorized by this Chapter, any person who manufactures, delivers or possesses with the intent to manufacture or deliver a controlled substance or a counterfeit controlled substance classified in Schedule III, IV or V which is a narcotic drug is guilty of a class E felony and shall be fined not less than \$3,000 nor more than \$15,000."

Section 2. Amend §4751, Chapter 47, Title 16, Delaware Code, by striking the word and numeral "or II" as they appear in subsection (c) and by substituting in lieu thereof the word and numerals ", II, III, IV or V".

Section 3. Amend §4751(d), Chapter 47, Title 16, Delaware Code, by striking therefrom the word and letter "or (b)" and by substituting in lieu thereof the phrase "(b), or (c)".

Section 4. Amend §4752A(c), Chapter 47, Title 16, Delaware Code, by striking the letter "(b)" as it appears in the last sentence thereof and by substituting the letter "(c)".

Approved June 23, 1995

CHAPTER 81

FORMERLY

HOUSE BILL NO. 14

AN ACT TO AMEND CHAPTER 47, TITLE 16, DELAWARE CODE, RELATING TO THE UNIFORMED CONTROLLED SUBSTANCES ACT AND ANABOLIC STEROIDS.

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

Section 1. Amend §4701(4), Chapter 47, Title 16, Delaware Code, by striking same in its entirety and by substituting in lieu thereof the following:

"(4) The term anabolic steroid means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth. Except such terms does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration."

Section 2. Amend Chapter 47, §4718(f), Title 16, Delaware Code, by redesignating said subsection as "(k)", striking subsections "(g)", "(h)", "(i)", "(j)", and "(k)" and by adding to §4718 the following:

"(f) Anabolic steroids and combinations:

- (1) Boldenone
- (2) Chlorotestosterone (4-dihydrotestosterone)
- (3) Clostebol
- (4) Dehydrochlormethyltestosterone
- (5) Dihydrotestosterone (4-dihydrotestosterone)
- (6) Drostanolone
- (7) Ethylestrenol
- (8) Fluoxymesterone
- (9) Formebolone (formebulone)
- (10) Mesterolone
- (11) Methandienone
- (12) Methandranone
- (13) Methandriol
- (14) Methandrostenolone
- (15) Methenolone
- (16) Methyltestosterone
- (17) Mibolerone
- (18) Nandrolone

(19) Norethandrolone

(20) Oxandrolone

(21) Oxymesterone

(22) Oxymetholone

(23) Stanolone

(24) Stanozolol

(25) Testolactone

(26) Testosterone

(27) Trenbolone, and

(28) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

(g) Clortermine

(h) Benzphetamine

(i) Chlorphentermine

(j) Phendimetrazine"

Section 3. Amend §4752, Chapter 47, Title 16, Delaware Code, by adding to the end thereof, the following:

"Any person who distributes, sells, offers to sell, dispenses, administers, or prescribes any anabolic steroid or any counterfeit substance purporting to be an anabolic steroid for the purposes of human body building or enhancement of human athletic performance is guilty of a class E felony. For purposes of this section, it is not a valid medical practice to distribute, sell, offer to sell, dispense, administer or prescribe any anabolic steroid for purposes of human body building or enhancement of human athletic performance.

For purposes of this section, the words "body building" shall mean the increasing of muscle weight. For purposes of this section, the words "athletic enhancement" shall mean the improvement of performance in any form of exercise, sport or game."

Section 4. Amend §4754A, Chapter 47, Title 16, Delaware Code, by deleting subsections "(e)" and "(f)" therefrom.

Approved June 23, 1995

CHAPTER 82

FORMERLY

HOUSE BILL NO. 53

AN ACT TO AMEND SECTION 6903(a)(2), TITLE 29 OF THE DELAWARE CODE RELATING TO PUBLIC WORKS CONTRACTS.

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

Section 1. Amend subsection (a)(2) of Section 6903, Title 29 of the Delaware Code, by adding the following after the word "property":

“, provided that the contract and the work to be performed thereunder complies with the provisions of § 6912 and § 6913 of this Chapter”.

Approved June 23, 1995

CHAPTER 83

FORMERLY

HOUSE BILL NO. 151

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATED TO GUARDIANSHIPS.

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

Section 1. Amend §3901, Chapter 39, Title 12 of the Delaware Code by adding thereto a new subsection "(k)" to read as follows:

"(k) The Superior Court shall have the power to appoint guardians for the person or property, or both, and approve settlement in connection with a single-transaction matter arising out of a tort claim for a Disabled person. Upon entry of an order appointing a guardian and approving a settlement, jurisdiction of the matter shall be transferred to the Court of Chancery for administration pursuant to this Chapter."

Section 2. This legislation shall become effective January 15, 1996 and shall apply to actions commenced after that date.

Approved June 23, 1995

CHAPTER 84

FORMERLY

SENATE BILL NO. 66

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND SECTION 1068, TITLE 14 OF THE DELAWARE CODE RELATING TO THE TERMS OF OFFICE OF INDIAN RIVER BOARD OF EDUCATION MEMBERS.

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

Section 1. Amend §1068 (f), Title 14 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"(f) Each school board member shall be elected for a term of 3 years, said term to commence on the first day of July following his or her election, except when such election is to fill an unexpired term, as provided in this chapter, until a successor has been elected and duly qualified."

Section 2. The provisions of this Act shall become effective on July 1, 1995.

Approved June 23, 1995

CHAPTER 85

FORMERLY

HOUSE BILL NO. 11

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 43, TITLE 21 OF THE DELAWARE CODE, RELATING TO BUMPER, FRAME RAIL AND BODY HEIGHTS.

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 §4318, Title 21, Delaware Code by striking said section in its entirety and by substituting in lieu thereof the following:

§4318. Bumper, Frame Rail, and Body Heights.

(a) No passenger vehicle or station wagon that is required to be registered under Chapter 21 of this Title shall be registered or operated upon any highway of the State if the bumper height of such vehicle exceeds 22 inches from the ground to the bottom of the bumper, or if the vehicle frame rail is higher than the attached bumper, or if the maximum distance between the vehicle body and vehicle frame rail exceeds three inches.

(b) Vehicles not included in subsection (a) of this section that are required to be registered under Chapter 21 of this Title shall not be registered or operated upon any highway of the State if the bumper height of such vehicle exceeds 30 inches from the ground to the bottom of the bumper, or if the vehicle frame rail is higher than the attached bumper, or if the maximum distance between the vehicle body and vehicle frame rail exceeds three inches.

(c) The following vehicles are exempt from this section: antique motor vehicles registered under §2196 of this Title; authorized emergency vehicles; motor vehicles with a gross vehicle weight rating of 10,000 pounds or greater; and vehicles registered with farm truck plates (FT tags), as defined in §2113(1) of this title.

(d) Any person found guilty of operating a motor vehicle in violation of this section shall, for the first offense, be fined not less than \$50.00 nor more than \$115.00. For each subsequent like offense within one year, such person shall be fined not less than \$100.00 nor more than \$230.00. Measurements made with an over-the-counter measuring device shall be prima-facia evidence of a violation."

Section 2. The effective date of §4318(b) of this Act shall be one year after its enactment into law.

Approved June 23, 1995

CHAPTER 86

FORMERLY

SENATE BILL NO. 39

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE BY PROVIDING FOR CERTAIN AMENDMENTS TO THE UNIFORM COMMERCIAL CODE.

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

Section 1. Amend subsections (20), (24) and (43) of Section 1-201, Subtitle 1, Title 6 of the Delaware Code by striking said subsections in their entirety, and substituting in lieu thereof the following:

"§ 1-201. General definitions.

(20) "Holder," with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder" with respect to a document of title means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery."

Section 2. Amend Section 1-207, Subtitle 1, Title 6, of the Delaware Code by striking said Section in its entirety, and substituting in lieu thereof the following:

"§ 1-207. Performance or acceptance under reservation of rights.

(1) A party who, with explicit reservation of rights, performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest" or the like are sufficient.

(2) Subsection (1) does not apply to an accord and satisfaction."

Section 3. Amend Article 3, Subtitle 1, Title 6 of the Delaware Code by striking said Article 3 in its entirety, and substituting in lieu thereof the following:

"ARTICLE 3. NEGOTIABLE INSTRUMENTS

PART 1

GENERAL PROVISIONS AND DEFINITIONS

§ 3-101. Short title.

This Article may be cited as Uniform Commercial Code - Negotiable Instruments.

§ 3-102. Subject matter.

(a) This Article applies to negotiable instruments. It does not apply to money, to payment orders governed by Article 4A, or to securities governed by Article 8.

(b) If there is conflict between this Article and Article 4 or 9, Articles 4 and 9 govern.

(c) Regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve Banks supersede any inconsistent provision of this Article to the extent of the inconsistency.

§ 3-103. Definitions.

(a) In this Article:

- (1) "Acceptor" means a drawee who has accepted a draft.
- (2) "Drawee" means a person ordered in a draft to make payment.
- (3) "Drawer" means a person who signs or is identified in a draft as a person ordering payment.
- (4) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.
- (5) "Maker" means a person who signs or is identified in a note as a person undertaking to pay.
- (6) "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.
- (7) "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this Article or Article 4.
- (8) "Party" means a party to an instrument.
- (9) "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.
- (10) "Prove" with respect to a fact means to meet the burden of establishing the fact (Section 1-201(8)).
- (11) "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(b) Other definitions applying to this Article and the sections in which they appear are:

"Acceptance"	Section 3-409
"Accommodated party"	Section 3-419
"Accommodation party"	Section 3-419
"Alteration"	Section 3-407
"Anomalous indorsement"	Section 3-205
"Blank indorsement"	Section 3-205
"Cashier's check"	Section 3-104
"Certificate of deposit"	Section 3-104

"Certified check"	Section 3-409
"Check"	Section 3-104
"Consideration"	Section 3-303
"Draft"	Section 3-104
"Holder in due course"	Section 3-302
"Incomplete instrument"	Section 3-115
"Indorsement"	Section 3-204
"Indorser"	Section 3-204
"Instrument"	Section 3-104
"Issue"	Section 3-105
"Issuer"	Section 3-105
"Negotiable instrument"	Section 3-104
"Negotiation"	Section 3-201
"Note"	Section 3-104
"Payable at a definite time"	Section 3-108
"Payable on demand"	Section 3-108
"Payable to bearer"	Section 3-109
"Payable to order"	Section 3-109
"Payment"	Section 3-602
"Person entitled to enforce"	Section 3-301
"Presentment"	Section 3-501
"Reacquisition"	Section 3-207
"Special indorsement"	Section 3-205
"Teller's check"	Section 3-104
"Transfer of instrument"	Section 3-203
"Traveler's check"	Section 3-104
"Value"	Section 3-303

(c) The following definitions in other Articles apply to this Article:

"Bank"	Section 4-105
"Banking day"	Section 4-104
"Clearing house"	Section 4-104
"Collecting bank"	Section 4-105
"Depository bank"	Section 4-105

"Documentary draft"	Section 4-104
"Intermediary bank"	Section 4-105
"Item"	Section 4-104
"Payor bank"	Section 4-105
"Suspends payments"	Section 4-104

(d) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

§ 3-104. Negotiable instrument.

(a) Except as provided in subsections (c) and (d), "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(2) is payable on demand or at a definite time; and

(3) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor.

(b) "Instrument" means a negotiable instrument.

(c) An order that meets all of the requirements of subsection (a), except paragraph (1), and otherwise falls within the definition of "check" in subsection (f) is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this Article.

(e) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft," a person entitled to enforce the instrument may treat it as either.

(f) "Check" means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank or (ii) a cashier's check or teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order."

(g) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) "Teller's check" means a draft drawn by a bank (i) on another bank, or (ii) payable at or through a bank.

(i) "Traveler's check" means an instrument that (i) is payable on demand, (ii) is drawn on or payable at or through a bank, (iii) is designated by the term "traveler's check" or by a substantially similar term, and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

§ 3-105. Issue of instrument.

(a) "Issue" means the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person.

(b) An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

(c) "Issuer" applies to issued and unissued instruments and means a maker or drawer of an instrument.

§ 3-106. Unconditional promise or order.

(a) Except as provided in this section, for the purposes of Section 3-104(a), a promise or order is unconditional unless it states (i) an express condition to payment, (ii) that the promise or order is subject to or governed by another writing, or (iii) that rights or obligations with respect to the promise or order are stated in another writing. A reference to another writing does not of itself make the promise or order conditional.

(b) A promise or order is not made conditional (i) by a reference to another writing for a statement of rights with respect to collateral, prepayment, or acceleration, or (ii) because payment is limited to resort to a particular fund or source.

(c) If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of Section 3-104(a). If the person whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.

(d) If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order is not thereby made conditional for the purposes of Section 3-104(a); but if the promise or order is an instrument, there cannot be a holder in due course of the instrument.

§ 3-107. Instrument payable in foreign money.

Unless the instrument otherwise provides, an instrument that states the amount payable in foreign money may be paid in the foreign money or in an equivalent amount in dollars calculated by using the current bank-offered spot rate at the place of payment for the purchase of dollars on the day on which the instrument is paid.

§ 3-108. Payable on demand or at definite time.

(a) A promise or order is "payable on demand" if it (i) states that it is payable on demand or at sight, or otherwise indicates that it is payable at the will of the holder, or (ii) does not state any time of payment.

(b) A promise or order is "payable at a definite time" if it is payable on elapse of a definite period of time after sight or acceptance or at a fixed date or dates or at a time or times readily ascertainable at the time the promise or order is issued, subject to rights of (i) prepayment, (ii) acceleration, (iii) extension at the option of the holder, or (iv) extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.

(c) If an instrument, payable at a fixed date, is also payable upon demand made before the fixed date, the instrument is payable on demand until the fixed date and, if demand for payment is not made before that date, becomes payable at a definite time on the fixed date.

§ 3-109. Payable to bearer or to order.

(a) A promise or order is payable to bearer if it:

(1) states that it is payable to bearer or to the order of bearer or otherwise indicates that the person in possession of the promise or order is entitled to payment;

(2) does not state a payee; or

(3) states that it is payable to or to the order of cash or otherwise indicates that it is not payable to an identified person.

(b) A promise or order that is not payable to bearer is payable to order if it is payable (i) to the order of an identified person or (ii) to an identified person or order. A promise or order that is payable to order is payable to the identified person.

(c) An instrument payable to bearer may become payable to an identified person if it is specially indorsed pursuant to Section 3-205(a). An instrument payable to an identified person may become payable to bearer if it is indorsed in blank pursuant to Section 3-205(b).

§ 3-110. Identification of person to whom instrument is payable.

(a) The person to whom an instrument is initially payable is determined by the intent of the person, whether or not authorized, signing as, or in the name or behalf of, the issuer of the instrument. The instrument is payable to the person intended by the signer even if that person is identified in the instrument by a name or other identification that is not that of the intended person. If more than one person signs in the name or behalf of the issuer of an instrument and all the signers do not intend the same person as payee, the instrument is payable to any person intended by one or more of the signers.

(b) If the signature of the issuer of an instrument is made by automated means, such as a check-writing machine, the payee of the instrument is determined by the intent of the person who supplied the name or identification of the payee, whether or not authorized to do so.

(c) A person to whom an instrument is payable may be identified in any way, including by name, identifying number, office, or account number. For the purpose of determining the holder of an instrument, the following rules apply:

(1) If an instrument is payable to an account and the account is identified only by number, the instrument is payable to the person to whom the account is payable. If an instrument is payable to an account identified by number and by the name of a person, the instrument is payable to the named person, whether or not that person is the owner of the account identified by number.

(2) If an instrument is payable to:

(i) a trust, an estate, or a person described as trustee or representative of a trust or estate, the instrument is payable to the trustee, the representative, or a successor of either, whether or not the beneficiary or estate is also named;

(ii) a person described as agent or similar representative of a named or identified person, the instrument is payable to the represented person, the representative, or a successor of the representative;

(iii) a fund or organization that is not a legal entity, the instrument is payable to a representative of the members of the fund or organization; or

(iv) an office or to a person described as holding an office, the instrument is payable to the named person, the incumbent of the office, or a successor to the incumbent.

(d) If an instrument is payable to two or more persons alternatively, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument. If an instrument is payable to two or more persons not alternatively, it is payable to all of them and may be negotiated, discharged, or enforced only by all of them. If an instrument payable to two or more persons is ambiguous as to whether it is payable to the persons alternatively, the instrument is payable to the persons alternatively.

§ 3-111. Place of payment.

Except as otherwise provided for items in Article 4, an instrument is payable at the place of payment stated in the instrument. If no place of payment is stated, an instrument is payable at the address of the drawee or maker stated in the instrument. If no address is stated, the place of payment is the place of business of the drawee or maker. If a drawee or maker has more than one place of business, the place of payment is any place of business of the drawee or maker chosen by the person entitled to enforce the instrument. If the drawee or maker has no place of business, the place of payment is the residence of the drawee or maker.

§ 3-112. Interest.

(a) Unless otherwise provided in the instrument, (i) an instrument is not payable with interest, and (ii) interest on an interest-bearing instrument is payable from the date of the instrument.

(b) Interest may be stated in an instrument as a fixed or variable amount of money or it may be expressed as a fixed or variable rate or rates. The amount or rate of interest may be stated or described in the instrument in any manner and may require reference to information not contained in the instrument. If an instrument provides for interest, but the amount of interest payable cannot be ascertained from the description, interest is payable at the judgment rate in effect at the place of payment of the instrument and at the time interest first accrues.

§ 3-113. Date of instrument.

(a) An instrument may be antedated or postdated. The date stated determines the time of payment if the instrument is payable at a fixed period after date. Except as provided in Section 4-401(c), an instrument payable on demand is not payable before the date of the instrument.

(b) If an instrument is undated, its date is the date of its issue or, in the case of an unissued instrument, the date it first comes into possession of a holder.

§ 3-114. Contradictory terms of instrument.

If an instrument contains contradictory terms, typewritten terms prevail over printed terms, handwritten terms prevail over both, and words prevail over numbers.

§ 3-115. Incomplete instrument.

(a) "Incomplete instrument" means a signed writing, whether or not issued by the signer, the contents of which show at the time of signing that it is incomplete but that the signer intended it to be completed by the addition of words or numbers.

(b) Subject to subsection (c), if an incomplete instrument is an instrument under Section 3-104, it may be enforced according to its terms if it is not completed, or according to its terms as augmented by completion. If an incomplete instrument is not an instrument under Section 3-104, but, after completion, the requirements of Section 3-104 are met, the instrument may be enforced according to its terms as augmented by completion.

(c) If words or numbers are added to an incomplete instrument without authority of the signer, there is an alteration of the incomplete instrument under Section 3-407.

(d) The burden of establishing that words or numbers were added to an incomplete instrument without authority of the signer is on the person asserting the lack of authority.

§ 3-116. Joint and several liability; contribution.

(a) Except as otherwise provided in the instrument, two or more persons who have the same liability on an instrument as makers, drawers, acceptors, indorsers who indorse as joint payees, or anomalous indorsers are jointly and severally liable in the capacity in which they sign.

(b) Except as provided in Section 3-419(e) or by agreement of the affected parties, a party having joint and several liability who pays the instrument is entitled to receive from any party having the same joint and several liability contribution in accordance with applicable law.

(c) Discharge of one party having joint and several liability by a person entitled to enforce the instrument does not affect the right under subsection (b) of a party having the same joint and several liability to receive contribution from the party discharged.

§ 3-117. Other agreements affecting instrument.

Subject to applicable law regarding exclusion of proof of contemporaneous or previous agreements, the obligation of a party to an instrument to pay the instrument may be modified, supplemented, or nullified by a separate agreement of the obligor and a person entitled to enforce the instrument, if the instrument is issued or the obligation is incurred in reliance on the agreement or as part of the same transaction giving rise to the agreement. To the extent an obligation is modified, supplemented, or nullified by an agreement under this section, the agreement is a defense to the obligation.

§ 3-118. Statute of limitations.

(a) Except as provided in subsection (e), an action to enforce the obligation of party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

(b) Except as provided in subsection (d) or (e), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of 10 years.

(c) Except as provided in subsection (d), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or 10 years after the date of the draft, whichever period expires first.

(d) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(e) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six-year period begins when a demand for payment is in effect and the due date has passed.

(f) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or (ii) within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(g) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising

under this Article and not governed by this section must be commenced within three years after the [cause of action] accrues.

(h) This section is not intended to affect the common law rule in this State pertaining to instruments under seal.

§ 3-119. Notice of right to defend action.

In an action for breach of an obligation for which a third person is answerable over pursuant to this Article or Article 4, the defendant may give the third person written notice of the litigation, and the person notified may then give similar notice to any other person who is answerable over. If the notice states (i) that the person notified may come in and defend and (ii) that failure to do so will bind the person notified in an action later brought by the person giving the notice as to any determination of fact common to the two litigations, the person notified is so bound unless after reasonable receipt of the notice the person notified does come in and defend.

PART 2

NEGOTIATION, TRANSFER, AND INDORSEMENT

§ 3-201. Negotiation.

(a) "Negotiation" means a transfer of possession, whether voluntary or involuntary, or an instrument by a person other than the issuer to a person who thereby becomes its holder.

(b) Except for negotiation by a remitter, if an instrument is payable to an identified person, negotiation requires transfer of possession of the instrument and its indorsement by the holder. If an instrument is payable to bearer, it may be negotiated by transfer of possession alone.

§ 3-202. Negotiation subject to rescission.

(a) Negotiation is effective even if obtained (i) from an infant, a corporation exceeding its powers, or a person without capacity, (ii) by fraud, duress, or mistake, or (iii) in breach of duty or as part of an illegal transaction.

(b) To the extent permitted by other law, negotiation may be rescinded or may be subject to other remedies, but those remedies may not be asserted against a subsequent holder in due course or a person paying the instrument in good faith and without knowledge of facts that are a basis for rescission or other remedy.

§ 3-203. Transfer of instrument; rights acquired by transfer.

(a) An instrument is transferred when it is delivered by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the instrument.

(b) Transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument, including any right as a holder in due course, but the transferee cannot acquire rights of a holder in due course by a transfer, directly or indirectly, from a holder in due course if the transferee engaged in fraud or illegality affecting the instrument.

(c) Unless otherwise agreed, if an instrument is transferred for value and the transferee does not become a holder because of lack of indorsement by the transferor, the transferee has a specifically enforceable right to the unqualified indorsement of the transferor, but negotiation of the instrument does not occur until the indorsement is made.

(d) If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this Article and has only the rights of a partial assignee.

§ 3-204. Indorsement.

(a) "Indorsement" means a signature, other than that of a signer as maker, drawer, or acceptor, that alone or accompanied by other words is made on an instrument for the purpose of (i) negotiating the instrument, (ii) restricting payment of the instrument, or (iii) incurring indorser's liability on the instrument, but regardless of the intent of the signer, a signature and its accompanying words are an indorsement unless the accompanying words, terms of the instrument, place of the signature, or other circumstances unambiguously indicate that the signature was made for a purpose other than indorsement. For the purpose of determining whether a signature is made on an instrument, a paper affixed to the instrument is a part of the instrument.

(b) "Indorser" means a person who makes an indorsement.

(c) For the purpose of determining whether the transferee of an instrument is a holder, an indorsement that transfers a security interest in the instrument is effective as an unqualified indorsement of the instrument.

(d) If an instrument is payable to a holder under a name that is not the name of the holder, indorsement may be made by the holder in the name stated in the instrument or in the holder's name or both, but signature in both names may be required by a person paying or taking the instrument for value or collection.

§ 3-205. Special indorsement; blank indorsement; anomalous indorsement.

(a) If an indorsement is made by the holder of an instrument, whether payable to an identified person or payable to bearer, and the indorsement identifies a person to whom it makes the instrument payable, it is a "special indorsement." When specially indorsed, an instrument becomes payable to the identified person and may be negotiated only by the indorsement of that person. The principles stated in Section 3-110 apply to special indorsements.

(b) If an indorsement is made by the holder of an instrument and it is not a special indorsement, it is a "blank indorsement." When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed.

(c) The holder may convert a blank indorsement that consists only of a signature into a special indorsement by writing, above the signature of the indorser, words identifying the person to whom the instrument is made payable.

(d) "Anomalous indorsement" means an indorsement made by a person who is not the holder of the instrument. An anomalous indorsement does not affect the manner in which the instrument may be negotiated.

§ 3-206. Restrictive indorsement.

(a) An indorsement limiting payment to a particular person or otherwise prohibiting further transfer or negotiation of the instrument is not effective to prevent further transfer or negotiation of the instrument.

(b) An indorsement stating a condition to the right of the indorsee to receive payment does not affect the right of the indorsee to enforce the instrument. A person paying the instrument or taking it for value or collection may disregard the condition, and the rights and liabilities of that person are not affected by whether the condition has been fulfilled.

(c) If an instrument bears an indorsement (i) described in Section 4-201(b), or (ii) in blank or to a particular bank using the words "for deposit," "for collection," or other words indicating a purpose of having the instrument collected by a bank for the indorser or for a particular account, the following rules apply:

(1) A person, other than a bank, who purchases the instrument when so indorsed converts the instrument unless the amount paid for the instrument is received by the indorser or applied consistently with the indorsement.

(2) A depository bank that purchases the instrument or takes it for collection when so indorsed converts the instrument unless the amount paid by the bank with respect to the instrument is received by the indorser or applied consistently with the indorsement.

(3) A payor bank that is also the depository bank or that takes the instrument for immediate payment over the counter from a person other than a collecting bank converts the instrument unless the proceeds of the instrument are received by the indorser or applied consistently with the indorsement.

(4) Except as otherwise provided in paragraph (3), a payor bank or intermediary bank may disregard the indorsement and is not liable if the proceeds of the instrument are not received by the indorser or applied consistently with the indorsement.

(d) Except for an indorsement covered by subsection (c), if an instrument bears an indorsement using words to the effect that payment is to be made to the indorsee as agent, trustee, or other fiduciary for the benefit of the indorser or another person, the following rules apply:

(1) Unless there is notice of breach of fiduciary duty as provided in Section 3-307, a person who purchases the instrument from the indorsee or takes the instrument from the indorsee for collection or payment may pay the proceeds of payment or the value given for the instrument to the indorsee without regard to whether the indorsee violates a fiduciary duty to the indorser.

(2) A subsequent transferee of the instrument or person who pays the instrument is neither given notice nor otherwise affected by the restriction in the indorsement unless the transferee or payor knows that the fiduciary dealt with the instrument or its proceeds in breach of fiduciary duty.

(e) The presence on an instrument of an indorsement to which this section applies does not prevent a purchaser of the instrument from becoming a holder in due course of the instrument unless the purchaser is a converter under subsection (c) or has notice or knowledge of breach of fiduciary duty as stated in subsection (d).

(f) In an action to enforce the obligation of a party to pay the instrument, the obligor has a defense if payment would violate an indorsement to which this section applies and the payment is not permitted by this section.

§ 3-207. Reacquisition.

Reacquisition of an instrument occurs if it is transferred to a former holder, by negotiation or otherwise. A former holder who reacquires the instrument may cancel indorsements made after the reacquirer first became a holder of the instrument. If the cancellation causes the instrument to be payable to the reacquirer or to bearer, the reacquirer may negotiate the instrument. An indorser whose indorsement is canceled is discharged, and the discharge is effective against any subsequent holder.

PART 3

ENFORCEMENT OF INSTRUMENTS

§ 3-301. Person entitled to enforce instrument.

"Person entitled to enforce" an instrument means (i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to Section 3-309 or 3-418(d). A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.

§ 3-302. Holder in due course.

(a) Subject to subsection (c) and Section 3-106(d), "holder in due course" means the holder of an instrument if:

(1) the instrument when issued or negotiated to the holder does not bear such apparent evidence of forgery or alteration or is not otherwise so irregular or incomplete as to call into question its authenticity; and

(2) the holder took the instrument (i) for value, (ii) in good faith, (iii) without notice that the instrument is overdue or has been dishonored or that there is an uncured default with respect to payment of another instrument issued as part of the same series, (iv) without notice that the instrument contains an unauthorized signature or has been altered, (v) without notice of any claim to the instrument described in Section 3-306, and (vi) without notice that any party has a defense or claim in recoupment described in Section 3-305(a).

(b) Notice of discharge of a party, other than discharge in an insolvency proceeding, is not notice of a defense under subsection (a), but discharge is effective against a person who became a holder in due course with notice of the discharge. Public filing or recording of a document does not of itself constitute notice of a defense, claim in recoupment, or claim to the instrument.

(c) Except to the extent a transferor or predecessor in interest has rights as a holder in due course, a person does not acquire rights of a holder in due course of an instrument taken (i) by legal process or by purchase in an execution, bankruptcy, or creditor's sale or similar proceeding, (ii) by purchase as part of a bulk transaction not in ordinary course of business of the transferor, or (iii) as the successor in interest to an estate or other organization.

(d) If, under Section 3-303(a)(1), the promise of performance that is the consideration for an instrument has been partially performed, the holder may assert rights as a holder in due course of the instrument only to the fraction of the amount payable under the instrument equal to the value of the partial performance divided by the value of the promised performance.

(e) If (i) the person entitled to enforce an instrument has only a security interest in the instrument and (ii) the person obliged to pay the instrument has a defense, claim in recoupment, or claim to the instrument that may be asserted against the person who granted the security interest, the person entitled to enforce the instrument may assert rights as a holder in due course only to an amount payable under the instrument which, at the time of enforcement of the instrument, does not exceed the amount of the unpaid obligation secured.

(f) To be effective, notice must be received at a time and in a manner that gives a reasonable opportunity to act on it.

(g) This section is subject to any law limiting status as a holder in due course in particular classes of transactions.

§ 3-303. Value and consideration.

(a) An instrument is issued or transferred for value if:

(1) the instrument is issued or transferred for a promise of performance, to the extent the promise has been performed;

(2) the transferee acquires a security interest or other lien in the instrument other than a lien obtained by judicial proceeding;

(3) the instrument is issued or transferred as payment of, or as security for, an antecedent claim against any person, whether or not the claim is due;

(4) the instrument is issued or transferred in exchange for a negotiable instrument;
or

(5) the instrument is issued or transferred in exchange for the incurring of an irrevocable obligation to a third party by the person taking the instrument.

(2) A depository bank that purchases the instrument or takes it for collection when so indorsed converts the instrument unless the amount paid by the bank with respect to the instrument is received by the indorser or applied consistently with the indorsement.

(3) A payor bank that is also the depository bank or that takes the instrument for immediate payment over the counter from a person other than a collecting bank converts the instrument unless the proceeds of the instrument are received by the indorser or applied consistently with the indorsement.

(4) Except as otherwise provided in paragraph (3), a payor bank or intermediary bank may disregard the indorsement and is not liable if the proceeds of the instrument are not received by the indorser or applied consistently with the indorsement.

(d) Except for an indorsement covered by subsection (c), if an instrument bears an indorsement using words to the effect that payment is to be made to the indorsee as agent, trustee, or other fiduciary for the benefit of the indorser or another person, the following rules apply:

(1) Unless there is notice of breach of fiduciary duty as provided in Section 3-307, a person who purchases the instrument from the indorsee or takes the instrument from the indorsee for collection or payment may pay the proceeds of payment or the value given for the instrument to the indorsee without regard to whether the indorsee violates a fiduciary duty to the indorser.

(2) A subsequent transferee of the instrument or person who pays the instrument is neither given notice nor otherwise affected by the restriction in the indorsement unless the transferee or payor knows that the fiduciary dealt with the instrument or its proceeds in breach of fiduciary duty.

(e) The presence on an instrument of an indorsement to which this section applies does not prevent a purchaser of the instrument from becoming a holder in due course of the instrument unless the purchaser is a converter under subsection (c) or has notice or knowledge of breach of fiduciary duty as stated in subsection (d).

(f) In an action to enforce the obligation of a party to pay the instrument, the obligor has a defense if payment would violate an indorsement to which this section applies and the payment is not permitted by this section.

§ 3-207. Reacquisition.

Reacquisition of an instrument occurs if it is transferred to a former holder, by negotiation or otherwise. A former holder who reacquires the instrument may cancel indorsements made after the reacquirer first became a holder of the instrument. If the cancellation causes the instrument to be payable to the reacquirer or to bearer, the reacquirer may negotiate the instrument. An indorser whose indorsement is canceled is discharged, and the discharge is effective against any subsequent holder.

PART 3

ENFORCEMENT OF INSTRUMENTS

§ 3-301. Person entitled to enforce instrument.

"Person entitled to enforce" an instrument means (i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to Section 3-309 or 3-418(d). A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.

§ 3-302. Holder in due course.

(a) Subject to subsection (c) and Section 3-106(d), "holder in due course" means the holder of an instrument if:

(1) the instrument when issued or negotiated to the holder does not bear such apparent evidence of forgery or alteration or is not otherwise so irregular or incomplete as to call into question its authenticity; and

(2) the holder took the instrument (i) for value, (ii) in good faith, (iii) without notice that the instrument is overdue or has been dishonored or that there is an uncured default with respect to payment of another instrument issued as part of the same series, (iv) without notice that the instrument contains an unauthorized signature or has been altered, (v) without notice of any claim to the instrument described in Section 3-306, and (vi) without notice that any party has a defense or claim in recoupment described in Section 3-305(a).

(b) Notice of discharge of a party, other than discharge in an insolvency proceeding, is not notice of a defense under subsection (a), but discharge is effective against a person who became a holder in due course with notice of the discharge. Public filing or recording of a document does not of itself constitute notice of a defense, claim in recoupment, or claim to the instrument.

(c) Except to the extent a transferor or predecessor in interest has rights as a holder in due course, a person does not acquire rights of a holder in due course of an instrument taken (i) by legal process or by purchase in an execution, bankruptcy, or creditor's sale or similar proceeding, (ii) by purchase as part of a bulk transaction not in ordinary course of business of the transferor, or (iii) as the successor in interest to an estate or other organization.

(d) If, under Section 3-303(a)(1), the promise of performance that is the consideration for an instrument has been partially performed, the holder may assert rights as a holder in due course of the instrument only to the fraction of the amount payable under the instrument equal to the value of the partial performance divided by the value of the promised performance.

(e) If (i) the person entitled to enforce an instrument has only a security interest in the instrument and (ii) the person obliged to pay the instrument has a defense, claim in recoupment, or claim to the instrument that may be asserted against the person who granted the security interest, the person entitled to enforce the instrument may assert rights as a holder in due course only to an amount payable under the instrument which, at the time of enforcement of the instrument, does not exceed the amount of the unpaid obligation secured.

(f) To be effective, notice must be received at a time and in a manner that gives a reasonable opportunity to act on it.

(g) This section is subject to any law limiting status as a holder in due course in particular classes of transactions.

§ 3-303. Value and consideration.

(a) An instrument is issued or transferred for value if:

(1) the instrument is issued or transferred for a promise of performance, to the extent the promise has been performed;

(2) the transferee acquires a security interest or other lien in the instrument other than a lien obtained by judicial proceeding;

(3) the instrument is issued or transferred as payment of, or as security for, an antecedent claim against any person, whether or not the claim is due;

(4) the instrument is issued or transferred in exchange for a negotiable instrument;
or

(5) the instrument is issued or transferred in exchange for the incurring of an irrevocable obligation to a third party by the person taking the instrument.

(b) "Consideration" means any consideration sufficient to support a simple contract. The drawer or maker of an instrument has a defense if the instrument is issued without consideration. If an instrument is issued for a promise of performance, the issuer has a defense to the extent performance of the promise is due and the promise has not been performed. If an instrument is issued for value as stated in subsection (a), the instrument is also issued for consideration.

§ 3-304. Overdue instrument.

(a) An instrument payable on demand becomes overdue at the earliest of the following times:

(1) on the day after the day demand for payment is duly made;

(2) if the instrument is a check, 90 days after its date; or

(3) if the instrument is not a check, when the instrument has been outstanding for a period of time after its date which is unreasonably long under the circumstances of the particular case in light of the nature of the instrument and usage of the trade.

(b) With respect to an instrument payable at a definite time the following rules apply:

(1) If the principal is payable in installments and a due date has not been accelerated, the instrument becomes overdue upon default under the instrument for nonpayment of an installment, and the instrument remains overdue until the default is cured.

(2) If the principal is not payable in installments and the due date has not been accelerated, the instrument becomes overdue on the day after the due date.

(3) If a due date with respect to principal has been accelerated, the instrument becomes overdue on the day after the accelerated due date.

(c) Unless the due date of principal has been accelerated, an instrument does not become overdue if there is default in payment of interest but no default in payment of principal.

§ 3-305. Defenses and claims in recoupment.

(a) Except as stated in subsection (b), the right to enforce the obligation of a party to pay an instrument is subject to the following:

(1) a defense of the obligor based on (i) infancy of the obligor to the extent it is a defense to a simple contract, (ii) duress, lack of legal capacity, or illegality of the transaction which, under other law, nullifies the obligation of the obligor, (iii) fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms, or (iv) discharge of the obligor in insolvency proceedings;

(2) a defense of the obligor stated in another section of this Article or a defense of the obligor that would be available if the person entitled to enforce the instrument were enforcing a right to payment under a simple contract; and

(3) a claim in recoupment of the obligor against the original payee of the instrument if the claim arose from the transaction that gave rise to the instrument; but the claim of the obligor may be asserted against a transferee of the instrument only to reduce the amount owing on the instrument at the time the action is brought.

(b) The right of a holder in due course to enforce the obligation of a party to pay the instrument is subject to defenses of the obligor stated in subsection (a)(1), but is not subject to defenses of the obligor stated in subsection (a)(2) or claims in recoupment stated in subsection (a)(3) against a person other than the holder.

(c) Except as stated in subsection (d), in an action to enforce the obligation of a party to pay the instrument, the obligor may not assert against the person entitled to enforce the

instrument a defense, claim in recoupment, or claim to the instrument (Section 3-306) of another person, but the other person's claim to the instrument may be asserted by the obligor if the other person is joined in the action and personally asserts the claim against the person entitled to enforce the instrument. An obligor is not obliged to pay the instrument if the person seeking enforcement of the instrument does not have rights of a holder in due course and the obligor proves that the instrument is a lost or stolen instrument.

(d) In an action to enforce the obligation of an accommodation party to pay an instrument, the accommodation party may assert against the person entitled to enforce the instrument any defense or claim in recoupment under subsection (a) that the accommodated party could assert against the person entitled to enforce the instrument, except the defenses of discharge in insolvency proceedings, infancy, and lack of legal capacity.

§ 3-306. Claims to an instrument.

A person taking an instrument, other than a person having rights of a holder in due course, is subject to a claim of a property or possessory right in the instrument or its proceeds, including a claim to rescind a negotiation and to recover the instrument or its proceeds. A person having rights of a holder in due course takes free of the claim to the instrument.

§ 3-307. NOTICE OF BREACH OF FIDUCIARY DUTY.

(a) In this section:

(1) "Fiduciary" means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument.

(2) "Represented person" means the principal, beneficiary, partnership, corporation, or other person to whom the duty stated in paragraph (1) is owed.

(b) If (i) an instrument is taken from a fiduciary for payment or collection or for value, (ii) the taker has knowledge of the fiduciary status of the fiduciary, and (iii) the represented person makes a claim to the instrument or its proceeds on the basis that the transaction of the fiduciary is a breach of fiduciary duty, the following rules apply:

(1) Notice of breach of fiduciary duty by the fiduciary is notice of the claim of the represented person.

(2) In the case of an instrument payable to the represented person or the fiduciary as such, the taker has notice of the breach of fiduciary duty if the instrument is (i) taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, (ii) taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or (iii) deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

(3) If an instrument is issued by the represented person or the fiduciary as such, and made payable to the fiduciary personally, the taker does not have notice of the breach of fiduciary duty unless the taker knows of the breach of fiduciary duty.

(4) If an instrument is issued by the represented person or the fiduciary as such, to the taker as payee, the taker has notice of the breach of fiduciary duty if the instrument is (i) taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, (ii) taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or (iii) deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

§ 3-308. Proof of signatures and status as holder in due course.

(a) In an action with respect to an instrument, the authenticity of, and authority to make, each signature on the instrument is admitted unless specifically denied in the pleadings. If the validity of a signature is denied in the pleadings, the burden of establishing validity is on the person claiming validity, but the signature is presumed to be authentic and authorized unless the

action is to enforce the liability of the purported signer and the signer is dead or incompetent at the time of trial of the issue of validity of the signature. If an action to enforce the instrument is brought against a person as the undisclosed principal of a person who signed the instrument as a party to the instrument, the plaintiff has the burden of establishing that the defendant is liable on the instrument as a represented person under Section 3-402(a).

(b) If the validity of signatures is admitted or proved and there is compliance with subsection (a), a plaintiff producing the instrument is entitled to payment if the plaintiff proves entitlement to enforce the instrument under Section 3-301, unless the defendant proves a defense or claim in recoupment. If a defense or claim in recoupment is proved, the right to payment of the plaintiff is subject to the defense or claim, except to the extent the plaintiff proves that the plaintiff has rights of a holder in due course which are not subject to the defense or claim.

§ 3-309. Enforcement of lost, destroyed, or stolen instrument.

(a) A person not in possession of an instrument is entitled to enforce the instrument if (i) the person was in possession of the instrument and entitled to enforce it when loss of possession occurred, (ii) the loss of possession was not the result of a transfer by the person or a lawful seizure, and (iii) the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(b) A person seeking enforcement of an instrument under subsection (a) must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, Section 3-308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

§ 3-310. Effect of instrument on obligation for which taken.

(a) Unless otherwise agreed, if a certified check, cashier's check, or teller's check is taken for an obligation, the obligation is discharged to the same extent discharge would result if an amount of money equal to the amount of the instrument were taken in payment of the obligation. Discharge of the obligation does not affect any liability that the obligor may have as an indorser of the instrument.

(b) Unless otherwise agreed and except as provided in subsection (a), if a note or an uncertified check is taken for an obligation, the obligation is suspended to the same extent the obligation would be discharged if an amount of money equal to the amount of the instrument were taken, and the following rules apply:

(1) In the case of an uncertified check, suspension of the obligation continues until dishonor of the check or until it is paid or certified. Payment or certification of the check results in discharge of the obligation to the extent of the amount of the check.

(2) In the case of a note, suspension of the obligation continues until dishonor of the note or until it is paid. Payment of the note results in discharge of the obligation to the extent of the payment.

(3) Except as provided in paragraph (4), if the check or note is dishonored and the obligee of the obligation for which the instrument was taken is the person entitled to enforce the instrument, the obligee may enforce either the instrument or the obligation. In the case of an instrument of a third person which is negotiated to the obligee by the obligor, discharge of the obligor on the instrument also discharges the obligation.

(4) If the person entitled to enforce the instrument taken for an obligation is a person other than the obligee, the obligee may not enforce the obligation to the extent the obligation is suspended. If the obligee is the person entitled to enforce the instrument but no

longer has possession of it because it was lost, stolen, or destroyed, the obligation may not be enforced to the extent of the amount payable on the instrument, and to that extent the obligee's rights against the obligor are limited to enforcement of the instrument.

(c) If an instrument other than one described in subsection (a) or (b) is taken for an obligation, the effect is (i) that stated in subsection (a) if the instrument is one on which a bank is liable as maker or acceptor, or (ii) that stated in subsection (b) in any other case.

§ 3-311. Accord and satisfaction by use of instrument.

(a) If a person against whom a claim is asserted proves that (i) that person in good faith tendered an instrument to the claimant as full satisfaction of the claim, (ii) the amount of the claim was unliquidated or subject to a bona fide dispute, and (iii) the claimant obtained payment of the instrument, the following subsections apply.

(b) Unless subsection (c) applies, the claim is discharged if the person against whom the claim is asserted proves that the instrument or an accompanying written communication contained a conspicuous statement to the effect that the instrument was tendered as full satisfaction of the claim.

(c) Subject to subsection (d), a claim is not discharged under subsection (b) if either of the following applies:

(1) The claimant, if an organization, proves that (i) within a reasonable time before the tender, the claimant sent a conspicuous statement to the person against whom the claim is asserted that communications concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to be sent to a designated person, office, or place, and (ii) the instrument or accompanying communication was not received by that designated person, office, or place.

(2) The claimant, whether or not an organization, proves that within 90 days after payment of the instrument, the claimant tendered repayment of the amount of the instrument to the person against whom the claim is asserted. This paragraph does not apply if the claimant is an organization that sent a statement complying with paragraph (1)(i).

(d) A claim is discharged if the person against whom the claim is asserted proves that within a reasonable time before collection of the instrument was initiated, the claimant, or an agent of the claimant having direct responsibility with respect to the disputed obligation, knew that the instrument was tendered in full satisfaction of the claim.

§ 3-312. Lost, destroyed, or stolen cashier's check, teller's check, or certified check.

(a) In this section:

(1) "Check" means a cashier's check, teller's check, or certified check.

(2) "Claimant" means a person who claims the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen.

(3) "Declaration of loss" means a written statement, made under penalty of perjury, to the effect that (i) the declarer lost possession of a check, (ii) the declarer is the drawer or payee of the check, in the case of a certified check, or the remitter or payee of the check, in the case of a cashier's check or teller's check, (iii) the loss of possession was not the result of a transfer by the declarer or a lawful seizure, and (iv) the declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(4) "Obligated bank" means the issuer of a cashier's check or teller's check or the acceptor of a certified check.

(b) A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check, if (i) the claimant is the drawer or payee of a certified check or the remitter or payee of a cashier's check or teller's check, (ii) the communication contains or is accompanied by a declaration of loss of the claimant with respect to the check, (iii) the communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is paid, and (iv) the claimant provides reasonable identification if requested by the obligated bank. Delivery of a declaration of loss is a warranty of the truth of the statements made in the declaration. If a claim is asserted in compliance with this subsection, the following rules apply:

(1) The claim becomes enforceable at the later of (i) the time the claim is asserted, or (ii) the 90th day following the date of the check, in the case of a cashier's check or teller's check, or the 90th day following the date of the acceptance, in the case of a certified check.

(2) Until the claim becomes enforceable, it has no legal effect and the obligated bank may pay the check or, in the case of a teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check.

(3) If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check.

(4) When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to Section 4-302(a)(1), payment to the claimant discharges all liability of the obligated bank with respect to the check.

(c) If the obligated bank pays the amount of a check to a claimant under subsection (b)(4) and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to (i) refund the payment to the obligated bank if the check is paid, or (ii) pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.

(d) If a claimant has the right to assert a claim under subsection (b) and is also a person entitled to enforce a cashier's check, teller's check, or certified check which is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this section or Section 3-309.

PART 4

LIABILITY OF PARTIES

§ 3-401. Signature.

(a) A person is not liable on an instrument unless (i) the person signed the instrument, or (ii) the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under Section 3-402.

(b) A signature may be made (i) manually or by means of a device or machine, and (ii) by the use of any name, including a trade or assumed name, or by a word, mark, or symbol executed or adopted by a person with present intention to authenticate a writing.

§ 3-402. Signature by representative.

(a) If a person acting, or purporting to act, as a representative signs an instrument by signing either the name of the represented person or the name of the signer, the represented person is bound by the signature to the same extent the represented person would be bound if the signature were on a simple contract. If the represented person is bound, the signature of the representative is the "authorized signature of the represented person" and the represented person is liable on the instrument, whether or not identified in the instrument.

(b) If a representative signs the name of the representative to an instrument and the signature is an authorized signature of the represented person, the following rules apply:

(1) If the form of the signature shows unambiguously that the signature is made on behalf of the represented person who is identified in the instrument, the representative is not liable on the instrument.

(2) Subject to subsection (c), if (i) the form of the signature does not show unambiguously that the signature is made in a representative capacity or (ii) the represented person is not identified in the instrument, the representative is liable on the instrument to a holder in due course that took the instrument without notice that the representative was not intended to be liable on the instrument. With respect to any other person, the representative is liable on the instrument unless the representative proves that the original parties did not intend the representative to be liable on the instrument.

(c) If a representative signs the name of the representative as drawer of a check without indication of the representative status and the check is payable from an account of the represented person who is identified on the check, the signer is not liable on the check if the signature is an authorized signature of the represented person.

§ 3-403. Unauthorized signature.

(a) Unless otherwise provided in this Article or Article 4, an unauthorized signature is ineffective except as the signature of the unauthorized signer in favor of a person who in good faith pays the instrument or takes it for value. An unauthorized signature may be ratified for all purposes of this Article.

(b) If the signature of more than one person is required to constitute the authorized signature of an organization, the signature of the organization is unauthorized if one of the required signatures is lacking.

(c) The civil or criminal liability of a person who makes an unauthorized signature is not affected by any provision of this Article which makes the unauthorized signature effective for the purposes of this Article.

§ 3-404. Impostors; fictitious payees.

(a) If an impostor, by use of the mails or otherwise, induces the issuer of an instrument to issue the instrument to the impostor, or to a person acting in concert with the impostor, by impersonating the payee of the instrument or a person authorized to act for the payee, an indorsement of the instrument by any person in the name of the payee is effective as the indorsement of the payee in favor of a person who, in good faith, pays the instrument or takes it for value or for collection.

(b) If (i) a person whose intent determines to whom an instrument is payable (Section 3-110(a) or (b)) does not intend the person identified as payee to have any interest in the instrument, or (ii) the person identified as payee of an instrument is a fictitious person, the following rules apply until the instrument is negotiated by special indorsement:

(1) Any person in possession of the instrument is its holder.

(2) An indorsement by any person in the name of the payee stated in the instrument is effective as the indorsement of the payee in favor of a person who, in good faith, pays the instrument or takes it for value or for collection.

(c) Under subsection (a) or (b), an indorsement is made in the name of a payee if (i) it is made in a name substantially similar to that of the payee or (ii) the instrument, whether or not indorsed, is deposited in a depository bank to an account in a name substantially similar to that of the payee.

(d) With respect to an instrument to which subsection (a) or (b) applies, if a person paying the instrument or taking it for value or for collection fails to exercise ordinary care in

paying or taking the instrument and that failure substantially contributes to loss resulting from payment of the instrument, the person bearing the loss may recover from the person failing to exercise ordinary care to the extent the failure to exercise ordinary care contributed to the loss.

§ 3-405. Employer's responsibility for fraudulent indorsement by employee.

(a) In this section:

(1) "Employee" includes an independent contractor and employee of an independent contractor retained by the employer.

(2) "Fraudulent indorsement" means (i) in the case of an instrument payable to the employer, a forged indorsement purporting to be that of the employer, or (ii) in the case of an instrument with respect to which the employer is the issuer, a forged indorsement purporting to be that of the person identified as payee.

(3) "Responsibility" with respect to instruments means authority (i) to sign or indorse instruments on behalf of the employer, (ii) to process instruments received by the employer for bookkeeping purposes, for deposit to an account, or for other disposition, (iii) to prepare or process instruments for issue in the name of the employer, (iv) to supply information determining the names or addresses of payees of instruments to be issued in the name of the employer, (v) to control the disposition of instruments to be issued in the name of the employer, or (vi) to act otherwise with respect to instruments in a responsible capacity. "Responsibility" does not include authority that merely allows an employee to have access to instruments or blank or incomplete instrument forms that are being stored or transported or are part of incoming or outgoing mail, or similar access.

(b) For the purpose of determining the rights and liabilities of a person who, in good faith, pays an instrument or takes it for value or for collection, if an employer entrusted an employee with responsibility with respect to the instrument and the employee or a person acting in concert with the employee makes a fraudulent indorsement of the instrument, the indorsement is effective as the indorsement of the person to whom the instrument is payable if it is made in the name of that person. If the person paying the instrument or taking it for value or for collection fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss resulting from the fraud, the person bearing the loss may recover from the person failing to exercise ordinary care to the extent the failure to exercise ordinary care contributed to the loss.

(c) Under subsection (b), an indorsement is made in the name of the person to whom an instrument is payable if (i) it is made in a name substantially similar to the name of that person or (ii) the instrument, whether or not indorsed, is deposited in a depository bank to an account in a name substantially similar to the name of that person.

§ 3-406. Negligence contributing to forged signature or alteration of instrument.

(a) A person whose failure to exercise ordinary care substantially contributes to an alteration of an instrument or to the making of a forged signature on an instrument is precluded from asserting the alteration or the forgery against a person who, in good faith, pays the instrument or takes it for value or for collection.

(b) Under subsection (a), if the person asserting the preclusion fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss, the loss is allocated between the person precluded and the person asserting the preclusion according to the extent to which the failure of each to exercise ordinary care contributed to the loss.

(c) Under subsection (a), the burden of proving failure to exercise ordinary care is on the person asserting the preclusion. Under subsection (b), the burden of proving failure to exercise ordinary care is on the person precluded.

§ 3-407. Alteration.

(a) "Alteration" means (i) an unauthorized change in an instrument that purports to modify in any respect the obligation of a party, or (ii) an unauthorized addition of words or numbers or other change to an incomplete instrument relating to the obligation of a party.

(b) Except as provided in subsection (c), an alteration fraudulently made discharges a party whose obligation is affected by the alteration unless that party assents or is precluded from asserting the alteration. No other alteration discharges a party, and the instrument may be enforced according to its original terms.

(c) A payor bank or drawee paying a fraudulently altered instrument or a person taking it for value, in good faith and without notice of the alteration, may enforce rights with respect to the instrument (i) according to its original terms, or (ii) in the case of an incomplete instrument altered by unauthorized completion, according to its terms as completed.

§ 3-408. Drawee not liable on unaccepted draft.

A check or other draft does not of itself operate as an assignment of funds in the hands of the drawee available for its payment, and the drawee is not liable on the instrument until the drawee accepts it.

§ 3-409. Acceptance of draft; certified check.

(a) "Acceptance" means the drawee's signed agreement to pay a draft as presented. It must be written on the draft and may consist of the drawee's signature alone. Acceptance may be made at any time and becomes effective when notification pursuant to instructions is given or the accepted draft is delivered for the purpose of giving rights on the acceptance to any person.

(b) A draft may be accepted although it has not been signed by the drawer, is otherwise incomplete, is overdue, or has been dishonored.

(c) If a draft is payable at a fixed period after sight and the acceptor fails to date the acceptance, the holder may complete the acceptance by supplying a date in good faith.

(d) "Certified check" means a check accepted by the bank on which it is drawn. Acceptance may be made as stated in subsection (a) or by a writing on the check which indicates that the check is certified. The drawee of a check has no obligation to certify the check, and refusal to certify is not dishonor of the check.

§ 3-410. Acceptance varying draft.

(a) If the terms of a drawee's acceptance vary from the terms of the draft as presented, the holder may refuse the acceptance and treat the draft as dishonored. In that case, the drawee may cancel the acceptance.

(b) The terms of a draft are not varied by an acceptance to pay at a particular bank or place in the United States, unless the acceptance states that the draft is to be paid only at that bank or place.

(c) If the holder assents to an acceptance varying the terms of a draft, the obligation of each drawer and indorser that does not expressly assent to the acceptance is discharged.

§ 3-411. Refusal to pay cashier's checks, teller's checks, and certified checks.

(a) In this section, "obligated bank" means the acceptor of a certified check or the issuer of a cashier's check or teller's check bought from the issuer.

(b) If the obligated bank wrongfully (i) refuses to pay a cashier's check or certified check, (ii) stops payment of a teller's check, or (iii) refuses to pay a dishonored teller's check, the person asserting the right to enforce the check is entitled to compensation for expenses and loss of interest resulting from the nonpayment and may recover consequential damages if the obligated bank refuses to pay after receiving notice of particular circumstances giving rise to the damages.

(c) Expenses or consequential damages under subsection (b) are not recoverable if the refusal of the obligated bank to pay occurs because (i) the bank suspends payments, (ii) the obligated bank asserts a claim or defense of the bank that it has reasonable grounds to believe is available against the person entitled to enforce the instrument, (iii) the obligated bank has a reasonable doubt whether the person demanding payment is the person entitled to enforce the instrument, or (iv) payment is prohibited by law.

§ 3-412. Obligation of issuer of note or cashier's check.

The issuer of a note or cashier's check or other draft drawn on the drawer is obliged to pay the instrument (i) according to its terms at the time it was issued or, if not issued, at the time it first came into possession of a holder, or (ii) if the issuer signed an incomplete instrument, according to its terms when completed, to the extent stated in Sections 3-115 and 3-407. The obligation is owed to a person entitled to enforce the instrument or to an indorser who paid the instrument under Section 3-415.

§ 3-413. Obligation of acceptor.

(a) The acceptor of a draft is obliged to pay the draft (i) according to its terms at the time it was accepted, even though the acceptance states that the draft is payable "as originally drawn" or equivalent terms, (ii) if the acceptance varies the terms of the draft, according to the terms of the draft as varied, or (iii) if the acceptance is of a draft that is an incomplete instrument, according to its terms when completed, to the extent stated in Sections 3-115 and 3-407. The obligation is owed to a person entitled to enforce the draft or to the drawer or an indorser who paid the draft under Section 3-414 or 3-415.

(b) If the certification of a check or other acceptance of a draft states the amount certified or accepted, the obligation of the acceptor is that amount. If (i) the certification or acceptance does not state an amount, (ii) the amount of the instrument is subsequently raised, and (iii) the instrument is then negotiated to a holder in due course, the obligation of the acceptor is the amount of the instrument at the time it was taken by the holder in due course.

§ 3-414. Obligation of drawer.

(a) This section does not apply to cashier's checks or other drafts drawn on the drawer.

(b) If an unaccepted draft is dishonored, the drawer is obliged to pay the draft (i) according to its terms at the time it was issued or, if not issued, at the time it first came into possession of a holder, or (ii) if the drawer signed an incomplete instrument, according to its terms when completed, to the extent stated in Sections 3-115 and 3-407. The obligation is owed to a person entitled to enforce the draft or to an indorser who paid the draft under Section 3-415.

(c) If a draft is accepted by a bank, the drawer is discharged, regardless of when or by whom acceptance was obtained.

(d) If a draft is accepted and the acceptor is not a bank, the obligation of the drawer to pay the draft if the draft is dishonored by the acceptor is the same as the obligation of an indorser under Section 3-415(a) and (c).

(e) If a draft states that it is drawn "without recourse" or otherwise disclaims liability of the drawer to pay the draft, the drawer is not liable to pay the draft if the draft is not a check. A disclaimer of the liability stated in subsection (b) is not effective if the draft is a check.

(f) If (i) a check is not presented for payment or given to a depository bank for collection within 30 days after its date, (ii) the drawee suspends payments after expiration of the 30-day period without paying the check, and (iii) because of the suspension of payments, the drawer is deprived of funds maintained with the drawee to cover payment of the check, the drawer to the extent deprived of funds may discharge its obligation to pay the check by assigning to the person entitled to enforce the check the rights of the drawer against the drawee with respect to the funds.

§ 3-415. Obligation of indorser.

(a) Subject to subsections (b), (c), (d) and (e) and to Section 3-419(d), if an instrument is dishonored, an indorser is obliged to pay the amount due on the instrument (i) according to the terms of the instrument at the time it was indorsed, or (ii) if the indorser indorsed an incomplete instrument, according to its terms when completed, to the extent stated in Sections 3-115 and 3-407. The obligation of the indorser is owed to a person entitled to enforce the instrument or to a subsequent indorser who paid the instrument under this section.

(b) If an indorsement states that it is made "without recourse" or otherwise disclaims liability of the indorser, the indorser is not liable under subsection (a) to pay the instrument.

(c) If notice of dishonor of an instrument is required by Section 3-503 and notice of dishonor complying with that section is not given to an indorser, the liability of the indorser under subsection (a) is discharged.

(d) If a draft is accepted by a bank after an indorsement is made, the liability of the indorser under subsection (a) is discharged.

(e) If an indorser of a check is liable under subsection (a) and the check is not presented for payment, or given to a depository bank for collection, within 30 days after the day the indorsement was made, the liability of the indorser under subsection (a) is discharged.

§ 3-416. Transfer warranties.

(a) A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by indorsement, to any subsequent transferee that:

(1) the warrantor is a person entitled to enforce the instrument;

(2) all signatures on the instrument are authentic and authorized;

(3) the instrument has not been altered;

(4) the instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; and

(5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

(b) A person to whom the warranties under subsection (a) are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.

(c) The warranties stated in subsection (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(d) A [cause of action] for breach of warranty under this section accrues when the claimant has reason to know of the breach.

§ 3-417. Presentment warranties.

(a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee making payment or accepting the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered; and

(3) the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized.

(b) A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under Section 3-404 or 3-405 or the drawer is precluded under Section 3-406 or 4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other instrument is presented for payment to a party obliged to pay the instrument, and (iii) payment is received, the following rules apply:

(1) The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.

(2) The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) or (d) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A [cause of action] for breach of warranty under this section accrues when the claimant has reason to know of the breach.

§ 3-418. Payment or acceptance by mistake.

(a) Except as provided in subsection (c), if the drawee of a draft pays or accepts the draft and the drawee acted on the mistaken belief that (i) payment of the draft had not been stopped pursuant to Section 4-403 or (ii) the signature of the drawer of the draft was authorized, the drawee may recover the amount of the draft from the person to whom or for whose benefit payment was made or, in the case of acceptance, may revoke the acceptance. Rights of the drawee under this subsection are not affected by failure of the drawee to exercise ordinary care in paying or accepting the draft.

(b) Except as provided in subsection (c), if an instrument has been paid or accepted by mistake and the case is not covered by subsection (a), the person paying or accepting may, to the extent permitted by the law governing mistake and restitution, (i) recover the payment from the person to whom or for whose benefit payment was made or (ii) in the case of acceptance, may revoke the acceptance.

(c) The remedies provided by subsection (a) or (b) may not be asserted against a person who took the instrument in good faith and for value or who in good faith changed position in

reliance on the payment or acceptance. This subsection does not limit remedies provided by Section 3-417 or 4-407.

(d) Notwithstanding Section 4-215, if an instrument is paid or accepted by mistake and the payor or acceptor recovers payment or revokes acceptance under subsection (a) or (b), the instrument is deemed not to have been paid or accepted and is treated as dishonored, and the person from whom payment is recovered has rights as a person entitled to enforce the dishonored instrument.

§ 3-419. Instruments signed for accommodation.

(a) If an instrument is issued for value given for the benefit of a party to the instrument ("accommodated party") and another party to the instrument ("accommodation party") signs the instrument for the purpose of incurring liability on the instrument without being a direct beneficiary of the value given for the instrument, the instrument is signed by the accommodation party "for accommodation."

(b) An accommodation party may sign the instrument as maker, drawer, acceptor, or indorser and, subject to subsection (d), is obliged to pay the instrument in the capacity in which the accommodation party signs. The obligation of an accommodation party may be enforced notwithstanding any statute of frauds and whether or not the accommodation party receives consideration for the accommodation.

(c) A person signing an instrument is presumed to be an accommodation party and there is notice that the instrument is signed for accommodation if the signature is an anomalous indorsement or is accompanied by words indicating that the signer is acting as surety or guarantor with respect to the obligation of another party to the instrument. Except as provided in Section 3-605, the obligation of an accommodation party to pay the instrument is not affected by the fact that the person enforcing the obligation had notice when the instrument was taken by that person that the accommodation party signed the instrument for accommodation.

(d) If the signature of a party to an instrument is accompanied by words indicating unambiguously that the party is guaranteeing collection rather than payment of the obligation of another party to the instrument, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument only if (i) execution of judgment against the other party has been returned unsatisfied, (ii) the other party is insolvent or in an insolvency proceeding, (iii) the other party cannot be served with process, or (iv) it is otherwise apparent that payment cannot be obtained from the other party.

(e) An accommodation party who pays the instrument is entitled to reimbursement from the accommodated party and is entitled to enforce the instrument against the accommodated party. An accommodated party who pays the instrument has no right of recourse against, and is not entitled to contribution from, an accommodation party.

§ 3-420. Conversion of instrument.

(a) The law applicable to conversion of personal property applies to instruments. An instrument is also converted if it is taken by transfer, other than a negotiation, from a person not entitled to enforce the instrument or a bank makes or obtains payment with respect to the instrument for a person not entitled to enforce the instrument or receive payment. An action for conversion of an instrument may not be brought by (i) the issuer or acceptor of the instrument or (ii) a payee or indorsee who did not receive delivery of the instrument either directly or through delivery to an agent or a co-payee.

(b) In an action under subsection (a), the measure of liability is presumed to be the amount payable on the instrument, but recovery may not exceed the amount of the plaintiff's interest in the instrument.

(c) A representative, other than a depository bank, who has in good faith dealt with an instrument or its proceeds on behalf of one who was not the person entitled to enforce the

instrument is not liable in conversion to that person beyond the amount of any proceeds that it has not paid out.

PART 5

DISHONOR

§ 3-501. Presentment.

(a) "Presentment" means a demand made by or on behalf of a person entitled to enforce an instrument (i) to pay the instrument made to the drawee or a party obliged to pay the instrument or, in the case of a note or accepted draft payable at a bank, to the bank, or (ii) to accept a draft made to the drawee.

(b) The following rules are subject to Article 4, agreement of the parties, and clearing-house rules and the like:

(1) Presentment may be made at the place of payment of the instrument and must be made at the place of payment if the instrument is payable at a bank in the United States; may be made by any commercially reasonable means, including an oral, written, or electronic communication; is effective when the demand for payment or acceptance is received by the person to whom presentment is made; and is effective if made to any one of two or more makers, acceptors, drawees, or other payors.

(2) Upon demand of the person to whom presentment is made, the person making presentment must (i) exhibit the instrument, (ii) give reasonable identification and, if presentment is made on behalf of another person, reasonable evidence of authority to do so, and (iii) sign a receipt on the instrument for any payment made or surrender the instrument if full payment is made.

(3) Without dishonoring the instrument, the party to whom presentment is made may (i) return the instrument for lack of a necessary indorsement, or (ii) refuse payment or acceptance for failure of the presentment to comply with the terms of the instrument, an agreement of the parties, or other applicable law or rule.

(4) The party to whom presentment is made may treat presentment as occurring on the next business day after the day of presentment if the party to whom presentment is made has established a cut-off hour not earlier than 2 p.m. for the receipt and processing of instruments presented for payment or acceptance and presentment is made after the cut-off hour.

§ 3-502. Dishonor.

(a) Dishonor of a note is governed by the following rules:

(1) If the note is payable on demand, the note is dishonored if presentment is duly made to the maker and the note is not paid on the day of presentment.

(2) If the note is not payable on demand and is payable at or through a bank or the terms of the note require presentment, the note is dishonored if presentment is duly made and the note is not paid on the day it becomes payable or the day of presentment, whichever is later.

(3) If the note is not payable on demand and paragraph (2) does not apply, the note is dishonored if it is not paid on the day it becomes payable.

(b) Dishonor of an unaccepted draft other than a documentary draft is governed by the following rules:

(1) If a check is duly presented for payment to the payor bank otherwise than for immediate payment over the counter, the check is dishonored if the payor bank makes timely return of the check or sends timely notice of dishonor or nonpayment under Section 4-301 or 4-302, or becomes accountable for the amount of the check under Section 4-302.

(2) If a draft is payable on demand and paragraph (1) does not apply, the draft is dishonored if presentment for payment is duly made to the drawee and the draft is not paid on the day of presentment.

(3) If a draft is payable on a date stated in the draft, the draft is dishonored if (i) presentment for payment is duly made to the drawee and payment is not made on the day the draft becomes payable or the day of presentment, whichever is later, or (ii) presentment for acceptance is duly made before the day the draft becomes payable and the draft is not accepted on the day of presentment.

(4) If a draft is payable on elapse of a period of time after sight or acceptance, the draft is dishonored if presentment for acceptance is duly made and the draft is not accepted on the day of presentment.

(c) Dishonor of an unaccepted documentary draft occurs according to the rules stated in subsection (b)(2), (3), and (4), except that payment or acceptance may be delayed without dishonor until no later than the close of the third business day of the drawee following the day on which payment or acceptance is required by those paragraphs.

(d) Dishonor of an accepted draft is governed by the following rules:

(1) If the draft is payable on demand, the draft is dishonored if presentment for payment is duly made to the acceptor and the draft is not paid on the day of presentment.

(2) If the draft is not payable on demand, the draft is dishonored if presentment for payment is duly made to the acceptor and payment is not made on the day it becomes payable or the day of presentment, whichever is later.

(e) In any case in which presentment is otherwise required for dishonor under this section and presentment is excused under Section 3-504, dishonor occurs without presentment if the instrument is not duly accepted or paid.

(f) If a draft is dishonored because timely acceptance of the draft was not made and the person entitled to demand acceptance consents to a late acceptance, from the time of acceptance the draft is treated as never having been dishonored.

§ 3-503. Notice of dishonor.

(a) The obligation of an indorser stated in Section 3-415(a) and the obligation of a drawer stated in Section 3-414(d) may not be enforced unless (i) the indorser or drawer is given notice of dishonor of the instrument complying with this section or (ii) notice of dishonor is excused under Section 3-504(b).

(b) Notice of dishonor may be given by any person; may be given by any commercially reasonable means, including an oral, written, or electronic communication; and is sufficient if it reasonably identifies the instrument and indicates that the instrument has been dishonored or has not been paid or accepted. Return of an instrument given to a bank for collection is sufficient notice of dishonor.

(c) Subject to Section 3-504(c), with respect to an instrument taken for collection by a collecting bank, notice of dishonor must be given (i) by the bank before midnight of the next banking day following the banking day on which the bank receives notice of dishonor of the instrument, or (ii) by any other person within 30 days following the day on which the person receives notice of dishonor. With respect to any other instrument, notice of dishonor must be given within 30 days following the day on which dishonor occurs.

§ 3-504. Excused presentment and notice of dishonor.

(a) Presentment for payment or acceptance of an instrument is excused if (i) the person entitled to present the instrument cannot with reasonable diligence make presentment, (ii) the maker or acceptor has repudiated an obligation to pay the instrument or is dead or in insolvency proceedings, (iii) by the terms of the instrument presentment is not necessary to enforce the

obligation of indorsers or the drawer, (iv) the drawer or indorser whose obligation is being enforced has waived presentment or otherwise has no reason to expect or right to require that the instrument be paid or accepted, or (v) the drawer instructed the drawee not to pay or accept the draft or the drawee was not obligated to the drawer to pay the draft.

(b) Notice of dishonor is excused if (i) by the terms of the instrument notice of dishonor is not necessary to enforce the obligation of a party to pay the instrument, or (ii) the party whose obligation is being enforced waived notice of dishonor. A waiver of presentment is also a waiver of notice of dishonor.

(c) Delay in giving notice of dishonor is excused if the delay was caused by circumstances beyond the control of the person giving the notice and the person giving the notice exercised reasonable diligence after the cause of the delay ceased to operate.

§ 3-505. Evidence of dishonor.

(a) The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor stated:

(1) a document regular in form as provided in subsection (b) which purports to be a protest;

(2) a purported stamp or writing of the drawee, payor bank, or presenting bank on or accompanying the instrument stating that acceptance or payment has been refused unless reasons for the refusal are stated and the reasons are not consistent with dishonor;

(3) a book or record of the drawee, payor bank, or collecting bank, kept in the usual course of business which shows dishonor, even if there is no evidence of who made the entry.

(b) A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

PART 6

DISCHARGE AND PAYMENT

§ 3-601. Discharge and effect of discharge.

(a) The obligation of a party to pay the instrument is discharged as stated in this Article or by an act or agreement with the party which would discharge an obligation to pay money under a simple contract.

(b) Discharge of the obligation of a party is not effective against a person acquiring rights of a holder in due course of the instrument without notice of the discharge.

§ 3-602. Payment.

(a) Subject to subsection (b), an instrument is paid to the extent payment is made (i) by or on behalf of a party obliged to pay the instrument, and (ii) to a person entitled to enforce the instrument. To the extent of the payment, the obligation of the party obliged to pay the instrument is discharged even though payment is made with knowledge of a claim to the instrument under Section 3-306 by another person.

(b) The obligation of a party to pay the instrument is not discharged under subsection (a) if:

(1) a claim to the instrument under Section 3-306 is enforceable against the party receiving payment and (i) payment is made with knowledge by the payor that payment is prohibited by injunction or similar process of a court of competent jurisdiction, or (ii) in the case of an instrument other than a cashier's check, teller's check, or certified check, the party making payment accepted, from the person having a claim to the instrument, indemnity against loss resulting from refusal to pay the person entitled to enforce the instrument; or

(2) the person making payment knows that the instrument is a stolen instrument and pays a person it knows is in wrongful possession of the instrument.

§ 3-603. Tender of payment.

(a) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.

(b) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument and the tender is refused, there is discharge, to the extent of the amount of the tender, of the obligation of an indorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.

(c) If tender of payment of an amount due on an instrument is made to a person entitled to enforce the instrument, the obligation of the obligor to pay subsequent interest on the amount tendered is discharged. If presentment is required with respect to an instrument and the obligor is able and ready to pay on the due date at every place of payment stated in the instrument, the obligor is deemed to have made tender of payment on the due date to the person entitled to enforce the instrument.

§ 3-604. Discharge by cancellation or renunciation.

(a) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument (i) by an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge, or (ii) by agreeing not to sue or otherwise renouncing rights against the party by a signed writing.

(b) Cancellation or striking out of an indorsement pursuant to subsection (a) does not affect the status and rights of a party derived from the indorsement.

§ 3-605. Discharge of indorsers and accommodation parties.

(a) In this section, the term "indorser" includes a drawer having the obligation described in Section 3-414(d).

(b) Discharge, under Section 3-604, of the obligation of a party to pay an instrument does not discharge the obligation of an indorser or accommodation party having a right of recourse against the discharged party.

(c) If a person entitled to enforce an instrument agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an indorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the indorser or accommodation party proves that the extension caused loss to the indorser or accommodation party with respect to the right of recourse.

(d) If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification discharges the obligation of an indorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the indorser or accommodation party with respect to the right of recourse. The loss suffered by the indorser or accommodation party as a result of the modification is equal to the

amount of the right of recourse unless the person enforcing the instrument proves that no loss was caused by the modification or that the loss caused by the modification was an amount less than the amount of the right of recourse.

(e) If the obligation of a party to pay an instrument is secured by an interest in collateral and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of an indorser or accommodation party having a right of recourse against the obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent (i) the value of the interest is reduced to an amount less than the amount of the right of recourse of the party asserting discharge, or (ii) the reduction in value of the interest causes an increase in the amount by which the amount of the right of recourse exceeds the value of the interest. The burden of proving impairment is on the party asserting discharge.

(f) If the obligation of a party is secured by an interest in collateral not provided by an accommodation party and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of any party who is jointly and severally liable with respect to the secured obligation is discharged to the extent the impairment causes the party asserting discharge to pay more than that party would have been obliged to pay, taking into account rights of contribution, if impairment had not occurred. If the party asserting discharge is an accommodation party not entitled to discharge under subsection (e), the party is deemed to have a right to contribution based on joint and several liability rather than a right to reimbursement. The burden of proving impairment is on the party asserting discharge.

(g) Under subsection (e) or (f), impairing value of an interest in collateral includes (i) failure to obtain or maintain perfection or recordation of the interest in collateral, (ii) release of collateral without substitution of collateral of equal value, (iii) failure to perform a duty to preserve the value of collateral owed, under Article 9 or other law, to a debtor or surety or other person secondarily liable, or (iv) failure to comply with applicable law in disposing of collateral.

(h) An accommodation party is not discharged under subsection (c), (d), or (e) unless the person entitled to enforce the instrument knows of the accommodation or has notice under Section 3-419(c) that the instrument was signed for accommodation.

(i) A party is not discharged under this section if (i) the party asserting discharge consents to the event or conduct that is the basis of the discharge, or (ii) the instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral."

Section 4. Amend Article 4, Subtitle I, Title 6 of the Delaware Code by striking said Article 4 in its entirety, and substituting in lieu thereof the following:

"ARTICLE 4. BANK DEPOSITS AND COLLECTIONS

PART I

GENERAL PROVISIONS AND DEFINITIONS

§ 4-101. Short title.

This Article may be cited as Uniform Commercial Code -- Bank Deposits and Collections.

§ 4-102. Applicability.

(a) To the extent that items within this Article are also within Articles 3 and 8, they are subject to those Articles. If there is conflict, this Article governs Article 3, but Article 8 governs this Article.

(b) The liability of a bank for action or non-action with respect to an item handled by it for purposes of presentment, payment, or collection is governed by the law of the place where the

bank is located. In the case of action or non-action by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

§ 4-103. Variation by agreement; measure of damages; action constituting ordinary care.

(a) The effect of the provisions of this Article may be varied by agreement, but the parties to the agreement cannot disclaim a bank's responsibility for its lack of good faith or failure to exercise ordinary care or limit the measure of damages for the lack or failure. However, the parties may determine by agreement the standards by which the bank's responsibility is to be measured if those standards are not manifestly unreasonable.

(b) Federal Reserve regulations and operating circulars, clearing-house rules, and the like have the effect of agreements under subsection (a), whether or not specifically assented to by all parties interested in items handled.

(c) Action or non-action approved by this Article or pursuant to Federal Reserve regulations or operating circulars is the exercise of ordinary care and, in the absence of special instructions, action or non-action consistent with clearing-house rules and the like or with a general banking usage not disapproved by this Article, is *prima facie* the exercise of ordinary care.

(d) The specification or approval of certain procedures by this Article is not disapproval of other procedures that may be reasonable under the circumstances.

(e) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care. If there is also bad faith it includes any other damages the party suffered as a proximate consequence.

§ 4-104. Definitions and index of definitions.

(a) In this Article, unless the context otherwise requires:

(1) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit.

(2) "Afternoon" means the period of a day between noon and midnight.

(3) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions.

(4) "Clearing house" means an association of banks or other payors regularly clearing items.

(5) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank.

(6) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (Section 8-102) or instructions for uncertificated securities (Section 8-308), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

(7) "Draft" means a draft as defined in Section 3-104 or an item, other than an instrument, that is an order.

(8) "Drawee" means a person ordered in a draft to make payment.

(9) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Article 4A or a credit or debit card slip.

(10) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.

(11) "Settle" means to pay in cash, by clearing-house settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final.

(12) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over, or that it ceases or refuses to make payments in the ordinary course of business.

(b) Other definitions applying to this Article and the sections in which they appear are:

"Agreement for electronic

presentment" Section 4-110

"Bank" Section 4-105

"Collecting bank" Section 4-105

"Depository bank" Section 4-105

"Intermediary bank" Section 4-105

"Payor bank" Section 4-105

"Presenting bank" Section 4-105

"Presentment notice" Section 4-110

(c) The following definitions in other Articles apply to this Article:

"Acceptance" Section 3-409

"Alteration" Section 3-407

"Cashier's check" Section 3-104

"Certificate of deposit" Section 3-104

"Certified check" Section 3-409

"Check" Section 3-104

"Good faith" Section 3-103

"Holder in due course" Section 3-302

"Instrument" Section 3-104

"Notice of dishonor" Section 3-503

"Order" Section 3-103

"Ordinary care" Section 3-103

"Person entitled to enforce" Section 3-301

"Presentment" Section 3-501

"Promise" Section 3-103

"Prove"	Section 3-103
"Teller's check"	Section 3-104
"Unauthorized signature"	Section 3-403

(d) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

§ 4-105. "Bank"; "depository bank"; "payor bank"; "intermediary bank"; "collecting bank"; "presenting bank".

In this Article:

(1) "Bank" means a person engaged in the business of banking, including a savings bank, savings and loan association, credit union, or trust company.

(2) "Depository bank" means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter.

(3) "Payor bank" means a bank that is the drawee of a draft.

(4) "Intermediary bank" means a bank to which an item is transferred in course of collection except the depository or payor bank.

(5) "Collecting bank" means a bank handling an item for collection except the payor bank.

(6) "Presenting bank" means a bank presenting an item except a payor bank.

§ 4-106. Payable through or payable at bank; collecting bank.

(a) If an item states that it is "payable through" a bank identified in the item, (i) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item, and (ii) the item may be presented for payment only by or through the bank.

(b) If an item states that it is "payable at" a bank identified in the item, (i) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item, and (ii) the item may be presented for payment only by or through the bank.

(c) If a draft names a nonbank drawee and it is unclear whether a bank named in the draft is a co-drawee or a collecting bank, the bank is a collecting bank.

§ 4-107. Separate office of bank.

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notice or orders must be given under this Article and under Article 3.

§ 4-108. Time of receipt of items.

(a) For the purpose of allowing time to process items, prove balances, and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of 2 P.M. or later as a cutoff hour for the handling of money and items and the making of entries on its books.

(b) An item or deposit of money received on any day after a cutoff hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

§ 4-109. Delays.

(a) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment of a specific item drawn on a payor other than a bank, and with or without the approval of any person involved, may waive, modify, or extend time limits imposed or permitted by this [Act] for a period not exceeding two additional banking days without discharge of drawers or indorsers or liability to its transferor or a prior party.

(b) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this [Act] or by instructions is excused if (i) the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank, and (ii) the bank exercises such diligence as the circumstances require.

§ 4-110. Electronic presentment.

(a) "Agreement for electronic presentment" means an agreement, clearing-house rule, or Federal Reserve regulation or operating circular, providing that presentment of an item may be made by transmission of an image of an item or information describing the item ("presentment notice") rather than delivery of the item itself. The agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to the agreement.

(b) Presentment of an item pursuant to an agreement for presentment is made when the presentment notice is received.

(c) If presentment is made by presentment notice, a reference to "item" or "check" in this Article means the presentment notice unless the context otherwise indicates.

§ 4-111. Statute of limitations.

An action to enforce an obligation, duty, or right arising under this Article must be commenced within three years after the [cause of action] accrues.

PART 2

COLLECTION OF ITEMS: DEPOSITARY AND COLLECTING BANKS

§ 4-201. Status of collecting bank as agent and provisional status of credits; applicability of article; item indorsed "pay any bank".

(a) Unless a contrary intent clearly appears and before the time that a settlement given by a collecting bank for an item is or becomes final, the bank, with respect to the item, is an agent or sub-agent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank, such as those resulting from outstanding advances on the item and rights of recoupment or setoff. If an item is handled by banks for purposes of presentment, payment, collection, or return, the relevant provisions of this Article apply even though action of the parties clearly establishes that a particular bank has purchased the item and is the owner of it.

(b) After an item has been indorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder until the item has been:

(1) returned to the customer initiating collection; or

(2) specially indorsed by a bank to a person who is not a bank.

§ 4-202. Responsibility for collection or return; when action timely.

(a) A collecting bank must exercise ordinary care in:

(1) presenting an item or sending it for presentment;

(2) sending notice of dishonor or nonpayment or returning an item other than a documentary draft to the bank's transferor after learning that the item has not been paid or accepted, as the case may be; and

(3) settling for an item when the bank receives final settlement; and

(4) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

(b) A collecting bank exercises ordinary care under subsection (a) by taking proper action before its midnight deadline following receipt of an item, notice, or settlement. Taking proper action within a reasonably longer time may constitute the exercise of ordinary care, but the bank has the burden of establishing timeliness.

(c) Subject to subsection (a)(1), a bank is not liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person or for loss or destruction of an item in the possession of others or in transit.

§ 4-203. Effect of instructions.

Subject to Article 3 concerning conversion of instruments (Section 3-420) and restrictive indorsements (Section 3-206), only a collecting bank's transferor can give instructions that affect the bank or constitute notice to it, and a collecting bank is not liable to prior parties for any action taken pursuant to the instructions or in accordance with any agreement with its transferor.

§ 4-204. Methods of sending and presenting; sending directly to payor bank.

(a) A collecting bank shall send items by a reasonably prompt method, taking into consideration relevant instructions, the nature of the item, the number of those items on hand, the cost of collection involved, and the method generally used by it or others to present those items.

(b) A collecting bank may send:

(1) an item directly to the payor bank;

(2) an item to a nonbank payor if authorized by its transferor; and

(3) an item other than documentary drafts to a nonbank payor, if authorized by Federal Reserve regulation or operating circular, clearing-house rule, or the like.

(c) Presentment may be made by a presenting bank at a place where the payor bank or other payor has requested that presentment be made.

§ 4-205. Depository bank holder of unindorsed item.

If a customer delivers an item to a depository bank for collection:

(1) the depository bank becomes a holder of the item at the time it receives the item for collection if the customer at the time of delivery was a holder of the item, whether or not the customer indorses the item, and, if the bank satisfies the other requirements of Section 3-302, it is a holder in due course; and

(2) the depository bank warrants to collecting banks, the payor bank or other payor, and the drawer that the amount of the item was paid to the customer or deposited to the customer's account.

§ 4-206. Transfer between banks.

Any agreed method that identifies the transferor bank is sufficient for the item's further transfer to another bank.

(a) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment of a specific item drawn on a payor other than a bank, and with or without the approval of any person involved, may waive, modify, or extend time limits imposed or permitted by this [Act] for a period not exceeding two additional banking days without discharge of drawers or indorsers or liability to its transferor or a prior party.

(b) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this [Act] or by instructions is excused if (i) the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank, and (ii) the bank exercises such diligence as the circumstances require.

§ 4-110. Electronic presentment.

(a) "Agreement for electronic presentment" means an agreement, clearing-house rule, or Federal Reserve regulation or operating circular, providing that presentment of an item may be made by transmission of an image of an item or information describing the item ("presentment notice") rather than delivery of the item itself. The agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to the agreement.

(b) Presentment of an item pursuant to an agreement for presentment is made when the presentment notice is received.

(c) If presentment is made by presentment notice, a reference to "item" or "check" in this Article means the presentment notice unless the context otherwise indicates.

§ 4-111. Statute of limitations.

An action to enforce an obligation, duty, or right arising under this Article must be commenced within three years after the [cause of action] accrues.

PART 2

COLLECTION OF ITEMS: DEPOSITARY AND COLLECTING BANKS

§ 4-201. Status of collecting bank as agent and provisional status of credits; applicability of article; item indorsed "pay any bank".

(a) Unless a contrary intent clearly appears and before the time that a settlement given by a collecting bank for an item is or becomes final, the bank, with respect to the item, is an agent or sub-agent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank, such as those resulting from outstanding advances on the item and rights of recoupment or setoff. If an item is handled by banks for purposes of presentment, payment, collection, or return, the relevant provisions of this Article apply even though action of the parties clearly establishes that a particular bank has purchased the item and is the owner of it.

(b) After an item has been indorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder until the item has been:

- (1) returned to the customer initiating collection; or
- (2) specially indorsed by a bank to a person who is not a bank.

§ 4-202. Responsibility for collection or return; when action timely.

(a) A collecting bank must exercise ordinary care in:

(1) presenting an item or sending it for presentment;

(2) sending notice of dishonor or nonpayment or returning an item other than a documentary draft to the bank's transferor after learning that the item has not been paid or accepted, as the case may be; and

(3) settling for an item when the bank receives final settlement; and

(4) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

(b) A collecting bank exercises ordinary care under subsection (a) by taking proper action before its midnight deadline following receipt of an item, notice, or settlement. Taking proper action within a reasonably longer time may constitute the exercise of ordinary care, but the bank has the burden of establishing timeliness.

(c) Subject to subsection (a)(1), a bank is not liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person or for loss or destruction of an item in the possession of others or in transit.

§ 4-203. Effect of instructions.

Subject to Article 3 concerning conversion of instruments (Section 3-420) and restrictive indorsements (Section 3-206), only a collecting bank's transferor can give instructions that affect the bank or constitute notice to it, and a collecting bank is not liable to prior parties for any action taken pursuant to the instructions or in accordance with any agreement with its transferor.

§ 4-204. Methods of sending and presenting; sending directly to payor bank.

(a) A collecting bank shall send items by a reasonably prompt method, taking into consideration relevant instructions, the nature of the item, the number of those items on hand, the cost of collection involved, and the method generally used by it or others to present those items.

(b) A collecting bank may send:

(1) an item directly to the payor bank;

(2) an item to a nonbank payor if authorized by its transferor; and

(3) an item other than documentary drafts to a nonbank payor, if authorized by Federal Reserve regulation or operating circular, clearing-house rule, or the like.

(c) Presentment may be made by a presenting bank at a place where the payor bank or other payor has requested that presentment be made.

§ 4-205. Depositary bank holder of unindorsed item.

If a customer delivers an item to a depositary bank for collection:

(1) the depositary bank becomes a holder of the item at the time it receives the item for collection if the customer at the time of delivery was a holder of the item, whether or not the customer indorses the item, and, if the bank satisfies the other requirements of Section 3-302, it is a holder in due course; and

(2) the depositary bank warrants to collecting banks, the payor bank or other payor, and the drawer that the amount of the item was paid to the customer or deposited to the customer's account.

§ 4-206. Transfer between banks.

Any agreed method that identifies the transferor bank is sufficient for the item's further transfer to another bank.

§ 4-207. Transfer warranties.

(a) A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

- (1) the warrantor is a person entitled to enforce the item;
- (2) all signatures on the item are authentic and authorized;
- (3) the item has not been altered;

(4) the item is not subject to a defense or claim in recoupment (Section 3-305(a)) of any party that can be asserted against the warrantor; and

(5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

(b) If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item (i) according to the terms of the item at the time it was transferred, or (ii) if the transfer was of an incomplete item, according to its terms when completed as stated in Sections 3-115 and 3-407. The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subsection by an indorsement stating that it is made "without recourse" or otherwise disclaiming liability.

(c) A person to whom the warranties under subsection (a) are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.

(d) The warranties stated in subsection (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(e) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

§ 4-208. Presentment warranties.

(a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered; and

(3) the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized.

(b) A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft (i) breach of warranty is a defense to the obligation of the acceptor, and (ii) if the acceptor makes payment with respect to

the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under Section 3-404 or 3-405 or the drawer is precluded under Section 3-406 or 4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other item is presented for payment to a party obliged to pay the item, and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

§ 4-209. Encoding and retention warranties.

(a) A person who encodes information on or with respect to an item after issue warrants to any subsequent collecting bank and to the payor bank or other payor that the information is correctly encoded. If the customer of a depository bank encodes, that bank also makes the warranty.

(b) A person who undertakes to retain an item pursuant to an agreement for electronic presentment warrants to any subsequent collecting bank and to the payor bank or other payor that retention and presentment of the item comply with the agreement. If a customer of a depository bank undertakes to retain an item, that bank also makes this warranty.

(c) A person to whom warranties are made under this section and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, plus expenses and loss of interest incurred as a result of the breach.

§ 4-210. Security interest of collecting bank in items, accompanying documents and proceeds.

(a) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(1) in case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(2) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of charge-back; or

(3) if it makes an advance on or against the item.

(b) If credit given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any

accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9, but:

(1) no security agreement is necessary to make the security interest enforceable (Section 9-203(1)(a));

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

§ 4-211. When bank gives value for purposes of holder in due course.

For purposes of determining its status as a holder in due course, a bank has given value to the extent it has a security interest in an item, if the bank otherwise complies with the requirements of Section 3-302 on what constitutes a holder in due course.

§ 4-212. Presentment by notice of item not payable by, through, or at bank; liability of drawer or indorser.

(a) Unless otherwise instructed, a collecting bank may present an item not payable by, through, or at a bank by sending to the party to accept or pay a written notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under Section 3-501 by the close of the bank's next banking day after it knows of the requirement.

(b) If presentment is made by notice and payment, acceptance, or request for compliance with a requirement under Section 3-501 is not received by the close of business on the day after maturity or, in the case of demand items, by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any drawer or indorser by sending it notice of the facts.

§ 4-213. Medium and time of settlement by bank.

(a) With respect to settlement by a bank, the medium and time of settlement may be prescribed by Federal Reserve regulations or circulars, clearing-house rules, and the like, or agreement. In the absence of such prescription:

(1) the medium of settlement is cash or credit to an account in a Federal Reserve bank of or specified by the person to receive settlement; and

(2) the time of settlement is:

(i) with respect to tender of settlement by cash, a cashier's check, or teller's check, when the cash or check is sent or delivered;

(ii) with respect to tender of settlement by credit in an account in a Federal Reserve Bank, when the credit is made;

(iii) with respect to tender of settlement by a credit or debit to an account in a bank, when the credit or debit is made or, in the case of tender of settlement by authority to charge an account, when the authority is sent or delivered; or

(iv) with respect to tender of settlement by a funds transfer, when payment is made pursuant to Section 4A-406(a) to the person receiving settlement.

(b) If the tender of settlement is not by a medium authorized by subsection (a) or the time of settlement is not fixed by subsection (a), no settlement occurs until the tender of settlement is accepted by the person receiving settlement.

(c) If settlement for an item is made by cashier's check or teller's check and the person receiving settlement before its midnight deadline:

(1) presents or forwards the check for collection, settlement is final when the check is finally paid; or

(2) fails to present or forward the check for collection, settlement is final at the midnight deadline of the person receiving settlement.

(d) If settlement for an item is made by giving authority to charge the account of the bank giving settlement in the bank receiving settlement, settlement is final when the charge is made by the bank receiving settlement if there are funds available in the account for the amount of the item.

§ 4-214. Right of charge-back or refund; liability of collecting bank; return of item.

(a) If a collecting bank has made provisional settlement with its customer for an item and fails by reason of dishonor, suspension of payments by a bank, or otherwise to receive settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account, or obtain refund from its customer, whether or not it is able to return the item, if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. If the return or notice is delayed beyond the bank's midnight deadline or a longer reasonable time after it learns the facts, the bank may revoke the settlement, charge back the credit, or obtain refund from its customer, but it is liable for any loss resulting from the delay. These rights to revoke, charge back, and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final.

(b) A collecting bank returns an item when it is sent or delivered to the bank's customer or transferor or pursuant to its instructions.

(c) A depository bank that is also the payor may charge back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payor bank for credit on its books (Section 4-301).

(d) The right to charge back is not affected by:

(1) previous use of a credit given for the item; or

(2) failure by any bank to exercise ordinary care with respect to the item, but a bank so failing remains liable.

(e) A failure to charge back or claim refund does not affect other rights of the bank against the customer or any other party.

(f) If credit is given in dollars as the equivalent of the value of an item payable in foreign money, the dollar amount of any charge-back or refund must be calculated on the basis of the bank-offered spot rate for the foreign money prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course.

§ 4-215. Final payment of item by payor bank; when provisional debits and credits become final; when certain credits become available for withdrawal.

(a) An item is finally paid by a payor bank when the bank has first done any of the following:

(1) paid the item in cash;

(2) settled for the item without having a right to revoke the settlement under statute, clearing-house rule, or agreement; or

(3) made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearing-house rule, or agreement.

(b) If provisional settlement for an item does not become final, the item is not finally paid.

(c) If provisional settlement for an item between the presenting and payor banks is made through a clearing house or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the items by the payor bank.

(d) If a collecting bank receives a settlement for an item which is or becomes final, the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

(e) Subject to (i) applicable law stating a time for availability of funds and (ii) any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in a customer's account becomes available for withdrawal as of right:

(1) if the bank has received a provisional settlement for the item, when the settlement becomes final and the bank has had a reasonable time to receive return of the item and the item has not been received within that time;

(2) if the bank is both the depository bank and the payor bank, and the item is finally paid, at the opening of the bank's second banking day following receipt of the item.

(f) Subject to applicable law stating a time for availability of funds and any right of a bank to apply a deposit to an obligation of the depositor, a deposit of money becomes available for withdrawal as of right at the opening of the bank's next banking day after receipt of the deposit.

§ 4-216. Insolvency and preference.

(a) If an item is in or comes into the possession of a payor or collecting bank that suspends payment and the item has not been finally paid, the item must be returned by the receiver, trustee, or agent in charge of the closed bank to the presenting bank or the closed bank's customer.

(b) If a payor bank finally pays an item and suspends payments without making a settlement for the item with its customer or the presenting bank which settlement is or becomes final, the owner of the item has a preferred claim against the payor bank.

(c) If a payor bank gives or a collecting bank gives or receives a provisional settlement for an item and thereafter suspends payments, the suspension does not prevent or interfere with the settlement's becoming final if the finality occurs automatically upon the lapse of certain time or the happening of certain events.

(d) If a collecting bank receives from subsequent parties settlement for an item, which settlement is or becomes final and the bank suspends payments without making a settlement for the item with its customer which settlement is or becomes final, the owner of the item has a preferred claim against the collecting bank.

PART 3

COLLECTION OF ITEMS: PAYOR BANKS

§ 4-301. Deferred posting; recovery of payment by return of items; time of dishonor; return of items by payor bank.

(a) If a payor bank settles for a demand item other than a documentary draft presented otherwise than for immediate payment over the counter before midnight of the banking day of receipt, the payor bank may revoke the settlement and recover the settlement if, before it has made final payment and before its midnight deadline, it

(1) returns the item; or

(2) sends written notice of dishonor or nonpayment if the item is unavailable for return.

(b) If a demand item is received by a payor bank for credit on its books, it may return the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in subsection (a).

(c) Unless previous notice of dishonor has been sent, an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.

(d) An item is returned:

(1) as to an item presented through a clearing house, when it is delivered to the presenting or last collecting bank or to the clearing house or is sent or delivered in accordance with clearing-house rules; or

(2) in all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to instructions.

§ 4-302. Payor bank's responsibility for late return of item.

(a) If an item is presented to and received by a payor bank, the bank is accountable for the amount of:

(1) a demand item, other than a documentary draft, whether properly payable or not, if the bank, in any case in which it is not also the depository bank, retains the item beyond midnight of the banking day of receipt without settling for it or, whether or not it is also the depository bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or

(2) any other properly payable item unless, within the time allowed for acceptance or payment of that item, the bank either accepts or pays the item or returns it and accompanying documents.

(b) The liability of a payor bank to pay an item pursuant to subsection (a) is subject to defenses based on breach of a presentment warranty (Section 4-208) or proof that the person seeking enforcement of the liability presented or transferred the item for the purpose of defrauding the payor bank.

§ 4-303. When items subject to notice, stop-payment order, legal process, or setoff; order in which items may be charged or certified.

(a) Any knowledge, notice, or stop-payment order received by, legal process served upon, or setoff exercised by a payor bank comes too late to terminate, suspend, or modify the bank's right or duty to pay an item or to charge its customer's account for the item if the knowledge, notice, stop-payment order, or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the earliest of the following:

(1) the bank accepts or certifies the item;

(2) the bank pays the item in cash;

(3) the bank settles for the item without having a right to revoke the settlement under statute, clearing-house rule, or agreement;

(4) the bank becomes accountable for the amount of the item under Section 4-302 dealing with the payor bank's responsibility for late return of items; or

(5) with respect to checks, a cutoff hour no earlier than one hour after the opening of the next banking day after the banking day on which the bank received the check and no later than the close of that next banking day or, if no cutoff hour is fixed, the close of the next banking day after the banking day on which the bank received the check.

(b) Subject to subsection (a), items may be accepted, paid, certified, or charged to the indicated account of its customer in any order.

PART 4

RELATIONSHIP BETWEEN PAYOR BANK AND ITS CUSTOMER

§ 4-401. When bank may charge customer's account.

(a) A bank may charge against the account of a customer an item that is properly payable from that account even though the charge creates an overdraft. An item is properly payable if it is authorized by the customer and is in accordance with any agreement between the customer and bank.

(b) A customer is not liable for the amount of an overdraft if the customer neither signed the item nor benefited from the proceeds of the item.

(c) A bank may charge against the account of a customer a check that is otherwise properly payable from the account, even though payment was made before the date of the check, unless the customer has given notice to the bank of the postdating describing the check with reasonable certainty. The notice is effective for the period stated in Section 4-403(b) for stop-payment orders, and must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it before the bank takes any action with respect to the check described in Section 4-303. If a bank charges against the account of a customer a check before the date stated in the notice of postdating, the bank is liable for damages for the loss resulting from its act. The loss may include damages for dishonor of subsequent items under Section 4-402.

(d) A bank that in good faith makes payment to a holder may charge the indicated account of its customer according to:

(1) the original terms of the altered item; or

(2) the terms of the completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper.

§ 4-402. Bank's liability to customer for wrongful dishonor; time of determining insufficiency of account.

(a) Except as otherwise provided in this Article, a payor bank wrongfully dishonors an item if it dishonors an item that is properly payable, but a bank may dishonor an item that would create an overdraft unless it has agreed to pay the overdraft.

(b) A payor bank is liable to its customer for damages proximately caused by the wrongful dishonor of an item. Liability is limited to actual damages proved and may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case.

(c) A payor bank's determination of the customer's account balance on which a decision to dishonor for insufficiency of available funds is based may be made at any time between the

time the item is received by the payor bank and the time that the payor bank returns the item or gives notice in lieu of return, and no more than one determination need be made. If, at the election of the payor bank, a subsequent balance determination is made for the purpose of reevaluating the bank's decision to dishonor the item, the account balance at that time is determinative of whether a dishonor for insufficiency of available funds is wrongful.

§ 4-403. Customer's right to stop payment; burden of proof of loss.

(a) A customer or any person authorized to draw on the account if there is more than one person may stop payment of any item drawn on the customer's account or close the account by an order to the bank describing the item or account with reasonable certainty received at a time and in a manner that affords the bank a reasonable opportunity to act on it before any action by the bank with respect to the item described in Section 4-303. If the signature of more than one person is required to draw on an account, any of these persons may stop payment or close the account.

(b) A stop-payment order is effective for six months, but it lapses after 14 calendar days if the original order was oral and was not confirmed in writing within that period. A stop-payment order may be renewed for additional six-month periods by a writing given to the bank within a period during which the stop-payment order is effective.

(c) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a stop-payment order or order to close an account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under Section 4-402.

§ 4-404. Bank not obliged to pay check more than six months old.

A bank is under no obligation to a customer having a checking account to pay a check, other than a certified check, which is presented more than six months after its date, but it may charge its customer's account for a payment made thereafter in good faith.

§ 4-405. Death or incompetence of customer.

(a) A payor or collecting bank's authority to accept, pay, or collect an item or to account for proceeds of its collection, if otherwise effective, is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes the authority to accept, pay, collect, or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

(b) Even with knowledge, a bank may for 10 days after the date of death pay or certify checks drawn on or before that date unless ordered to stop payment by a person claiming an interest in the account.

§ 4-406. Customer's duty to discover and report unauthorized signature or alteration.

(a) A bank that sends or makes available to a customer a statement of account showing payment of items for the account shall either return or make available to the customer the items paid or provide information in the statement of account sufficient to allow the customer reasonably to identify the items paid. The statement of account provides sufficient information if the item is described by item number, amount, and date of payment.

(b) If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish legible copies of the items until the expiration of seven years after receipt of the items. A customer may request an item from the bank that paid the item, and that bank must provide in a reasonable time either the item or, if the item has been destroyed or is not otherwise obtainable, a legible copy of the item.

(c) If a bank sends or makes available a statement of account or items pursuant to subsection (a), the customer must exercise reasonable promptness in examining the statement or the items to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. If, based on the statement or items provided, the customer should reasonably have discovered the unauthorized payment, the customer must promptly notify the bank of the relevant facts.

(d) If the bank proves that the customer failed, with respect to an item, to comply with the duties imposed on the customer by subsection (c), the customer is precluded from asserting against the bank:

(1) the customer's unauthorized signature or any alteration on the item, if the bank also proves that it suffered a loss by reason of the failure; and

(2) the customer's unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank if the payment was made before the bank received notice from the customer of the unauthorized signature or alteration and after the customer had been afforded a reasonable period of time, not exceeding 30 days, in which to examine the item or statement of account and notify the bank.

(e) If subsection (d) applies and the customer proves that the bank failed to exercise ordinary care in paying the item and that the failure substantially contributed to loss, the loss is allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subsection (c) and the failure of the bank to exercise ordinary care contributed to the loss. If the customer proves that the bank did not pay the item in good faith, the preclusion under subsection (d) does not apply.

(f) Without regard to care or lack of care of either the customer or the bank, a customer who does not within one year after the statement or items are made available to the customer (subsection (a)) discover and report the customer's unauthorized signature on or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under Section 4-208 with respect to the unauthorized signature or alteration to which the preclusion applies.

§ 4-407. Payor bank's right to subrogation on improper payment.

If a payor bank has paid an item over the order of the drawer or maker to stop payment, or after an account has been closed, or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank is subrogated to the rights

(1) of any holder in due course on the item against the drawer or maker;

(2) of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and

(3) of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.

PART 5

COLLECTION OF DOCUMENTARY DRAFTS

§ 4-501. Handling of documentary drafts; duty to send for presentment and to notify customer of dishonor.

A bank that takes a documentary draft for collection shall present or send the draft and accompanying documents for presentment and, upon learning that the draft has not been paid or accepted in due course, shall seasonably notify its customer of the fact even though it may have discounted or bought the draft or extended credit available for withdrawal as of right.

§ 4-502. Presentment of "on arrival" drafts.

If a draft or the relevant instructions require presentment "on arrival", "when goods arrive" or the like, the collecting bank need not present until in its judgment a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor; the bank must notify its transferor of the refusal but need not present the draft again until it is instructed to do so or learns of the arrival of the goods.

§ 4-503. Responsibility of presenting bank for documents and goods; report of reasons for dishonor; referee in case of need.

Unless otherwise instructed and except as provided in Article 5, a bank presenting a documentary draft:

(1) must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment; and

(2) upon dishonor, either in the case of presentment for acceptance or presentment for payment, may seek and follow instructions from any referee in case of need designated in the draft or, if the presenting bank does not choose to utilize the referee's services, it must use diligence and good faith to ascertain the reason for dishonor, must notify its transferor of the dishonor and of the results of its effort to ascertain the reasons therefor, and must request instructions.

However the presenting bank is under no obligation with respect to goods represented by the documents except to follow any reasonable instructions seasonably received; it has a right to reimbursement for any expense incurred in following instructions and to prepayment of or indemnity for those expenses.

§ 4-504. Privilege of presenting bank to deal with goods; security interest for expenses.

(a) A presenting bank that, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell, or otherwise deal with the goods in any reasonable manner.

(b) For its reasonable expenses incurred by action under subsection (a), the presenting bank has a lien upon the goods or their proceeds, which may be foreclosed in the same manner as an unpaid seller's lien."

Section 5. This Act shall become effective on July 1, 1995.

Approved June 23, 1995

CHAPTER 87

FORMERLY

SENATE BILL NO. 47

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 7, TITLE 21, OF THE DELAWARE CODE RELATING TO ENFORCEMENT: ARREST, BAIL AND APPEAL.

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

Section 1. Amend Chapter 7, Title 21 of the Delaware Code by adding a new Section 703A to read as follows:

"703A. Reporting of Offenses to the Division of Motor Vehicles by the Courts.

All record convictions for any person for violations of Title 21, Title 4, Title 10, Title 11, Title 16, of the Delaware Code which apply to motor vehicle violations, the suspension and/or revocation of a license and/or driving privileges shall be reported within thirty (30) days to the Division of Motor Vehicles by each court within the State of Delaware. Such reporting shall be deemed acceptable if in written form or by electronic data transfer. The original conviction documents shall be retained by the Court and forwarded to the Division upon request."

Approved June 23, 1995

CHAPTER 88

FORMERLY

SENATE BILL NO. 48

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21, OF THE DELAWARE CODE RELATING TO MOTOR VEHICLE REGISTRATIONS.

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

Section 1. Amend §2109(a), Title 21, Delaware Code, by striking it in its entirety and inserting a new §2109(a) to read as follows:

"(a) Any vehicle described in §2151 of this title may be registered for 24 months, 12 months or 6 months, and the effective date of the registration shall be the date the vehicle is titled. The Division of Motor Vehicles may require vehicles to be registered for less than 24 months as may be necessary to ensure a balanced monthly distribution of vehicle inspections and registrations; all fees shall be prorated. The registration of a vehicle shall expire at midnight on the last day of the period for which it is registered, and the vehicle shall not thereafter be operated upon the highways of this State until it has been reregistered according to law. This section shall not apply to the vehicles registered under the International Registration Plan or to vehicles registered under temporary or limited permits or certificates as otherwise provided by this title."

Section 2. Amend §2110, Title 21, Delaware Code, by striking the first paragraph of §2110(a) in its entirety and inserting a new first paragraph to read as follows:

"(a) Prior to the expiration of the period for which a vehicle is registered pursuant to §2109 of this title, the registration may be renewed to extend from the date of expiration for an additional period of 6 months or 1 year or 2 years, and the effective date of the renewed registration shall be based on the calendar day the vehicle was titled."

Section 3. This act shall become effective one year after its enactment into law.

Approved June 23, 1995

CHAPTER 89

FORMERLY

SENATE BILL NO. 87

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 TO PROVIDE FOR APPEALS IN 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. Amend Chapter 59, Title 11, of the Delaware Code by adding the following new section:

"§5920 Appeals

From any order, ruling, decision, judgment or sentence of the Court entered in a Justice of the Peace Court in a criminal action pursuant to this title in which the sentence shall be imprisonment exceeding one (1) month or a fine exceeding one hundred dollars (\$100), the accused shall have the right of appeal to the Court of Common Pleas in and for the county wherein the offense was committed. Such appeal to the Court of Common Pleas shall be tried de novo."

Section 2. This legislation shall become effective August 1, 1995 and shall apply to all offenses committed on or after that date.

Approved June 23, 1995

CHAPTER 90

FORMERLY

SENATE BILL NO. 125

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO ADMINISTRATIVE PROCEDURES.

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

Section 1. Amend §10102 (1), Title 29, of the Delaware Code by inserting the words ", school districts" between the words "counties" and "and other political subdivisions".

Approved June 23, 1995

CHAPTER 91

FORMERLY

SENATE BILL NO. 198

AN ACT TO REINCORPORATE THE TOWN OF FELTON.

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

"CHARTER OF THE TOWN OF FELTON"

The inhabitants of the Town of Felton within the corporate limits hereinafter defined in this Charter or extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the "TOWN OF FELTON."

I. TOWN LIMITS

The bounds and limits of the Town of Felton have heretofore been established by Act of the General Assembly and by annexation proceedings by the Town of Felton under its municipal charter as follows, such bounds and limits being hereby ratified and confirmed by this act:

A. Original Town limits established by 24 Laws of Delaware Chapter 208: commencing in the direction of Frederica at a point in the center of the BerryTown and Frederica county road, one-quarter of a mile distant from the center of the main track of the Delaware Railroad and the BerryTown and Frederica county road, a line shall be started at right angles to the aforesaid county road, running in a direction north from the center of said road one-quarter of a mile; thence in a direction west parallel to said county road one-half mile, and thence in a direction south at right angles with said county road one-half mile, and thence in directions east and parallel to said county road one-half mile, and thence, in a direction north to the place of beginning.

B. By annexation referendum held August 30, 1976:

ALL THAT CERTAIN tract, piece or parcel of land situated in or contiguous to the existing Town limits of the Town of Felton, in South Murderkill Hundred, Kent County and State of Delaware, more particularly described as follows:

Beginning at a stake set on the corner of North Street and Walnut Street in the northwest corner of the Town of Felton. From this stake the line runs for a distance of 495.00 feet along Walnut Street to stake set by lands of David McCracken. the line then turns west and runs for a distance of 941.61 feet along adjoining lands of Casper W. Bagley. The line then turns south running along a ditch for a distance of 399.78 feet adjoining lands of Robert E. courtney. From that point, the line turns east along a ditch for a distance of 415.27 feet adjoining lands of Robert E. Courtney. The line then turns south for a distance of 212.00 feet to the existing Town of Felton line on West Street. The line then turns northeast for a distance of 388.00 feet to the Felton Town line on the corner of West Street and North Street. The line then follows along the north side of North Street east for a distance of 425.00 feet back to the corner of North Street and Walnut Street from whence was the point and place of beginning.

C. By annexation referendum held August 30, 1976:

ALL THAT CERTAIN tract, piece or parcel of land situated in or contiguous to the existing Town limits of the Town of Felton, in south Murderkill Hundred, Kent County and State of delaware more particularly described as follows:

Beginning at a stake set on the corner of County road No. 245 and the proposed West Street in the west part of the Town of Felton. From this stake, the line runs along the proposed West Street for a distance of 669.03 feet along a stream to a stake set in the corner of lands presently owned by william C. Myers, Jr. The line then turns west and runs for a distance of 414.06 feet

along a stream to a stake and then turns north and runs for a distance of 408.5 feet again along a stream and adjoining lands of William C. Myers, Jr. From that point, the line turns west and runs for a distance of 442.38 feet adjoining lands of Casper W. Bagley to a stake set; and then turns south and runs for a distance of 1,025.00 feet along lands presently owned by Robert E. Courtney. From that point which lies on county road No. 245, the line turns east and runs a distance of 912.00 feet to the point and place of its beginning.

D. By annexation referendum held October 10, 1989:

ALL THAT CERTAIN tract, piece or parcel of land situated in or contiguous to the existing Town limits of the Town of Felton, in south Murderkill Hundred, Kent County and the State of Delaware, more particularly described as follows:

Beginning at a point in the northerly line of county road 245 at a corner for this lost and for lands of Billy Joe Smith; thence from said beginning point along line of lands Billy Joe Smith on the following two courses and distances: (1) North 10 degrees 44 minutes 57 seconds East 410.85 feet to a point; thence (2) South 79 degrees 15 minutes 03 seconds East approximately 100.00 feet more or less or such a distance to reach the existing Felton Town limits line; thence, along the existing Felton Town Limits line turning in a southwesterly direction approximately 411.00 feet more or less or such a distance to reach the North line of County Road 245; thence along the northerly line of County Road 245 running in a westerly direction approximately 100.00 feet more or less or such a distance to reach the point and place of beginning.

E. By annexation referendum held June 26, 1989:

ALL THAT CERTAIN tract, piece, or parcel of land situated in and adjacent to the Town of Felton, in south Murderkill Hundred, Kent County and State of Delaware, lying on the southeast side of County Road 284 and west of the track for the "Conrail Railroad" and being bounded as follows: on the northwest by county road 284 (also known as Water Street); on the north in part by lands now or formerly of Thomas F. Bernard and Dorothy Bernard, his wife and in part by lands of Agway, Inc.; on the east by lands now or formerly of "Conrail Railroad"; on the southwest by lands now or formerly of Lynn F. Torbert and Pearl B. Torbert; on the west by "Fan Ditch;" being more particularly described as follows: Beginning at a point in southeasterly line of county Road 284 at a corner for subject lands and the southwesterly corner for lands of aforementioned Bernard. Thence from said beginning point and with said lands of Bernard the following two (2) courses and distances: (1) South 75 degrees 30 minutes 00 seconds, East a distance of 112.96 feet to a point. (2) North 13 degrees 30 minutes 00 seconds, East a distance of 80.50 feet to a point in line of lands of said Bernard at a corner for lands of aforementioned Agway. Thence with said land of Agway. South 70 degrees 00 minutes 00 seconds east a distance of 104.54 feet to a point at a corner for said Agway lands in line of lands of aforementioned "Conrail Railroad." Thence with said lands of "Conrail Railroad" by a line parallel to and 24.2 feet distant from center line of tracks: south 13 degrees 30 minutes 00 seconds west a distance of 1947.54 feet to a point in line of said "Conrail Railroad" at a corner for lands of aforementioned Torbert. thence, with said Torbert lands: North 20 degrees 31 minutes 46 seconds west a distance of 466.06 feet to a point in line of said torbert lands in centerline of aforementioned "Fan Ditch." thence with the centerline of said "Fan ditch" the following twenty-two (22) courses and distances: (1) North 13 degrees 28 minutes 31 seconds east a distance of 103.72 feet to a point. (2) North 06 degrees 21 minutes 45 seconds east a distance of 118.61 feet to a point. (3) North 14 degrees 59 minutes 06 section east a distance of 69.51 feet to a point. (4) North 02 degrees 50 minutes 52 seconds east a distance of 63.71 feet to a point. (5) North 30 degrees 39 minutes 48 seconds east a distance of 46.53 feet to a point. (6) North 13 degrees 30 minutes 17 seconds east a distance of 80.97 feet to a point. (7) North 16 degrees 28 minutes 07 seconds west a distance of 41.25 feet to a point. (8) North 20 degrees 25 minutes 36 seconds west a distance of 87.47 feet to a point. (9) North 22 degrees 35 minutes 41 seconds west a distance of 111.75 feet to a point. (10) North 03 degrees 22 minutes 31 seconds East a distance of 36.5 feet to a point. (11) North 33 degrees 53 minutes 51 seconds west a distance of 13.82 feet to a point. (12) North 24 degrees 17 minutes 37 seconds west a distance of 47.00 feet to a point. (13) North 13 degrees 25 minutes 55 second east a distance of 29.78 feet to a point. (14) North 33 degrees 30 minutes 22 seconds east a distance of 81.17 feet to a point. (15) North 15 degrees 45 minutes 39 seconds east a distance of 61.07 feet to a point. (16) North 48 degrees 25 minutes 13 seconds east a distance of 30.81 feet to a point. (17) North 21 degrees 38 minutes 21 seconds east a

distance of 20.08 feet to a point. (18) North 03 degrees 36 minutes 11 seconds east a distance of 52.47 feet to a point. (19) North 00 degrees 12 minutes 18 seconds west a distance of 42.16 feet to a point. (20) North 17 degrees 00 minutes and 18 seconds west a distance of 23.49 feet to a point. (21) North 17 degrees 32 minutes 50 seconds east a distance of 68.10 feet to a point. (22) North 09 degrees 44 minutes 29 seconds west a distance of 35.18 feet to a point in the centerline of said "Fan Ditch" near the southeasterly side of aforesaid County Road #284. Thence, by a survey tie line and along the southeast line: north 50 degrees 26 minutes 10 seconds east a distance of 240.10 feet to a point at or near the Town of Felton Town boundary in the southeast line of county Road #284. Thence continuing with said southeast line: north 48 degrees 02 minutes 59 seconds east a distance of 142.38 feet to the point and place of beginning. Containing within the above described courses and distances an area of 13.1225± acres.

F. By Annexation Referendum Held June 26, 1989

ALL THAT CERTAIN tract, piece or parcel of land situated in or contiguous to the existing Town limits of the Town of Felton, in South Murderkill Hundred, Kent County and State of Delaware, more particularly described as follows:

Beginning on the east side of County Road #284 or Water Street, and lying south of, but not adjacent to, County Road #57; being bounded on the west by said Water Street on the north and east by lands now or late of Agway Co., and on the south by lands now or formerly of Bernard. Beginning at a post set in the east line of Water Street at a corner for this lot and for lands now or late of Agway Co., said point of beginning being 1,036.4 feet south of the intersection of the east line of Water Street with the center of County Road #57; thence running from said point of beginning with lands now or late of Agway Co. and with a wire fence south 76 degrees 55 minutes east 101 feet to a post set at a corner of this lot and for lands now or late of Agway Co.; thence continuing with lands of Agway Co. and with a wire fence south 7 degrees 7 minutes west 68.1 feet to an iron pipe set in line of lands of now or late of Agway Co. at a corner for this lot and for lands now or formerly of Bernard; thence running with lands of Bernard aforesaid and with a wood fence north 76 degrees west 108 feet to a pipe set at a corner for this lot and for lands of Bernard aforesaid in the east line of Water Street; thence running with the east line of Water Street north 13 degrees east 66 feet to the place of beginning.

G. By Annexation Referendum Dated February 26, 1991:

ALL THAT CERTAIN tract, piece or parcel of land situated in or contiguous to the existing Town limits of the Town of Felton, in south Murderkill hundred, Kent county and State of Delaware more particularly described as follows: Beginning on the west side of U. S. #13 leading from Felton to Dover being bound on the east in part by U.S. #13 (160 feet wide), now or formerly of Michael Indell and Joan Indell, lands now or formerly of Norma G. Rodriguez, lands now or formerly of Reba M. Wagner, and lands now or formerly of John O. Godwin and Adolphine E. Godwin. On the southeast by lands now or formerly of Rocci Welding Service, Inc. On the southwest by lands now or formerly of Rocci Welding Service, Inc. On the southwest by lands now or formerly of Lake Forest School District. On the west by lands now or formerly of Arthur Gene Carlisle. On the north by lands now or formerly of Lott H. Ludlow and Louise Spruance Ludlow 12.1887± acres.

H. By Annexation Referendum Held February 26, 1991:

ALL THAT CERTAIN tract, piece or parcel of land situated in or contiguous to the existing Town limits of the Town of Felton, in south Murderkill Hundred, Kent county and State of Delaware, more particularly described as follows:

Beginning on the westerly side of U.S. Route 13 leading from Felton to Dover and being bounded on the east by U.S. 13 160 feet wide. On the south, west and north by lands now or formerly of Norman R. Wagner and Reba M. Wagner. Beginning at a point in the westerly line of U.S. Route 13 at the southeasterly corner for subject land and a corner for aforementioned lands of Wagner. Said point being located when measured from the intersection of the approximate northerly face of curb of State route 12 (44 feet face to face of curb) with the said line of U.S. Route #13 orth 17 degrees 06 minutes 50 seconds east a distance of 1,883.72. Thence from said beginning point and with said lands of Wagner the following three (3) courses and distances: North

72 degrees 53 minutes 10 seconds west at a distance of 120.00 feet to a point. North 17 degrees 06 minutes 50 seconds east a distance of 150.00 feet to a point. South 72 degrees 53 minutes 10 seconds east a distance of 120.00 feet to a point at a corner from said Wagner lands in the westerly line of U.S. Route #13. thence with said line of Route #13: south 17 degrees 06 minutes 50 seconds west a distance of 150.00 feet to the point and place of beginning. Contains 18,000 ± square feet or 0.4132± acres.

II. Annexation of Territory. The Town shall have power to annex any additional contiguous territory adjoining the corporate limits of the Town as herein before set forth or as hereafter extended pursuant to the procedure set out 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.

A. Initiation of Annexation Proceedings. The Town Council may, at any time, adopt a resolution proposing the annexation of any territory contiguous to the Town. ("Territory contiguous to the Town" shall include real property which, though itself not contiguous to the Town's then-existing corporate limits, is contiguous to other real property which is so contiguous and also proposed to be included in the proposed annexation).

1. Such resolution shall describe, with reasonable certainty, the territory proposed to be annexed, state the reasons for the proposed annexation, and provide notice to the property owners and residents of both the Town and of the territory proposed to be annexed, that the Town proposes to annex that certain territory and shall fix a time and place for the holding of a special election to be held to allow the qualified voters and real estate owners of the territory proposed to be annexed to vote on the proposed annexation. Such resolution shall be published not less than 10 days nor more than 30 days before the date set for said special election in at least one newspaper of general circulation in the Town and in the territory proposed to be annexed. In addition to such publication, the Town Council shall, not less than 10 nor more than 30 days before the date of such special election, cause a copy of such resolution to be posted in at least three public places in the Town, and in at least three places, viewable to the public, in the territory proposed to be annexed.

B. Those Entitled To Vote In Annexation Election. At such special election, any person residing in the territory proposed to be annexed who would be entitled to vote in the annual Town election if the Town election were being held on that date and the territory proposed for annexation was already included in the Town, shall be entitled to one vote. In addition, each legal entity, other than a natural person, owning property in its own name in the territory proposed to be annexed shall be entitled to one vote. These provisions shall be construed so as to permit only "one-man, 1-vote." Where a voter is entitled to vote by virtue of both residence and ownership of property, that voter shall be entitled to only one vote; where a voter is entitled to vote by ownership of two or more properties, that voter shall be entitled to only one vote. 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 Election which shall file the same with the Town Clerk. 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.

C. Conduct of the Special Election. The Town Council may cause voting machines, electronic voting systems, or paper ballots to be used in the special election as required by law. The form of the ballot shall be printed as follows:

FOR THE PROPOSED ANNEXATION _____

AGAINST THE PROPOSED ANNEXATION _____

The Mayor of the Town Council shall appoint three (3) persons to act as a **Board of Election**. One of said persons so appointed shall be designated the presiding officer. The Board of 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 natural persons and all 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 not less than one (1) hour on the date set for the election. All persons in the

polling place at the time of closing the polls shall be permitted to vote even though such votes are not cast until after the time for the closing of the polls.

D. Results of Special Election If the vote is favorable to the proposed annexation, the Town Council shall, at its first meeting following the special election, adopt a resolution annexing said territory and including it within the limits of the Town. Upon the adoption of said resolution of annexation, a copy of thereof, signed by the Mayor and certified by the Town Clerk with the municipal seal affixed, together with a plot of the area annexed, shall forthwith be filed for record in the Office of the Recorder of Deeds in and for Kent County, Delaware. The territory so annexed shall be considered to be a part of the Town from the moment that the last mentioned resolution is adopted by the Town Council. Failure to record said resolution, or the plot accompanying same, shall not invalidate the annexation, but such recording may be enforced by writ of mandamus or mandatory injunction.

E. Property owned by the State of Delaware: Highways, Streets, Roads and Alleys; Ponds, Canals, Streams and Other Waters. Real property owned by the State of Delaware may be annexed into the Town without the state's casting a vote in the special election, provided that the state agency having control and supervision thereof does not notify the Town, in writing, of its objection to such annexation within ten (10) days after receiving written notice of the resolution proposing the annexation.

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 to be interrupted by the existence of any highway, street, road, alley, pond, canal, stream, or other body of water which passes through, or lies within the territory to be annexed.

F. 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 a newspaper of general circulation in the Town and in the territory annexed, which notice shall contain the following information:

Notice that the Town has annexed such territory and a brief description thereof;

1. Notice, if applicable, that such annexation was subject to an annexation agreement with the owner(s) of such property, and specifying where copies of such annexation agreement can be inspected or obtained.

2. 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.

G. Annexation Agreements. The Town Council shall be empowered to enter into annexation agreements with the owners of territories proposed for annexation which annexation agreements may, by way of example and not in limitation, address zoning, subdivision approval, land development, tax abatement, public utilities, and public improvements in the territory proposed to be annexed. In the event that the Town Council approves such an annexation agreement, such annexation agreement shall be deemed to be a material part of the annexation and shall be included in all subsequent steps of the annexation procedure; that is:

1. The resolutions and notices adopted by the Town Council proposing the said annexation shall recite that the proposed annexation includes, and is subject to, an annexation agreement, shall briefly summarize the terms of the annexation agreement, and shall state that copies of the annexation agreement are available upon request at the Town Hall.

2. If the results of the election are favorable to the proposed annexation, the resolution annexing the territory [as provided in section (3.4) above] shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such annexation agreement by specific reference.

3. The Town shall be bound to honor the provisions of any such annexation agreement unless released therefrom by the owners of the territory being thus annexed, or by their

successors and assigns; provided further, however, that no annexation agreement shall extend beyond seven (7) years from the date such property is annexed into the Town, and such annexation agreements shall be null, void, and unenforceable after the expiration of said seven (7) years.

III. TOWN SURVEY

The Town Council of the Town of Felton may, at any time hereafter, cause a survey and plot to be made of said Town, and the said plot, when made and approved by the Council, shall be recorded in the Office of the Recorder of Deeds for Kent County, State of Delaware, and the same, or the record thereof, or a duly certified copy of said survey, shall be evidence in all courts of law and equity in this State.

IV. POWERS OF THE TOWN

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

B. 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 illustration and clarity, the Town Council is vested by this Charter with the following powers, that is to say, the Town Council:

1. May have and use a corporate seal which may be altered, changed, or renewed at pleasure.
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 or lesser estate or interest, necessary or desirable for any municipal or public purpose, including but not limited to, providing sites for constructing, improving, extending, altering, or demolishing:
 - (a) public buildings,
 - (b) parks;
 - (c) streets, squares, lanes, alleys, and sidewalks;
 - (d) sewer systems, including but not limited to sewage lines, conduits, 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) electric systems, including but not limited to, electric plants, substations, distribution systems, lines, conduits and all appurtenances thereto;
 - (g) gas systems, including but not limited to, storage tanks, distribution systems, conduits and all appurtenances thereto;
 - (h) recreational facilities, including but not limited to, public bathing beaches, gymnasiums, athletic fields, bicycle paths, tennis, basketball, or paddleball courts and all appurtenances thereto;
 - (i) for slum clearance and redevelopment, urban renewal, revitalization, or rehabilitation of blighted areas, or removal of dangerous buildings;
 - (j) for the protection of the health of the citizens of the Town;
 - (k) for the proper furnishing of adequate municipal services to the citizens of the Town and those persons residing in such proximity to, but beyond, the corporate limits of the Town who can be furnished with such municipal services, in the discretion of the

Town Council to the mutual benefit and advantage of the Town and such non-residents thereto, upon such terms, charges, and conditions as the Town Council may determine and approve.

3. May sell, grant, alienate, lease, mortgage, manage, hold and control such property as the interests of the Town may require except as prohibited by the Constitution of the State of Delaware or as restricted by this Charter. May pay for the acquisition, construction, improvement, repair, extension, alteration, or demolition of any municipal or public property, real, personal, or mixed, from the general fund of the Town, from the proceeds of any bond issue which may be authorized and sold for any of the purposes for which lands and premises are authorized by this Charter to be acquired, and/or from the proceeds of any grant or loan made to the Town by any governmental entity of the United States or the State of Delaware where the proceeds of the grant or loan are for the purposes authorized by this Charter to be acquired.

4. May acquire, build, erect and maintain buildings and facilities necessary or required for housing and equipping the offices of the Town.

5. 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 and the like, laying out and repairing sidewalks, or other charge due the Town; and to sell the same.

6. May ascertain, locate, lay out, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent or remove any obstruction of, level, grade, flag, dress, macadamize, pave, gravel, shell, improve, dredge, erect, remove, repair and replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, wharf, dock, sewer, drain, gutter, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb, or gutter or portion thereof in the Town to specify the grade thereof, the materials to be used in the doing thereof and the manner in which the same shall be done, to enter into contracts or agreements for the doing thereof, including contracts or agreements with the State of Delaware for the permanent maintenance, repair and upkeep of any street, lane, alley, roadway or other public thoroughfare within the Town.

7. May enforce the removal of ice, snow or dirt or other foreign substance from sidewalks and gutters by owners or abutting owners.

8. May prohibit, remove or regulate the erection of any stoop, step, platform, bay window, cellar door, gate, area, descent, sign, post or any other erection or projections in, over, upon or under any street, highway, alley, lane, water course, park, lake, strand, sidewalk, crosswalk, wharf, dock, sewer, drain, aqueduct or pipeline of the Town.

9. May provide, construct, extend, maintain, manage and control bulkheads, embankments, flood gates, or fills for the preservation of any strand or high land within the limits of the Town and contiguous thereto to the end that the same may be preserved and properly protected that the general public might enjoy the use thereof.

10. May direct, regulate and control the planting, rearing, treatment and preserving of ornamental shade trees in the streets, avenues, highways, parks and grounds of the Town and to authorize or prohibit the removal or destruction of said trees.

11. May fully control within the Town the drainage of all water and to that end to alter or change the course and direction of any natural water course, runs or rivulet within the Town, to regulate, maintain, clean and keep the same open, clean and unobstructed, and to provide, construct, extend and maintain, manage and control a surface water drainage system and facilities for the health, sanitation and convenience of the inhabitants of the Town.

12. May provide an ample supply of potable water for the Town and its inhabitants and to this end may acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of wells, reservoirs, pumps, machines, water treatment facilities, stations, tanks, standpipes, water mains, fire hydrants, and all other equipment, property, or rights used in or about the collection, storage, purification, conveyance, or distribution or sale of water, to 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 wilful or negligent injury, or damage to or interference with the water system or the equipment of the Town; to furnish or refuse to furnish water from the Town system to places and properties outside the Town limits, and to contract for and purchase water and distribute the same to users within or without the Town with the same full powers as though such water had been initially reduced to usefulness by the municipality itself.

13. May 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, may regulate and prescribe for what private or public uses or purposes the system may be used, the manner of its use, the amounts to be paid by the users thereof the means whereby such amounts shall be collected and the fines or penalties or both, for any wilful or negligent injury or damage to, or interference with the said system, plant or facilities. To furnish or refuse to furnish sewer disposal service from the Town system to places and properties outside the Town limits. In the interest of the public's health, to compel any and all properties in the Town to be connected to the sewer system of the Town, and to contract for and purchase sewer disposal service and to resell the same to users within or without the Town with the same full powers as though such service had been initially provided by the facilities therefor of the Town itself.

14. May provide, construct, extend, maintain, manage and control the plant and system, or plants and systems, for the generating, manufacturing and distributing of electric current or gas, or both, to the inhabitants of the Town and for lighting the streets, highways, lanes, alleys, water courses, parks, lakes, sidewalks, crosswalks, public buildings or other public places in the Town, and to this end to acquire, lease, erect, construct, maintain, operate, extend, enlarge, renew, replace, control and dispose of transmission and distribution lines, pipes, mains and other conveyances for any such current or gas as may be necessarily proper to light the Town, and to furnish proper connections for electric current and gas to the properties of the inhabitants of the Town who may desire the same, to regulate and prescribe for what private or public purpose the current or gas furnished by the Town may be used, the manner of its use, the amount to be paid by the users thereof, the means whereby such amounts are to be collected and the fines or penalties, or both, for any wilful or negligent injury or damage to or interference with the electric or gas system or systems of the Town, to furnish or refuse to furnish electric current or gas from the Town's system or systems, to places and properties outside the Town limits; and to contract for and purchase electric current or gas and distribute the same to users within or without the Town with the same full powers as though such current or gas had been initially reduced to usefulness by the Town itself.

15. 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, may regulate, suppress, remove or secure any fireplace, stove chimney, oven broiler, or other apparatus which may pose a danger of causing fires.

16. May provide for the organization of a fire department and the control and government thereof, may establish fire limits and may do all things necessary for the prevention or extinguishment of fires, and at the discretion of the Town Council, may contribute, donate or give an amount or amounts to any volunteer fire company or companies incorporated under the laws of the State of Delaware, or any volunteer fire association or associations maintaining and operating fire fighting equipment and service to the Town, provided that any such contribution, donation or gift may be made subject to such conditions and stipulations as to the use thereof as the Town Council shall deem advisable.

17. May provide for the organization of ambulance, rescue or paramedic services(s) and the control and government thereof, may establish territories within the Town for such services; may, at the discretion of the Town Council, contribute, donate or give an amount or amounts 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, donation or gift may

be made subject to such conditions and stipulations to the use thereof as the Town Council may deem advisable.

18. May prevent vice, drunkenness and immorality.
19. May prohibit gaming and fraudulent devices.
20. May prevent and quell riots, disturbances, and disorderly assemblages.
21. May adopt and enforce such ordinances regulating traffic, on all streets, alleys, avenues, and public ways within the Town as are not inconsistent with the motor vehicle laws of the State of Delaware.
22. May regulate or prohibit the use of public streets, alleys, sidewalks, boardwalks, parks, right-of-ways, public places and Town-owned lands for commercial uses or activities not otherwise protected from such regulation or prohibition by the Constitutions of either the United States or the State of Delaware, or by any controlling federal statute.
23. May regulate or prevent 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 to regulate or prevent the use of bonfires, fireworks, bombs and detonating works of all kinds.
24. May provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants.
25. May prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games.
26. May direct the digging down, draining, filling up, cleaning, cutting or fencing of lots, tracts, pieces or parcels of ground in the Town which may be deemed dangerous or unwholesome or necessary to carry out any improvements authorized by this Charter and to assess the cost thereof against the owner thereof.
27. May define, prevent, abate or remove nuisances, obstructions or any other condition detrimental to the public safety, health or welfare; and to cause the cost of such abatement or removal to be paid by the legal entity causing or permitting same to exist.
28. May adopt ordinances providing for the condemnation upon inspection, of any building or structure in the Town which is determined, on the basis of standards set forth in such ordinance(s) to be a fire hazard or otherwise unsafe, and cause the same to be torn down or removed.
29. May establish and regulate pounds and to restrain, prohibit and impound any domestic or wild animal, beast, bird or fowl running at large and to authorize the destruction of the same, and to regulate the keeping of dogs within the Town, and to provide for registration and fees thereof.
30. May provide for the punishment of a violation of any ordinance of the Town by **civil penalty** not exceeding \$500.00.
31. May regulate and control the manner of building or removal of dwellings or other structures and to provide for granting permits for same.
32. May prohibit and prevent the carrying on of construction by private persons or companies at such times and seasons of the year and at such hours of the day as the Town Council may determine necessary and appropriate for the public health and welfare.
33. May provide for or regulate the numbering of houses and lots on the streets and the naming of the streets and avenues. May, for the prevention of fire and the preservation of the beauty of the Town, establish a building line for buildings to be erected, to zone or district the Town and make particular provision for particular zones or districts with regard to building or

building materials; and may prohibit any building or construction except those for which a building permit has been issued as prescribed by the Town Council, and generally to exercise all powers and authorities vested by virtue of 22 Del.C. Chapter 3, as it may hereafter from time to time be amended, or any future corresponding provision of law.

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

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

36. May grant licenses and impose fees for licenses, issue permits, and regulate any activity within the corporate limits of the Town.

37. May grant franchises or licenses to any responsible person, firm, association or corporation for such period of time, upon such terms, restrictions, stipulations and conditions and for such consideration as the Town Council shall deem in the best interest of the municipality, to use the present and future streets, highways, lanes, alleys, water courses, parks, lakes, strands, sidewalks, crosswalks, and other public places of the Town for the purpose of furnishing heat, light, power, gas, water, sewer, drainage, electric current, telephone, telegraph, television, fiber optic or other communication service, railroad (excepting railroads or railways engaged in Interstate Commerce), bus, taxi or other transportation, carrier or public service to the Town, unto the persons, firms or corporations residing or located therein and for the purpose of transmitting the same from or through the Town to points outside the limits thereof, provided, however, that whenever, any state or federal law grants exclusive jurisdiction over any such activity to a state or federal agency, the Town shall have no authority inconsistent therewith.

38. May regulate and control the exercise of any license or franchise mentioned in Section 5.2.40 of this Charter, or intended so to be.

39. May appropriate money to pay the debts, liabilities and expenditures of the Town, or any part or item thereof, from any fund applicable thereto, and to transfer temporarily money from one fund to another fund of the Town.

40. May inquire into and investigate the conduct of any officer, agent or employee of the Town or any municipal affair and for such purpose or purposes may subpoena witnesses, administer oaths or affirmations, and compel the attendance of witnesses and the production of books, papers, or other evidence by subpoena.

41. 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, in its discretion, may deem most appropriate. The method of funding if deemed desirable by the Town Council be accomplished through an insurance company licensed by the State of Delaware or authorized to do business in this State and approved by a majority of the elected members of the Town Council.

42. May determine what purposes are deemed to be public purposes or municipal purposes.

43. May make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules, Resolutions and By-Laws not contrary to the laws of this State and the United States as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants, provided, however that any Ordinance relating to the public health of the Town and its inhabitants, or designed to prevent the introduction or spread of infectious or contagious diseases, or to prevent nuisances affecting the same shall apply not only within the

corporate limits of the Town but as well to all areas and persons outside the Town within one (1) mile from said limits.

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

D. All powers of the Town, whether express or implied, shall be exercised in the manner prescribed by this Charter, or if not proscribed herein, then in the manner provided by ordinance or resolution of the Town Council. The Council may, by resolution, do any such other act or thing incidental, necessary, or useful in connection with any of the matters in this Charter duly authorized. 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 or more States or civil divisions or agencies thereof, or the United States or any agency thereof, except as prohibited or restricted by the Constitution or laws of the State of Delaware or by this Charter.

V. TOWN COUNCIL

A. Governing Body. The government of the Town and the exercise of all powers conferred by this Charter, except as otherwise provided herein, shall be vested in and exercised by the Town Council composed of five members to be chosen as hereinafter provided.

B. Qualifications. Candidates for the office of Town Council must be at least 21 years of age, a bona fide resident of the Town for a period of at least one year prior to the date of the election, and otherwise qualified to vote at the annual Town election as provided in Section 7. No person having been convicted of a felony or any crime of moral turpitude shall be qualified to be a candidate for the office of Town Council. The Town Council, by a 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.

C. Term of Office. The term of office for each member of the Town Council shall be two years. The present Commissioners of the Town of Felton (hereafter to be known as "Town Councilmembers"), and other officers appointed to serve under 63 Laws of Delaware, Chapter 349, as amended, shall continue to serve as Town Commissioners and officers of the Town from and after the effective date of this charter, until their successors are duly elected or appointed. At the annual Town election in 1996, two persons shall be elected to the Town Council to fill vacancies created by the expiration of the terms of office of the two then- outgoing commissioners, and at the annual Town election in 1997, three (3) persons shall be elected to fill the vacancies created by the expiration of the terms of office of the three then out-going commissioners. Thereafter, two members of the Town Council shall be elected in even years, and three councilmembers shall be elected in odd years.

VI. VOTER QUALIFICATIONS, VOTER REGISTRATION

Any person shall be qualified to vote in the annual Town election who, on the date of the election, is a United States Citizen, who shall have attained 18 years of age, who shall be registered under the Town's voter registration ordinance(s), if any, and who shall have been a bona fide resident of the Town for at least sixty (60) days preceding the date of the election in which he or she seeks to vote. The Town Council may enact such ordinances concerning the registration of qualified voters for municipal elections in the Town as it deems reasonably necessary to provide for the orderly and efficient conduct of municipal elections; provided that no such ordinance(s) shall alter the qualifications of voters as hereinabove set forth, nor shall any such ordinance unduly impair the right to vote in a municipal election.

VII. ELECTION OF TOWN COUNCILMEMBERS

A. Notice of Candidacy. In order to be listed on the ballot at any regular or special election for election of Town Councilmembers, each candidate shall file a written notice of intention to seek office with the Town Clerk **at least 45 days prior to the date set for the election.** If the Town Clerk determines that any candidate may not meet the qualifications for office, he/she 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 meeting 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 hearing, at which he or she may appear and testify. If the Town Council determines that the candidate does not meet the qualifications for office, it shall reject **his/her** notice of intention to seek office and **his/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, Place, and Manner of. Annual elections for the Town Council shall be held on the **first Monday in March** of each year at such time and place, within the Town, as determined by the Town Council. The polls shall remain open for a six-hour period to be determined by the Town Council.

C. Notice of Elections. Notice of any election to elect members to the Town Council shall be given by posting notice thereof in at least five public places in the Town **not less than thirty (30) days before the day of such election** and by publishing notice in **one newspaper** of general circulation in the Town at least thirty (30) days before the day set for the election. Such notices shall state the date, time, and place of the election as well as a description of the positions to be filled.

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 general statute.

E. Absentee Voting. The Town Council may (but shall not be required to), by ordinance, provide for a qualified voter (duly registered if required by ordinance) who shall be unable to appear in person, to cast his or her ballot at any municipal election (including special elections for annexations, long-term borrowings, and referendums) by absentee ballot.

F. Rules Governing Conduct of Elections. The Town Council may, by resolution, adopt such rules, not in contravention of the provisions of this charter or with applicable state or federal law, governing the conduct of elections.

G. Election Board. Every election shall be held under the supervision of an Election Board. The Election Board shall consist of one (1) Inspector of the Election and two (2) Judges of the Election. The Inspector and Judges constituting the **Election Board** shall be qualified voters of the Town and **shall be appointed** for that purpose by the Town Council **at least twenty (20) days before such election.** If, at the opening of the polls, there shall not be present the members of the Election Board, then in such case, the ranking Town officer available at the opening of the polls shall appoint a qualified voter or voters to act as a member or members of the Election Board to fill such vacancies caused by the absence of members of the Election Board. Members of the Election Board shall be the sole and final judges of the conduct and of the legality of the votes offered. The Election board shall have the power to subpoena persons, and officers of the Town, and books, records and papers relative to the determination of the qualifications of voters and the legality of any vote or votes offered.

H. Election Results. Upon the close of the election, the vote shall be read and counted and the persons having the highest number of votes shall be declared, by the Election Board, to be duly elected to such vacant offices as then exists, and such persons shall continue in office during the terms for which they were chosen or until their successors are duly elected or appointed and qualify.

1. Ties. in the event of a tie vote for any office, the Election Board shall determine such tie by the toss of a coin.

I. Preservation of Ballots and Records. All ballots cast and all records of the election kept by the Election Board shall be preserved in the custody of the Election Board for a period of **ten (10) days**, unless an appeal is filed in a court of appropriate jurisdiction in which event such ballots and records shall be preserved by the Election Board until the final conclusion of such appeal.

J. Uncontested Elections. Where there is only one official candidate of each office, if none of the official candidates has a formal opponent on the day of the election, the official candidates may assume office without the holding of a formal election.

VIII. ORGANIZATIONAL MEETING

An organizational meeting of the Town Council shall be held as soon as practicable, not exceeding **seventy-two (72) hours**, following the determination of the election results by the Election Board. Such meeting shall be held at the usual place for holding regular meetings. The newly elected Council members shall assume the duties of their respective office, being first duly sworn or affirmed to perform their duties with fidelity, which oath or affirmation shall be taken before a Notary Public, a Justice of the Peace, the Town Alderman, or by one of the holdover Councilmembers. At such meeting, the newly-constituted Council shall **elect from among themselves**, a Mayor, Vice-Mayor, Secretary, and Treasurer, each of whom shall serve for a term of one year and until **his/her** successor has been duly elected and qualified. **Such vote may be by secret ballot if requested by one or more members of the newly-constituted Council.**

IX. OATH OF OFFICE

The oath of office for any newly-elected Councilmembers may be administered by any holdover member of the Council, **Town Alderman**, Justice of the Peace, or Notary Public, and to any newly appointed officer or official by any duly-installed member of the Council. Such oath of office shall be in the form substantially as follows:

I (FULL NAME) do hereby solemnly swear (or affirm) that I will support the Constitution of the United States, the Constitution of the State of Delaware, the Charter and Ordinances of the Town of Felton, and that I will faithfully discharge the duties of the office of _____ of the Town of Felton according to the best of my ability.

The installation of any such Councilmembers or appointed officers or officials, including the name, title, date, and term of office shall thereupon be duly recorded in an official book of the Town maintained for that and other purposes and shall be subscribed by the person administering such oath, and the same shall be admissible as evidence of such installation of office in any court of law in this state.

X. VACANCIES: FORFEITURE OF OFFICE

A. Vacancies. The office of a Councilmember shall become vacant upon **his/her** death, resignation, or forfeiture of office.

B. A forfeiture of office shall occur when any Town Councilmember:

1. Lacks, at any time during his or her term of office, any qualification for the office prescribed by this charter or by law.
2. Willfully violates any express prohibition of this charter.
3. Is convicted of a felony or of any crime involving moral turpitude.
4. Fails to attend three consecutive Town Council meetings, regular or special, without being excused by a majority vote of the remaining Town Councilmembers.
5. Ceases to be a bona fide resident of the Town.

C. Determinations Concerning Forfeiture.

Determinations concerning any alleged forfeiture of office shall be made by the Town Council, but the affected party shall not have a vote in any such decision. Such deliberations may be made in executive session, and if the Town Council subsequently determines, by a unanimous vote of the Town Councilmembers entitled to vote on the question in open session, that a forfeiture has occurred, it shall, within 48 hours of that determination, provide written notice thereof to the affected Town Councilmember, stating specific reasons. The affected party shall have ten (10) days in which to make a written demand for a public hearing before the Town Council, such hearing to be held within twenty (20) days of the written demand, at which hearing he or she may appear with the assistance of legal counsel, and present evidence on the relevant issues. Thereafter, the Town Council shall hear any other relevant evidence and shall vote again on the question of forfeiture; and if a determination of forfeiture is again made by the unanimous vote of the Town Councilmembers entitled to vote on the question, the decision shall be final. During, or in connection with, any such proceedings, the Town Council shall have authority to subpoena witnesses, administer oaths, take testimony, and require the production of documentary or physical evidence, all or any of which shall be done if requested in writing by the affected Town Councilmember.

Failure to make a written demand for a public hearing by the affected Town Councilmember as hereinabove provided shall be an absolute bar to his/her right to challenge the Council's initial decision.

D. Filling Vacancies on the Town Council.

In the case of any vacancy occurring on the Town Council, the remaining Councilmembers shall appoint another qualified person to serve for the remainder of that vacant seat's term.

XI. APPOINTMENT AND COMPENSATION OF TOWN OFFICERS AND EMPLOYEES

A. Appointment. Within a reasonable time after the election, the Town Council shall, by majority vote, appoint a Town Assessor, and may appoint such other officers and employees (including by way of example, a Town Manager, Town Clerk, Town Alderman, and/or Police Chief) as the Town Council deems necessary or appropriate. The Town Assessor shall hold office for a term of one year and until his/her successor has been qualified and appointed. All other officers and employees shall be appointed for an indefinite term and shall be removable with or without cause, at the pleasure of the Town Council.

B. Compensation. All appointed officers and employees of the Town shall be entitled to reasonable compensation for their services, as determined by the Town Council.

C. Vacancy. Any vacancy in the office of any appointed officer or employee may be filled by the Town Council.

XII. INDEMNIFICATION OF TOWN COUNCILMEMBERS AND OFFICIALS

A. Right to Indemnification. The Town of Felton shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by appropriate insurance, any person who is a party to or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceedings, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Town of Felton itself), by reason of the fact that he or she is or was a Town Councilmember, or other duly elected or appointed Town official of the Town of Felton, or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorneys 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 and only if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Town; and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgement, order, settlement, conviction, or upon a plea of *nolo contendere* or *nolle prosequi* 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 believed to be in, or not

opposed to, the best interests of the Town of Felton, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

Indemnification, as provided in this charter, shall be made by the Town only as authorized in the specific case upon a determination that indemnification of the Town Council, of any individual Town Councilmember(s), and/or any Town officers is proper in the circumstances because he, she, or they met the applicable standards of conduct set forth above, and, in the case of a monetary settlement, that the amount and terms of the settlement are reasonable under the circumstances. Such determination shall be made:

(a) If there are at least three disinterested Town Councilmembers who are not parties to or the subject of such action, suit, or proceeding, by a majority vote of such disinterested Councilmembers, or

(b) By written opinion of independent legal counsel if: (i) a majority of the disinterested Councilmembers so elect or; (ii) if there are less than three disinterested Councilmembers.

B. Insurance. In applying this §13 regarding indemnification, any applicable or potentially applicable contract of insurance shall be construed and applied as if there were no right of indemnification hereunder, and the right of indemnification hereunder shall be secondary to any such insurance and shall attach only to the extent that there is no applicable insurance or to the extent there remains any unreimbursed amounts after any such applicable insurance has been exhausted.

XIII. MEETINGS

A. Regular Meetings. The Town Council shall meet regularly, not less than once each month during the year. The time and place of each regular meeting shall be set by Council each year at their organizational meeting, but Council shall not hereby be prohibited from rescheduling such meetings from time to time during the year as need arises.

B. Special Meeting; Waiver of Notice. Special meetings shall be called by the Town Clerk upon the written request of the Mayor, or upon the written request of any three members of Council, stating the day, hour and place of the special meeting requested and the subject or subjects proposed to be considered thereat. Such notice must be personally delivered not less than twenty-four (24) hours, or deposited in the U.S. mail in the main post office in the Town at least 72 hours, prior to the time set for such special meeting, provided, however, that a waiver of such notice, (written, telegraphic, or telephonic message) by all members of Council prior to or immediately upon the convening of such special meeting shall make the prior written notice unnecessary and shall authorize and make valid the holding of a special meeting at any time and for any purpose named in such waiver, or the transaction of any other business at the meeting, if the waiver so states. Subject to the scope of the notice, the Town Council of the Town shall have the same power and authority to enact all ordinances, adopt all resolutions, pass all motions, make all orders and transact all business at any such special meeting, called as aforesaid, as Council has at a regular meeting.

C. Adjourned Meetings. The Town Council may adjourn its meetings from time to time, stating the date, place, and time to which such meeting shall be adjourned.

D. Reimbursement of Expenses; Compensation.

1. Each Town Councilmember shall be entitled to be reimbursed for his or her reasonable and necessary out-of-pocket expenses incurred in carrying out the responsibilities of office; provided however that such reimbursements shall be approved by a majority of the entire Council.

2. Compensation. Each Councilmember shall be paid the sum of \$40.00 for attendance at each regular and each special meeting of the Town Council where a quorum is present, for up to but not exceeding attendance at thirty (30) such Council meetings per year.

XIV. Manner of Acting.

A. Rules of Procedure, Record of Proceedings. The Town Council may determine its own rules of procedure and order of business. It shall keep a record of its proceedings.

B. Quorum. Three members of the Town Council shall be physically present in order to constitute a quorum to conduct business, but if a lesser number be present at any regular or properly called special meeting, they may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance adopted by the majority of the entire Council.

C. Voting by Councilmembers. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the minutes. No action of the Councilmembers, except as otherwise provided regarding compelling the attendance of absent members, shall be valid or binding unless adopted by the affirmative vote of three (3) of the five (5) Councilmembers.

D. Ordinances. The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the Town, or relating to the government of the Town, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the Town Council shall be by ordinance which:

1. adopt or amend an administrative code or establish, alter, or abolish any Town department, office, or agency;
2. provide for a fine or other penalty or establish a rule or regulation for a violation of which a fine or a penalty can be imposed;
3. levy a real estate transfer tax;
4. establish permit fees, and provide for the collection thereof;
5. levy impact fees or connection fees;
6. grant, renew, or extend a franchise;

regulate the rates charged for its services by any public utility operating within the Town subject to regulation by the Town;

7. amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution. Every ordinance shall be introduced in writing.

XV. TOWN TREASURER; EXPENDITURE OF TOWN MONEY; SURETY BOND; ANNUAL REPORT.

A. Town Treasurer; Expenditure of Town Monies. The Treasurer shall generally oversee the Town Manager, Town Clerk, and other authorized Town employees in their handling of and dealing with all monies owed or belonging to or in the possession of the Town, in those individuals' handling of all expenditures of Town monies, and in those individuals incurrence of accounts payable, debts, or other financial obligations by, for, or in the name of the Town.

All accounts payable, debts, or other financial obligations incurred by, for, or in the name of the Town, shall be presented to the Town Council for prior approval or subsequent review by a majority thereof as follows:

(a) Any normal, routine, and recurring debt, bill, account payable, or financial obligation (hereinafter "routine bill") may be incurred and paid without prior approval by a majority of the entire Council provided that all such payments shall be presented to the Town Council for subsequent review at the Town Council meeting next following their payment.

(b) Any financial obligation in the amount of less than \$500, other than a routine bill, may be incurred and paid without prior approval by a majority of the entire Council if approved in advance by at least one member of the Town Council, and further provided that any such expenditure shall be presented to the Town Council for subsequent review at the Town Council meeting next following its incurrence.

(c) All other accounts payable, bills, debts, or financial obligations incurred by, for, or in the name of the Town shall be presented for prior approval by a majority vote of the entire Council before such obligation shall become binding upon the Town; and any such account payable, debt, bill, or other financial obligation incurred without the Town Council's prior approval shall be deemed to be incurred conditionally and contingent upon the Town Council's approval as hereinabove provided.

(d) No payment shall be made by the Town except by check or draft drawn upon duly authorized Town of Felton accounts and signed by any two members of the Town Council.

B. Surety Bonds. As determined by the Town Council, the Town Treasurer, the Town Manager, the Town Clerk, and/or any other such Town employee or Town official who handles the Town's financial affairs may be required to give to the Council bond and security, sufficient in amount, and conditioned on the faithful performance of each and every financial duty and undertaking; including the prompt and timely payment and delivery to his or her successor, when the successor is duly installed and qualified, all moneys, books, papers, and other things or effects in their care and keeping, or with which he or she may properly be chargeable.

C. Annual Treasurer's State of the Town Report. At the regular monthly meeting of the Town Council held in February of each year, the Treasurer shall present a "State of the Town" report which shall include a true, just and complete summary of the Town's finances over the preceding calendar year, including, by way of example and not in limitation, the amount of all monies received by the Town and the source (by category) thereof; the amount of all monies expended by the Town and the purpose (by category) thereof; the amount of all monies held by the Town and the location thereof; the amount of all monies owed to, and owed by, the Town and the source or purpose (by category) that such monies are owed; the names and amounts of delinquent taxables; and a listing of all assets owned by the Town, with a corresponding list of reasonable values. Such report shall include such other information as may be properly called for so as to set before the taxable of the Town a just and true statement of the financial condition of the Town.

XVI. ANNUAL BUDGET; PROPERTY TAXES; MAXIMUM AMOUNT.

A. Annual Budget. On or before its first regular meeting in February of each year, the Town Council shall commence work on a budget for the Town's next ensuing fiscal year. The budget for that next ensuing fiscal year shall be finalized and adopted no later than the Town's first regularly scheduled meeting in May.

B. Property Tax Limit. The Town Council shall, not later than its first regularly scheduled meeting in May of each year determine the amount of money to be raised by the annual property tax during the next ensuing year which amount shall not, based upon the then-assessed value of all taxable property in the Town and the tax rate per \$100 of assessed value established by the Town Council, be projected to exceed \$175,000.

XVII. ASSESSMENT FOR TAXES

A. Adoption of Kent County Assessment List. Anything herein to the contrary notwithstanding, the Town Council may adopt the assessed values as shown on the assessment lists of Kent County for all property located within the corporate limits of the Town in lieu of

making its own independent valuation and assessment. In such event, the assessed values established by Kent County shall be conclusive for the purpose of levying Town taxes, and the Town Council shall have no authority to hear appeals regarding such assessments; provided however, that the Town Council may sit to hear and determine any appeal concerning an addition to a tax bill under §18.5 hereof. If the Town Council elects to adopt the assessed values as shown on the assessment list of Kent County, it shall do so on or before April 1 of each year.

B. Assessment Procedure if Kent County Assessment is not.

If the Town Council does not elect to adopt the assessed values shown on the Kent County Assessment List, the Town Assessor shall, between the months of January and March inclusive, of each year, make a just, true and impartial annual valuation or assessment of all real estate and improvements located within the Town of Felton. The Town Council may retain the services of professional appraisers or assessors to assist the Town Assessor, but the Town Assessor shall be responsible for making the final determination. All real estate shall be described with sufficient particularity to be identified. Real estate shall be assessed to the owner or owners if known. If the owner or owners of real estate cannot be found or ascertained, it may be assessed to 'Owner Unknown'. A mistake in the name of the owner or owners or an assessment to 'Owner Unknown' shall not affect the validity of the assessment or of any municipal tax based thereon; provided, however, the assessment shall specify the last record owner or owners thereof as the same shall appear from the records in the Office of the Recorder of Deeds, in and for Kent County.

C. Assessment of the Town Assessor. The real property of the Town Assessor shall be assessed by the Town Council.

D. Delivery of Assessment List. The Town Assessor, after making such annual 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. Such list shall be delivered to the Town Council by April 1 of each year.

E. Additions to Tax Bills. Whether utilizing the Kent County assessments or those prepared by the Town's own Assessor, 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: Municipal Bond Sinking Fund assessments, curb and gutter assessments, water and sewer assessments, weed and grass cutting bills, trash collection bills, and past due utility bills. Said amounts, when adopted and set forth by resolution of the Town Council, shall be shown on the copies of the assessments posted pursuant to the provisions of Section 18.6 below.

F. Posting of Assessment List; Notice. Promptly following its first regularly scheduled meeting in April, the Town Council shall cause a full and complete copy of the assessment list, containing the amount assessed to each taxable, to be made available for public inspection at the Town office, and there it shall remain for a period of at least ten (10) days for the information of and examination by all concerned. Appended thereto, and also in three or more public places in the Town, shall be posted notice advertising to all concerned the date and place where the assessment list has been made available, and that, upon a certain day mentioned therein (not earlier than 10 days after the availability of the true and correct copy of the assessment list), the Town Council will sit as a Board of Revision and Appeal to hear appeals from the said assessment and to make such corrections and revisions as it deems appropriate and lawful.

Such notice shall also be published at least once in a newspaper of general circulation in the Town of Felton not less than 10 days prior to the date set for such appeals.

G. Appeals Day. On the fourth Monday in April, or such other day established by Council not less than 10 days following the posting of the assessment list, the Town Council shall sit as a Board of Revision and Appeal to hear appeals from the said assessment and to correct and revise the assessment as they deem appropriate. The Town Council shall have full power and authority to alter, revise, add to, and take from the said assessment. The decision of three members of the Council shall be final and conclusive, unless an appeal (by appropriate writ) is taken to the Superior Court of the State of Delaware in and for Kent County within ten (10) days from the date of the Town Council's decision.

No member of the Town Council shall sit on his/her own appeal, but the same shall be heard and determined by the other members.

Unless the Town shall have adopted the assessment values as shown on the Kent County Assessment List, the Town Assessor shall be present on the day fixed for hearing appeals and shall furnish to the Town Council such information and answer such questions as the Town Council may require in respect to any assessment for which an appeal has been taken. The Town Council shall have the authority to enforce the attendance of the Town Assessor by appropriate process.

H. Exemption From Taxation. All property which would be exempt from property tax under 9 Del. C. Chapter 81, as amended, or any future corresponding provision of law, shall be exempt from municipal property tax by the Town of Felton. Additionally, anything in this charter to the contrary notwithstanding, the Town Council shall have the power and authority to exempt, in whole or in part, such property from municipal property tax when, in the opinion of the Town Council, it will best promote the public welfare.

XVIII. LEVY OF TAXES: DELIVERY OF ASSESSMENT LIST TO TREASURER

Promptly after the appeal meeting, the original assessment list shall be corrected and made to agree verbatim with the duplicate so corrected and adjusted, and shall be retained by the Town Council or the Assessor for future reference if need be, and as a precaution against the possible loss or destruction of the duplicate. The said duplicate shall, as soon as practicable after the appeal meeting, be delivered to the Town Treasurer with the Town Council's direction to receive and collect from the taxables named therein, taxes at a rate specified therein per one hundred dollars (or fractional part thereof) of assessed value, whereof they shall stand severally assessed. The delivery of the duplicate assessment list shall constitute the levy and imposition of such taxes, and all such taxes shall be and constitute a lien on the property so taxed from the date thereof until collected or for a period of ten (10) years whichever occurs first.

XIX. PAYMENT OF TAXES TO TREASURER: PENALTY FOR LATE PAYMENT: COSTS OF COLLECTION

A. Treasurer to Collect Town Taxes: Due Date. The Town Treasurer is and shall be the Receiver of Taxes for the Town. On or before June 1 of each year, the Town Treasurer shall cause the annual property tax bills to be mailed to the taxables of the Town. Such mailing shall be by regular mail, proper postage affixed, to the taxable at the address shown on the Town's tax records. However, the failure of any taxable to receive a tax bill because of incorrect postage, incorrect address, or other cause shall not excuse late payment or nonpayment.

All Town property taxes shall be considered due and payable as of July 1 of each year.

B. DISCOUNT FOR EARLY PAYMENT. PENALTY FOR LATE PAYMENT
The Town Council may provide, by resolution adopted prior to the mailing out of the tax bills, that taxables paying their annual property tax bills on or before August 1 of each year shall be entitled to a discount, the amount of such discount to be set forth in such resolution. After August 31st of each year, there shall be added a penalty in the amount of 2% per month for each month or fraction thereof such taxes shall remain unpaid, said penalty to be effective on the first day of September, and said penalty shall be collected in the same manner as the original amount of the tax. The Town Council shall have the power to make just allowances for delinquencies in the collection of taxes.

COLLECTION OF TOWN TAXES

C. Lien. All taxes laid or imposed by the Town of Felton shall be and constitute a lien upon all the real estate of the taxable against or upon whom such taxes are laid or imposed of which such taxable was seized at any time after such taxes shall have been levied and imposed, situate in the Town of Felton, and such lien shall have preference and priority over all other liens of record on such real estate created or suffered by the said taxable, although such other lien or liens be of a date

prior to the time of the attaching of the Town lien for taxes; provided however, that the lien for Town taxes shall remain a lien for the period of ten years from the date such taxes were levied and imposed.

D. Tax Collection Powers. In the collection of any property taxes due to the Town, the Town Treasurer shall have, in addition to the powers hereinafter set out, all of the same powers, remedies, means, and processes as by law conferred upon the Collector of Taxes for Kent County. In effecting a collection of any delinquent tax, the Town Council may impose a collection charge reasonably calculated to recover the costs of collection, including court costs and reasonable attorneys fees.

Before exercising any of his/her powers for the collection of taxes, written notice of the amount due (including all penalties, interest, and costs of collection) shall be mailed to the taxable at his/her/its last known address, with notice that collection proceedings will commence without further notice if such taxes are not paid within 30 days from the mailing of such notice. At any time thereafter, the Treasurer shall have (among others) the following powers for the collection of taxes and may, in the name of the Town:

1. **Distrain.** Distrain the goods and chattels of the taxable.
2. **Debt Action.** Institute suit in any court of competent jurisdiction of the State of Delaware, or before the Town Alderman, for the recovery of the unpaid tax, in an action for debt, and upon judgment obtained, have issued writs of execution and/or garnishment.
3. **Sale of Lands.** Should the Treasurer so elect, and without necessity of employing any or all of the other remedies provided herein, the Treasurer 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:
 - (A) The Treasurer shall present in the name of the Town of Felton to the Superior Court of the State of Delaware, in and for Kent County, a petition in which shall be stated:
 - (1) The name of the taxable or assessee;
 - (2) The year(s) for which the tax was levied, assessed, or charged;
 - (3) The rate of tax, assessment, or other charge;
 - (4) The total amount due;
 - (5) The date(s) from which the penalty for nonpayment, if any, shall commence and the rate of such penalty and any collection charge permitted;
 - (6) A short description of the lands and tenements proposed to be sold, sufficient to reasonably identify same;
 - (7) A statement that the bill of said tax, assessment or other charge has been mailed to the taxable at his/her last known post office address with return receipt requested by certified mail and postage prepaid, together with a notice that the Treasurer would proceed to sell the lands and tenements of the taxable for payment of the tax, assessment, or other charge due the Town; and the date of such mailing;
 - (8) The petition shall be signed by the Treasurer and shall be verified before a Notary Public.

(B) At least ten (10) days prior to the filing of any such petition as described herein, the Treasurer shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at his/her last known address requiring a registered receipt returnable, an itemized statement of the tax, assessment or other charge due, together with all penalties, collection charges, and costs then due thereon, together with a notice to the delinquent taxpayer that he/she shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax, assessment, or other charge. The Treasurer shall exhibit the return registry receipt to the Court by filing the same

with the petition; provided, however that if the taxpayer cannot be found, or if delivery is refused or unclaimed, it shall be sufficient for the Treasurer to file with said petition the evidence that such statement has been mailed in accordance with this subsection and has been returned.

(C) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court, in and for Kent County, and shall endorse upon the said record of said petition the following:

This petition, having been filed this _____ day of _____, A.D. _____, (giving year and date), the Treasurer of the Town of Felton 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 amounts due.

This endorsement shall be signed by the Prothonotary.

(D) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in three (3) public places in the Town of Felton, one of said public places shall be the Town Office and one of which shall be on the premises and by printing the notice of said sale at least one (1) time in a newspaper of general circulation in the Town. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the day fixed for the sale and the newspaper advertisement shall be published at least ten (10) days before the day of the sale.

(E) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware, in and for Kent County, at the next Motion Day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. No sale shall be approved by the Superior Court if the owner be ready at court to pay the taxes, penalty, collection fees and costs. If the sale be approved, the Treasurer making the sale shall make a deed to the purchaser which shall convey all the right, title and interest of the delinquent taxpayer 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 delinquent taxpayer, his/her/its, heirs, executors, administrators, or assigns shall have the power to redeem the lands on payment to the purchaser, the delinquent taxpayer's personal representatives or assigns, the costs, the amount of the purchase price, plus twenty percent (20%), and the expense of having the deed prepared. All taxes assessed and all documented reasonable and necessary costs for maintenance and preservation of the property (including insurance) after the sale and before the delivery of the deed shall be paid by the purchaser at said sale who shall be reimbursed by the delinquent taxpayer in the event of redemption to which shall be added twenty percent (20%) thereon.

In the event the purchaser refuses to accept the same, or in the event the purchasers, heirs or assigns cannot be located within the State of Delaware, it shall be lawful for the owner, his/her heirs, executors, administrators, and assigns, to pay the redemption money to the Treasurer of Felton and upon obtaining from him a receipt therefore, such receipt shall be considered for all intents and purposes a valid and lawful exercise of the power to redeem the said lands.

In the event the lands have not been redeemed within the redemption year, the Treasurer shall deliver to the purchaser, the purchaser's heirs, executors, administrators, or assigns, a deed which shall convey the title of the delinquent taxpayer.

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

(F) After satisfying the tax, assessment, or other charge due and the costs and expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land. If he/she shall refuse to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank either to the credit of the owner or in a manner in which the fund may be identified.

(G) In the sale of lands for the payment of delinquent taxes, assessments, or other charges 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:

(1) To the Prothonotary for filing and recording the petition.

(2) For filing and recording the return of sale.

(3) To the Treasurer for (a) preparing the Certificate, (b) making the sale of lands, (c) preparing and filing a return, (d) posting sale bills. 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 realty transfer tax shall be paid by the purchaser of said lands at the tax sale.

(4) Reasonable attorneys fees incurred by the Town in connection with such sale.

(H) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale and in the Petition to the court.

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

(J) In the event of death, resignation or removal from office of the Treasurer of the Town of Felton before the proceedings for the sale of lands shall have been completed, his/her successor in office shall succeed to all of his/her powers, rights, and duties in respect to said sale. In the event of the death of the purchaser of said sale prior to his/her receiving a deed for the property purchased thereat, the person having right under him/her by consent, devise, assignment, or otherwise, may refer to the Superior Court of the State of Delaware, in and for Kent County, a petition representing the facts and praying for an order authorizing and requiring the Treasurer to execute and acknowledge a deed conveying to the petitioner the premises so sold, and thereupon the court may make such order touching the conveyance of the premises as shall be according to justice and equity.

4. Treasurer's Assistance From. The Treasurer shall have the same right to require the aid or assistance of any person or persons in the performance of his/her duty of sale which the Sheriff of Kent County now has by law or may hereafter have.

XX. ASSESSMENT AND COLLECTION OF TAXES ON NEWLY CONSTRUCTED REAL PROPERTY Anything in this charter to the contrary notwithstanding, the Town shall be authorized and empowered to re-assess and collect taxes on all newly-constructed real property as follows:

Beginning in October of 1995 and for each quarter of each year thereafter, there shall be a true, just, and impartial valuation and assessment of all newly constructed real property within the Town, locating each parcel of real property by street and number or other description. Property shall be deemed to be newly constructed when the city or county permits occupancy and use. The said valuation and assessment shall be made by an assessor who shall be appointed by Council in accordance with the provisions of this charter; or the Town Council may adopt the revised assessment from Kent County if available.

The assessment as aforesaid shall be during the months of January, April, July, and October of each year beginning in October of 1995.

The assessment as described hereinabove shall be deemed a general assessment for all property with new construction.

The assessment for new construction shall be set down by the assessor in two (2) or more copies as the Council shall direct, and shall be delivered to the Council as soon as made.

The Council may direct appeals from any general assessment for new construction in accordance with Section 18.7 of this charter.

Nothing in this section contained shall be deemed or held to invalidate or otherwise affect any assessment made prior to the approval of this section or any tax levied thereunder.

In the months of **February, May, August, and November**, beginning in November, 1995, the council shall deliver to the Town Treasurer a list containing the names of taxable under this section and opposite the name of each the amount of the real property assessment, the tax upon the total of the assessment, and the rate per hundred dollars. The said list shall be signed by the Town Clerk.

All taxes shall be paid to the Town Treasurer. Said taxes shall be paid within thirty (30) days of billing and those taxes not timely paid shall accrue a penalty in the amount of one and one-half percent (2%) per month for each month or fraction thereof that such taxes remain unpaid. For every tax that is not paid as prescribed herein, the Town Treasurer shall have all the powers conferred upon or vested in the Receiver of Taxes and County Treasurer for Kent County.

The Council shall have the authority to allow errors and delinquents in the assessment.

This section shall become effective July 1, 1995, and not pertain to any construction which had building permits prior to June 30, 1995.

The provisions of 9 Del. C. §8705 and 25 Del. C. §§2901 through 2905 of the revised Code of Delaware, 1974 as hereafter amended from time to time, or any future corresponding provision of law, shall be deemed and held to apply to all taxes laid and imposed upon the provisions of this charter.

XXI. BORROWING POWERS; SHORT-TERM BORROWINGS The Town Council shall have the power to borrow money on the full faith and credit of the Town, without approval of the voters such sum or sums not exceeding in the aggregate \$150,000.00 for general purposes when, in the opinion of the Town Council the needs of the Town require it; provided, however, that any new borrowing(s) under this Section 23 made after the effective date of this act shall, by their terms, be repayable in full within five (5) years of the date of each such borrowing. Any sum or sums so borrowed shall be secured by a promissory note or notes or other evidence of indebtedness of the Town Council duly authorized by Resolution of the Town Council and signed Mayor and attested by the Secretary of the Town Council with the Town seal affixed. No Council member 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 Councilmember, provided that he or she is so authorized by Resolution of 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 paid from the general funds of the Town. The aggregate amount of outstanding principal from any such borrowing(s) under this Section 23 shall at no time exceed \$150,000.00.

XXII. LONG-TERM BORROWINGS, VOTER APPROVAL REQUIRED In addition to other borrowing powers granted to the Town under this Charter or by special act, the Town Council shall have authority to borrow money for any proper municipal purpose through the issuance of bonds or certificates of indebtedness to secure the repayment thereof, on the full faith and credit of the Town, or such other security or securities as the Town Council shall elect, for the payment of principal thereof and interest due thereon.

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

1. 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;
2. erecting, extending, enlarging, 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 therefore;

3. 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 therefore;

4. 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 therefore;

5. defraying the costs to the Town of any other municipal improvement provided for or implied by the provisions of this Charter authorized; or

6. paying all expenses deemed necessary by the Town Council for the issuance of said bonds or certificates of indebtedness, including bond discount, bond insurance and legal expenses of bond counsel.

B. 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.

C. Limit of Aggregate Long-Term Indebtedness. In no event shall the indebtedness of the Town authorized by this Section 24, at any one time exceed, in the aggregate, fifteen per cent (15%) of the assessed valuation of all taxable real property within the corporate limits of the Town of Felton.

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

1. The Town Council by resolution shall give notice to the residents and property owners of the Town that the Town Council proposes to borrow a sum of money, not to exceed a stated amount, for a stated municipal purpose 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 Town Council and in their possession at the time of the passage of the Resolution; and they shall fix a time, date and place for a hearing on the said resolution.

2. (a) Notice of the time, date, and place of the hearing on the resolution authorizing said loan shall be published in two newspapers of general circulation in the Town not less than 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 §24.4.1 above.

24.4.2(b) In addition to publication as herein provided, the Town Council 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.

3. If, at any time following the public hearing, the Town Council determines to proceed with the proposed borrowing, it shall pass a second resolution ordering a special election to be held, upon not less than 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 Town Council to proceed with the matter in issue; provided

however, that the Town Council may, at any time subsequent thereto, and based upon a significant change in the relevant circumstances, act by resolution to cancel the Special Election and abandon the proposed borrowing.

4. (a) 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 §24.4.1. Such notice shall be information in bold print or bordered in black so as to call attention thereto.

24.4.4(b) In addition to such publication as herein provided, the Town Council 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 24.4.4(a) above (using date of "posting" for date of "publication"), 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.

5. 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

The voter shall be instructed to mark the box for which he/she casts his/her vote.

The Mayor of The Town of Felton, 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 Election. The polling places shall be open for a minimum of six hours as specified by resolution of the Town Council. Persons in the polling place at the time appointed for closing of the polls shall be entitled to vote.

6. The Board of 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 and shall announce the result thereof. The Board of 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 Town Council which said certificate shall be retained by the Town Council with the other papers of the Town.

E. If a majority of the votes cast at such election shall be in favor of such borrowing(s), the Town Council shall proceed with the issuance of the said bonds or certificates of indebtedness; provided, however, that the Town Council may, at any time prior to entering into a binding agreement for the public or private sale of such bond(s) or evidence(s) of indebtedness, abandon the proposed borrowing(s).

F. 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 Town Council after said Special Election.

G. Public or Private Sale. The bonds may be sold at either public or private sale. If the bonds shall be offered for public sale they shall be sold to the best and most responsible bidder(s) therefore after advertisement in a manner to be prescribed by the Town Council.

H. Provision for Payment: Special Tax Sinking Fund. The Town Council shall provide for the payment of interest on and principal of the said bonds or certificates of indebtedness at the maturity or maturities thereof. The said Town Council is authorized and empowered, at its

discretion, to levy a special tax upon all the real estate within the Town or only upon such real estate as is directly benefited by the improvements paid for by the proceeds of such borrowing to pay interest 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 24.7 shall be collected from the owners of real estate in the same manner as the other taxes levied by the said Town Council are collected. Said Town Council 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 24.7 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.

I. 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.

J. Statute of Limitations, 60 days. No action contesting any proceedings conducted, or action taken by the Town Council hereunder regarding the authorization of any bonds or certificates of indebtedness issued under this Section 24 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 Town Council has determined to borrow a certain sum or sums of money and to issue bonds or certificates of indebtedness therefore.

(B) That the proposal(s) has/have 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(s).

(C) The amount(s) 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 Town Council shall cause a public notice, containing the information set out in subsections (A) through (E) above (using date of "posting" for date of "publication") to be posted in 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.

XXIII. ALDERMAN

A. Appointment. The Town Council may appoint a suitable person to serve as Alderman who shall serve for a term of one year, or until his/her successor is duly appointed, subject however, to being removed from office for just cause, at any time by the Town Council.

B. Qualifications Any person appointed to serve as Alderman shall be at least twenty-one (21) years of age, a United States citizen, of good character and reputation, shall live within five miles of the limits of the Town, and shall not be a member of the Town Council or otherwise an officer or employee of the Town of Felton.

C. Oath of Office. Before entering upon the duties of his/her office, the person appointed to serve as Alderman shall be sworn or affirmed by the Mayor of the Town Council to perform the duties of his/her office honestly, faithfully and diligently and to uphold and enforce the Charter of the Town of Felton and ordinances duly enacted by the Town Council of the Town of Felton.

D. Duties. It shall be the duty of the Alderman to hear and decide all complaints, charges, and arrests concerning violations of all laws and ordinances within the jurisdiction of the Alderman's Court.

E. Alderman's Docket. The Town Council shall procure suitable records for the use of the Alderman. Such records shall be known as the "Alderman's Docket". The Alderman shall record all official acts and proceedings in the Alderman's Docket.

F. Jurisdiction. The Alderman shall have jurisdiction and cognizance of all breaches of the peace, offenses, and violations of any ordinance of the Town committed within the corporate limits of the Town of Felton. As to such offenses or violations over which he/she is given jurisdiction by this Charter or by any other law of the State of Delaware, the Alderman shall be authorized and empowered to hold for bail, set bail, impose fines, or imprison, for each offense or violation in accordance with the penalties provided by this Charter, by any Town Ordinance enacted hereunder, or as provided by any law of the State of Delaware; provided however, that the maximum fine which the Alderman may impose shall never exceed the limits established by this charter.

G. Civil and Criminal Penalties: Costs. The Alderman shall not impose any penalty in excess of Five Hundred Dollars (\$500) exclusive of costs except as otherwise specifically provided in this Charter; but the Alderman may, in addition to any other fine permitted to be assessed or imposed, impose and collect such costs as are set by ordinance or resolution of the Town Council, provided that no costs shall be imposed which are in excess of that which may be imposed by a Justice of the Peace for like service.

H. Monthly Report to Town Council. The Alderman shall prepare and submit a monthly report to the Town Council reporting all fines and penalties imposed during the preceding calendar month and shall pay to the Treasurer of the Town all such fines and penalties at such times as the Town Council shall direct.

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

J. Removal from Office. If any Alderman shall be removed from office as hereinbefore provided, he/she shall deliver to the Mayor within five (5) days after his/her removal from office, all the books and papers belonging to his/her office, and shall pay over to the Treasurer all moneys in his/her hands within five (5) days after receiving the notice of his/her removal from office. Immediately after the receipt of the books and papers belonging to the office of the Alderman, the Mayor may require the auditor of the Town to make an audit of the books and papers of the official so removed from the office. Upon the neglect or failure to deliver all the books and papers to the Mayor within the time specified by this Charter, or to pay over all of the moneys to the Treasurer within the time specified, the Alderman, so removed, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) for each day that he/she fails to deliver the books and papers to the Mayor or to pay over all moneys to the Treasurer.

XXIV. POLICE FORCE

A. Chief of Police: Police Officers. The Chief of Police and subordinate members of the police force shall each be appointed by the Town Council for an indefinite term and may be removed for just cause by the Town Council, subject to the provisions of 11 Del. C. Chapters 92 and 93 as amended, or any future corresponding provision of law applicable, by its terms, to the Town of Felton. Operational control of the daily routine of the Police Department shall be the

responsibility of the Chief of Police. The authority of the Chief of Police shall be subordinate and answerable to the Town Council.

B. Power and Duties. The Chief of Police and each member of the police force shall have all the police powers and authority of a State Peace Officer and shall be conservators of the peace throughout the Town of Felton. Within the corporate limits of the Town, the Police shall have the affirmative duty to preserve peace in good order; to suppress all acts of violence and all riotous, disorderly, or turbulent assemblages of persons on all public ways and places; to enforce all ordinances enacted by the Town Council of the Town of Felton and all criminal laws and motor vehicle laws enacted by the State of Delaware. The police shall also have such other duties as the Town Council shall, from time to time, prescribe and delegate to the police force. Upon view of the foregoing, or upon view any violation of any ordinance of the Town, the police force shall have the right and power to issue a summons or to arrest without a warrant. In the case of actual pursuit of an offender, the power and authority of the police force shall extend outside the territorial limitations of the Town of Felton to any part of the State of Delaware.

C. Arrest Where Alderman Is Not Available. In the case of an arrest at any time when the Alderman of the Town of Felton shall not be available or if no such Alderman has been appointed, the person arrested may be taken before the nearest Justice of the Peace Court in session in Kent County who shall hear and determine the charge, and which, in such case, shall be vested with all the authority and powers granted by this Charter unto the Town of Felton Alderman. In the case of an arrest at a time when the Alderman or the Justice of the Peace shall not be available to hear and determine the charge, the person arrested may be delivered to the correctional institution located in Kent County or held in appropriate holding facilities until such reasonable time thereafter as shall enable the Alderman or the Justice of the Peace to hear and determine the charge against such person.

XXV. BOARD OF HEALTH The Town Council shall have the power to adopt ordinances relating to the health of the population of the Town, or to prevent the introduction or spread of infectious or contagious disease or nuisances affecting the same. In the event the Town Council does not deem it necessary to appoint a Board of Health as herein provided, said Town Council shall have all of the duties and powers herein conferred upon the Board of Health.

XXVI. CODE ENFORCEMENT The Town Council may, at its discretion, appoint, employ, or designate any qualified person, firm, or agency, for such definite or indefinite term as the Town Council deems appropriate, to act as Code Enforcement Constable(s) for the enforcement of any Town or state zoning, building, housing, plumbing, electric, health or other code, ordinance, regulation, or statute. Such officials shall be authorized and empowered to act pursuant to 10 Del. C. Chapter 29, as amended, or in accordance with any future corresponding provision of law. No person, firm, or agency shall be appointed, employed, or designated as a Code Enforcement Constable unless properly qualified, in the opinion of the Town Council, by trade experience, training and education, or appropriate certification, to carry out the duties assigned.

XXVII. MAINTENANCE OF LOTS The Town shall further have the power and authority to compel the owners of property within the limits of the Town to keep the same free from unsanitary or unsightly conditions, clear of tall weeds and rubbish, and to fill in any low lots if the Town Council reasonably determines the same to be unsanitary or unsightly or in any other manner prejudicial to the welfare of the Town or adjoining lot owners. The Town Council shall have the power and authority to adopt ordinances defining, regulating, or prohibiting such conditions, including penalties for violations thereof and/or for the correction thereof by the Town, and for the collection of all costs necessitated thereby (including reasonable attorneys fees) from the property owner after notice and hearing. Any such costs incurred by the Town pursuant to such ordinances, together with interest thereon at the legal rate until paid, shall constitute a lien upon the property until the same be collected.

XXVIII. FIRE REGULATIONS

A. The Town shall, in like manner, have the power to promulgate, amend and repeal regulations for the safe-guarding of life and property from the hazards of fire and explosion. Such regulations, amendments or repealers shall be in accordance with standard safe practice as

embodied in widely recognized standards of good practice for fire prevention and fire protection. In their interpretation and application, the regulations promulgated under this section shall be held to be the minimum requirements for safeguarding of life and property from the hazards of fire and explosion. The Town may, in lieu of adopting its own regulations, enforce the regulations adopted by the State Fire Prevention Commission pursuant to 16 Del. C. Chapter 66, et seq., as from time to time hereafter amended, or any future corresponding provision of law.

B. Town Council may appropriate annually such sums as are deemed desirable to any duly organized fire company operating within the Town; or in lieu of in addition thereto, may provide free public utility services supplied by the Town.

XXIX. CONDEMNATION OF DANGEROUS BUILDINGS AND STRUCTURES

The Town shall have the power and authority to adopt ordinances to define, and provide procedures for the condemnation, demolition and removal of dangerous buildings and other structures in the Town which, upon inspection, are determined to be a fire hazard or otherwise unsafe. Such ordinances shall provide procedures for prior notice and opportunity to be heard (except in cases of imminent danger, to persons or property), and for an opportunity to correct the hazardous condition by the affected property owner(s) and/or lienholder(s) prior to demolition and removal (except in cases where the Council determines, based upon the evidence presented, that it is not economically feasible to restore such building so as to meet applicable safety and building codes). Such ordinances may be adopted pursuant to or in accordance with the Delaware State Housing Code (31 Del. C. Chapter 41 as from time to time hereafter amended or any future corresponding provisions of law) and/or pursuant to such reasonable standards for the demolition and removal of dangerous buildings as the Town may adopt. The Town may provide for the collection of all costs incurred in the demolition and removal of any such dangerous building or structure, including reasonable attorneys fees, in accordance with 25 Del. C. Chapter 29, as from time to time hereafter amended or any corresponding provision of law.

XXX. ZONING The Town of Felton shall have all powers granted to municipalities under 22 Del. C. Chapter 3, as amended, or any future corresponding provision of law.

XXXI. PLANNING AND ZONING COMMITTEE

A. Appointment. The Mayor, with the advice and consent of a majority of the Town Council, shall appoint a Planning and Zoning Committee consisting of not less than five nor more than seven members, who shall be appointed for terms not exceeding three years each. Terms shall be staggered so that the term of at least one member shall expire each year. A majority of the committee members shall be residents of the Town of Felton.

B. Powers, Duties, Scope of Activities. The powers, duties, and scope of activities of the Planning and Zoning Committee shall be established by ordinance, and may include, by way of example and not in limitation, any of the following: land subdivision approval, creation and maintenance of a comprehensive development plan, flood plain regulations, an official map of the Town; and recommendations to the Town Council concerning amendments to the Town's Zoning Ordinance and/or zoning map.

C. Organization. The Planning and Zoning Committee shall elect annually, from among its members, a Chairman and Secretary. The committee shall have no authority to employ persons, disburse monies, make contracts, or to exercise administrative authority in any manner whatsoever; but all such employees engaged in planning matters, and all disbursements, contracts and administrative duties shall be under the direct supervision of the Town Council.

XXXII. SUBDIVISION AND LAND DEVELOPMENT

A. Power to Regulate. In order to provide for the orderly growth and development of the Town, to promote the health, safety, prosperity, and general welfare of the present and future inhabitants of the Town, to insure the conservation of property values and natural resources, including the protection of the Town's open lands, water resources, and recreational potential, and to afford adequate provisions for public utilities, water supply, drainage, sanitation, vehicular access, educational and recreational facilities, parkland and open space, among other and related

responsibility of the Chief of Police. The authority of the Chief of Police shall be subordinate and answerable to the Town Council.

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B. Powers, Duties, Scope of Activities. The powers, duties, and scope of activities of the Planning and Zoning Committee shall be established by ordinance, and may include, by way of example and not in limitation, any of the following: land subdivision approval, creation and maintenance of a comprehensive development plan, flood plain regulations, an official map of the Town; and recommendations to the Town Council concerning amendments to the Town's Zoning Ordinance and/or zoning map.

C. Organization. The Planning and Zoning Committee shall elect annually, from among its members, a Chairman and Secretary. The committee shall have no authority to employ persons, disburse monies, make contracts, or to exercise administrative authority in any manner whatsoever; but all such employees engaged in planning matters, and all disbursements, contracts and administrative duties shall be under the direct supervision of the Town Council.

XXXII. SUBDIVISION AND LAND DEVELOPMENT

A. Power to Regulate. In order to provide for the orderly growth and development of the Town, to promote the health, safety, prosperity, and general welfare of the present and future inhabitants of the Town, to insure the conservation of property values and natural resources, including the protection of the Town's open lands, water resources, and recreational potential, and to afford adequate 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 may regulate the subdivision of all land in the Town. Such regulation may, through ordinance, include;

1. Varying procedures for insuring the processing of combining, partitioning, or land subdivision plans, within a reasonable period of time, relative to the number of lots or parcels and the extent of improvements required;
2. Procedures for insuring that the arrangement of the lots or parcels of land or improvements thereon shall conform to the existing zoning at the time of recordation and that streets, or rights-of-way, bordering on within subdivided land shall be of such widths and grades and in such locations as may be deemed necessary to accommodate prospective traffic, that adequate easements or rights-of-way shall be provided for drainage and utilities, that reservations of areas designed for their use as public grounds shall be of suitable size and location for their designated uses, that sufficient and suitable monuments and signage shall be required, that land which might constitute a menace to safety, health or general welfare shall be made safe for the purpose for which it is subdivided, and that adequate provision for water supply, sanitary sewage, and surface water drainage is made;
3. Procedures for encouraging and promoting flexibility and ingenuity in the layout and design of subdivisions and land development, and for encouraging practices which are in accordance with contemporary and evolving principles of site planning and development.
4. Requiring, through dedication of land, money in lieu of land, "impact fees," "connection fees," or otherwise, those subject to such regulation to provide, at their own expense, such municipal or public improvements (including enlargement, expansion, improvement, or enhancement of existing municipal or public improvements) which have a rational nexus to the proposed land subdivision, combining, or partitioning, including, by way of example and not in limitation, the laying out and paving of streets, installation of sidewalks, curbs, storm sewers, water lines, sanitary sewer lines, electric distribution lines, street signs, access roads, playgrounds, parks, and open areas. In imposing such requirements, the Town may consider and take into account future as well as immediate needs, and potential as well as present population factors affecting the neighborhood in question.
5. Procedures for insuring that any improvements to be constructed on such lands are in compliance with all appropriate Town ordinances and engineering standards and that the placement and location of such improvements will not have a significant negative impact on adjoining properties.
6. Procedures for securing financial guarantees from the developers of such lands to insure satisfactory completion of all such required improvements, which may include extending the term of such guarantee for a reasonable period of time (not exceeding three years) beyond the actual completion of such improvements by the developer or acceptance of such improvements by the Town.

B. Recording Unapproved Plans. In the event an ordinance of the Town so provides, no plat, plot, or plan of land regarding a proposed subdivision, combining or partitioning shall be received for filing or recording by the Recorder of Deeds in and for Kent County unless and until such plat, plot, or plan shall have been approved by the Town Council and the fact of such approval shall have been endorsed in writing on such plan. Any such plat, plot, or plan recorded without compliance with any ordinance adopted pursuant to this subparagraph shall be voidable by action of the Town Council in an action in any court of competent jurisdiction.

XXXIII. PARKS AND RECREATION The Town Council shall have the right to acquire by gift, purchase, or designation of Town public lands, areas suitable for municipal parks or recreation areas, and to develop such areas through the installation of suitable playground and recreational equipment or facilities and/or by the placement of trees, flowers, shrubs, walks, pathways, seeding or other landscaping, and/or all of which shall have been acquired by the Town by gift, purchase, or grant from any legal entity or from any local, county, state, or federal government or agency thereof.

XXXIV. STREETS, DRAINAGE WAYS

A. Power to Lay Out, Locate, Open, Widen, Alter, Close, Vacate or Abandon. The Town Council shall have the power and authority to lay out, locate, and open new streets and drainage ways, or to widen or alter existing streets and drainage ways, and/or to close, vacate, or abandon existing or proposed streets and drainage ways, or parts thereof, whenever the Town council shall deem it in the best interests of the Town.

B. Definitions. For all purposes of this section, the word "street" shall be deemed to comprehend and include all public streets, avenues, highways, lanes, roadways and alleys; and the word "drainage way" shall be deemed to comprehend and include all ditches, swales, gulleys, drains, storm sewers, and catch basins.

C. Public Utility Purposes. The Town Council is hereby authorized and empowered to use, or permit the use by others, of any dedicated streetbed, whether open to the public or not, for public utility purposes, above or below ground, including electric, water, gas, sewage, telephone, cable television, fiber optic cable, or other communications medium.

D. Initiation of Proceedings: Notice, Hearing. Any proceeding initiated under this section of the Town Charter may be by resolution. Any such resolution shall contain a description of the proposed action and shall fix a time, date, and place when the Town Council shall sit to hear comments and objections concerning the proposal. At least ten (10) days before the date set for such hearing, the resolution adopted by the Town Council shall be printed in a newspaper of a general circulation in the Town and shall be posted in three (3) public places in the Town.

E. Notice to Affected Property Owners. The Town Council shall also cause to be sent, certified mail, return receipt requested, to the owner(s) of record of the real estate through or over which such street or drainage way may run, a copy of such resolution. 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 section shall be provided at least ten (10) days before the date set for the hearing.

F. Hearing. At the time and place set in the resolution, the Town Council shall hear such residents or taxable of the Town, or owners of the property affected thereby, as shall attend the hearing. After hearing all comments, the Town Council shall, at said meeting, or at a subsequent date, as it may deem proper, adopt a resolution to proceed with, or to abandon, the proposed locating, laying out, widening, altering, closing, vacating, or abandoning of any street(s) or drainage way(s) or parts thereof contemplated in its aforementioned prior resolution. Payment of Just Compensation. In every case where the Town Council shall resolve to proceed with the plan contemplated, or a portion thereof, the Town Council shall award just and reasonable compensation to any person or persons who will thereby be deprived of property by virtue of the execution of the plan so contemplated. Such compensation, if any be awarded, shall be paid by the Treasurer of the Town of Felton, 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 (or such lesser estate as deemed appropriate by the Town Council unto "The Town of Felton" which title the Town Council may require to be clear and free of all liens and encumbrances. Notice of compensation shall be given to affected property owners as provided in subsection 36.5 above.

G. Property Owner's Right of Appeal.

1. Any person or persons desiring to appeal any aspect of an award made by the Town Council under subsection 36.7 above, shall within ten (10) days after receiving notice in writing of the award, appeal by making a written application to the Alderman or to the adjacent Justice of the Peace in Kent County, for the appointment of a Land Compensation appeals Board (referred to hereinafter as the "Appeals Board") to hear all matters relating to the compensation given to the person or persons appealing the award.

2. The Alderman or Justice shall thereupon compile a list (the "Freeholder List") containing the names of eleven impartial domiciliaries of said county, five of whom shall be residents of said Town, and six of whom shall reside outside the limits of said Town. No Alderman or Justice shall select the same name more than once in any year; nor select the same name twice in two consecutive years.

3. The Alderman or Justice shall, after compiling the list and with agreement of appellants and Town Council, appoint a reasonable place, day and hour, when the Town Council and appellants shall appear before the Alderman or Justice. The Town Council and appellants who appear at such time shall choose Appeals Board members by alternatively striking names from the Freeholders List until all but five of the said names shall have been stricken out; two of whom shall be residents of said Town, and three of whom shall reside outside said Town limits. Those five names remaining shall constitute the "Appeal Board." The Appeal Board shall have plenary power and authority to settle and determine any and all matters in controversy between the appellants and Town Council.

4. In case the said appellants or Council members or any of them shall fail, neglect or refuse to appear before the said Alderman or Justice, or otherwise fail to participate in the elimination of names to determine the Appeal Board, then it shall be lawful for the said Alderman or Justice without further delay to name and select such person or persons as he/she may think proper to act for an on behalf of such defaulting person or persons in the manner aforesaid, so as to secure a proper Appeal Board. Any party to the matter, whether an appellant or a Councilmember, may at any time within fifteen (15) days of the time of securing such Appeal Board, and upon due notice to all other appellants and Councilmembers, authorize the said Appeal Board to begin its duties. The Appeal Board, after each member is first sworn or affirmed to faithfully and impartially perform the duties required of them according to the best of his/her skill and judgment, may proceed to make due inquiry concerning all matters in controversy; and shall hear the allegations of the parties and their proofs.

5. After maturely deliberating thereupon, the Board shall proceed and do and perform all and whatsoever it may, by majority vote, deem to be fair and proper. The Appeal Board shall arrive at its decision within twenty (20) days, or a new Board shall be chosen in like manner. The Board's decision, in writing shall immediately be transmitted to each appellant and Councilmember and to the Alderman or Justice. If need be, the said Appeal Board may call to its assistance a surveyor and cause a survey and plot of any lands affected by their doings to be made, and append such plot to their report as part thereof, and shall in such report return whether damages should be assessed and if so, to whom, and the amount payable to each person. If any member of said Appeal Board shall neglect or refuse to act in any case when so chosen, in whole or in part, he/she shall forfeit and pay the Councilmembers for the use of the "Town" the sum of Twenty-five Dollars (\$25.00) to be recovered by action before the Alderman as debts of like amount are recovered before a Justice of the Peace of Kent County with costs.

6. If the report of said Appeal Board is substantially the same as the damages and award of the Town Council under §36.7 of the Charter, the costs of such appeal (including the cost of any survey) shall be borne by the appellants equally; otherwise, the expenses shall be borne by the Town. If any person entitled to any damages or award under this charter be a minor, a non-resident or incapacitated in any way to take the same, or refuse to take and receive the same, such damage or award may be deposited in any bank in Kent County, to the credit of such person so entitled, and such deposit shall in all cases operate as payment. The said Appeal Board and the surveyor, if any, shall be paid reasonable compensation for their services.

H. Disposal of Abandoned or Vacated Streets or Drainage Ways. Whenever the Town owns any interest in any of the lands comprehended or included in any street or drainage way (or part thereof) vacated or abandoned by the Town under this section, the Town Council may in its discretion, sell such land (or its interests therein) 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.

XXXV. PAVING, GUTTERING AND CURBING

In the event that it becomes feasible or necessary in the future for the Town to level, grade, flag, or reflag, curb or recurb, gutter or regutter, pave or repave the sidewalks, curbs, crosswalks or gutters of the Town of Felton or to repair or improve any curb, sidewalk, gutter or crosswalk, the following procedure shall be followed:

A. Resolution. The Town Council shall adopt a resolution stating that on a named day and at a named hour and place, the Town Council will meet to consider the question of laying, installing or constructing new sidewalks, curbs or gutters, or any or all of them, or the repair or replacement of particular sidewalks, curbs or gutters or any or all of them, in the Town, on a named street, adjoining, along, or in front of, the property of a named owner or owners, and an assessment of the costs thereof against such owner or owners. The resolution shall be published in a newspaper having a general circulation in the Town of Felton at least ten (10) days prior to the meeting. The Town Council shall hold a public hearing pursuant to said resolution and thereat shall hear the aforesaid owner or owners of property and other residents of the Town appearing on the question referred to in said resolution.

B. Determination to Proceed. After such public hearing, the Town Council, either at said public hearing, or at a subsequent regular or special meeting, shall decide whether or not to proceed with the improvements referred to in said resolution, and if it shall determine to proceed, the Town Council shall determine whether the whole or some specified portion of the cost of the improvement adjoining, along or in front of the property of the said owner or owners named in the aforesaid resolution shall be borne by said owner or owners. If said determination shall be that the whole or a specified proportion of said cost shall be borne by the said owner or owners, then and in that event, the said owner or owners shall be compelled to pay the whole or a specified proportion of costs aforesaid, as the case may be. The amount to be paid by the owner of each parcel for their property affected shall be determined according to the lineal footage of their parcel(s) adjoining, along or in front of which the improvement or improvements were made.

C. Assessment and Collection of Costs; Lien. Whenever the laying, installing or constructing of new sidewalks, curbs or gutters or any or all of them, or replacement or repair of the sidewalks, curbs or gutters or any or all of them have been made, and the costs thereof ascertained, the Town Council shall ascertain the amount that the owner or owners of each parcel of property shall pay as hereinbefore stated, and the terms for payment and shall give written notice thereof to said owner or owners. If such owner or owners shall fail to pay the specified amount within sixty days after the mailing of such notice, the same, together with interest and costs, may be collected by the same procedures as are set forth herein for the collection of taxes. The amount so assessed shall be and constitute a lien upon all the property adjoining, along or in front of which the said work was accomplished, and such liens shall have preference and priority over any other liens or encumbrances against said property for a period of ten years from the date of mailing of the notice, although such other lien or encumbrance be of a date prior to the time of the attaching of such liens for the improvements as provided hereunder.

D. Notice. Whenever written notice is required to be given to any "owner" by this Section 37, notice to one co-owner shall be notice to all. Notice shall be given by mailing same, certified mail, return receipt requested, proper postage affixed, to said owner at his or her last known address; provided however, that the failure of any owner to actually receive such notice, (being returned as, among other reasons, "unclaimed", "refused to accept", "moved, no forwarding address") shall not invalidate any action taken under this section.

E. Change in Ownership. The word "owner" as used in this section shall be deemed to mean the freeholders of the property at the time of the resolution adopted under (a) above, and any change in ownership thereafter shall not be deemed or held to affect any of the proceedings described in this section.

F. 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 others as the Town Council may deem expedient.

XXXVI. REFERENDUM

A. Referendum Power. The qualified voters of the Town of Felton shall have the power to require reconsideration by the Town Council of any adopted ordinance and to approve or reject it at an election as provided herein; provided however that such power of referendum shall not extend to: the budget, any capital improvements, any emergency ordinance, or to any ordinance relating to the appropriation of money, or any ordinance relating to the levy of taxes.

B. "Qualified Voters": Persons Entitled to Vote In Referendum At any referendum election conducted under this section, a "qualified voter" shall mean any person who is entitled to vote in the annual town election if it were held on that day. Each qualified voter shall be entitled to one vote.

C. Referendum Petition. In order to initiate a referendum under this section, a referendum petition, signed by those persons who are qualified voters (as defined above) at the time such petition is presented to the Town Council (as hereinafter provided) equal in number to 15% of the "qualified voters" of the Town, with the local address of the person so signing, shall be presented to the Town Council. Each copy of such petition shall contain and have attached thereto throughout its circulation the full text of the ordinance subject to be reconsidered.

Each copy of the petition shall have attached to it, when filed, an affidavit executed by the signer thereof stating that he/she personally circulated the petition, the number of signatures thereon, that all signatures were affixed in his/her presence, that he/she believes them to be the genuine signatures of the persons whose names they purport to be, that each person who signed it is qualified to sign the petition and that each signer had an opportunity, before signing, to read the full text of the ordinance sought to be reconsidered.

D. Determination of Sufficiency of Petition

1. Determination by Town Council. The Town Council may examine, or direct the Town Treasurer to examine and report back to the Town Council, any petition filed under this section in order to determine its sufficiency. If the Town Council determines that such petition is insufficient for any reason, it shall publicly state such fact and the reasons therefore, and shall return such petition(s) to the person(s) submitting same. Any petition rejected as insufficient on account of an insufficient number of signatures may be "cured" by the addition of additional signatures of qualified voters and re-submitted within 60 days from the date such petition was first rejected by the Town Council.

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

3. Reconsideration of Ordinance Upon Receipt of Petition. Upon determination that a Petition is sufficient (either by the Town Council or by the Superior Court on appeal from decision of the Town Council) the Town Council shall reconsider the referred ordinance at its first regular meeting after the Petition has been finally determined to be sufficient. If the Town Council fails to repeal the referred ordinance, it shall be submitted to the qualified voters as hereinafter provided.

E. Referendum Election.

1. The election on a referred ordinance shall be held not less than sixty (60) days and no later than ninety (90) days from the date that the petition is determined to be sufficient. If the Annual Town Election is to be held within ninety days from the date the Petition is determined to be sufficient, such referendum shall be considered as part of that election. If the Annual Municipal Election is not to be held within ninety (90) days from the date the Petition is determined to be sufficient, the Town Council shall provide for a special election. If the Town Council fails to hold a referendum within the time specified in this section, the ordinance for which the petition was filed shall be deemed to be repealed at the expiration of ninety (90) days from the date that the petition was considered to be sufficient, and shall not be passed in the same form for a period of six (6) months from the effective date of repeal.

2. (a) Notice of the time, date, and place of holding the said Special Election shall be published in a newspaper of general circulation in the Town, and posted in three (3) public places in the Town, not less than 10 days prior to the date set for the Special Election. The published notices shall be in bold print or bordered in black so as to call attention thereto. In the event the publications and/or postings do not appear on the same date, the date of the last publication or posting shall control.

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

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

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

() For Repealing the Referred Ordinance

() Against Repealing the Referred ordinance

(Check your preference)

4. At any such Special Election, or Annual Municipal Election as the case may be, voting may be conducted by voting machine, electronic voting system, or paper ballot as the Town Council shall determine in accordance with any controlling federal or state law.

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

XXXVII. NON-BINDING REFERENDUM Notwithstanding any other provision of this Charter to the contrary, the Town Council may, on its own initiative, by resolution, determine to hold an election (either a Special Election or in conjunction with the Annual Municipal election) to obtain the opinion of the qualified voters (as defined herein) of the Town on any subject which the Town Council has under consideration.

Any such election shall be conducted in such manner and with such public notice, as the Town Council shall determine by resolution; provided however that any such resolutions, and any public notices regarding such non-binding referendum election, shall clearly specify that such referendum election is "non-binding". The results of any "non-binding" referendum election conducted under this section shall have no legal effect whatsoever and shall not bind or obligate the Town Council to take any action or refrain from taking any action on the subject referred, but shall merely be informational in nature regarding the opinion of those qualified voters who expressed a preference at such non-binding referendum election.

XXXVIII. ACTIONS OR SUITS

No action, suit, or proceeding shall be brought or maintained against the Town of Felton, its officers (including the members of any board, commission, or agency), employees, or agents, whether now, hereafter, or previously serving as such, and no judgment, damages, penalties, costs, or other money entitlement shall be awarded or assessed against the Town, its officers, (including

the members of any board, commission, or agency) employees or agents, whether now, hereafter or previously serving as such, in any civil suit or proceeding at law or in equity, or before any administrative tribunal, arising out of, connected with, or on account of any physical injury or injuries, death, or any other type of personal injury, (including libel or slander), or injury to property (whether real or personal) unless the person by or on behalf of whom such claim or demand is asserted, within one year from the happening of the incident giving rise to such injury shall notify the Town of Felton in writing of the time, place, cause, character and extent of the injury sustained or damages suffered. Such notice shall be directed to the Town Council by certified mail with return receipt requested and postage prepaid.

COMPENDIUM

The Town Council may, at reasonable times, compile the ordinances, current regulations, orders and rules of the Town of Felton. The Town Council may have a reasonable number of copies printed for the use of the officials of the Town and for public information. From time to time, upon the enactment of new ordinances, current rules and regulations, or upon the enactment of amendments to same, the Town Council may enroll the same in the minutes of the Town Council and shall keep copies of the same in a book to be provided for that purpose so that the same may be readily examined. It shall furnish the members of the Town Council copies thereof as they are enacted and thereafter may cause supplements to be compiled and printed to any compendium thereof theretofore printed as above provided.

XXXIX. SURVIVAL OF POWERS AND VALIDATING SECTION

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

B. All ordinances adopted by the Commissioners of the Town of Felton and in force at the time of approval, acceptance and going into effect of this Charter are continued in force until the same or any of them shall be repealed, modified or altered by the Town Council of the Town of Felton under the provisions of this charter.

C. All of the acts and doings of the Commissioners of the Town of Felton or of any official, or of the President of the Board of Commissioners or the Town which shall have been lawfully done or performed under the provisions of any law of this State or of any ordinance of the Town of Felton under any provision of any prior Charter of the Town of Felton, prior to the approval, acceptance and going into effect of this Charter, are hereby ratified and confirmed, unless otherwise provided herein.

D. All taxes, assessments, license fees, penalties, fines, forfeitures, and other charges due to the Town of Felton shall be and remain due to the Town of Felton and all debts due from the Town of Felton shall remain unimpaired until paid by the Town of Felton.

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

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

G. Each member of the Commissioners of the Town of Felton who holds office at the time of approval of this Act shall continue to serve until the expiration of his/her term of office.

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

XL. SEPARABILITY If any provision, section, subsection, paragraph, sentence, or clause of this Charter shall be held to be unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions, sections, subsections, paragraphs, sentences or clauses of this Charter.

XLI. PUBLIC ACT This Charter shall be taken as and deemed to be a Public Act of the State of Delaware.

XLII. EFFECTIVE DATE This Act shall take effect immediately upon its enactment into law.

Approved June 23, 1995

CHAPTER 92

FORMERLY

HOUSE BILL NO. 126

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 2, TITLE 11, DELAWARE CODE, RELATING TO TIME LIMITATIONS FOR CERTAIN OFFENSES.

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

Section 1. Amend § 205(e), Title 11 of the Delaware Code, by striking the number "775" as it appears therein, and by substituting the number "778" in its place.

Approved June 23, 1995

CHAPTER 93

FORMERLY

SENATE BILL NO. 117

AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO A VOLUNTARY ASSESSMENT PLAN

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

Section 1. Amend §915, Title 4 of the Delaware Code by deleting the words "or the provisions of this title; provided, however, that the plan shall not apply to violations involving any of the criminal offenses set forth in this chapter" as they appear in the first sentence.

Approved June 26, 1995

CHAPTER 94

FORMERLY

SENATE BILL NO. 123

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE REGARDING IDENTIFICATION OF VENDORS, FIRMS, AND SUBCONTRACTORS REPORTING TO THE DIVISION OF REVENUE.

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

Section 1. Amend §6906, Title 29 of the Delaware Code, by adding to said section a new subsection (d) to read as follows:

"(d) In the case of bids submitted to agencies other than any county of this state and other than any public school district, whenever security is required under this section, the vendor shall also supply with its bid its taxpayer identification number (i.e., federal employer identification number or social security number) or a Delaware business license number and, should the vendor be awarded a contract, such vendor shall provide to the agency the taxpayer identification or Delaware business license numbers of such subcontractors. Such numbers shall be provided only for subcontractors required to be specifically identified to the agency and shall be provided on the later of: the date on which such subcontractor is required to be identified or the time the contract is executed. The agency shall report to the Division of Revenue each vendor selected for award within fifteen (15) days of execution of the contract and each subcontractor within fifteen (15) days of such contractor having been identified to the agency or on the date of execution of the contract, whichever is later, unless the Director of Revenue has notified the agency of criteria according to which, in the Director's discretion, reporting is not required, and the contract meets such criteria."

Section 2. §6937, Title 29 of the Delaware Code by adding to said section a new subsection (c) to read as follows:

"(c) In the case of any contract entered into by an agency other than any county of this state and other than a public school district, and which is not excluded under subsection (a) of this section, no contract shall be executed unless and until the firm has provided the agency with its taxpayer identification number (i.e., federal employer identification number or social security number) or its Delaware business license number and, within fifteen (15) days of the time identification of any subcontractor shall be required or at the time the contract is executed, whichever is later, the number of such subcontractor. The agency shall report to the Division of Revenue each firm and subcontractor selected for an award within fifteen (15) days of identification of such firm or subcontractor under this subsection unless the Director of Revenue notifies the agency of criteria according to which, in the Director's discretion, reporting is not required, and the contract meets such criteria."

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

Section 3. This Act shall be effective with regard to all contracts executed on or after October 1, 1995.

Approved June 26, 1995

CHAPTER 95

FORMERLY

SENATE BILL NO. 157

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION PENALTIES.

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

Section 1. Amend §2313(c), Title 19 of the Delaware Code by deleting the phrase "\$25 nor more than \$100" and by substituting in lieu thereof the phrase "\$100 nor more than \$250".

Section 2. Amend §2362, Title 19 of the Delaware Code by deleting the phrase "\$100 nor more than \$1,000" and by substituting in lieu thereof the phrase "\$500 nor more than \$2,500".

Section 3. Amend §2374(b), Title 19 of the Delaware Code by deleting the phrase "fined 10 cents per day for each employee in his service at the time when the insurance became due, but not less than \$1 nor more than \$50" and by substituting in lieu thereof the phrase "subject to a civil penalty of \$1 per day for each employee in his/her service at the time when the insurance became due, but not less than \$25".

Approved June 26, 1995

CHAPTER 96

FORMERLY

SENATE BILL NO. 158

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION WAGES.

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

Section 1. Amend §2302(c), Title 19 of the Delaware Code by deleting subsections (1) and (2) and by substituting in lieu thereof:

"(1) For board - \$15 per day regardless of whether this applies to 1, 2, or 3 meals per day;

(2) For lodging - \$15 per day or night."

Approved June 26, 1995

CHAPTER 97

FORMERLY

SENATE BILL NO. 159

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

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

Section 1. Amend §3325, Title 19 of the Delaware Code by adding a new sentence to
the end of the first paragraph to read as follows:

"Discretionary decisions by the Department of how or by what means it elects to collect
non-fraud overpayments, that is, either by cash or deduction from subsequently awarded benefits,
or by any other means, are administrative collections decisions made by the executive branch of
government and are not subject to review by quasi-judicial or judicial tribunals of this state."

Approved June 26, 1995

CHAPTER 98

FORMERLY

SENATE BILL NO. 161

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO
EMPLOYMENT PRACTICES.

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

Section 1. Amend Title 19 of the Delaware Code by repealing §705 in its entirety.

Approved June 26, 1995

CHAPTER 99

FORMERLY

SENATE BILL NO. 163

AN ACT TO AMEND 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 §6912, Title 29 of the Delaware Code by adding a new subsection (k) to read as follows:

"(k) 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 (s)he 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 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 violation."

Approved June 26, 1995

CHAPTER 100

FORMERLY

SENATE BILL NO. 165

AN ACT TO AMEND TITLE 19 AND TITLE 10 OF THE DELAWARE CODE RELATING TO CHILD LABOR.

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

Section 1. Amend §509(b), Title 19 of the Delaware Code by inserting the words "up to" between "of" and "\$10,000".

Section 2. Further amend §509, Title 19 of the Delaware Code by adding the following to the end of subsection (d):

"The Department shall not be required to pay the filing fee or other costs of the action or fees of any nature to file bond or other security of any nature in connection with such action or with proceedings supplementary thereto or as a condition precedent to the availability to the Department of any process in aid of such action or proceedings. The Department shall have the power to join various claimants in one preferred claim or lien and, in case of suit, to join them in one cause of action."

Section 3. Further amend Title 19 of the Delaware Code by repealing §510 in its entirety.

Section 4. Amend §922, Title 10 of the Delaware Code by deleting subparagraph (a)(10) in its entirety and by renumbering subparagraphs (a)(11) through (a)(22) to read as (a)(10) through (a)(21).

Approved June 26, 1995

CHAPTER 101

FORMERLY

HOUSE BILL NO. 208

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 94, TITLE 11 OF THE DELAWARE CODE RELATING TO THE RIGHTS OF VICTIMS.

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

Section 1. Amend §9401(5), Title 11 of the Delaware Code by inserting as the last sentence thereof: "'Victim' includes qualifying neighborhood or homeowners' associations as defined by §9419 of this Chapter."

Section 2. Amend Chapter 94, Title 11 of the Delaware Code by inserting a new §9419 thereto as follows:

"§9419. Rights of Qualifying Neighborhood or Homeowners' Associations.

(a) Residents of neighborhoods where illegal drug activity occurs shall collectively be entitled to all of the rights, privileges and notice requirements otherwise provided to victims under this Chapter, provided that:

(1) There exists within the residents' neighborhood a neighborhood or homeowners' association, which shall serve as the residents' designated agent for all purposes under this Chapter;

(2) The neighborhood or homeowners' association has been legally incorporated in accordance with Delaware's General Corporation Law;

(3) The neighborhood or homeowners' association has been recognized by its local government jurisdiction, through actual practice or by specific designation, as duly representative of the residents of its surrounding neighborhood; and

(4) The neighborhood or homeowners' association has given prior written notice to all state and local police authorities whose jurisdiction encompasses all or any portion of the geographical area represented by the association, specifying its election to prevail itself of the rights, privileges and notice requirements provided under this Chapter and the name, address and telephone number of the representative of the neighborhood or homeowners' association to whom all notices or other communications required under this Chapter shall be given. Any police authority so notified shall thereafter identify the neighborhood or homeowners' association as a victim for purposes of this Chapter in any police report, criminal complaint, warrant, indictment, information or other charging document in which any person is subsequently charged with violating any provision of Subchapter IV, Title 16 of the Delaware Code or any successor law within the geographical area represented by the association.

(b) For purposes of this section, 'illegal drug activity' means the unlawful selling, serving, storing, giving away or manufacturing of (which includes production, preparation, compounding, conversion, processing, packaging or repackaging) of any drug, which includes all narcotic or psychoactive drugs, cannabis, cocaine and all controlled substances as defined in the Delaware Uniform Controlled Substances Act."

Section 3. Amend §9402(a) by inserting the following after the word "title" and before the period ".": "appearing in the first sentence thereof: ", and to qualifying

neighborhood or homeowners associations where illegal drug activity occurs as defined in §9419 of this title."

Approved June 26, 1995

CHAPTER 102

FORMERLY

SENATE BILL NO. 174

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO REPORTING OF ADJUDICATIONS OF FAMILY COURT TO THE DIVISION OF MOTOR VEHICLES.

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

Section 1. Amend §1009 (c)(12), Title 10 of the Delaware Code by adding a new subsection "c." as follows:

"c. Enter immediately all traffic, alcohol, and/or drug adjudications of any minor on a driving record created by the Division of Motor Vehicles notwithstanding the minor's drivers license status, age and/or eligibility for a driver's license."

Approved June 26, 1995

CHAPTER 103

FORMERLY

SENATE BILL NO. 166

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WAGE
PAYMENT AND COLLECTION.

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

Section 1. Amend §1101(a), Title 19 of the Delaware Code by adding the following sentence to the end of both subsection (3) and (4):

"This chapter does not apply to employees of the United State Government, the State of Delaware or any political subdivision thereof."

Section 2. Amend §1102, Title 19 of the Delaware Code by striking subsection (d) in its entirety.

Section 3. Further amend §1102, Title 19 of the Delaware Code by striking subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) Every employer shall pay all wages due within 7 days from the close of the pay period in which the wages were earned, provided that if the regular payday falls on a non-work day, payment shall be made on the preceding workday. If, however, the regular payday is within the pay period (on or before the final day of the pay period) and the pay period does not exceed 16 days, the employer may delay until the next pay period compensation for the following:

- (1) overtime hours worked by employees;
- (2) employees hired or resuming employment during the pay period; and
- (3) part-time or temporary employees with variable working time."

Approved June 26, 1995

CHAPTER 104

FORMERLY

HOUSE BILL NO. 240

AN ACT TO AMEND CHAPTER 35, TITLE 18 OF THE DELAWARE CODE RELATING TO GROUP HEALTH INSURANCE.

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

Section 1. Amend § 3509(b), Chapter 35, Title 18, Delaware Code by inserting the phrase "or coverage offered" between the words "delivered" and "in" as they appear in the first line thereof.

Section 2. Further amend § 3509(b), Chapter 35, Title 18, Delaware Code by deleting the word "and" following paragraph (2) and by replacing the period "." following paragraph (3) with the phrase "; and".

Section 3. Further amend § 3509(b), Chapter 35, Title 18, Delaware Code by adding thereto a new paragraph to read as follows:

"(4) The group is not affiliated with or controlled by (as those terms are defined in Chapter 50 of this title) an insurer unless approved by the Commissioner."

Section 4. Amend § 3509(c), Chapter 35, Title 18, Delaware Code by striking the numeral "3" as it appears therein and by inserting in lieu thereof the numeral "4".

Approved June 26, 1995

CHAPTER 105

FORMERLY

HOUSE BILL NO. 241

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 7, 11, 18, 23 AND 29 OF THE DELAWARE CODE RELATING TO THE ENFORCEMENT PERSONNEL OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

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

Section 1. Amend § 101, Title 7, Delaware Code, by redesignating paragraphs (2), (3), (4) and (5) thereof as paragraphs (3), (4), (5) and (6), respectively, and by adding thereto a new paragraph (2) to read as follows:

"(2) 'Fish and wildlife agent' means a law enforcement officer employed by the Department of Natural Resources and Environmental Control pursuant to this title and § 8003(13) of Title 29."

Section 2. Amend § 102(b), Title 7, Delaware Code, by striking therefrom the word "wardens" and substituting in lieu thereof the phrase "fish and wildlife agents".

Section 3. Amend § 102(c), Title 7, Delaware Code, by striking therefrom the word "wardens" and substituting in lieu thereof the phrase "fish and wildlife agents".

Section 4. Amend § 111, Title 7, Delaware Code, by striking therefrom the phrase ", the Chief Game and Fish Warden and Game Wardens" and substituting in lieu thereof the phrase "and the fish and wildlife agents", and by striking therefrom the word "Wardens" from the title of said section and substituting in lieu thereof the phrase "Fish and Wildlife Agents".

Section 5. Amend § 775, Title 7, Delaware Code, by striking therefrom the phrase "Game Warden" and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 6. Amend § 798, Title 7, Delaware Code, by striking therefrom the phrase "Game Warden" and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 7. Amend § 1129(5), Title 7, Delaware Code, by striking therefrom the phrase "Game Warden" and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 8. Amend § 1306, Title 7, Delaware Code, by striking therefrom the word "warden" as it appears in the title and body of said section and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 9. Amend § 1707, Title 7, Delaware Code, by striking therefrom the phrase "Game Warden" wherever it appears therein and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 10. Amend § 1708(a), Title 7, Delaware Code, by striking therefrom the phrase "Game Warden" and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 11. Amend § 1709, Title 7, Delaware Code, by striking therefrom the phrase "Game Warden" as it appears in the title and the body of said section and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 12. Amend § 1710, Title 7, Delaware Code, by striking therefrom the phrase "Game Warden" and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 13. Amend § 1911(a), Title 11, Delaware Code, by striking the word "or" from paragraph (4), and by striking the period from paragraph (5) and substituting in lieu thereof the phrase "; or". Further amend said subsection by adding thereto a new paragraph (6) to read as follows:

"(6) A law enforcement officer of the Department of Natural Resources and Environmental Control."

Section 14. Amend § 1935, Title 11, Delaware Code, by striking the comma after the word "bridge" therein and substituting in lieu thereof the word "or". Further amend said section by striking therefrom the phrase "or park". Further amend said section by adding thereto between the word "unit" and the word "may" the words "or a law enforcement officer of the Department of Natural Resources and Environmental Control."

Section 15. Amend § 1942(1), Title 11, Delaware Code, by inserting the phrase "and/or the Department of Natural Resources and Environmental Control" after the phrase "the University of Delaware".

Section 16. Amend § 1942(3), Title 11, Delaware Code, by inserting the phrase "or the Department of Natural Resources and Environmental Control" immediately after the phrase "the Department of Administrative Services".

Section 17. Amend § 6601(1)(i), Title 18, Delaware Code, by striking therefrom the phrase "Environmental Protection Officers and Delaware Marine Police" and substituting in lieu thereof the phrase "Law enforcement officers".

Section 18. Amend § 2112, Title 23, Delaware Code, by redesignating paragraphs (2), (3), (4) and (5) thereof as (3), (4), (5) and (6), respectively, and by adding thereto a new paragraph (2) to read as follows:

"(2) 'Fish and wildlife agent' means a law enforcement officer employed by the Department of Natural Resources and Environmental Control pursuant to this title and § 8003(13) of Title 29."

Section 19. Amend § 2118(b), Title 23, Delaware Code, by striking the phrase "marine police force" as it appears in the second sentence of said subsection and substituting in lieu thereof the phrase "staff of fish and wildlife agents who are"; and by striking the phrase "the marine police" as it appears in the forth sentence of said subsection and substituting in lieu thereof the phrase "fish and wildlife agents"; and by striking the sixth sentence thereof in its entirety.

Section 20. Amend § 2118(c), Title 23, Delaware Code, by striking therefrom the phrase "the marine enforcement officer" and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 21. Amend § 2118(g), Title 23, Delaware Code, by striking therefrom the phrase "the marine enforcement officers" and substituting in lieu thereof the phrase "fish and wildlife agents".

Section 22. Amend § 2119(a), Title 23, Delaware Code, by striking therefrom the phrase "a marine police force" and substituting in lieu thereof the phrase "fish and wildlife agents"; and by striking the phrase "marine policeman" wherever it appears and substituting in lieu thereof the phrase "fish and wildlife agent".

Section 23. Amend § 2122, Title 23, Delaware Code, by striking therefrom the phrase "The marine enforcement officers and" and substituting in lieu thereof the phrase "Fish and wildlife agents and the".

Section 24. Amend § 2221(c)(2), Title 23, Delaware Code, by striking therefrom the phrase "any enforcement agent of the Division of Fish and Wildlife of the Department" and substituting in lieu thereof the phrase "a fish and wildlife agent".

Section 25. Amend § 8003(13), Title 29, Delaware Code, by striking said paragraph in its entirety and substituting in lieu thereof the following:

"(13) Establish, supervise, direct and account for the operations and functions of the personnel responsible for the enforcement of the laws, regulations, rules, permits, licenses, orders and program requirements of the Department of Natural Resources and Environmental Control. In exercising his powers, duties and functions under this subdivision, the Secretary may:

- a. Employ enforcement personnel who shall be officially known as law enforcement officers of the Department of Natural Resources and Environmental Control, but who may be designated as environmental protection officers, fish and wildlife agents or park rangers;
- b. Classify law enforcement officers of the Department of Natural Resources and Environmental Control according to rank, title or duties assigned as deemed appropriate;
- c. Assign or reassign law enforcement officers of the Department of Natural Resources and Environmental Control to the divisions, subdivisions and offices of the Department to perform enforcement duties as deemed appropriate;
- d. Provide law-enforcement training for law enforcement officers of the Department of Natural Resources and Environmental Control; and
- e. Establish a central filing system to record and maintain a record of violations of statutes, rules, regulations, permit conditions, licenses, orders and program requirements administered by the Department of Natural Resources and Environmental Control."

Section 26. Amend § 8003A, Title 29, Delaware Code, by striking the phrase "environmental protection officers" wherever it appears in said section and substituting in lieu thereof the phrase "law enforcement officers of the Department of Natural Resources and Environmental Control".

Section 27. Amend § 8003A(e), Title 29, Delaware Code, by striking said subsection in its entirety.

Section 28. Amend § 8003A, Title 29, Delaware Code, by striking the phrase "environmental protection officers and park managers" from the Title of said section and substituting in lieu thereof the phrase "law enforcement officers of the Department of Natural Resources and Environmental Control".

Approved June 26, 1995

CHAPTER 106

FORMERLY

HOUSE BILL NO. 10

AN ACT TO AMEND CHAPTER 19, TITLE 14 OF THE DELAWARE CODE RELATING TO LOCAL SCHOOL TAXES.

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

Section 1. Amend § 1902(a), Title 14, Delaware Code, by inserting after the words "county taxation" the following:

"other than for the purposes of attracting or expanding a for-profit business".

Section 2. This Act shall apply to all exemptions entered into on or after the effective date of this Act.

Approved June 26, 1995

CHAPTER 107

FORMERLY

SENATE BILL NO. 208

AN ACT TO AMEND TITLE 18, CHAPTER 69 OF THE DELAWARE CODE RELATING TO THE AUTHORITY OF AN ASSOCIATION OR INDUSTRIAL INSURED CAPTIVE INSURANCE COMPANY.

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

Section 1. Amend subsection (a), §6902, Title 18 of the Delaware Code by striking in its entirety subparagraphs (2) and (3) thereof, and by substituting in lieu thereof new subparagraphs (2) and (3) to read as follows:

"(2) No association captive insurance company may insure any risks other than those of the member organizations of its association and their affiliated companies unless the insurance for non-member organizations satisfies each of the following requirements:

a. the insurance lines for non-member organizations must be the same as that authorized by the Commissioner to be written by the captive insurance company for its member organizations;

b. the insurance for non-member organizations may only be written for an individual, a corporation, a partnership, an association or any other form of entity conducting the same business as that of the member organizations of the captive insurance company; and

c. the maximum amount of premiums received in any year from such non-member organizations cannot without the express written consent of the Commissioner exceed fifty percent (50%) of the gross direct premiums received by the captive insurance company from its member organizations in its preceding financial year.

(3) No industrial insured captive insurance company may insure any risks other than those of the member organizations of its industrial insured group and their affiliated companies unless the insurance for non-member organizations satisfies each of the following requirements:

a. the insurance lines for non-member organizations must be the same as that authorized by the Commissioner to be written by the captive insurance company for its member organizations;

b. the insurance for non-member organizations may only be written for an individual, a corporation, a partnership, an association or any other form of entity conducting the same business as that of the member organizations of the captive insurance company; and

c. the maximum amount of premiums received in any year from such non-member organizations cannot without the express written consent of the Commissioner exceed fifty percent (50%) of the gross direct premiums received by the captive insurance company from its member organizations in its preceding financial year."

Approved June 26, 1995

CHAPTER 108

FORMERLY

SENATE BILL NO. 180

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE INVESTMENTS OF DOMESTIC INSURERS.

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

Section 1. Amend §1302(c) Title 18 of the Delaware Code by deleting the existing text in its entirety and substituting in lieu thereof the following:

"An investment qualified, in whole or in part, for acquisition or holding as an eligible investment may be qualified or requalified at the time of acquisition or at a later date, in whole or in part, under any section of this chapter, if the relevant conditions contained in the section are satisfied at the time of qualification or requalification. In order for an investment, subsequent to the time of its acquisition, to be qualified or requalified, prior written approval of the Commissioner must be obtained."

Section 2. Amend §1302(e)(3) Title 18 of the Delaware Code to insert after "§1323(e)" and before the phrase "of this Title" the phrase "or any other provision."

Section 3. Amend §1308(3) Title 18 of the Delaware Code to insert after the phrase "contingent interest obligations" and before the phrase "if the net earnings" the phrase "including, without limitation, variable or adjustable rate interest obligations".

Section 4. Amend §1309(a)(1) Title 18 of the Delaware Code by deleting the existing text in its entirety and substituting in lieu thereof the following:

"'Obligations' includes bonds, debentures, notes and other evidences of indebtedness (whether or not liability for payment extends beyond the security therefor) as well as participation interests in any of the foregoing."

Approved June 26, 1995

CHAPTER 109

FORMERLY

SENATE BILL NO. 122

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO THE POWERS OF THE DEPARTMENT OF AGRICULTURE.

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

Section 1. Amend § 101, Title 3 of the Delaware Code by adding a new paragraph 10 to read as follows:

" Exercise authority to make rules and regulations covering the possession, control, care and maintenance of deer, elk, llamas, alpacas or any other species of the cervidae or camilid families domesticated and confined for commercial farming purposes. Members of these two families kept for exhibition purposes would not be exempt from these regulations."

Approved June 27, 1995

CHAPTER 110

FORMERLY

SENATE BILL NO. 142

AN ACT TO AMEND 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 §3350(7) Title 19 of the Delaware Code by inserting after the words "relating to a claim for benefits" and before the words "regardless of the number of separate periods" as they appear therein, the phrase ", including benefits paid as a consequence of a claim for partial unemployment benefits."

Section 2. Amend §3350(7) Title 19 of the Delaware Code by striking in its entirety the sentence "However, no rehire credits shall be allowed as a consequence of benefits on a claim for partial unemployment benefits." as it appears therein.

Section 3. This amendment shall apply to applications for rehire credits received by the Department on or after July 1, 1995.

Approved June 27, 1995

CHAPTER 111
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR
HOUSE BILL NO. 79

AS AMENDED BY
HOUSE AMENDMENT NOS. 1, 2, 3 & 4 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE CODE RELATING
TO THE ESTABLISHMENT OF THE DELAWARE CENTER FOR EDUCATIONAL
TECHNOLOGY.

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

Section 1. Amend Title 14, Delaware Code by adding a new Chapter 42 thereto to read
as follows:

"CHAPTER 42. DELAWARE CENTER FOR EDUCATIONAL TECHNOLOGY.

§4201. Legislative Intent.

The Delaware Center for Educational Technology is intended to create a modern educational technology infrastructure in Delaware's public schools for the purpose of enabling students, through the use of technology, to meet the academic achievement standards set by the State Board of Education and to develop the skills needed by a world-class workforce. To these ends, the General Assembly intends for the Delaware Center for Educational Technology to concentrate on the deployment of technology at the school level in a way that will be of maximum effect in improving teaching and learning in Delaware schools. The General Assembly expressly desires to avoid the creation of bureaucracies that duplicate functions of the Department of Public Instruction and local school districts and intends that the Delaware Center for Educational Technology operate as an efficient organization making maximum use of existing staff and expertise of state agencies and school districts.

§4202. Delaware Center for Educational Technology.

(a) There is hereby established the Delaware Center for Educational Technology (Center). The Center shall be a public education agency, created for the purpose of coordinating the use of technology by Delaware's several school districts, the Department of Public Instruction, and any other organization, public body, or other entity specifically designated by the legislature for the purpose of carrying out the public education of the citizens of Delaware. The Center shall be established, for budgetary purposes, in Public Education as a separate internal program unit.

(b) The Center shall be governed by a Board to consist of 10 voting members, 3 of whom shall be appointed by the Governor, and who are persons with expertise in the field of computer information systems, 3 of whom shall be public school district superintendents, one from each of the counties, and 2 of whom shall be public school teachers appointed by the Delaware State Education Association, who are knowledgeable in computer technology and can assist with the practical implementation of telecommunications technology. The State Superintendent of Public Instruction or a representative appointed by the State Superintendent and the Director of the Office of Information Systems shall be ex officio voting members of the Board. The State

Librarian, the State Budget Director, Controller General, and the Secretary of Finance, or their designees, and 3 representatives, 1 designated by each of the Presidents of the three Delaware public institutions of higher education, shall be ex officio, nonvoting members of the Board.

(c) The three superintendent members shall be elected by the collective group of public school district superintendents meeting in a public session. The State Superintendent shall not have a vote. The initial terms of office for the three elected superintendent members shall be as follows: (1) one member shall be appointed for a term of one year; (2) one member shall be appointed for a term of two years; and (3) one member shall be appointed for a term of three years. No superintendent member shall serve more than two consecutive terms except in the case of those initially appointed for one and two years who may be reappointed for two consecutive full three-year terms. After the initial term, all terms of superintendent members shall be for a period of three years; provided, however, that each member must be actively employed by a public school district of the State as a superintendent or cease to be a member of the Board.

With the exception of initial terms of office for the three elected superintendent members and the restriction that each of those members must be active superintendents, each member shall serve for a term of three (3) years, and may succeed himself or herself for one additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only one additional full term. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment, and the member shall no longer be eligible to participate in Board proceedings unless lawfully appointed.

(d) The Governor shall designate one member of the Board to be chairperson, who shall serve in this capacity at the pleasure of the Governor.

(e) The Board shall meet in public session a minimum of four times a year, once each quarter, and as often as it deems necessary to conduct its business, or at the call of its chairperson.

§4203. Duties and Authorities.

To achieve the purposes set forth in §4201 of this Chapter:

(a) The Center shall be responsible for deploying and/or assisting in the deployment of educational technology to enable students, through the use of technology, to meet the academic achievement standards set by the State Board of Education and to develop the skills needed by a world-class workforce.

(b) The Center shall be responsible for providing support to the several school districts and to the Department of Public Instruction for the acquisition, implementation, and operation of: telecommunications systems and networks; computers; audio and video equipment; transmission equipment; and such other equipment and processes necessary to provide modern telecommunications and computing resources. The Center shall also provide support for the training of public education employees in the use, operation, and maintenance of such equipment and processes.

(c) Subject to an appropriation authorized in the State's annual Budget Act, the Board shall have the authority to: (1) hire staff, contract for consulting services, employ special counsel subject to the provisions of §2507, Title 29 of this Code, appoint advisory boards, and recommend a budget and operating plan; (2) set standards and establish rules, regulations, and criteria for the execution of and participation in programs established by the Center; and (3) appoint an executive director for the Center. Employees of the Center shall be subject to the same terms and conditions of employment as set forth in Title 14, Section 121, Delaware Code. However, the general control and supervision of employees of the Center shall be that of the Board of the Center and not the State School Board.

(d) The Center shall have the capacity to sue and be sued, and the Center, its Board, and its employees shall be entitled to the same privileges and immunities of any political subdivision of the State pursuant to the Tort Claims Act, Chapter 40, Title 10 of the Delaware Code.

(e) The Center shall consult with and coordinate its activities with the Division of Purchasing of the Department of Administrative Services. Notwithstanding the previous sentence, the Center and its Board shall be subject to the same procurement and purchasing policies as required by Title 29, Chapter 69, Delaware Code.

(f) The Board shall be subject to the provisions of Title 29, Chapter 63, Subchapter IV, as directed by the Office of Information Systems. The Center shall ensure the ability of public school districts to transmit and receive information in formats acceptable to parties that require access to administrative or educational information as determined by the Governor, the General Assembly, or the State Board of Education.

§4204. Finances of the Center.

(a) The Center shall be authorized to receive State appropriations, federal monies, and local school district funding and shall follow State and federal policies and procedures for the investment of such funds.

(b) The Center shall be authorized to establish special fund accounts for the purpose of receiving donations, grants, gifts, and such other contributions that may be presented to it for use in the conduct of its business, subject to approval of the State Clearinghouse Committee. These accounts shall be interest-earning. The Center may accept such restrictions as the grantor(s) may impose; provided, however, that no such restrictions contravene the laws of the State of Delaware. These accounts shall be subject to audit by the State Auditor.

(c) The General Assembly intends that any funding provided to the Center shall augment, rather than replace, funding for existing programs. Toward this end, any funds provided to local education agencies by the Center shall not be used to reduce expenditures from funds received by districts from other funding sources, including but not limited to: State appropriations, federal grants, local district funding, and other non-public funding sources.

§4205. Reporting Requirements.

(a) No later than six months after the establishment of the Center, the Board shall provide the Governor, the General Assembly, and the State Board of Education with the Center's initial strategic plan. The strategic plan shall include suggested performance measures and shall identify with specificity a strategy to deploy educational technology to meet the duties set forth in §4203 of this chapter.

(b) On or before September 1 of each year subsequent to the year of enactment of this Act, the Center shall report to the Governor, the General Assembly, and the State Board of Education on its progress toward meeting the objectives set forth in its strategic plan; on any update to its strategic plan; on the status of any of its other activities; and on the disbursement of monies for the purposes specified in this chapter. Included in this report shall be plans for future activities, with a detailed implementation schedule, cost estimates, and grant/contribution projections.

(c) The Board shall provide the Joint Finance Committee with reports from time to time regarding the Center's activities and coordination with other State agencies and related organizations including, but not limited to, the Office of Information Systems, the Department of Public Instruction and local school districts. On or after three years from the date of enactment of this Act, the Joint Finance Committee shall review the Center's activities and progress in meeting the objectives of this Act."

Section 2. Amend §5903(12), Title 29 of the Delaware Code by inserting after the words "State Board of Education" the words "and of the Delaware Center for Educational Technology".

Section 3. Amend Title 29, Section 6903(k), Delaware Code, by adding the words "the Center for Educational Technology," following the words "public school districts," as they appear in said subsection.

Section 4. Severability. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Approved June 27, 1995

CHAPTER 112

FORMERLY

SENATE BILL NO. 207

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO BANKS AND OTHER FINANCIAL INSTITUTIONS, AND TO AMEND SECTION 379 OF TITLE 8 OF THE DELAWARE CODE RELATING TO BANKING POWERS.

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

Section 1. Amend subparagraph e. of subsection (7) of §101, Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" between the word "A" and the words "foreign bank agency".

Section 2. Amend subsection (7) of §101, Title 5 of the Delaware Code, by adding a new subparagraph f. thereto, as follows:

"f. A resulting branch in this state of an out-of-state bank (as defined in § 795 of this title, and also including branch offices in this state of an out-of-state bank, as defined in § 795 of this title)."

Section 3. Amend subsection (12) of §101, Title 5 of the Delaware Code, by deleting the reference to "§ 1404" and inserting in lieu thereof a reference to "§ 1404(a)".

Section 4. Amend §101, Title 5 of the Delaware Code, by adding a new subsection (20) at the end thereof, as follows:

"(20) 'Foreign bank limited purpose branch' means an office in this State of a foreign bank that is exercising the powers authorized by § 1404(b) of this title."

Section 5. Amend subsection (b) of §127, Title 5 of the Delaware Code, by inserting after the first sentence and before the existing second sentence thereof the sentence: "Notwithstanding the foregoing sentence, the supervisory assessment on branches in this State of out-of-state banks (as defined in §795 of this title) shall be based on assets calculated as the greater of subsections (i)(2)(i) or (i)(3)(i) of §1101 of this title.", and by deleting from the existing fourth sentence of that subsection the amount "\$300" and by inserting in lieu thereof the amount and words "\$500 when the examination is conducted within the State and \$1000 when the examination is conducted outside the State", and by inserting in the existing seventh sentence of that subsection the words "and retained" after the word "acquired" and before the words "a bank", and by inserting in the existing seventh sentence of that subsection the words "any or all of the conditions in Subchapter 1 of" after the words "pursuant to" and before the words "Chapter 8".

Section 6. Amend § 751, Title 5 of the Delaware Code, by amending the title of that section to read "Acquisition or sale of assets, assumption of liabilities, consolidation and merger; Commissioner's approval; title to property."

Section 7. Amend subsection (a) of §751, Title 5 of the Delaware Code, by deleting the words "shall merge or consolidate with any other bank or trust company or take over any substantial portion of the assets of and/or assume the liabilities, in whole or in part, of any other bank or trust company (whether said other bank or trust company is then doing business or has ceased to do business or has surrendered its charter or has dissolved)", and inserting in lieu thereof the words "shall merge or consolidate with, sell any substantial portion of its assets to, or take over any substantial portion of the assets and/or assume the liabilities, in whole or in part, of any other bank or trust company, savings bank, national bank, federal savings association (as defined in the Home Owners' Loan Act, 12 U.S.C. § 1461 et seq.) or out-of-state bank (as defined in § 795 of this title) (whether any of the foregoing is then doing business or has ceased to do business or has surrendered its charter or has dissolved)".

Section 8. Amend subsection (a) of §761, Title 5 of the Delaware Code, by redesignating existing subparagraph (16) as new subparagraph (17) thereof, and adding thereto a new subparagraph (16) as follows:

"(16) Authorize an affiliated insured depository institution (as those terms are defined in §796 of this chapter) to engage in the authorized agency activities provided in §796A of this chapter."

Section 9. Amend subsection (e) of §767, Title 5 of the Delaware Code, by deleting the reference to "§ 803(4)" from the text of that subsection and inserting in lieu thereof a reference to "§ 803(a)(4)".

Section 10. Amend paragraph (3) of subsection (b) of §769, Title 5 of the Delaware Code, by deleting the words "an out-of-state" and inserting in their place the word "a".

Section 11. Amend subsection (b) of §769, Title 5 of the Delaware Code, by deleting the words "out-of-state" from both places in which they appear in the first sentence in the paragraph following paragraph (3) of that subsection, and by deleting from that sentence the word "an" following the words "bank subsidiary of" and inserting in lieu thereof the word "a".

Section 12. Amend subsection (a) of §771, Title 5 of the Delaware Code, by inserting therein the words "or in any other state of the United States of America" after the words "its possessions" and before the words "or in foreign countries".

Section 13. Amend §793, Title 5 of the Delaware Code, by deleting the entire text of that section and inserting in lieu thereof the following:

"(a) Any bank formed under Chapter 10 of this title, upon filing with the Commissioner an application in such form as the Commissioner shall from time to time prescribe, submitted and sworn to by the directors of the bank, may become a bank which shall be deemed as having been formed under and which shall be governed by the provisions of Chapter 7 of this title.

(b) Upon a determination that the applicant(s) have satisfied the requirements of subsection (a) of this section, the Commissioner shall issue a certificate certifying such compliance and ordering and approving the conversion of the bank, which certificate shall be duly filed with the Secretary of State. A certified copy of such filing shall constitute the certificate authorizing commencement of business pursuant to § 733 of this title. From and after such filing, the bank shall be governed by the provisions of Chapters 7 and 8 of this title and any other law of this State regulating banks generally and shall not be subject to any provision of Chapter 10 of this title or any regulation promulgated thereunder.

(c) The resulting bank shall pay to the Commissioner a fee of \$5,750 for use of the State upon approval of the conversion. In addition, the resulting bank shall pay to the Commissioner an investigation fee of \$1,150 which shall not be refundable and which shall be submitted with the application."

Section 14. Amend Subchapter VI, Title 5 of the Delaware Code, by adding thereto a new §793A as follows:

"§ 793A. Conversion of credit card institution on or after September 29, 1997.

(a) Any credit card institution formed under Chapter 15 of this title, upon filing with the Commissioner an application in such form as the Commissioner shall from time to time prescribe, submitted and sworn to by the directors of the credit card institution, may become a bank which shall be deemed as having been formed under and which shall be governed by the provisions of Chapter 7 of this title.

(b) Upon a determination that the applicant(s) have satisfied the requirements of subsection (a) of this section, the Commissioner shall issue a certificate certifying such compliance and ordering and approving the conversion of the credit card institution, which certificate shall be duly filed with the Secretary of State. A certified copy of such filing shall constitute the certificate authorizing commencement of business pursuant to § 733 of this title.

From and after such filing, the credit card institution shall become a bank governed by the provisions of Chapters 7 and 8 of this title and any other law of this State regulating banks generally and shall not be subject to any provision of Chapter 15 of this title or any regulation promulgated thereunder.

(c) The resulting bank shall pay to the Commissioner a fee of \$5,750 for use of the State upon approval of the conversion. In addition, the resulting bank shall pay to the Commissioner an investigation fee of \$1,150 which shall not be refundable and which shall be submitted with the application."

Section 15. Amend Chapter 7, Title 5 of the Delaware Code, by adding a new Subchapter VII, as follows:

"Subchapter VII. Merger or Consolidation with Out-Of-State Banks.

§ 795. Definitions.

As used in this subchapter:

(1) 'Bank' means a Delaware state bank, out-of-state state bank, Delaware national bank or out-of-state national bank.

(2) 'Bank holding company' has the meaning specified in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq.

(3) 'Branch office' has the meaning specified in § 770 of this chapter.

(4) 'Delaware bank' means a Delaware national bank or a Delaware state bank.

(5) 'Delaware national bank' means a national banking association created under the National Bank Act (12 U.S.C. § 21 et seq.) that is located in this State.

(6) 'Delaware state bank' means a bank (as defined in § 101(1) of this title) chartered under the laws of this State.

(7) 'Existing Delaware bank' means (i) a Delaware state bank whose initial Delaware charter (whether or not subsequently amended or converted to a national charter) bears an effective date not less than 5 years prior to the effective date of the merger of such bank with an out-of-state bank, (ii) a Delaware national bank whose authorization to conduct a banking business in Delaware pursuant to the National Bank Act bears an effective date not less than 5 years prior to the effective date of the merger of such bank with an out-of-state bank, (iii) a building and loan association which has become a Delaware state bank pursuant to § 794 of this title and whose initial Delaware charter or authorization to conduct a building and loan business in Delaware bears an effective date not less than 5 years prior to the effective date of the merger of such building and loan association with an out-of-state bank, (iv) a consumer credit bank which has become a Delaware state bank pursuant to § 793 of this title and whose initial Delaware charter or authorization to operate as a consumer credit bank in Delaware bears an effective date not less than 5 years prior to the effective date of the merger of such consumer credit bank with an out-of-state bank, or (v) a credit card institution which has become a Delaware state bank pursuant to § 793A of this title and whose initial Delaware charter or authorization to operate as a credit card institution in Delaware bears an effective date not less than 5 years prior to the effective date of the merger of such credit card institution with an out-of-state bank.

(8) 'Located in this State' means, with respect to a state-chartered bank, a bank created under the law of this State and, with respect to a national banking association, a bank whose organization certificate identifies an address in this State as the place at which its discount and deposit operations are to be carried out.

(9) 'Merger' includes merger, consolidation and the purchase or sale of all or substantially all assets.

(10) 'Merging bank' means a bank that is a party to a merger.

(11) 'National bank' means a Delaware national bank or an out-of-state national bank.

(12) 'Out-of-state bank' means an out-of-state state bank or an out-of-state national bank.

(13) 'Out-of-state state bank' means a bank, as defined in the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841 et seq.), that is chartered under the laws of any of the United States other than this State.

(14) 'Out-of-state national bank' means a national bank association created under the National Bank Act (12 U.S.C. § 21 et seq.) that is not located in this State.

(15) 'Resulting' with respect to a bank means the bank resulting from a merger, and with respect to a branch means the branch office(s) of the bank resulting from a merger.

§ 795A. Purpose.

It is the express intent of this subchapter to permit interstate branching by merger under § 102 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Public Law No. 103-328, in accordance with the provisions set forth in this subchapter.

§ 795B. Authority for interstate branch offices.

(a) The place of business or main office and all branch offices of a merging bank may continue as branch offices, or one of them may be designated as the place of business or main office, of the resulting bank.

(b) A resulting bank that is an out-of-state state bank may open additional branch offices in this State in such manner as the Commissioner shall prescribe by regulation.

(c) Nothing in this subchapter shall be deemed to permit interstate branching either through the original establishment of a branch office in this State by an out-of-state bank or through acquisition of a branch office in this State by an out-of-state bank, without merger with a Delaware bank as provided in this subchapter.

§ 795C. Merger with resulting Delaware national bank.

(a) Delaware banks may merge with or into out-of-state banks to form a resulting Delaware national bank. The action to be taken by a merging Delaware bank that is a Delaware state bank and its rights and liabilities and those of its stockholders shall be the same as those prescribed for national banks at the time of the action by the laws of the United States and not by the laws of this State, except that a vote of the holders of two thirds of each class of voting stock of a Delaware state bank shall be required for the merger, and that upon the merger of a Delaware state bank into a resulting Delaware national bank the rights of dissenting stockholders of the merging Delaware state bank shall be the same as those specified in § 788 of this title.

(b) Upon the completion of the merger of a Delaware bank that is a Delaware state bank with or into out-of-state banks to form a resulting Delaware national bank, the certificate and charter of any such merging Delaware state bank shall automatically terminate.

(c) A resulting Delaware national bank shall be considered the same business and corporate entity as each merging bank with all the property, rights, powers, duties and obligations of each merging bank, except as affected by the federal law and by the charter and bylaws of the resulting bank.

§ 795D. Merger with resulting Delaware state bank.

(a) Upon written approval by the State Bank Commissioner, out-of-state banks may be merged with or into Delaware banks to result in a Delaware state bank in the same manner as that prescribed in §§ 784, 788, 789, 790, 791 and 792 of this chapter and as prescribed in

subsection (b) of this section; provided that the action by a national bank shall be taken in the manner prescribed by and subject to limitations and requirements imposed by the laws of the United States, which shall also govern the rights of its dissenting stockholders; and further provided that the action by an out-of-state state bank shall be taken in the manner prescribed by and subject to limitations and requirements imposed by the laws of the state under whose laws such out-of-state state bank is chartered, which shall also govern the rights of its dissenting stockholders.

(b) Following the approval of the merger agreement both in substance and form by the Commissioner, in the same manner as that prescribed in § 784, the procedure for a merger which is to result in a Delaware state bank and the legal effect of any such merger (except as regards the rights to payment for their shares of dissenting stockholders of any merging bank that is a Delaware state bank) and the manner of making and effecting the same shall be as prescribed in Chapter 1 of Title 8 for the merger or consolidation of domestic and foreign corporations.

§ 795E. Merger with resulting out-of-state national bank.

(a) Existing Delaware banks may merge with or into out-of-state banks to form a resulting out-of-state national bank. The action to be taken by a merging existing Delaware bank that is a Delaware state bank and its rights and liabilities and those of its stockholders shall be the same as those prescribed for national banks at the time of the action by the laws of the United States and not by the laws of this State, except that a vote of the holders of two thirds of each class of voting stock of a Delaware state bank shall be required for the merger, and that upon the merger of a Delaware state bank into a resulting out-of-state national bank the rights of dissenting stockholders of the merging Delaware state bank shall be the same as those specified in § 788 of this title.

(b) Upon the completion of the merger of an existing Delaware bank that is a Delaware state bank into a resulting out-of-state national bank, the certificate and charter of any such merging Delaware state bank shall automatically terminate.

(c) A resulting out-of-state national bank shall be considered the same business and corporate entity as each merging bank with all the property, rights, powers, duties and obligations of each merging bank, except as affected by the federal law and by the charter and bylaws of the resulting bank.

§ 795F. Merger with resulting out-of-state state bank.

(a) Existing Delaware banks may be merged with or into out-of-state banks to result in an out-of-state state bank; provided that written approval by the State Bank Commissioner is required for any such merger of an existing Delaware bank that is a Delaware state bank, which shall be in the same manner as that prescribed in §§ 784, 788, 789, 790, 791 and 792 of this chapter and as prescribed in subsection (b) of this section; further provided that the action by a national bank shall be taken in the manner prescribed by and subject to limitations and requirements imposed by the laws of the United States, which shall also govern the rights of its dissenting stockholders; and further provided that the action by an out-of-state state bank shall be taken in the manner prescribed by and subject to limitations and requirements imposed by the laws of the state under whose laws such out-of-state state bank is chartered, which shall also govern the rights of its dissenting stockholders.

(b) Following the approval of the merger agreement both in substance and form by the Commissioner, in the same manner as that prescribed in § 784, the procedure for a merger involving a Delaware state bank which is to result in an out-of-state state bank and the legal effect of any such merger (except as regards the rights to payment for their shares of dissenting stockholders of any merging bank that is a Delaware state bank) and the manner of making and effecting the same shall be as prescribed in Chapter 1 of Title 8 for the merger or consolidation of domestic and foreign corporations.

§ 795G. Authority for emergency mergers.

Notwithstanding any other provision in this title, the Commissioner may approve the merger of a Delaware state bank with an out-of-state bank upon determining that the merging Delaware state bank is in default or in danger of default; provided, however, that the merging Delaware state bank has not been caused to be in default or in danger of default for the specific purpose of engaging in a merger pursuant to this section. For purposes of this section, the term 'in danger of default' with respect to a Delaware state bank means that, in the opinion of the Commissioner, the Delaware state bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business and there is no reasonable prospect that it will be able to meet such demands or pay such obligations without assistance, or the Delaware state bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital and there is no reasonable prospect that its capital will be replenished without assistance. The procedure for an emergency merger in accordance with this section with a resulting Delaware national bank, Delaware state bank, out-of-state national bank or out-of-state state bank shall be the same as provided in § 795C, § 795D, § 795E and § 795F of this subchapter, respectively.

§ 795H. Concentration limits; approval of Commissioner.

The Commissioner may approve a merger, in accordance with §§ 795C, 795D, 795E, 795F and 795G of this subchapter, even though the resulting bank (including all insured depository institutions, as defined in the Federal Deposit Insurance Act at 12 U.S.C. § 1813(c), which would be affiliates of the resulting bank), upon consummation of the transaction, would control 30 percent or more of the total amount of deposits of insured depository institutions in this State. In determining whether to approve a merger pursuant to this section, the Commissioner shall consider the convenience and needs of the public of this State.

§ 795I. Powers.

(a) An out-of-state state bank which establishes and maintains one or more branch offices in this State under this subchapter may conduct any activities at such branch office or offices that are authorized under the laws of this State for Delaware state banks.

(b) A Delaware state bank may conduct any activities at any branch office outside this State that are permissible for a bank chartered by the state where such branch office is located, except to the extent such activities are expressly prohibited by the laws of this State.

§ 795J. Examinations; periodic reports; cooperative agreements; regulations; fees.

(a) The Commissioner may make such examinations of any branch office in this State of an out-of-state state bank as the Commissioner may deem necessary to determine whether such branch office is operating in compliance with the laws of this State and to ensure that the branch office is being operated in a safe and sound manner. The provisions of this title shall apply to such examinations.

(b) The Commissioner may require periodic reports regarding any out-of-state state bank that maintains a branch office in this State and from any bank holding company that controls such out-of-state state bank, for the purpose of ensuring continuing compliance with the provisions of this title. Such reports shall be provided by such out-of-state state bank or by the regulatory authority having primary responsibility for such out-of-state state bank.

(c) The Commissioner may enter into cooperative agreements with the appropriate regulatory authorities for the periodic examination of any branch office in this State of an out-of-state state bank or of any branch office in another state of a Delaware state bank, and may accept reports of examination and other records from such authorities in lieu of conducting his own examination. The Commissioner may enter into joint actions with other regulatory authorities with respect to such branch offices or may take such actions independently to carry out his responsibilities to assure the safety and soundness of any bank or branch office in this State and to assure compliance with applicable Delaware banking laws.

(d) Each out-of-state state bank that maintains one or more branch offices in this State may be assessed and, if assessed, shall pay supervisory and examination fees in accordance with the laws of this State and regulations of the Commissioner.

§ 795K. Enforcement.

If the Commissioner determines that a branch office maintained by an out-of-state state bank in this State is being operated in violation of any provision of the laws of this State, or that such branch office is being operated in an unsafe and unsound manner, the Commissioner shall have the authority to take all such enforcement actions as if the branch office were a Delaware state bank.

§ 795L. Regulations.

The Commissioner may promulgate regulations to carry out his responsibilities under this subchapter.

§ 795M. Notice of subsequent merger, etc.

An out-of-state state bank that maintains a branch office in this State established pursuant to this subchapter shall give at least thirty (30) days' prior written notice (or, in the case of an emergency transaction, such shorter notice as is consistent with applicable state and federal law) to the Commissioner of any merger or other transaction that would cause a change of control with respect to such out-of-state state bank or any bank holding company that controls such bank, with the result that an application would be required to be filed pursuant to the Change in Bank Control Act of 1978, as amended, 12 U.S.C. § 1817(j), or the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq., or any successor statutes thereto.

§ 795N. Other mergers or consolidations with out-of-state banks not permitted.

Except as otherwise provided in this subchapter or by applicable law of the United States, no Delaware bank may merge with or into any out-of-state bank."

Section 16. Amend Chapter 7, Title 5 of the Delaware Code, by adding a new Subchapter VIII, as follows:

"Subchapter VIII. Bank Agencies.

§ 796. Definitions.

As used in this subchapter:

(1) 'Affiliate' has the meaning specified in § 2(k) of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841(k).

(2) 'Bank holding company' has the meaning specified in § 2(a) of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841(a).

(3) 'Branch office' has the meaning specified in § 770 of this chapter and also includes a foreign branch office as specified in § 771 of this chapter.

(4) 'Insured depository institution' has the meaning specified in 12 U.S.C. § 1813(c).

§ 796A. Authorized agency activities.

(a) Any bank may, upon compliance with the requirements of this section, agree to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations, and perform such other services as may receive the prior approval of the Commissioner, as an agent for any affiliated insured depository institution. For purposes of this subsection (a): the term 'receive deposits' means the taking of deposits to be credited to an existing account and is not meant to include the opening or origination of new deposit accounts at an affiliated institution by the agent institution; the term 'service loans' means that agent banks may perform ministerial functions for the principal bank making a loan, including

such activities as providing loan applications, assembling documents, providing a location for returning documents necessary for making the loan, providing loan account information (such as outstanding loan balances) and receiving payments, but not including such loan functions as evaluating applications or disbursing loan funds; and the term 'close loans' does not include the making of a decision to extend credit or the extension of credit.

(b) A bank that proposes to enter into an agency agreement under this section shall file with the Commissioner, at least 30 days before the effective date of the agreement:

(1) A notice of intention to enter into an agency agreement with an affiliated insured depository institution;

(2) A description of the services proposed to be performed under the agency agreement; and

(3) A copy of the agency agreement.

(c) If any proposed service is not specifically designated in subsection (a) of this section, and has not previously been approved in a regulation issued by the Commissioner, the Commissioner shall decide whether to approve the offering of such service within 30 days after receipt of the notice required by subsection (b); provided, that if the Commissioner requests additional information after reviewing such notice, the time limit for the Commissioner's decision shall be 30 days after receiving such additional information. In deciding whether to approve, either by regulation or order, any proposed service that is not specifically designated in subsection (a), the Commissioner shall consider whether such service would be consistent with applicable federal and State law and the safety and soundness of the principal and agent institutions. The Commissioner shall give appropriate notice to the public of each approval, by regulation or order, of any proposed service pursuant to this subsection (c).

(d) Any proposed service subject to subsection (c) shall be deemed approved if the Commissioner takes no action on the notice required by subsection (b) within the time limits specified in subsection (e).

(e) A bank may not under an agency agreement:

(1) Conduct any activity as an agent that it would be prohibited from conducting as a principal under applicable State or federal law; or

(2) Have an agent conduct any activity that the bank as principal would be prohibited from conducting under applicable State or federal law.

(f) The Commissioner may order a bank or any other institution subject to the Commissioner's enforcement powers to cease acting as an agent or principal under any agency agreement that the Commissioner finds to be inconsistent with safe and sound banking practices.

(g) Notwithstanding any other provision of the law of this State, a bank acting as an agent for an affiliated insured depository institution in accordance with this section shall not be considered to be a branch office of that institution.

§ 796B. Regulations.

The Commissioner may promulgate regulations to carry out his responsibilities under this subchapter."

Section 17. Amend Subchapter I of Chapter 8, Title 5 of the Delaware Code, by amending the title of that subchapter to read "Acquisition of Stock in New Banks in Delaware before September 29, 1995".

Section 18. Amend subsection (2) of §801 of Title 5 of the Delaware Code, by deleting the text of that subsection in its entirety and inserting in lieu thereof the words "Out-of-state bank

holding company' has the meaning specified in the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841 et seq.)."

Section 19. Amend §802, Title 5 of the Delaware Code, by inserting in the text thereof the words "before September 29, 1995" after the words "located in this State".

Section 20. Amend §803, Title 5 of the Delaware Code, by amending the title of that section to read "Requirements for bank acquisitions before September 29, 1995".

Section 21. Amend §803, Title 5 of the Delaware Code, by redesignating all of the existing text as subparagraph (a) thereof.

Section 22. Amend §803, Title 5 of the Delaware Code, by adding new subsections (b) and (c) at the end thereof, as follows:

"(b) The provisions of subsection (a) of this section apply only to banks first acquired pursuant to this subchapter before September 29, 1995. Subsequent acquisitions of such banks shall not affect the application of the provisions of subsection (a) of this section, except as provided in subsection (c) of this section.

(c) Notwithstanding subsection (a) of this section, any bank described in subsection (a) of this section may file an application with the Commissioner for the waiver of any or all of the conditions specified in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section, except as otherwise provided in this title. Such application shall contain such information as the Commissioner may by regulation require, shall be accompanied by a fee of \$6,000 payable to the Office of the State Bank Commissioner, and shall be approved by the Commissioner upon finding that the applicable provisions of law have been complied with. In determining whether to approve an application pursuant to this subsection (c), the Commissioner shall consider the convenience and needs of the public of this State."

Section 23. Amend subsection (a) of §804, Title 5 of the Delaware Code, by inserting therein the words "before September 29, 1995" after the words "this title" and before the words "shall file an application".

Section 24. Amend §804, Title 5 of the Delaware Code, by adding a new subsection (c) thereto, as follows:

"(c) No application shall be filed pursuant to this section on or after September 29, 1995."

Section 25. Amend §805, Title 5 of the Delaware Code, by inserting the words "and holds" after the word "acquires", and by inserting the words "upon the Commissioner's request" after the word "Commissioner".

Section 26. Amend §806, Title 5 of the Delaware Code, by inserting the words ", including, but not limited to, rules, regulations, and orders" before the words "for the following purposes".

Section 27. Amend §825, Title 5 of the Delaware Code, by inserting the words "upon the Commissioner's request" after the words "shall file with the Commissioner".

Section 28. Amend §841 of Title 5 of the Delaware Code, by deleting the words "of 1987" from the text thereof.

Section 29. Amend subsection (1) of §842, Title 5 of the Delaware Code, by inserting after the words "'Bank' shall mean" and before the colon ":" the words "a 'bank' as defined in Section 2(c) of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841(c), that is".

Section 30. Amend §842, Title 5 of the Delaware Code, by deleting existing subsections (5) and (8) thereof in their entirety, and by redesignating existing subsections (4), (6), (7) and (9) as new subsections (5), (6), (7) and (8), respectively.

Section 31. Further amend §842, Title 5 of the Delaware Code, by adding a new subsection (4) thereto, as follows:

"(4) 'Bank holding company' has the meaning specified in the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841 et seq.)."

Section 32. Amend §843, Title 5 of the Delaware Code, by deleting the text of that section in its entirety, and inserting in lieu thereof the following:

"(a) An out-of-state bank holding company or subsidiary thereof may acquire or retain ownership or control of an existing bank or bank holding company located in Delaware that owns or controls an existing bank; provided that the out-of-state bank holding company makes application under and at all times complies with all regulations, decrees, cooperative agreements and orders duly promulgated by the Commissioner with respect to both the implementation of this subchapter generally, and the operations of such bank holding company and the existing bank which it acquires specifically.

(b) The Commissioner may approve an acquisition, in accordance with subsection (a) of this section, even though the out-of-state bank holding company, or any subsidiary thereof, that acquires an existing bank or bank holding company located in Delaware that owns or controls an existing bank, would control, together with any affiliated insured depository institution (as defined in the Federal Deposit Insurance Act at 12 U.S.C. § 1813(c)), 30 percent or more of the total amount of deposits of insured depository institutions in this State. In determining whether to approve an acquisition pursuant to this subsection (b), the Commissioner shall consider the convenience and needs of the public of this State.

(c) Except as otherwise provided in this title or by applicable law of the United States, no out-of-state bank holding company or subsidiary thereof may acquire or retain ownership or control of a bank or bank holding company located in Delaware."

Section 33. Amend subsection (a) of Section 843 of Title 5 of the Delaware Code, effective September 29, 1997 (as provided in Section 81 of this Act), by deleting the words "an existing bank or bank holding company located in Delaware that owns or controls an existing bank" and inserting in lieu thereof the words "a bank or bank holding company located in Delaware", by deleting the word "existing" after the words "bank holding company and the" and before the word "bank", and by inserting at the end of that subsection the words "; and further provided that, except as otherwise provided in this title, no out-of-state bank holding company or any subsidiary thereof may acquire or retain ownership or control of either a bank located in Delaware created before September 29, 1995 that is not an existing bank or a bank holding company that owns or controls such bank".

Section 34. Amend subsection (b) of §843, Title 5 of the Delaware Code, effective September 29, 1997 (as provided in Section 81 of this Act), by deleting the words "an existing bank or bank holding company located in Delaware that owns or controls an existing bank" and inserting in lieu thereof the words "a bank or bank holding company located in Delaware".

Section 35. Amend subsection (a) of §844, Title 5 of the Delaware Code, effective September 29, 1997 (as provided in Section 81 of this Act), by deleting the words "an existing" from both places in which they appear in the first sentence and inserting in both such places in lieu thereof the word "a".

Section 36. Amend subsection (b) of §844, Title 5 of the Delaware Code, effective September 29, 1997 (as provided in Section 81 of this Act), by deleting the words "an existing" from the first sentence and inserting in lieu thereof the word "a".

Section 37. Amend subsections (b)(1), (b)(2), (b)(3) and (c) of §844, Title 5 of the Delaware Code, effective September 29, 1997 (as provided in Section 81 of this Act), by deleting the word "existing" from each and every place in which such word appears therein.

Section 38. Amend §845, Title 5 of the Delaware Code, effective September 29, 1997 (as provided in Section 81 of this Act), by deleting existing subsection (3) thereof in its entirety, and redesignating existing subsections (4) and (5) as new subsections (3) and (4), respectively.

Section 39. Amend §846, Title 5 of the Delaware Code, by deleting the entire text of that section and inserting in lieu thereof the following:

"Upon the Commissioner's determination that an out-of-state bank holding company is in violation of the requirements of this subchapter or any order, regulation, ruling, cooperative agreement or decree issued or entered into by the Commissioner or any order of a court of competent jurisdiction, or is otherwise operating a bank in an unsafe and unsound manner, the Commissioner shall have the authority to order such out-of-state bank holding company or subsidiary thereof to remedy such violation by a date certain, or to cease and desist from operating in an unsafe and unsound manner, in default of which the Commissioner shall have the authority to order such out-of-state bank holding company or subsidiary thereof to divest itself of any shares or assets of any bank located in this State. The procedure governing such divestiture, and the authority of the Commissioner to enforce an order directing the same, shall be the same as provided in § 807(b) through (d) of this title."

Section 40. Amend §847, Title 5 of the Delaware Code, by deleting the phrase ", existing" from the title thereof.

Section 41. Further amend §847, Title 5 of the Delaware Code, by deleting the words "§ 843(c) and" and the word "existing" from the text of existing subsection (a) thereof.

Section 42. Further amend §847, Title 5 of the Delaware Code, by deleting subsection (b) thereof in its entirety, and by deleting the subsection designation "(a)" from the remaining provisions of that section.

Section 43. Amend subsection (a) of §852, Title 5 of the Delaware Code, by deleting the words "I, II, and III" and inserting in lieu thereof the words "I, II, III and IV".

Section 44. Amend §854, Title 5 of the Delaware Code, by inserting the words "upon the Commissioner's request" after the word "Commissioner".

Section 45. Amend §904, Title 5 of the Delaware Code, by deleting existing subsection (b) thereof in its entirety, and by redesignating existing subsections (c) and (d) as new subsections (b) and (c) thereof, respectively.

Section 46. Amend §905, Title 5 of the Delaware Code, by adding the words ", federal savings associations and out-of-state banks" after the words "Reports by national banks" in the title thereof.

Section 47. Further amend §905, Title 5 of the Delaware Code, by inserting the words ", out-of-state banks (as defined in § 795 of this title) having one or more branch offices in this State, and federal savings associations (as defined in the Home Owners' Loan Act, as amended, 12 U.S.C. § 1461 et seq.)" after the words "National banks" and before the words "doing business".

Section 48. Amend Chapter 9, Title 5 of the Delaware Code, by deleting §919 thereof in its entirety.

Section 49. Amend Chapter 10, Title 5 of the Delaware Code, by adding thereto a new §1024, as follows:

"§ 1024. Prohibition against new consumer credit banks on or after September 29, 1995.

Notwithstanding any other provision of this chapter, no consumer credit bank shall be formed under this chapter on or after September 29, 1995."

Section 50. Amend §1039, Title 5 of the Delaware Code, by designating the existing text thereof as subsection (a) of that section, and adding a new subsection (b), as follows:

"(b) A consumer credit bank created under this chapter may merge or consolidate with other banks by converting to a bank as provided in § 793 of this title, and then merging or consolidating with other banks as provided in Subchapters VI. and VII. of Chapter 7 of this title."

Section 51. Delete § 1056, Title 5 of the Delaware Code.

Section 52. Amend the first paragraph of subsection (a) of §1101, Title 5 of the Delaware Code, by inserting between the word "principles" and the closed parenthesis ")" in the first sentence thereof the words "; provided, however, that the income of subsidiary corporations of out-of-state banks (which for the purposes of this chapter has the same meaning as in § 795 of this title) that operate resulting branches (which for the purposes of this chapter has the same meaning as in § 795 of this title, and in addition shall also mean the branch offices in this state of out-of-state banks) in this State shall be consolidated with the income of such resulting branches only if such subsidiaries make the election provided for in subsection (f) of this section".

Section 53. Amend subparagraph (1) of subsection (a) of §1101, Title 5 of the Delaware Code, by inserting after the words "before taxes" and before the words "and reduced by" the words "plus, in the case of a banking organization that is a resulting branch in this State of an out-of-state bank, the resulting branch imputed capital addback determined under subsection (i) of this section".

Section 54. Amend the last paragraph of subsection (a) of §1101, Title 5 of the Delaware Code, by adding the words "resulting branch in this State of an out-of-state bank, foreign bank limited purpose branch," before the words "foreign bank agency" at both places at which those words appear in that paragraph.

Section 55. Amend subsection (e) of §1101, Title 5 of the Delaware Code, by deleting the words "subsection (a)(1)b." as they appear in the second sentence and inserting in lieu thereof the words "subsection (a)".

Section 56. Amend subsection (f) of §1101, Title 5 of the Delaware Code, by deleting the words "subsection (a)(1)b." as they appear in the first sentence and by inserting in lieu thereof the words "subsection (a)".

Section 57. Further amend subsection (f) of §1101, Title 5 of the Delaware Code, by deleting from the first sentence thereof the words "directly by a bank holding company which also directly owns all the stock of a Delaware chartered banking organization or a national bank located in this State" and inserting in lieu thereof the words "by an out-of-state bank that operates a resulting branch in this State or, directly or indirectly, by a bank holding company that also directly or indirectly owns all the stock of a Delaware chartered banking organization, a national bank located in this State or an out-of-state bank that operates a resulting branch in this State", by deleting from the second sentence thereof the number "300" and inserting in lieu thereof the number "200", and by inserting at the end of that subsection the sentence "When applicable, the income of such electing corporation shall be consolidated with the taxable income of the resulting branch in this State of an out-of-state bank in accordance with generally accepted accounting principles."

Section 58. Amend §1101, Title 5 of the Delaware Code, by adding thereto a new subsection (i), as follows:

"(i) (1) The resulting branch imputed capital addback shall be the product of the greater of the products determined under subparagraphs (2) and (3) of this subsection (i) and the average of the monthly short-term applicable federal rates, as determined under §1274(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1274(d)), or any successor provisions thereto, and as published each month in the Internal Revenue Bulletin, for the twelve-month period preceding the date on which the resulting branch imputed capital addback is being determined.

(2) The product of (i) the deposits recorded on the books of the resulting branch in this State, and (ii) the minimum risk-based capital ratio (expressed as a decimal fraction) that a resulting branch in this State would be required to maintain, if it were a bank, in order to be deemed "adequately capitalized" pursuant to 12 C.F.R. Part 325.

(3) The product of (i) the value of that portion of the total risk-weighted assets (as defined in 12 C.F.R. Part 325) of the out-of-state bank operating the resulting branch in this State that are attributable to such resulting branch, and (ii) the minimum risk-based capital ratio (expressed as a decimal fraction) that a resulting branch in this State would be required to

maintain, if it were a bank, in order to be deemed 'adequately capitalized' pursuant to 12 C.F.R. Part 325."

Section 59. Amend §1102, Title 5 of the Delaware Code, by inserting the words "(or out-of-state bank that operates a resulting branch in this State)" after the words "other proper officer of every banking organization" in the first sentence of that section, by inserting after the first sentence of that section the sentence "In the case of an out-of-state bank that operates more than one resulting branch in this State, the statement setting forth the taxable income of such resulting branches shall set forth the information required by the State Bank Commissioner on a basis that consolidates such information for all resulting branches of such out-of-state bank in this State.", and by inserting the words "(or out-of-state bank that operates a resulting branch in this State)" after the words "proper officer of such banking organization" in the last sentence of that section.

Section 60. Amend §1104, Title 5 of the Delaware Code, by deleting from both subsections (a) and (c)(4) the words "bank, trust company and national bank" and inserting in lieu thereof the words "banking organization or federal savings bank not headquartered in this State but maintaining branches in this State".

Section 61. Amend subsection (a) of §1104, Title 5 of the Delaware Code, by adding at the end of that subsection the words "A resulting branch in this State of an out-of-state bank shall calculate estimated bank franchise tax liability with respect to the imputed capital addback provided in subsection (i) of § 1101 of this chapter by using the imputed capital addback for the preceding income year."

Section 62. Amend subparagraph (4) of subsection (c) of §1104, Title 5 of the Delaware Code, by adding to the end of that subparagraph the words ", or, with respect to a resulting branch in this State of an out-of-state bank, if the addition is attributable to the difference between the imputed capital addback provided in subsection (i) of § 1101 of this chapter for the current and preceding income years."

Section 63. Amend subsections (d) and (e) of §1104, Title 5 of the Delaware Code, by inserting the words "or federal savings bank not headquartered in this State but maintaining branches in this State" after the words "banking organization" at each place where such words appear in those subsections.

Section 64. Amend Chapter 11, Title 5 of the Delaware Code, by adding new §§1111 and 1112 thereto, as follows:

"§ 1111. Period of limitation upon assessments.

(a) Except as otherwise provided in this section, the amount of tax imposed by this chapter shall be assessed within 3 years after the last day prescribed for filing the return or, if later, the date the return was filed.

(b) In the case of a false or fraudulent return with intent to evade tax or a failure to file a return, the tax may be assessed at any time.

(c) When, before the expiration of the time prescribed in subsection (a) of this section for the assessment of tax, both the Commissioner and the taxpayer have consented in writing to its assessment after such time, the taxpayer may be assessed at any time before the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

§ 1112. Period of limitation on credit or refund.

Claim for a credit or refund of an overpayment of any tax imposed by this chapter shall be filed by the taxpayer with the Commissioner not later than 3 years from the last date prescribed for filing the return (including the time permitted in any agreements for the extension of time) or 2 years from the time the tax was paid, whichever of such periods is later, or if no return was filed by the taxpayer, not later than 2 years from the time the tax was paid."

Section 65. Amend Chapter 14, Title 5 of the Delaware Code, by changing the title of Subchapter I of that chapter from "Foreign Bank Agencies" to "Foreign Bank Limited Purpose Branches and Foreign Bank Agencies".

Section 66. Amend subsection (a) of §1403 of Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" before the words "foreign bank agency".

Section 67. Amend subsection (a)(7) of §1403 of Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" before the words "foreign bank agency".

Section 68. Amend subsection (c) of § 1403 of Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" before the words "foreign bank agency".

Section 69. Amend subsection (c)(2) of §1403 of Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" before the words "foreign bank agency" at both places at which those words appear in that subsection.

Section 70. Amend subsection (e)(4) of §1403 of Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" before the words "foreign bank agency".

Section 71. Amend § 1404 of Title 5 of the Delaware Code, by redesignating existing subsection (b) as new subsection (a)(3) thereof, and adding a new subsection (b), as follows:

"(b) A foreign bank holding a certificate of authority pursuant to this subchapter may establish and maintain a foreign bank limited purpose branch in this State at the location stated therein and may engage in the activities of a foreign bank agency permitted in subsection (a) of this section and, in addition, may accept such deposits as would be permissible for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. § 611 et seq.)."

Section 72. Amend subsection (a) of §1405, Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" before the words "foreign bank agency" at all places where such words appear in the first and last sentences of that subsection, and by inserting the words "foreign bank limited purpose branch or foreign bank" before the word "agency" in the second sentence of that subsection.

Section 73. Amend subsection (b) of §1406 of Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" before the words "foreign bank agency" at all places where such words appear in that subsection, and by inserting the words "foreign bank limited purpose branch or foreign bank" before the word "agency" in the second sentence of that subsection.

Section 74. Amend subsection (2) of §1407 of Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branches or" before the words "foreign bank agencies".

Section 75. Further amend subsection (2) of § 1407 of Title 5 of the Delaware Code, by inserting the words "§ 1404(a)(3) and" before the words "§ 1404(b)".

Section 76. Amend subsection (b) of §1410 of Title 5 of the Delaware Code, by inserting the words "foreign bank limited purpose branch or" before the words "foreign bank agency".

Section 77. Amend Part II, Title 5 of the Delaware Code, by adding a new Chapter 15 thereto, as follows:

"CHAPTER 15. CREDIT CARD INSTITUTIONS.

Subchapter I. General Provisions.

§ 1501. Scope; construction.

This chapter provides for the creation of credit card institutions, chartered under the laws of this State, that engage only in credit card operations, do not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third

parties or others, do not accept any savings or time deposit of less than \$100,000, maintain only one office that accepts deposits, and do not engage in the business of making commercial loans, and are excepted from the definition of 'bank' in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq.

§ 1502. Applicability of other laws.

A corporation formed under and pursuant to this chapter shall be known as a 'credit card institution', shall be subject to regulation by the State Bank Commissioner to the same extent as a bank organized under Chapter 7 of this title, and shall be deemed and held to be subject to this title, and to any other general statute of this State making provision for the regulation of banks, where any of the foregoing are not inconsistent with the express provisions of this chapter.

§ 1503. Taxation.

Every corporation created under and pursuant to this chapter, and every corporation whose charter or certificate of incorporation is amended under this chapter, shall be subject to the same taxation which shall be fixed by the laws of this State for banks and trust companies.

§ 1504. Reserved power of State to amend or repeal chapter.

This chapter may be amended or repealed at the pleasure of the General Assembly, but such amendment or repeal shall not take away or repeal any remedy against any corporation established under this chapter, or its officers, for any liability which shall have been previously incurred. This chapter and all amendments thereof shall be part of the charter or certificate of incorporation of every corporation formed under this chapter.

§ 1505. Corporate name.

No corporation formed under this chapter shall use the words 'savings' or 'trust' in its title or name.

Subchapter II. Formation.

§ 1510. Incorporators.

Any person, partnership, association or corporation, singly or jointly with others, and without regard to his (her)(its) or their residence, domicile or state of incorporation, may, upon the execution of written articles of association and upon compliance with this chapter, form a corporation, with the powers conferred by this chapter.

§ 1511. Articles of association; contents and execution.

(a) The articles of association of a credit card institution shall be executed by the incorporator(s), shall be acknowledged and shall set forth the intention of forming a corporation under this chapter, and shall specifically state:

- (1) The name by which the corporation shall be known;
- (2) The purpose for which it is formed;
- (3) The city or town where its single place of business in this State open to the public will be located;
- (4) The amount of its capital stock, and the number of shares into which it is to be divided;
- (5) The number of its directors, which shall not be less than 5;
- (6) Whether or not the corporation is to have perpetual existence, and if not, the time when its existence is to cease;

(7) Whether the private property of the stockholders shall be subject to the payment of corporate debts, and if so, to what extent.

(b) The articles of association may also contain other provisions defining, limiting and regulating the powers of the corporation, the powers and duties of the directors and the powers of the stockholders, if such provisions are consonant with the object, purpose and provisions of this chapter and are not in conflict with this Code or any other general statute of this State relating to banks.

§ 1512. Notice of intention to incorporate; publication.

Notice of the intention of the incorporator(s) to form a credit card institution shall be given to the State Bank Commissioner, and a notice in such form as the Commissioner shall approve shall be published at least once a week, for 3 successive weeks, in 1 or more newspapers designated by the Commissioner, at least 1 of which newspapers shall be published in the county where it is proposed to establish the office of the credit card institution. The published notice shall specify the name of the incorporator(s) organizing the credit card institution, the name of the proposed corporation, the city or the town where it is to be located, and the amount of its capital stock.

§ 1513. Application for certificate of public convenience and advantage.

Within 60 days after the third publication of the notice of intention to incorporate but not before the expiration of 30 days from the date of the third publication, the incorporator(s) shall apply to the State Bank Commissioner for a certificate that public convenience and advantage will be promoted by the establishment of the credit card institution.

§ 1514. Determination of public convenience.

Upon the application for a certificate that public convenience and advantage will be promoted by the establishment of the credit card institution, the State Bank Commissioner shall consider and determine whether public convenience and advantage would be promoted by the establishment of the credit card institution, and whether the terms and provisions of the articles of association and the proposed corporation's location and plan of operation are in compliance with this chapter, and shall issue or refuse to issue a certificate in accordance with such determination. In making such determination, the State Bank Commissioner shall consider, in addition to such other matters as the Commissioner may deem relevant, the experience of the incorporator(s) in the credit card business and with respect to the acceptance and administration of time deposits, and, if applicable, the quality of management and past financial performance. If the Commissioner refuses to issue a certificate, no further proceedings shall be had, but the application may be renewed after 1 year from the date of the refusal. If the Commissioner issues the certificate, the incorporator(s) shall hold the first meeting and follow the procedure prescribed by § 1515 of this title.

§ 1515. Organizational meeting; notice; proceedings.

At the organizational meeting or at any adjournment thereof, the incorporator(s) shall appoint a temporary secretary, adopt bylaws and elect, in such matter as the bylaws may determine, directors, a president, a secretary, and such other officers as the bylaws may prescribe. All the officers so elected shall be sworn to the faithful performance of their duties. The temporary secretary shall make and attest a record of the proceedings until the secretary has been chosen and sworn, including a record of such choice and qualification.

§ 1516. Articles of organization -- Contents.

The president and a majority of the directors elected at the organizational meeting shall make, sign and make oath to, a certificate (hereinafter called 'articles of organization') setting forth: A true copy of the articles of association; the name of the subscriber(s) thereto; the name, residence and post-office address of each of the officers of the corporation; and the date of the first meeting and the successive adjournments thereof, if any.

§ 1517. Same -- Approval.

The articles of organization, together with the records of the proposed corporation, shall be submitted to the State Bank Commissioner. The Commissioner shall examine the same, and may require such amendment thereof or such additional information as the Commissioner may consider proper or necessary. If the Commissioner finds that the provisions of law have been complied with, the Commissioner shall endorse the Commissioner's approval upon the articles of organization.

§ 1518. Same -- Filing.

The articles of organization with the endorsement of the State Bank Commissioner shall, within 30 days after the date of the endorsement, be filed in the office of the Secretary of State.

§ 1519. Certificate of incorporation.

(a) Upon the filing of the articles of organization as required by § 1518 of this title, the Secretary of State shall issue a certificate of incorporation in the following form:

'STATE OF DELAWARE

Be it known that whereas (the name of the incorporator(s)) has (have) executed articles of association with the intention of forming, pursuant to the provisions of Chapter 15 of Title 5 of the Delaware Code, a corporation under the name of (the name of the corporation), for the purpose (the purpose declared in the articles of association), with a capital stock of (the amount fixed in the articles of association), and having its sole place of business in the State of Delaware in (the city or town where its place of business will be located) and has (have) complied with the statutes of this State in such case made and provided, as appears from the articles of organization of the corporation, duly approved by the State Bank Commissioner and on file in this office, now therefore, I (the name of the Secretary of State), Secretary of State of Delaware, do hereby certify that (the name of the incorporator(s)), his(her)(its)(their) successors and assigns, is (are) legally organized and established as, and is (are) hereby made, an existing corporation under the name of (name of the corporation), with the powers, rights and privileges, and subject to the limitations, duties and restrictions which by law appertain thereto.

Witness my official signature hereunto subscribed, and the Great Seal of the State of Delaware hereunto affixed, this day of in the year (the date of the filing of the articles of organization).'

(b) The Secretary of State shall sign the certificate of incorporation and cause the Great Seal of the State to be thereto affixed and shall deliver the same to the corporation together with a certified copy of the articles of organization and the endorsement of the State Bank Commissioner thereon, upon payment of the costs and charges thereof. A certified copy of the certificate shall be kept on file in the office of the Secretary of State with the articles of organization, and the certificate together with the articles of organization and endorsement thereon of the State Bank Commissioner shall be recorded in the office of the recorder of deeds for the county in which the place of business of the corporation is to be located.

(c) The certificate or a copy thereof duly certified by the Secretary of State, together with a certified copy of the articles of organization and the endorsement thereon of the State Bank Commissioner, accompanied with the certificate of the recorder of deeds for the county wherein the same is recorded under his hand and seal of his office, stating that the certificate and articles of organization have been recorded in the office of the recorder, or a copy of the record duly certified by the recorder, shall be evidence in all courts of this State.

§ 1520. Commencement of corporate existence.

Upon the issuance of the certificate of incorporation by the Secretary of State and the recording of the certificate and articles of organization as provided in § 1519 of this title, the incorporator(s) named in the certificate, his (her)(its)(their) successors and assigns shall from the date of the certificate be and constitute a body corporate, for the purposes and by the name

set forth in the certificate, subject to dissolution or the revocation or forfeiture of the franchise under this chapter or under this Code or any other statute of this State relating to the dissolution of or to the revocation or forfeiture of the charter or franchise of banks or trust companies; but the corporation shall not have the right to do any business until it has secured from the State Bank Commissioner of this State the certificate provided for in § 1521.

§ 1521. Certificate authorizing transaction of business.

A certified copy of the certificate of incorporation and of the articles of organization and the endorsement of the approval of the State Bank Commissioner shall be filed with the State Bank Commissioner; and when the whole capital stock has been issued, the president and the cashier or treasurer of the corporation shall certify the names and addresses of the stockholders and the number of shares owned by them. Upon receipt of such certification, the Commissioner shall cause an examination to be made of the method of payment of the capital stock and if, after the examination, it appears that the whole capital stock stated in the articles of association has been paid in cash, and that all requirements of this Code and any other applicable law have been complied with, the Commissioner shall issue a certificate authorizing the corporation to begin the transaction of business. No corporation shall begin the transaction of business until a certificate has been granted authorizing it to do so.

§ 1522. Revocation of charter for failure to commence business within 6 months.

Every corporation created under this chapter shall within 6 months from the date of its incorporation be actively engaged in the business for which it was created or its certificate of incorporation and corporate franchise shall be deemed and held to be revoked.

§ 1523. Fees.

(a) The following fees shall be collected by and paid to the Secretary of State, for the use of the State: For making and issuing the certificate of incorporation, \$10; for making the certified copy of the articles of organization, \$10; for making the certified copy of the certificate of incorporation to be kept on file in the office of the Secretary of State and for filing and indexing the same and the articles of organization in said office, \$5; for supplying any additional certified copy of the certificate of incorporation or articles of organization requested by the corporation, \$5.

(b) Before issuing the certificate authorizing the corporation to begin the transaction of business, the State Bank Commissioner shall collect from the corporation, for the use of the State, the sum of \$5,750. In addition, the applicant shall pay an investigation fee of \$1,150 which shall not be refundable and shall be submitted with the application.

Subchapter III. Conduct of Internal Corporate Affairs.

§ 1530. Bylaws.

A corporation established under this chapter may adopt bylaws for the proper management of its affairs, and may establish regulations controlling the assignment and transfer of its shares. The first set of bylaws shall be adopted at the organizational meeting, as provided in § 1515 of this title, but thereafter the power to make, alter or repeal bylaws shall be in the stockholders, provided that any corporation may, in the articles of association, confer that power upon the directors.

§ 1531. Directors.

(a) The business of every corporation organized under this chapter shall be managed by a board of directors. The number of directors which shall constitute the whole board shall be such as may be specified in the articles of association, but in no case shall the number be less than 5. The bylaws shall prescribe how many directors shall constitute a quorum for the transaction of business.

(b) The directors elected at the organizational meeting, as provided in § 1515 of this title, shall hold office until the succeeding annual meeting of the stockholders and until their

successors have been duly chosen and qualified, and thereafter shall be elected at the annual meeting of the stockholders or at an adjournment of the annual meeting. Vacancies in the board of directors shall be filled by a majority of the remaining directors, though less than a quorum, and the directors so chosen shall hold office until the next annual election and until their successors shall be duly elected and qualified.

(c) Every director shall be sworn to the faithful performance of his or her duties.

§ 1532. Stockholders' meetings.

(a) Meetings of stockholders (except the meeting of incorporators referred to in § 1515 of this title) shall be held at such place either within or without this State as may be designated by or in the manner provided in the bylaws or if not so designated, at the office of the corporation in this State. The bylaws shall fix the time of the annual meeting and may provide for special or called meetings of stockholders.

(b) Any meeting of the stockholders may be adjourned and at such adjourned meeting, any business may be transacted that could have been acted on at the meeting which was adjourned.

§ 1533. Voting rights of stockholders.

Each stockholder shall at every meeting of the stockholders be entitled to 1 vote in person or by proxy for each share of the capital stock held by such stockholder on all issues on which such stockholder is entitled to vote. No stock shall be voted which shall have been transferred on the books of the corporation within 20 days next preceding the stockholders meeting.

§ 1534. Par value of capital stock; payment for and issuance thereof; increase and reduction in such stock.

The capital stock shall be divided into shares of a stated par value. No business shall be transacted by the corporation until the whole amount of its capital stock is subscribed for and actually paid in, in cash. No stock shall be issued by any corporation until the par value thereof shall be fully paid in, in cash. Any corporation may, subject to the approval of the State Bank Commissioner, increase or reduce its capital stock in the manner hereinafter provided.

§ 1535. Stockholders' liability.

The private property of the stockholders shall not be subject to the payment of the corporate debts unless expressly otherwise provided in the articles of association.

§ 1536. Dividends.

The directors of a credit card institution may declare dividends on common or preferred stock of so much of the net profits of the corporation as they shall judge expedient; but the corporation shall, before the declaration of a dividend from the net profits, carry 50% of its net profits of the preceding period for which the dividend is paid to its surplus fund until the same shall amount to 50% of its capital stock; and thereafter shall carry 25% of its net profits of the preceding period for which the dividend is paid to its surplus fund until the same shall amount to 100% of its capital stock.

§ 1537. Amendment of charter or certificate of incorporation.

(a) Credit card institutions created by or under this Code shall hereafter amend their charters or certificates of incorporation by and under this section.

(b) Any credit card institution created under this chapter may, from time to time, when and as desired, amend its charter or certificate of incorporation by addition to its corporate powers and purposes, or diminution thereof, or both (provided such additional corporate power or purpose be such as is authorized or contemplated under any of the provisions of this chapter); or by increasing or decreasing its authorized capital stock (provided that such increase or decrease be expressly approved by the State Bank Commissioner); by changing the number or

par value of its shares of stock; or by changing its corporate title (provided that the words "savings" or "trust" shall not be used in the amended title); and by increasing or decreasing its number of directors (provided that in no case shall the whole number of directors be less than 5). Any or all such changes or alterations may be effected by 1 certificate of amendment. No amendment shall contain a provision which would not have been lawful and proper to insert in an original certificate of incorporation granted or issued under this chapter.

(c) The procedure for amendment and the manner of making and effecting the same shall be as prescribed in Chapter 1 of Title 8 for the amendment of the certificate of incorporation of a corporation having a capital stock. No certificate of amendment shall be received or filed by the Secretary of State or be deemed or held to be effective unless and until the proposed certificate of amendment shall have been submitted to the State Bank Commissioner and shall have been approved both in substance and in form by said Commissioner.

(d) Notwithstanding any of the provisions of this section, a credit card institution created under this chapter may adopt such amendments to its certificate of incorporation as are necessary to permit such credit card institution to comply with the provisions governing the conversion of a credit card institution charter pursuant to § 793A of this title.

§ 1538. Merger and consolidation -- Authorized; procedure.

Subject to § 1539 of this title, no corporation created under this chapter may merge or consolidate with any other corporation or entity except that any 2 or more corporations created under this chapter may merge or consolidate into a single corporation which shall be any 1 of the merging or consolidating credit card institutions. The procedure for the merger or consolidation of such corporations and the legal effect of any such merger or consolidation and the manner of making and effecting the same shall be as prescribed in Chapter 1 of Title 8 for the merger or consolidation of 2 or more corporations organized under that chapter. No agreement of merger or consolidation of corporations created under this chapter shall be received or filed by the Secretary of State or be deemed or held to be effective unless and until the proposed agreement of merger or consolidation shall have been submitted to the State Bank Commissioner and shall have been approved both in substance and in form by the State Bank Commissioner.

§ 1539. Same -- Acquisition of assets and assumption of liabilities; Commissioner's approval; title to property.

(a) No corporation organized under this chapter shall merge or consolidate with any other such corporation and no one shall take over any substantial portion of the assets of and/or assume a substantial portion of the liabilities, in whole or in part, of any such corporation (whether such corporation is then doing business or has ceased to do business or has surrendered its charter or has dissolved) unless and until such action shall be approved by the State Bank Commissioner.

(b) The Commissioner may require that the Commissioner be furnished with such information as to the assets and liabilities and as to the condition of the credit card institutions concerned as the Commissioner deems necessary or proper to determine whether to give or withhold the Commissioner's approval.

(c) The State Bank Commissioner shall refuse approval whenever in the Commissioner's opinion the transaction will weaken any credit card institution concerned.

(d) No title to any property shall pass where the transaction is in violation of this section.

Subchapter IV. Powers, Conditions and Prohibitions.

§ 1541. Powers and limitations.

(a) Any corporation formed under this chapter may engage only in the business of credit card operations and accepting deposits of money, as described in this section. In engaging in such business, such corporations may exercise only the powers described below:

- (1) To sue and be sued, complain and defend in any court of law or equity;
 - (2) To make, hold, purchase, mortgage or lease such real or personal property as is necessary for the conduct of its business;
 - (3) To borrow money;
 - (4) To accept savings or time deposits of money in an amount not less than \$100,000; provided that such deposits shall be insured by the Federal Deposit Insurance Corporation such that the credit card institution qualifies as an insured depository institution, as defined in the Federal Deposit Insurance Act at 12 U.S.C. § 1813(c);
 - (5) To engage in credit card operations by extending credit to any natural person or persons, the proceeds of which are used primarily for personal, family or household purposes, and to take security interests of any kind in property of any type to secure such loans or credits; provided, however, that a loan or credit card account in the name of not more than 2 natural persons shall be deemed to be primarily for personal, family or household purposes;
 - (6) To create and, except for directors' qualifying shares, to own all of the capital stock of 1 or more subsidiary corporations that engage only in activities permitted by this chapter, provided that no subsidiary corporation of a corporation organized under this chapter may accept deposits.
- (b) No credit card institution shall possess or exercise any power:
- (1) To act as a fiduciary of any sort including, but not limited to, an executor, administrator, guardian, conservator, trustee by will or other instrument, receiver or attorney-in-fact;
 - (2) To make commercial loans or extend credits to any corporation or to any natural person or persons when the proceeds of such loan or credit is to be used for business purposes of such individuals; provided, however, that a credit card account in the name of not more than 2 natural persons shall be deemed to be primarily for personal, family or household purposes;
 - (3) To accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;
 - (4) To do any business prohibited by § 767 of this title or any business not authorized by subsection (a) of this section.

§ 1542. Office in State.

Every credit card institution shall have a single office in this State that accepts deposits. At such office, the corporation shall maintain such records and books of accounts as the State Bank Commissioner may by regulation require and shall employ such persons as it may require to review and act upon applications for extensions of credit permitted by § 1541 of this title.

§ 1543. Revocation of authority to transact business.

(a) Upon determining that any corporation organized under this chapter is engaging in any activity not permitted by § 1541 of this title or has more than 1 office that accepts deposits, the State Bank Commissioner may issue an order to such corporation requiring it to take such steps by a date certain as the Commissioner determines are necessary to cure such violation.

(b) Upon determining that any corporation organized under this chapter has failed to timely comply with any order issued under subsection (a) of this section, the State Bank Commissioner shall, by order effective no earlier than 10 nor later than 30 days after issuance, revoke such corporation's authority to transact business in this State. Upon the effective date of such order, and so long as such order has not been suspended or set aside pursuant to

subsection (c) of this section or withdrawn by the State Bank Commissioner, such corporation shall cease all business activity of any kind in this State, but shall maintain a registered office in this State for the purpose of accepting service of legal process.

(c) The Court of Chancery of the State shall have exclusive original jurisdiction of any judicial review of an order issued under subsection (b) of this section, any other provision of law notwithstanding. Such review may be sought by the corporation affected at any time within 1 year of the date of such order. Review of such order shall be de novo and such order will be specifically enforced by the Court of Chancery upon a final determination that at the time of its issuance the order was valid in all respects. The Court of Chancery may, in the exercise of its equitable jurisdiction in appropriate cases, suspend the operation of an order issued under subsection (b) of this section while judicial review of such order proceeds. An order issued under subsection (a) of this section shall not be subject to judicial review.

§ 1544. Merger with or conversion into national bank.

No corporation established under this chapter may merge with or convert into a national bank, except as otherwise provided pursuant to § 793A of this title."

Section 78. Amend subsection (a) of §379 of Title 8 of the Delaware Code, by inserting before the period at the end of that subsection the words ", except as otherwise provided in subchapter VII of Chapter 7 of Title 5".

Section 79. Sections 1-5, 7-13, 15-32 and 38-78 of this Act are effective as of September 29, 1995.

Section 80. Section 6 of this Act is effective as of January 1, 1996.

Section 81. Sections 14 and 33-37 of this Act are effective as of September 29, 1997.

Section 82. If any provision of this Act or the application of any section or part thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application; provided, however, that if any court of competent jurisdiction issues a final order, that by lapse of time or otherwise is no longer subject to appeal, invalidating the provisions in Section 15 of this Act that relate to an "existing Delaware bank" with respect to the age required of such bank that is either a state or national bank in order to be a party to a merger pursuant to the provisions of Section 15 of this Act, then, in such event, Sections 33-37 of this Act shall become invalid, except that any transaction that has been lawfully consummated pursuant to Sections 33-37 of this Act before such invalidity shall be unaffected by such invalidity.

Approved June 28, 1995

CHAPTER 113

FORMERLY

HOUSE BILL NO. 143

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND §1321 OF TITLE 11 RELATING TO CRIMES AND CRIMINAL PROCEDURE.

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

Section 1. Amend §1321, Title 11 of the Delaware Code by inserting after the word "loiters" as it appears in 11 Del. C. §1321(6), the following language: ", congregates with others", and add the following language after the word "vicinity" in the first sentence of §1321(6): ", especially in light of the crime rate in the relevant area."

Approved June 29, 1995

CHAPTER 114

FORMERLY

SENATE BILL NO. 56

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO THE ACCOUNTING AND DISTRIBUTION OF A DECEDENT'S PROPERTY WITHOUT GRANT OF LETTERS.

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

Section 1. Amend Subsection (a), Section 2306, Chapter 23, Title 12 of the Delaware Code by striking the figure "\$12,500" as the same appears in paragraph (3) of said subsection (a), and substituting the figure "\$20,000" in lieu thereof.

Section 2. Amend §2306, Chapter 23, Title 12 of the Delaware Code by striking the figure "\$12,500" as the same appears in the title of said section, and substituting the figure "\$20,000" in lieu thereof.

Section 3. Amend §2101 (b), Chapter 21, Title 12 of the Delaware Code by striking the figures "\$12,500" and "\$15,000" as the same appear therein and substituting the figures "\$20,000" and "\$25,000" in lieu thereof.

Approved June 29, 1995

CHAPTER 115

FORMERLY

HOUSE BILL NO. 182

AN ACT CONCURRING IN A PROPOSED DELETION OF ARTICLE XII OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO THE STATE BOARD OF HEALTH.

WHEREAS, an amendment to the Constitution of the State of Delaware was proposed in the 137th General Assembly, being Chapter 385, Volume 69, Laws of Delaware, as follows:

"AN ACT PROPOSING THE DELETING 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."

WHEREAS, the said proposed amendment was adopted by two-thirds of all members elected to each House of the 137th General Assembly:

NOW THEREFORE:

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

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

Approved June 22, 1995

CHAPTER 116

FORMERLY

SENATE BILL NO. 267

AN ACT TO AMEND 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 §1110, Title 30 of the Delaware Code, by striking such section in its entirety and substitute in lieu thereof a new §1110 to read as follows:

“§1110. Personal Exemptions and Credits.

(a) For tax years ending before January 1, 1996, a resident shall be allowed an exemption of \$1,250 for each exemption to which he is entitled for the taxable year for federal income tax purposes. Resident persons age 60 or over shall be allowed one additional personal exemption.

(b) For tax years beginning after December 31, 1995, resident individuals shall be allowed a personal credit against the individual's tax otherwise due under this chapter in the amount of:

(1) \$100 for each personal exemption to which such individual is entitled for the taxable year for federal income tax purposes; plus

(2) An additional \$100 in the case of each resident person age 60 or over.

(c) In no event shall the credit allowed under subsection (b) of this section exceed the tax otherwise due under this chapter.”

Section 2. It is declared to be the legislative intent that, with regard to this Act, if any section, subsection, sentence, clause, or provision of this Act is held invalid, the remainder of this Act shall be invalid.

Section 3. This Act shall be effective for tax years beginning after December 31, 1995.

Approved July 1, 1995

CHAPTER 117

FORMERLY

HOUSE BILL NO. 377

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE WITH REGARD TO
PERSONAL INCOME TAX.BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend § 1102(a), Title 30 of the Delaware Code by adding to said subsection a new paragraph (6) to read as follows:

"(6) For taxable years beginning after December 31, 1995, the amount of tax shall be determined as follows: 3.2% of taxable income in excess of \$2,000 but not in excess of \$5,000; 5.0% of taxable income in excess of \$5,000 but not in excess of \$10,000; 6.0% of taxable income in excess of \$10,000 but not in excess of \$20,000; 6.35% of taxable income in excess of \$20,000 but not in excess of \$25,000; 6.65% of taxable income in excess of \$25,000 but not in excess of \$30,000; 7.1% of taxable income in excess of \$30,000."

Section 2. Further amend § 1102(a), Title 30 of the Delaware Code by inserting immediately after the date "December 31, 1987," as it appears in paragraph (5) of said subsection the phrase: "and before January 1, 1996,".

Section 3. Amend § 534(h), Title 30 of the Delaware Code by striking said subsection in its entirety.

Section 4. Amend § 1109, Title 30 of the Delaware Code by adding to said section a new subsection (c) to read as follows:

"(c) For purposes of subsection (a) of this section, the amount of itemized deductions representing income taxes imposed by: (i) this State, or (ii) another state of the United States or a political subdivision thereof or the District of Columbia on income derived from sources therein if a resident elected to take such amount as a credit in accordance with § 1111(a) of this title shall be deemed to equal the amount of such taxes reduced by the amount of such taxes multiplied by the percentage determined under § 68(a) of the Internal Revenue Code or successor provision thereof."

Section 5. It is declared to be the legislative intent that, with regard to Sections 1 and 2 of this Act, if any section, subsection, sentence, clause, or provision of this Act is held invalid, the remainder of this Act shall be invalid.

Section 6. Sections 1, 2, and 4 of this Act shall be effective for tax years beginning after December 31, 1995. Section 3 of this Act shall be effective for tax years beginning after December 31, 1994.

Approved July 1, 1995

CHAPTER 118

FORMERLY

FORMERLY HOUSE BILL NO. 350

AN ACT MAKING APPROPRIATIONS FOR THE EXPENSE OF THE STATE GOVERNMENT FOR THE FISCAL YEAR ENDING JUNE 30, 1996; 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, 1996, 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 1996, 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:

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 effective during the current fiscal year.

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 this current fiscal year, 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

CHAPTER 118

FORMERLY

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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.

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DEPARTMENTS

Year ending June 30, 1996

(01-00-00) LEGISLATIVE

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(01-01-01) General Assembly - House				
2				Personnel Costs				2,799.4
3				Travel				
4			21.0	Mileage - Legislators				50.0
5				Other - Travel				32.2
6				Contractual Services				330.0
7				Supplies and Materials				25.0
8				Capital Outlay				40.0
9				Expenses - House Members				257.0
10				House Committee Expenses				60.0
11			21.0	TOTAL - General Assembly - House				3,593.6
12								
13				(01-02-01) General Assembly - Senate				
14			14.0	Personnel Costs				1,745.6
15				Travel				
16				Mileage - Legislative				38.5
17				Other - Travel				35.0
18				Contractual Services				171.4
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				2,322.6
25								
26				(01-05-01) Commission on Interstate Cooperation				
27				Travel				18.0
28				Legislative Travel				100.0
29				Contractual Services				40.0
30				Contractual Services - Appalachian Compact				48.0
31				Supplies and Materials				0.5
32				Council of State Governments				60.1
33				Delaware River Basin Commission				344.0
34				National Conference of State Legislatures				67.5
35				TOTAL - Commission on Interstate Cooperation				678.1
36								
37								
38								
39								
40								
41								

Year ending June 30, 1996

Personnel			S Program		S Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(01-08-00) Legislative Council						
(01-08-01) Division of Research						
		18.0				831.2
						9.6
						65.8
						52.6
						17.3
						4.5
						36.8
						9.0
		18.0				1,026.8
TOTAL -- Division of Research						
(01-08-02) Office of the Controller General						
		13.0				857.8
						13.5
						130.9
						24.5
						2.0
						8.3
						15.0
						10.0
						25.0
						10.0
						500.0
						20.0
		13.0				1,617.0
TOTAL -- Office of the Controller General						
(01-08-03) Code Revisors						
						1.0
						200.8
						0.5
						202.3
TOTAL -- Code Revisors						
(01-08-06) Commission on Uniform State Laws						
						8.5
						8.6
						0.1
						17.2
TOTAL -- Commission on Uniform State Laws						
		31.0				2,863.3
TOTAL -- Legislative Council						
		66.0				9,457.6
TOTAL -- LEGISLATIVE						

DEPARTMENTS

Year ending June 30, 1996

(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			2,799.4	
3			21.0	Travel				
4				Mileage - Legislators			50.0	
5				Other - Travel			32.2	
6				Contractual Services			330.0	
7				Supplies and Materials			25.0	
8				Capital Outlay			40.0	
9				Expenses - House Members			257.0	
10				House Committee Expenses			60.0	
11			21.0	TOTAL - General Assembly - House			3,593.6	
12								
13				(01-02-01) General Assembly - Senate				
14			14.0	Personnel Costs			1,745.6	
15				Travel				
16				Mileage - Legislative			38.5	
17				Other - Travel			35.0	
18				Contractual Services			171.4	
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			2,322.6	
25								
26				(01-05-01) Commission on Interstate Cooperation				
27				Travel			18.0	
28				Legislative Travel			100.0	
29				Contractual Services			40.0	
30				Contractual Services - Appalachian Compact			48.0	
31				Supplies and Materials			0.5	
32				Council of State Governments			60.1	
33				Delaware River Basin Commission			344.0	
34				National Conference of State Legislatures			67.5	
35				TOTAL - Commission on Interstate Cooperation			678.1	
36								
37								
38								
39								
40								
41								

Year ending June 30, 1996

	Personnel				S Program		S Line Items	
	NSF	ASF	GF		ASF	GF	ASF	GF
1				(01-08-00) Legislative Council				
2				(01-08-01) Division of Research				
3				Personnel Costs				831.2
4			18.0	Travel				9.6
5				Contractual Services				65.8
6				Supplies and Materials				52.6
7				Capital Outlay				17.3
8				Sunset Committee Expenses				4.5
9				Sunset Committee Personnel Costs				36.8
10				Printing - Laws and Journals				9.0
11			18.0	TOTAL -- Division of Research				1,026.8
12								
13				(01-08-02) Office of the Controller General				
14				Personnel Costs				857.8
15			13.0	Travel				13.5
16				Contractual Services				130.9
17				Supplies and Materials				24.5
18				Capital Outlay				2.0
19				Family Law Commission Expenses				8.3
20				Contingencies:				
21				Juvenile Detention Oversight Committee				15.0
22				JFC/CIP				10.0
23				U. of D. Senior Center Update				25.0
24				Internship				10.0
25				House of Representatives Desegregation Committee				500.0
26				Legislative Council				20.0
27			13.0	TOTAL -- Office of the Controller General				1,617.0
28								
29				(01-08-03) Code Revisors				
30				Travel				1.0
31				Contractual Services				200.8
32				Supplies and Materials				0.5
33				TOTAL -- Code Revisors				202.3
34								
35				(01-08-06) Commission on Uniform State Laws				
36				Travel				8.5
37				Contractual Services				8.6
38				Supplies and Materials				0.1
39				TOTAL -- Commission on Uniform State Laws				17.2
40								
41								
42								
43			31.0	TOTAL -- Legislative Council				2,863.3
44								
45								
46			66.0	TOTAL -- LEGISLATIVE				9,457.6

(02-00-00) JUDICIAL

	Personnel				S Program		S Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
1								
2								
3								
4								
5				(02-01-00) Supreme Court				
6			26.0	Personnel Costs			3.6	1,762.7
7				Travel			8.0	8.4
8				Contractual Services			25.2	95.9
9				Supplies and Materials			2.0	41.6
10				Capital/Equipment			6.5	
11				Court on the Judiciary				1.0
12			26.0	TOTAL -- Supreme Court			45.3	1,909.6
13								
14			26.0	(-10) Supreme Court	45.3	1,909.6		
15			26.0	TOTAL -- Internal Program Unit	45.3	1,909.6		
16								
17								
18				(02-02-00) Court of Chancery				
19			24.0	Personnel Costs				1,626.0
20				Travel				6.9
21				Contractual Services				62.2
22				Supplies and Materials				25.0
23				Capital/Equipment				2.5
24			24.0	TOTAL -- Court of Chancery				1,722.6
25								
26			24.0	(-10) Court of Chancery		1,722.6		
27			24.0	TOTAL -- Internal Program Unit		1,722.6		
28								
29								
30				(02-03-00) Superior Court				
31			258.0	Personnel Costs				10,843.4
32				Travel				21.3
33				Contractual Services				1,375.0
34				Supplies and Materials				187.3
35				Capital/Equipment				37.0
36			258.0	TOTAL -- Superior Court				12,464.0
37								
38			169.0	(-10) Case Management		9,595.0		
39			89.0	(-20) Prothonotaries		2,869.0		
40			258.0	TOTAL -- Internal Program Units		12,464.0		
41								
42								
43				(02-06-00) Court of Common Pleas				
44			91.0	Personnel Costs				3,536.4
45				Travel				8.4
46				Contractual Services				128.9
47				Supplies and Materials				66.6
48				Capital/Equipment				15.5
49			91.0	TOTAL -- Court of Common Pleas				3,755.8
50								
51			91.0	(-10) Court of Common Pleas		3,755.8		
52			91.0	TOTAL -- Internal Program Unit		3,755.8		

Personnel

NSF	ASF	GF
5.8	64.0	233.0
5.8	64.0	233.0

(02-00-00) Family Court

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Domestic Violence Coord. Council

TOTAL -- Family Court

5.8	64.0	233.0
5.8	64.0	233.0

(-10) Family Court

TOTAL -- Internal Program Unit

\$ Program

ASF	GF
2,260.9	10,329.2
2,260.9	10,329.2

\$ Line Item

ASF	GF
2,000.9	9,631.0
12.2	13.6
141.4	531.9
60.1	97.2
46.3	55.5
2,260.9	10,329.2

(00-11-00) Justices of the Peace Courts

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

TOTAL -- Justices of the Peace Courts

		232.0
		232.0

(-10) Justices of the Peace Courts

TOTAL -- Internal Program Units

	8,425.8
	7.1
	798.8
	87.2
	101.0
	12.5
	151.6
	9,584.0

	9,584.0
	9,584.0

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

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

TOTAL -- Administrative Office of the Courts - Court Services

		45.0
		45.0

	2,149.3
	13.6
	2,208.0
	12.7
	279.1
	20.9
	6.0
	37.3
	14.0
	4,740.9

	2,570.9
	290.7
	1,449.2
	430.1
	4,740.9

(-01) Office of the Director
(-03) Central Collections Office
(-04) Judicial Information Center
(-05) Law Libraries

TOTAL -- Internal Program Units

	Personnel				\$ Program		\$ Line Item	
	NSF	ASF	GF		ASF	GF	ASF	GF
				(02-18-00) Administrative Office of the Courts - Non-Judicial Services				
		8.0	14.5	Personnel Costs			341.3	549.3
				Travel			19.9	12.8
				Contractual Services			54.5	55.8
				Energy			3.4	
				Supplies and Materials			7.7	11.5
				Capital/Equipment			6.0	1.6
				Special Needs Fund				8.0
				Violent Crime Grants			1,700.0	
				Revenue Refund			0.8	
		8.0	14.5	TOTAL -- Administrative Office of the Courts - Non-Judicial Services			2,133.6	639.0
			6.5	(-01) Office of the Public Guardian		298.4		
		8.0	6.0	(-02) Violent Crimes Compensation Board	2,133.6			
			2.0	(-03) Foster Care Review Board		282.8		
				(-04) Educational Surrogate Parent Program		57.8		
		8.0	14.5	TOTAL -- Internal Program Units	2,133.6	639.0		
	5.8	72.0	923.5	TOTAL -- JUDICIAL			4,439.8	45,145.1

(10-00-00) EXECUTIVE

NSF	ASF	GF
	1.0	24.0
	1.0	24.0

(10-01-01) Office of the Governor

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Woodburn Expenses
Contingency-Other Expenses

TOTAL – Office of the Governor

S Program		S Line Item	
ASF	GF	ASF	GF
		45.0	1,487.0
			12.0
		74.4	200.4
			21.2
			40.0
			8.7
		119.4	1,769.3

(10-02-00) Office of the Budget

Number of Children	Group 3.0	Group 7.0	Group 30.5
0	0.0	0.0	0.0
1	0.0	0.0	0.0
2	0.0	0.0	0.0
3	0.0	0.0	0.0
4	0.0	0.0	0.0
5	0.0	0.0	0.0

- Personnel Costs
- Travel
- Contractual Services
- Supplies and Materials
- Capital Outlay
- Data Processing - Development Projects
- Budget Automation - Operations
- Contingency:
 - Budget Commission
 - One-Time Appropriations
 - Prior Years' Obligations
 - Self Insurance
 - Legal Fees
 - Employee Commute Option
 - Deseg Districting
 - Technology Fund
 - Family Services Cabinet Council
- Fleet Operations
- Hedging
- Personnel Costs - Salary Shortage
- Public Safety Crime Bill Match
- VAWA Crime Bill Match
- Selective Market
- Maintenance Reviews
- Salary Contingency
- Salary Contingency - Overtime
- Appropriated Special Funds
- Debt Service

TOTAL – Office of the Budget

356.1	2,072.1
3.4	37.6
661.3	1,939.3
5.5	29.2
	10.0
	2,000.0
	50.0
	100.0
	38,647.8
	400.0
	3,186.6
	1,400.0
	100.0
	15.0
	13,000.0
	50.0
	100.0
	100.0
	400.0
	500.0
	75.0
	33.5
54.5	193.6
	3,162.4
	113.0
20,000.0	
	774.8
21,080.8	68,489.9

	7.0	26.0
3.0		4.5
3.0	7.0	30.5

(-01) Office of the Budget Administration	1,026.3	5,021.0
(-04) Contingency and One-Time Items	20,054.5	61,476.9
(-06) Budget Commission		100.0
(-07) Delaware Higher Education Commission		1,892.0
TOTAL -- Internal Program Units	21,080.8	68,489.9

Personnel		
NSF	ASF	GF
		11.0
		11.0
		8.0
		8.0
	4.0	32.0
	4.0	32.0

(10-03-00) Delaware Economic 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

S Program		S Line Item	
ASF	GF	ASF	GF

	591.6
	6.0
	33.1
	34.2
	3.6
	2.0
	151.7
	822.2

(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

	307.8
	23.0
	425.4
	9.0
	2.0
	0.5
	0.8
	0.8
	769.3

(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

183.9	1,629.6
20.0	51.0
425.3	876.0
1.5	
10.0	23.0
10.0	
	305.0
	65.6
820.0	
	150.0
	65.0
	2,851.2
1,470.7	6,016.4

Personnel

NSF	ASF	GF
-----	-----	----

7.2	55.8	
7.2	55.8	

7.2	59.8	51.0
-----	------	------

(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

\$ Program

ASF	GF
-----	----

\$ Line Items

ASF	GF
-----	----

2,427.7	
36.3	
808.7	
28.0	
90.0	
147.5	
85.0	
85.0	
125.0	
30,000.0	
934.8	
1,200.0	
	434.4
35,968.0	434.4

TOTAL -- Delaware Economic Development Office

37,438.7	8,042.3
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(10-04-00) Office of State Personnel

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

TOTAL -- Office of State Personnel

2,900.6	1,364.2
36.1	13.2
9,277.3	675.1
88.9	84.4
64.5	14.1
	267.7
	1.5
	12.8
135.0	
12,608.4	
	2,592.0
	31.2
75.0	
300.0	
	195.3
25,485.8	5,251.5

1.7	16.0	45.3
	2.0	3.0
	3.0	
	50.0	
1.7	71.0	48.3

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

TOTAL -- Internal Program Units

797.6	1,925.3
303.9	296.3
12,608.4	577.8
11,775.9	2,452.1
25,485.8	5,251.5

Personnel		
NSF	ASF	GF
		3.0
		3.0

(10-05-00) Delaware Health Care Commission

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Program Evaluation

TOTAL -- Delaware Health Care Commission

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			172.2
			24.3
			127.4
			14.5
			13.0
			230.1
			581.2

		3.0
		3.0

(-01) Delaware Health Care Commission

TOTAL -- Internal Program Unit

	581.2
	581.2

	8.0	164.1
	8.0	164.1

(10-06-00) Office of Information Systems

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

TOTAL -- Office of Information Systems

301.3	8,340.2
40.0	21.4
2,068.0	5,836.2
	236.3
35.0	352.3
77.5	5.3
	303.7
2,521.8	15,095.4

	8.0	64.0
		11.1
		10.0
		59.0
		11.0
		9.0
	8.0	164.1

(-09) Production

(-11) Northern Data Center

(-12) Telecommunications Management

(-13) Development

(-14) Planning and Data Administration

(-15) Administration

TOTAL -- Internal Program Units

707.5	6,267.6
1,130.8	1,426.7
276.0	1,100.0
87.5	3,859.3
	1,146.9
320.0	1,294.9
2,521.8	15,095.4

Personnel		
NSF	ASF	GF
6.7		9.8
6.7		9.8

(10-07-00) Criminal Justice
 (10-07-01) Criminal Justice Council
 Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital Outlay
 SENTAC
 Other Grants
 TOTAL -- Criminal Justice Council

S Program		S Line Item	
ASF	GF	ASF	GF
			511.9
			3.8
			36.7
			3.9
			2.6
			10.0
		60.0	93.5
		60.0	662.4

		7.0
		7.0

(10-07-02) Delaware Justice Information System
 Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 TOTAL -- Delaware Justice Information System

	378.3
	3.5
	475.4
	12.0
	869.2

3.0		4.5
3.0		4.5

(10-07-03) Statistical Analysis Center
 Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 TOTAL -- Statistical Analysis Center

	251.3
	2.6
	12.4
	4.4
	270.7

9.7		21.3
-----	--	------

TOTAL -- Criminal Justice

60.0	1,802.3
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21.6	146.8	342.2
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TOTAL -- EXECUTIVE

86,706.5	101,031.9
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(12-00-00) OTHER ELECTIVE OFFICES

	Personnel				S Program		S Line Items	
	NSF	ASF	GF		ASF	GF	ASF	GF
(12-01-01) Lieutenant Governor				Personnel Costs				267.2
			6.0	Travel				4.3
				Contractual Services				19.6
				Supplies and Materials				2.3
				Expenses - Lieutenant Governor				7.7
TOTAL -- Lieutenant Governor			6.0					301.1
(12-02-01) Auditor of Accounts				Personnel Costs			634.3	1,732.8
		16.0	35.0	Travel			3.7	6.9
				Contractual Services			817.5	253.2
				Supplies and Materials			16.3	12.6
				Capital Outlay			6.8	4.5
TOTAL -- Auditor of Accounts		16.0	35.0				1,478.6	2,010.0
(12-03-00) Insurance Commissioner								
(12-03-01) Regulatory Activities				Personnel Costs			321.6	669.0
		8.0	16.0	Travel			17.4	3.5
				Contractual Services			84.3	135.0
				Supplies and Materials			2.0	2.4
				Malpractice Review				5.4
TOTAL -- Regulatory Activities		8.0	16.0				425.3	815.3
(12-03-02) Bureau of Examination, Rehabilitation and Guaranty				Personnel Costs			1,782.9	
	1.0	39.0		Travel			72.0	
				Contractual Services			527.0	
				Supplies and Materials			26.2	
				Capital Outlay			80.0	
				Arbitration Program			30.0	
				Contract Examiners			10,000.0	
TOTAL -- Bureau of Examination, Rehabilitation and Guaranty							12,518.1	
TOTAL -- Insurance Commissioner	1.0	47.0	16.0				12,943.4	815.3

Year ending June 30, 1996

Personnel		
NSF	ASF	GF

S Program	
ASF	GF

S Line Items	
ASF	GF

(12-05-00) State Treasurer
(12-05-01) Administration

1.0	8.0	17.0
1.0	8.0	17.0

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

327.3	772.4
14.4	2.3
38.2	113.8
6.3	8.7
15.5	
985.0	
62.0	
103.0	
	130.0
	93.0
1,551.7	1,120.2

(12-05-03) Debt Management
Expense of Issuing Bonds
Debt Service - Old
Debt Service - Local Schools
Debt Service - Solid Waste Authority
Debt Service - Refunding
Amortization
Financial Advisor
TOTAL -- Debt Management

	231.9
	20.4
	7,065.0
	141.0
	2,875.7
	65.2
	75.0
	10,474.2

1.0	8.0	17.0
-----	-----	------

TOTAL -- State Treasurer

1,551.7	11,594.4
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2.0	71.0	74.0
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TOTAL -- OTHER ELECTIVE OFFICES

15,973.7	14,720.8
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(15-00-00) LEGAL

Personnel		
NSF	ASF	GF

30.1	25.6	206.4
30.1	25.6	206.4

(15-01-00) Office of Attorney General
(15-01-01) Office of Attorney General

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Extradition
Victims Rights
Medicaid Fraud Program
Securities Administration
AG Opinion Fund
Child Support
TOTAL -- Office of Attorney General

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

82.2	9,928.6
	12.2
	1,073.3
	6.9
	53.3
	34.5
	55.0
75.0	283.8
30.0	
308.4	
15.0	
805.0	
1,315.6	11,447.6

	4.0	11.0
	4.0	11.0

(15-01-02) Consumer Protection

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

	462.4
0.1	1.7
0.1	22.7
0.1	3.6
1.1	
300.0	
301.4	490.4

30.1	29.6	217.4
------	------	-------

TOTAL -- Office of Attorney General

1,617.0	11,938.0
---------	----------

7.0		99.0
7.0		99.0

(15-02-01) Public Defender

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
TOTAL -- Public Defender

	4,895.0
	1.7
	483.3
	4.6
	34.9
	3.8
	5,423.3

		7.0
		7.0

(15-03-01) Board of Parole

Personnel Costs
Travel
Contractual Services
Supplies and Materials
TOTAL -- Board of Parole

	316.9
	5.7
	18.9
	2.7
	344.2

37.1	29.6	323.4
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TOTAL -- LEGAL

1,617.0	17,705.5
---------	----------

(20-00-00) DEPARTMENT OF STATE

Personnel

NSF	ASF	GF
-----	-----	----

	3.0	17.0
	3.0	17.0

(20-01-00) Office of the Secretary

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

TOTAL -- Office of the Secretary

	3.0	5.0
		4.0
		8.0
	3.0	17.0

(-01) Administration
(-02) Delaware Commission on
Veterans Affairs
(-03) Delaware Veterans Memorial
Cemetery

TOTAL -- Internal Program Units

1.0		7.0
1.0		7.0

(20-02-00) Office of Human Relations

Personnel Costs
Travel
Contractual Services
Supplies and Materials

TOTAL -- Office of Human Relations

1.0		7.0
1.0		7.0

(-01) Office of Human Relations

TOTAL -- Internal Program Unit

	54.5	29.5
	54.5	29.5

(20-05-00) Corporations

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Computer Time Costs
Technology Infrastructure Fund
Debt Service

TOTAL -- Corporations

	54.5	29.5
	54.5	29.5

(-01) Corporations

TOTAL -- Internal Program Unit

\$ Program

ASF	GF
-----	----

394.9	555.9
	185.0
29.2	429.2
424.1	1,170.1

\$ Line Item

ASF	GF
-----	----

99.9	746.2
18.4	15.9
166.3	139.1
	12.2
33.5	65.7
106.0	
	191.0
424.1	1,170.1

	304.7
	4.0
	26.0
	3.3
	338.0

	338.0
	338.0

1,841.2	1,111.1
29.3	
666.5	60.0
106.6	
684.7	
200.0	
500.0	
	584.8
4,028.3	1,755.9

4,028.3	1,755.9
4,028.3	1,755.9

Personnel		
NSF	ASF	GF
4.8	7.4	65.8
4.8	7.4	65.8

	6.0	5.0
4.8	0.4	2.8
	1.0	31.0
4.8	7.4	65.8

3.0		5.8
3.0		5.8

3.0		5.8
3.0		5.8

(20-06-00) Historical and Cultural Affairs

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Delaware Heritage Commission
Archival Grants
Other Items:
Museum Operations
Museum Gift Shops
Museum Grounds
Museum Exhibits
Conference Center Operations
Conference Center Grounds
Debt Service

TOTAL -- Historical and Cultural Affairs

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

TOTAL -- Internal Program Units

(20-07-00) Arts

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Delaware Art
Art for the Disadvantaged

TOTAL -- Arts

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

S Program		S Line Item	
ASF	GF	ASF	GF
		254.6	2,459.9
		3.6	3.4
		39.7	252.5
			149.2
		24.3	131.7
		2.5	9.5
			85.0
		60.0	
		23.0	
		40.0	
		4.0	
		10.0	
		60.0	
		21.6	
			1,028.3
		543.3	4,119.5

	608.2
362.8	1,167.1
16.9	148.0
163.6	2,196.2
543.3	4,119.5

	220.8
	3.6
	70.0
	3.5
	1,000.0
	10.0
	1,307.9

	1,307.9
	1,307.9

Personnel		
NSF	ASF	GF
9.0		10.0
9.0		10.0

(20-08-00) Libraries

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

TOTAL -- Libraries

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			404.6
			1.0
			111.7
			21.2
			46.0
			5.0
			1,171.6
			264.6
			2,025.7

9.0		10.0
9.0		10.0

(-01) Libraries

TOTAL -- Internal Program Unit

	2,025.7
	2,025.7

(20-15-00) State Banking Commission

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Revenue Refund

TOTAL -- State Banking Commission

	43.0	
	43.0	

1,943.0	
42.8	
421.9	
27.0	
298.2	
2.0	
2,734.9	

	43.0	
	43.0	

(-01) State Banking Commission

TOTAL -- Internal Program Unit

2,734.9	
2,734.9	

17.8	107.9	135.1
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TOTAL -- DEPARTMENT OF STATE

7,730.6	10,717.1
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(25-00-00) DEPARTMENT OF FINANCE

1
2
3
4
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33
34
35
36
37
38
39
40
41
42
43
44

Personnel

NSF	ASF	GF
-----	-----	----

		16.0
		16.0

(25-01-00) Office of the Secretary

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Fiscal Notebook
Information Systems Development

TOTAL -- Office of the Secretary

(-01) Office of the Secretary

TOTAL -- Internal Program Unit

S Program

ASF	GF
-----	----

330.0	1,139.9
330.0	1,139.9

S Line Item

ASF	GF
-----	----

	952.9
	10.0
	155.0
	14.0
	6.0
	2.0
330.0	
330.0	1,139.9

		41.0
		41.0

(25-05-00) Accounting

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

TOTAL -- Accounting

(-01) Accounting

TOTAL -- Internal Program Unit

	2,311.5
	2,311.5

	1,775.0
	4.2
	437.8
	51.5
	10.0
	33.0
	2,311.5

		208.0
		208.0

(25-06-00) Revenue

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

TOTAL -- Revenue

(-01) Revenue

TOTAL -- Internal Program Unit

1,140.5	10,376.5
1,140.5	10,376.5

	8,415.8
	42.4
945.5	1,518.4
	2.3
	141.9
	50.5
195.0	
	205.2
1,140.5	10,376.5

Year ending June 30, 1996

Personnel		
NSF	ASF	GF

	27.0	
	27.0	

(25-07-00) State Lottery Office
 Personnel Costs
 Travel
 Contractual Services
 Supplies and Materials
 Capital/Equipment
TOTAL -- State Lottery Office

	27.0	
	27.0	

(-01) State Lottery Office
TOTAL -- Internal Program Unit

\$ Program	
ASF	GF

20,369.8	
20,369.8	

\$ Line Item	
ASF	GF

1,165.2	
27.0	
19,104.7	
40.9	
32.0	
20,369.8	

	27.0	265.0
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TOTAL -- DEPARTMENT OF FINANCE

21,840.3	13,827.9
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(25-00-00) DEPARTMENT OF FINANCE

Personnel		
NSF	ASF	GF

		16.0
		16.0

(25-01-00) Office of the Secretary

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Fiscal Notebook
Information Systems Development

TOTAL - Office of the Secretary

		16.0
		16.0

(-01) Office of the Secretary

TOTAL - Internal Program Unit

S Program	
ASF	GF

330.0	1,139.9
330.0	1,139.9

S Line Item	
ASF	GF

	952.9
	10.0
	155.0
	14.0
	6.0
	2.0
330.0	
330.0	1,139.9

		41.0
		41.0

(25-05-00) Accounting

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

TOTAL - Accounting

		41.0
		41.0

(-01) Accounting

TOTAL - Internal Program Unit

	2,311.5
	2,311.5

	1,775.0
	4.2
	437.8
	51.5
	10.0
	33.0
	2,311.5

		208.0
		208.0

(25-06-00) Revenue

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

TOTAL - Revenue

		208.0
		208.0

(-01) Revenue

TOTAL - Internal Program Unit

1,140.5	10,376.5
1,140.5	10,376.5

	8,415.8
	42.4
945.5	1,518.4
	2.3
	141.9
	50.5
195.0	
	205.2
1,140.5	10,376.5

Year ending June 30, 1996

Personnel		
NSF	ASF	GF

(25-07-00) State Lottery Office

	27.0	
	27.0	

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
TOTAL -- State Lottery Office

	27.0	
	27.0	

(-01) State Lottery Office
TOTAL -- Internal Program Unit

S Program	
ASF	GF

S Line Item	
ASF	GF

1,165.2	
27.0	
19,104.7	
40.9	
32.0	
20,369.8	

20,369.8	
20,369.8	

	27.0	265.0
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TOTAL -- DEPARTMENT OF FINANCE

21,840.3	13,827.9
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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	20.0	Personnel Costs		39.9	1,041.0
			Travel		1.0	12.3
			Contractual Services		33.1	134.1
			Supplies and Materials		2.0	11.6
			Capital/Equipment		21.2	179.5
			Merb Operating Costs			29.2
			Public Integrity Operating Costs			34.2
			Payment in Lieu of Taxes			60.0
Debt Service			18.0			
3.0	1.0	20.0	TOTAL -- Administration		97.2	1,519.9
			(30-02-00) Internal Program Units			
3.0	1.0	15.0	(-10) Administration		66.6	1,147.5
			(-20) Developmental Disabilities			
			Planning Council		27.5	78.3
			(-40) Public Employee Relations Board		3.1	294.1
3.0	1.0	20.0	TOTAL -- Internal Program Units		97.2	1,519.9
			(30-03-00) Regulation and Licensing			
52.0			Personnel Costs		2,624.4	
			Travel		110.9	
			Contractual Services		1,728.5	
			Supplies and Materials		45.9	
			Capital/Equipment		46.1	
			Real Estate Guaranty Fund		10.0	
			Examination Costs		75.0	
			Revenue Refunds		352.0	
Motor Vehicle Franchise Fund		18.9				
52.0			TOTAL -- Regulation and Licensing		5,011.7	
			(30-04-00) Internal Program Units			
23.0	25.0	4.0	(-20) Professional Regulation		1,707.9	
			(-30) Public Service Commission		2,954.7	
			(-50) Public Advocate		349.1	
			TOTAL -- Internal Program Units		5,011.7	
			(30-05-00) Support Operations			
43.0	18.0		Personnel Costs		1,565.2	503.3
			Travel		18.3	
			Contractual Services		10,414.9	73.0
			Energy		12.9	4.3
			Supplies and Materials		1,009.0	7.4
			Capital/Equipment		2,757.2	
			Gas Card Expense		535.9	
			TOTAL -- Support Operations		16,313.4	588.0
			(30-06-00) Internal Program Units			
18.0	25.0	10.0	(-10) Mail/Courier Services		1,587.9	323.7
			(-20) Telephone Services		7,754.7	264.3
			(-30) Graphics and Printing		2,206.8	
			(-40) Fleet Management		4,764.0	
43.0	18.0	10.0	TOTAL -- Internal Program Units		16,313.4	588.0

Personnel		
NSF	ASF	GF
3.2	6.0	76.8
3.2	6.0	76.8

(30-05-00) Facilities Management

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Real Estate Acquisition Program (REAP)
Public Building
UST State Agency Tanks
USTRE
Deferred Maintenance
Debt Service

TOTAL -- Facilities Management

S Program		S Line Item	
ASF	GF	ASF	GF
		114.9	2,724.7
		4.5	
		481.4	2,049.9
			2,083.3
		66.6	219.5
		392.6	
		182.9	
			103.1
			800.0
		1,156.0	
			150.0
			13,416.8
2,398.9	21,547.3	2,398.9	21,547.3

3.2	6.0	76.8
3.2	6.0	76.8

(-10) Facilities Management

TOTAL -- Internal Program Units

2,398.9	21,547.3
2,398.9	21,547.3

(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

362.2	746.1
10.1	1.8
91.8	79.1
6.7	21.5
87.2	27.8
240.1	
112.0	
910.1	876.3

		14.0
	4.0	
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	698.2
377.6	
477.5	178.1
910.1	876.3

TOTAL -- DEPARTMENT OF
ADMINISTRATIVE SERVICES

8.2	112.0	132.8
-----	-------	-------

24,731.3	24,531.5
----------	----------

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

Personnel		
NSF	ASF	GF

53.4	24.0	144.1
53.4	24.0	144.1

53.4	24.0	7.0
53.4	24.0	137.1
53.4	24.0	144.1

		35.0
		35.0

		35.0
		35.0

(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

(-10) Office of the Secretary
(-20) Management Services
TOTAL -- Internal Program Units

(35-04-00) Medical Examiner

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

TOTAL -- Medical Examiner

(-01) Medical Examiner
TOTAL -- Internal Program Unit

S Program	
ASF	GF

42.3	458.4
1,515.4	9,845.4
1,557.7	10,303.8

S Line Item	
ASF	GF

560.7	6,328.2
14.8	10.4
399.5	938.7
	40.3
46.3	40.5
82.6	45.4
255.0	
173.8	
25.0	
	2,900.3
1,557.7	10,303.8

	1,895.5
	11.5
	183.8
	55.7
	205.5
	38.6
	439.2
	2,829.8

	2,829.8
	2,829.8

Personnel		
NSF	ASF	GF
204.0	30.3	1,336.8
204.0	30.3	1,336.8

(35-05-00) Public Health

- Personnel Costs
- Travel
- Contractual Services
- Energy
- Supplies and Materials
- Capital/Equipment
- Other Items:
 - Tuberculosis
 - Sexually Transmitted Diseases
 - Child Development Watch
 - Preschool Diagnosis and Treatment
 - Home Visits
 - Immunizations
 - School Based Health Centers
 - Treatment of Handicapped
 - AIDS
 - Animal Bite Control
 - Office of Narcotics & Dangerous Drugs
 - Child Health
 - Vanity Birth Certificate
 - Public Water
 - Medicaid Enhancements
 - Infant Mortality
 - Medicaid AIDS Waiver
 - Children with Special Needs
 - Family Planning
 - Newborn
 - Indirect Costs
 - Food Inspection
 - Medicaid Contractors/Lab Testing & Analysis
- Debt Service

S Program		S Line Item	
ASF	GF	ASF	GF
		27.1	44,205.1
			30.3
			5,825.7
			1,201.8
			2,858.9
			138.3
		82.5	
		105.0	
		350.0	
		148.5	
		300.0	
		20.0	164.0
			2,307.0
			98.0
			158.2
			80.6
			30.0
		1,004.1	
		15.0	
		50.0	
		500.0	
		300.0	
		400.0	
		75.0	
		400.0	
		400.0	
		202.5	
		24.5	
		100.0	
			937.7
		4,504.2	58,035.6

TOTAL – Public Health

37	1.0	1.0	43.0
38	200.0	29.3	319.5
39	1.0		3.0
40			
41			619.7
42	2.0		204.6
43			147.0
44	204.0	30.3	1,336.8

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

223.4	2,388.3
4,280.8	19,218.6
	987.9
	22,477.8
	7,579.9
	5,383.1
4,504.2	58,035.6

TOTAL -- Internal Program Units

1	Personnel		
2	NSF	ASF	GF

(35-06-00) Alcoholism, Drug Abuse and Mental Health

25.8	1.0	870.1
25.8	1.0	870.1

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Other Items:
 SENTAC Treatment Initiatives
 Gambler's Addiction Program
 Sheltered Workshop
Debt Service

TOTAL – Alcoholism, Drug Abuse and Mental Health

13.0		16.0
4.0		139.2
0.8	1.0	689.9
8.0		25.0
25.8	1.0	870.1

- (-10) Administration - Mental Health
- (-20) Community Mental Health
- (-30) Inpatient Mental Health
- (-40) Alcoholism & Drug Abuse

S Program	
ASF	GF

S Line Item

As of 31 Dec 2004	
ASF	GF
60.9	31,054.0
	12.0
4,550.0	17,009.0
	966.0
100.0	2,534.0
	129.0
	630.0
	120.0
	9.9
	977.6
4,710.9	53,444.0

60.0	950.4
4,278.0	14,511.7
60.9	30,863.2
312.0	7,118.7
4,710.9	53,444.0

(35-07-00) Social Services

311.5	2.0	286.4
311.5	2.0	286.4

- 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

84.1	10,483.2
	13.9
60.2	3,741.7
	43.2
1.2	83.4
4.0	99.6
	1,412.2
	860.6
	3,206.1
	20,557.1
	1,016.0
	12,965.3
	798.9
	2,765.4
	22,874.8
14,500.0	138,347.3
	608.8
14,649.5	219,877.5

311.5	2.0	286.4
311.5	2.0	286.4

(-01) Social Services

14,649.5	219,877.5
14,649.5	219,877.5

TOTAL -- Internal Program Unit

Personnel		
NSF	ASF	GF
29.6	3.0	27.4
29.6	3.0	27.4

(35-08-00) Visually Impaired

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

TOTAL -- Visually Impaired

29.6	3.0	27.4
29.6	3.0	27.4

(-01) Visually Impaired Services

TOTAL -- Internal Program Unit

S Program		S Line Item	
ASF	GF	ASF	GF
		88.4	1,199.9
			2.8
		0.5	196.8
			39.4
			38.6
		4.0	29.1
		850.0	
		942.9	1,506.6

942.9	1,506.6
942.9	1,506.6

114.7	16.3	41.6
114.7	16.3	41.6

(35-10-00) Child Support Enforcement

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

TOTAL -- Child Support Enforcement

114.7	16.3	41.6
114.7	16.3	41.6

(-01) Child Support Enforcement

TOTAL -- Internal Program Unit

1,109.0	1,919.9
1,109.0	1,919.9

519.2	1,405.2
3.7	4.8
541.1	486.0
	9.4
40.0	12.4
5.0	2.1
1,109.0	1,919.9

3.0	869.8
3.0	869.8

(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
	703.0
	139.8
3.0	869.8

(-10) Administration - Mental Retardation

(-20) Institutional Services

(-30) Community Services

TOTAL -- Internal Program Units

	1,369.5
60.0	25,945.2
1,060.0	20,761.3
1,120.0	48,076.0

	27,879.9
	7.3
1,060.0	3,507.4
	587.2
	1,194.7
	272.1
	9.6
	10,978.1
	3,610.0
60.0	29.7
1,120.0	48,076.0

Year ending June 30, 1996

Personnel		
NSF	ASF	GF
41.4		68.2
41.4		68.2

(35-12-00) State Service Centers

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Family Support
Kent County RSVP
Community Food Program
Emergency Assistance
Debt Service

TOTAL -- State Service Centers

S Program		S Line Item	
ASF	GF	ASF	GF
		2.0	2,673.9
		2.8	8.0
		1,143.7	1,774.9
		84.2	391.5
		75.1	61.1
		9.8	6.0
			42.0
			29.4
			85.5
			647.0
			79.4
		1,317.6	5,798.7

28.8		29.4
9.0		2.0
3.6		17.3
41.4		68.2

(-10) Family Support
(-20) Service Center Management
(-30) Community Services
(-40) Volunteer Services

TOTAL -- Internal Program Units

1,317.4	1,361.7
	2,201.2
	889.6
0.2	1,346.2
1,317.6	5,798.7

(35-14-00) Services for Aging and Adults
with Physical Disabilities

43.7		47.5
43.7		47.5

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Nutrition Program
Long Term Care

TOTAL -- Services for Aging and Adults
with Physical Disabilities

	1,835.2
0.1	5.8
170.9	2,767.3
	7.1
	5.7
	0.6
	416.1
	237.5
171.0	5,275.3

43.7		47.5
43.7		47.5

(-01) Services for Aging and Adults
with Physical Disabilities

TOTAL -- Internal Program Unit

171.0	5,275.3
171.0	5,275.3

TOTAL -- DEPARTMENT OF HEALTH
AND SOCIAL SERVICES

827.1	76.6	3,726.9
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30,082.8	407,067.2
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(37-00-00) DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

Personnel

NSF	ASF	GF
-----	-----	----

19.6	23.5	111.5
19.6	23.5	111.5

(37-01-00) Management Services

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
MIS Development
Indirect Costs
Other Items:
Services Integration
Emergency Assistance Match
Debt Service

TOTAL -- Management Services

S Program

ASF	GF
-----	----

208.6	584.6
890.7	1,907.2
372.3	715.8
385.4	458.9
60.0	816.3
368.6	3,265.3
184.6	776.3
2,470.2	8,524.4

S Line Item

ASF	GF
-----	----

1,076.0	5,772.2
14.9	10.0
686.4	589.9
56.7	80.8
39.2	39.6
	362.3
187.0	
200.0	
210.0	
	1,669.6
2,470.2	8,524.4

(-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

(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

948.8	10,709.0
3.9	4.4
1,838.1	1,964.3
	33.8
13.8	69.5
	29.3
215.0	5,777.3
	30.0
283.3	
3,302.9	18,617.6

(-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

674.9	2,311.5
768.3	2,271.0
235.0	3,354.8
1,463.7	7,204.3
50.0	1,335.6
	423.8
100.0	1,049.6
11.0	667.0
3,302.9	18,617.6

Personnel		
NSF	ASF	GF
0.8	19.0	182.8
0.8	19.0	182.8

(37-03-00) Child Mental Health Services

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Other Items
MIS Maintenance

TOTAL -- Child Mental Health Services

S Program		S Line Item	
ASF	GF	ASF	GF
		846.6	8,488.6
		8.0	14.8
		1,788.3	11,328.4
			168.4
		60.0	259.6
		8.3	38.5
			0.6
		31.0	
		2,742.2	20,296.9

0.8	12.0	27.3
	4.0	19.0
	3.0	16.5
		22.5
		47.0
		1.0
		45.5
		2.0
		2.0
0.8	19.0	182.8

(-10) Clinical/Administrative Office
(-15) Consultation & Assessment Services
(-20) Terry Outpatient Treatment
(-30) Terry Day Hospital Treatment
(-40) Terry Inpatient Treatment
(-50) Outpatient Treatment
(-60) Residential Treatment
(-70) Adolescent Hospital Treatment
(-80) Alcohol and Drug Treatment Services

TOTAL -- Internal Program Units

640.6	1,548.0
189.5	1,036.9
236.6	970.6
	1,192.3
33.9	2,522.5
1,114.7	2,220.0
126.9	6,421.0
	3,428.4
400.0	959.2
2,742.2	20,298.9

0.8	11.0	243.8
0.8	11.0	243.8

(37-05-00) Youth Rehabilitative Services

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

TOTAL -- Youth Rehabilitative Services

412.9	10,018.8
9.7	14.8
4,396.7	9,383.4
	396.8
201.1	710.4
0.8	24.4
	4.0
5,021.2	20,552.6

0.8		8.3
		39.0
		13.5
	11.0	183.0
0.8	11.0	243.8

(-10) Office of the Director
(-30) Community Based Services
(-40) Alternatives to Incarceration
(-50) Secure Care

TOTAL -- Internal Program Units

1.0	380.1
1.0	1,748.6
3,601.5	8,838.3
1,417.7	9,585.6
5,021.2	20,552.6

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

53.0	77.5	818.3
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13,536.5	67,993.5
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(38-00-00) DEPARTMENT OF CORRECTION

Personnel

NSF	ASF	GF
-----	-----	----

5.4	11.0	235.0
5.4	11.0	235.0

(38-01-00) Administration

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital/Equipment
Medical Services
AIDS Education and Counseling
Contingency - Shakedown
Maintenance/Restoration
Debt Service

TOTAL -- Administration

S Program

ASF	GF
-----	----

25.0	582.0
	1,782.6
	1,182.6
	6,597.4
	9,415.0
	4,394.6
	2,263.1
694.0	652.1
1,005.3	279.2
1.0	1,193.4
	910.5
1,725.3	29,252.5

S Line Item

ASF	GF
-----	----

429.1	11,160.9
6.6	17.0
409.1	1,161.9
5.2	53.5
779.0	5,262.5
96.3	30.4
	9,335.0
	80.0
	15.4
	1,609.7
	526.2
1,725.3	29,252.5

(-01) Office of the Commissioner
(-02) Personnel/Staff Training
(-10) Administrative Services
(-20) Food Services
(-30) Medical Services
(-40) Facilities Maintenance
(-50) Transportation
(-60) Prison Industries
(-61) Inmate Construction
(-70) Education
(-80) Operational Services

TOTAL -- Internal Program Units

(38-04-00) Prisons

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Gate Money
Debt Service

TOTAL -- Prisons

(-01) Bureau Chief - Prisons
(-02) John L. Webb Correctional Facility
(-03) Delaware Correctional Center
(-04) Sussex Correctional Institution
(-05) Dolores J. Baylor Correctional Institution
(-06) Multi-Purpose Criminal Justice Facility
(-07) Morris Correctional Institution

TOTAL -- Internal Program Units

		1,018.0
		1,018.0

	38,812.1
8.0	4.2
	2,120.4
	2,149.8
	1,577.6
	14.0
	9,110.2
8.0	53,788.3

		7.0
		26.0
		413.0
		167.0
		67.0
		312.0
		26.0
		1,018.0

	803.6
1.0	1,185.9
1.0	18,820.0
	7,605.6
1.0	5,541.0
1.0	18,602.6
4.0	1,229.6
8.0	53,788.3

Year ending June 30, 1996

Personnel		
NSF	ASF	GF
		335.0
		335.0
		13.0
		234.0
		26.0
		33.0
		29.0
		335.0
5.4	11.0	1,588.0

(38-06-00) Community, Custody and Supervision

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

TOTAL -- Community Custody and Supervision

(-01) Bureau Chief - Community Custody and Supervision
(-02) Probation and Parole
(-04) House Arrest
(-06) Plummer Work Release Center
(-07) Sussex Work Release Center

TOTAL -- Internal Program Units

TOTAL -- DEPARTMENT OF CORRECTION

S Program		S Line Item	
ASF	GF	ASF	GF
			12,061.0
			12.9
		26.0	2,701.4
			119.3
		25.0	145.0
			12.0
			46.9
		51.0	15,098.5
	2,025.8		
	9,162.7		
	724.6		
10	1,978.6		
50.0	1,206.8		
51.0	15,098.5		
1,784.3	98,139.3		

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

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(40-01-00) Department Management

3.0	19.3	27.7
3.0	19.3	27.7

Personnel Costs	776.2	1,561.0
Travel	6.4	16.1
Contractual Services	186.8	128.6
Energy	35.0	232.7
Supplies and Materials	68.8	36.3
Capital/Equipment	25.3	7.0
Non-Game Habitat	20.0	
Outdoor Delaware	65.0	70.0
Debt Service		962.5
TAL – Department Management	1,183.5	3,042.2

TOTAL – Department Management

2.0	18.3	26.7
1.0	1.0	1.0
3.0	19.3	27.7

1,105.0	2,956.7
78.5	57.5
1,183.5	3,014.2

(-01) Department Management
 (-02) Business and Permitting Services
TOTAL -- Internal Program Unit

(40-05-00) Fish and Wildlife

25.8	31.2	63.5
25.8	31.2	63.5

Personnel Costs	1,124.4	2,776.0
Travel	17.2	11.8
Contractual Services	596.4	848.0
Energy	1.5	50.5
Supplies and Materials	197.9	280.6
Capital/Equipment	636.5	
Spraying and Insecticides		342.1
Non-Game Habitat	50.0	
Natural Heritage Program	100.0	100.0
Clean Vessel Program	32.4	
Duck Stamp	180.0	
Trout Stamp	30.0	
Finfish Development	130.0	
Fisheries Restoration	310.0	
Northern Delaware Wetlands	280.0	
Other Items	4.1	
Debt Service		229.7
AL - Fish and Wildlife	3,690.4	4,638.7

TOTAL ~ Fish and Wildlife

	1.0	1.5
21.2	29.8	17.0 18.0
4.6	0.4	27.0
25.8	31.2	63.5

(-01) Management and Support - Fish and Wildlife	118.0	210.0
(-02) Wildlife/Fisheries	3,000.9	1,323.3
(-04) Mosquito Control	287.0	1,273.6
(-05) Dog Control	90.0	553.1
(-06) Fish and Wildlife Enforcement	194.5	1,278.7
AL - Internal Program Units	3,690.4	4,638.7

TOTAL ~ Internal Program Units

Personnel		
NSF	ASF	GF
2.0	57.5	75.5
2.0	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

	6.0	6.0
	38.5	47.5
1.0	8.0	8.0
1.0	5.0	14.0
2.0	57.5	75.5

(-01) Management and Support -
Parks and Recreation

(-02) Operations and Maintenance

(-03) Cultural and Recreational Services

(-04) Planning, Preservation and
Development

TOTAL - Internal Program Units

S Program		S Line Item	
ASF	GF	ASF	GF
		3,489.3	2,892.8
		18.8	
		856.6	18.9
		20.9	256.1
		1,064.3	16.7
		437.3	
		66.5	5.0
			2,206.8
		5,953.7	5,396.3

276.9	251.8
4,302.3	2,329.1
755.3	407.4
619.2	2,408.0
5,953.7	5,396.3

12.5		47.5
12.5		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	2,156.7
5.0	5.8
1,609.7	598.5
	3.7
29.6	195.3
39.0	
	225.0
850.0	
150.0	
	225.0
	1,111.1
2,690.7	4,521.1

2.5		4.5
	9.0	
	27.0	
2.0		7.0
8.0		
12.5		47.5

(-01) Management and Support -
Soil and Water

(-02) Drainage

(-03) Shoreline and Waterway
Management

(-04) District Operations

(-05) Delaware Coastal Management

TOTAL - Internal Program Units

95.1	316.0
	1,528.4
2,560.0	1,847.3
25.6	829.4
10.0	
2,690.7	4,521.1

*Pursuant to Section 3921, Title 7, Delaware Code

Personnel			
	NSF	ASF	GF
2			
3			
4	32.7	68.0	71.3
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15	32.7	68.0	71.3
16			
17	6.0	2.0	7.0
18			
19	1.0	33.0	17.0
20	4.0	3.0	7.0
21	6.0	10.0	5.0
22		15.0	4.0
23	4.0	3.0	10.0
24	7.7		15.3
25	2.0	2.0	6.0
26			
27	32.7	68.0	71.3
28			
29			
30			
31	66.0	78.3	46.7
32			
33			
34			
35			
36			
37			
38			
39			
40		12.0	
41		2.0	
42			
43			
44			
45			
46			
47			
48	66.0	92.3	46.7
49			
50	5.0	10.0	13.0
51			
52	18.0	49.0	17.0
53	43.0	33.3	16.7
54	66.0	92.3	46.7
55			
56			
57			
58			
59	142.0	268.3	332.2

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
		1,756.8	3,299.4
		34.0	41.4
		494.9	1,001.9
			12.1
		182.3	96.0
		30.0	8.0
			100.0
			50.0
		10.0	
			85.0
			4,062.4
		2,508.0	8,756.2

(40-08-00) Water Resources

Personnel Costs

Travel

Contractual Services

Energy

Supplies and Materials

Capital/Equipment

Inland Bays Research

Delaware Estuary

Other Items

Water Resources Agency

Debt Service

TOTAL - Water Resources

183.2	4,608.5
1,005.7	1,034.0
131.6	409.8
408.7	427.7
473.4	254.3
133.5	400.9
	1,141.2
171.9	479.8
2,508.0	8,756.2

(-01) Management and Support -
Water Resources

(-02) Environmental Services

(-03) Policy and Administration

(-04) Surface Water Discharges

(-05) Ground Water Discharges

(-06) Water Supply

(-07) Watershed Assessment

(-08) Wetlands and Subaquaceous
Lands

TOTAL - Internal Program Units

(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

Title V

Vehicle Inspections Monitoring (I & M)

SARA

Cost Recovery

UST Administration

UST Loan Program

Stage II Vapor Recovery

Debt Service

TOTAL - Air and Waste Management

2,165.4	2,547.0
32.0	12.8
303.0	278.9
	42.4
43.7	72.4
87.7	18.1
250.0	
830.0	
4,057.0	
526.2	
98.9	
30.0	14.4
300.0	
60.5	
	200.0
86.8	
	166.1
8,871.2	3,352.1

(-01) Management and Support -
Air and Waste

(-02) Air Quality Management

(-03) Waste Management

TOTAL - Internal Program Units

1,288.3	853.7
2,599.6	1,116.5
4,983.3	1,381.9
8,871.2	3,352.1

TOTAL - DEPARTMENT OF
NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL

24,897.5	29,678.6
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(45-00-00) DEPARTMENT OF PUBLIC SAFETY

Personnel		
NSF	ASF	GF
28.1		48.4
28.1		48.4

(45-01-00) Office of the Secretary

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

TOTAL -- Office of the Secretary

S Program		S Line Item	
ASF	GF	ASF	GF
			2,060.7
			24.5
		101.0	102.2
			20.5
		85.0	16.9
			15.0
			0.1
		0.7	
			189.3
		186.7	2,429.2

		13.0
		5.0
		20.0
23.6		7.4
4.5		3.0
28.1		48.4

(-01) Administration
(-10) Boiler Safety
(-20) Communication
(-30) DEMA
(-40) Highway Safety

TOTAL -- Internal Program Units

100.0	920.7
	222.8
85.7	792.0
	316.9
1.0	176.8
186.7	2,429.2

(45-02-00) Capitol Police

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment

TOTAL -- Capitol Police

		27.0
		27.0

	1,022.3
	0.3
	335.8
	18.5
	1,376.9

		27.0
		27.0

(-10) Capitol Police

TOTAL -- Internal Program Unit

	1,376.9
	1,376.9

(45-04-00) Alcoholic Beverage Control Commission

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

TOTAL -- Alcoholic Beverage Control Commission

	2.0	20.0
	2.0	20.0

45.7	761.9
0.1	2.6
13.7	80.9
3.3	10.7
2.2	3.0
8.0	
73.0	859.1

(-10) Alcoholic Beverage Control

Commission

TOTAL -- Internal Program Unit

	2.0	20.0
	2.0	20.0

73.0	859.1
73.0	859.1

Personnel

NSF	ASF	GF
21.8	14.3	710.9
21.8	14.3	710.9

(45-06-00) State Police

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

TOTAL - State Police

S Program

ASF	GF
-----	----

S Line Item

ASF	GF
-----	----

888.6	35,186.2
145.9	2,087.0
60.0	1,326.1
	889.7
	14,625.0
	75.0
	35.0
	282.3
1,094.5	54,822.6

1.2		57.8
		6.0
10.2	2.8	337.0
		80.0
	6.0	30.0
		19.0
4.2		16.8
	2.0	38.0
		11.0
1.2	3.5	77.3
		15.0
5.0		23.0
21.8	14.3	710.9

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

TOTAL - Internal Program Units

	18,106.0
	350.0
301.4	18,303.3
	4,619.3
415.5	2,159.5
	1,861.8
	836.4
256.6	1,649.1
	637.6
121.0	3,515.4
	1,609.1
	1,175.1
1,094.5	54,822.6

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

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Other Items:
CDL Fees
Motorcycle Safety
Special License Plates
Odometer Forms
Off Highway Vehicles
Debt Service

TOTAL - Licenses, Taxes & Registrations

439.1	6,301.9
	10.0
351.8	582.0
117.7	393.7
1,273.0	0.1
	207.3
	104.5
	25.0
	6.0
	1.0
	4.0
2,525.4	7,291.7

	1.0	27.0
		68.0
	11.0	106.0
	12.0	201.0

(-01) Administration
(-10) Driver Services
(-20) Vehicle Services

TOTAL - Internal Program Units

1,086.2	1,269.0
207.3	2,213.4
1,231.9	3,809.3
2,525.4	7,291.7

TOTAL -- DEPARTMENT OF
PUBLIC SAFETY

49.9	28.3	1,007.3
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3,879.6	66,779.5
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(55-00-00) DEPARTMENT OF TRANSPORTATION

(55-00-00) DEPARTMENT OF TRANSPORTATION					
Personnel				S Line Item	
NSF	TFO	TFC	GF	TTF	GF
(55-01-00) Office of the Secretary					
(55-01-01) Office of the Secretary					
	11.0	1.0		778.8	
				28.7	
				150.0	
	11.0	1.0		957.5	
(55-01-02) Office of Financial Management and Budget					
1.0	33.0			1,678.2	
				877.8	
1.0	33.0			2,556.0	
(55-01-03) Office of External Affairs					
	9.0			467.4	
				83.6	
	9.0			551.0	
1.0	53.0	1.0		4,064.5	
TOTAL--Office of the Secretary					
(55-02-00) Office of Administration					
(55-02-01) Office of Administration					
2.0	60.0	1.0		2,745.4	
				31.0	
				1,696.5	
				296.9	
				27.0	
2.0	60.0	1.0		4,796.8	
TOTAL -- Office of Administration					
(55-02-02) Motor Fuel Tax					
1.0	21.0			846.6	
				349.3	
1.0	21.0			1,195.9	
3.0	81.0	1.0		5,992.7	
TOTAL--Office of Administration					
(55-03-01) Office of Planning					
	57.0	3.0		2,936.4	
				547.7	
	57.0	3.0		3,484.1	
TOTAL -- Office of Planning					

Year ending June 30, 1996

Personnel			
NSF	TFO	TFC	GF

\$ Line Item	
TTF	GF

(55-04-00) Division of Highway Operations

(55-04-01) Office of the Director

	10.0		
	10.0		

Personnel Costs
Operations/Capital
TOTAL -- Office of the Director

500.6	
128.0	
628.6	

(55-04-40) Bureau of Construction

	74.0	78.0	
	74.0	78.0	

Personnel Costs
Operations/Capital
TOTAL -- Bureau of Construction

3,402.0	
17.0	
3,419.0	

(55-04-50) Bureau of Traffic

	98.0	1.0	
	98.0	1.0	

Personnel Costs
Energy
Capital Outlay
Contractual/Supplies
TOTAL -- Bureau of Traffic

3,804.2	
841.1	
27.0	
2,389.5	
7,061.8	

(55-04-60) Field Services

	33.0	59.0	
	33.0	59.0	

Personnel Costs
Operations/Capital
TOTAL -- Field Services

1,716.5	
248.1	
1,964.6	

(55-04-70) Bureau of Maintenance

	535.0	1.0	
	535.0	1.0	

Personnel Costs
Energy
Capital Outlay
Contractual/Supplies
Snow/Storm Contingency
TOTAL -- Bureau of Maintenance

17,284.8	
458.0	
487.2	
5,593.3	
2,000.0	
25,823.3	

(55-04-80) Bureau of Expressways Construction

	1.0	7.0	
	1.0	7.0	

Personnel Costs
Operations/Capital
TOTAL -- Bureau of Expressways Construction

81.8	
9.9	
91.7	

(55-04-90) Expressways Operations/Toll Administration

	175.0		
	175.0		

Toll Facilities Operations
Toll Facilities Operations - SR 1
Turnpike Improvements
Interstate Improvements
Turnpike Maintenance
Interstate Maintenance
SR-1 Maintenance
Turnpike Operating Reserve *
TOTAL -- Expressways Operations/Toll Administration

3,555.8	
1,716.5	
475.0	
75.0	
1,019.7	
2,804.3	
522.1	
10,168.4	

* The Cumulative Turnpike Operating Reserve Fund
is established at \$ 762.6

	926.0	146.0	
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TOTAL -- Division of Highway Operations

49,157.4	
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Year ending June 30, 1996

Personnel			
NSF	TFO	TFC	GF

S Line Item	
TTF	GF

	4.0		
	4.0		

(55-06-01) Delaware Transportation Authority

Transit Administration
 Transit Operations Planning and Customer Service
 Transit Operations
 Taxi Services Support "E & H"
 Newark Transportation
 Kent and Sussex Transportation "E & H"
 Debt Service
 Motor Fuel Tax Bonds
 General Obligations
 Transportation Trust Fund

6,973.7	
2,028.5	
13,811.0	
148.5	
75.8	
750.0	
4,645.0	
5,603.1	
67,371.9	
101,407.5 *	

TOTAL -- Delaware Transportation Authority

*Delaware Transportation Authority, Chapter 13, Title 2, Delaware Code. These funds, except the Regulatory Revolving Funds, are not deposited with the State Treasurer.

4.0	63.0	82.0	
4.0	64.0	82.0	

(55-07-10) Office of Pre-Construction

Personnel Costs
 Operations/Capital

3,442.6	
728.3	
4,170.9	

TOTAL -- Office of Pre-Construction

8.0	1,185.0	233.0	
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TOTAL -- DEPARTMENT OF
 TRANSPORTATION

168,277.1	
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(60-00-00) DEPARTMENT OF LABOR

Personnel

NSF	ASF	GF
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14.0	41.5	5.5
14.0	41.5	5.5

(60-01-00) Administration

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment

TOTAL -- Administration

S Program

ASF	GF
-----	----

877.7	112.9
	54.2
	138.0
1,613.8	
2,491.5	305.1

S Line Item

ASF	GF
-----	----

1,671.4	267.8
18.3	4.2
643.6	30.7
110.4	2.4
47.8	
2,491.5	305.1

	13.5	1.5
14.0		1.0
	28.0	3.0
14.0	41.5	5.5

(-10) Office of the Secretary
(-20) Office of Occupational and
and Labor Market Information
(-30) Commission for Women
(-40) Administrative Support
TOTAL -- Internal Program Units

(60-06-00) Unemployment Insurance

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

TOTAL -- Unemployment Insurance

126.0	5.0	
126.0	5.0	

127.9	
0.4	
61.2	
1.0	
15.4	
1.0	
85.8	
292.7	

126.0	5.0	
126.0	5.0	

(-01) Unemployment Insurance

TOTAL -- Internal Program Unit

292.7	
292.7	

(60-07-00) Industrial Affairs

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital/Equipment
Second Injury

TOTAL -- Industrial Affairs

8.5	45.5	
8.5	45.5	

1,704.3	
18.9	
235.2	
34.8	
74.0	
7,820.0	
9,887.2	

4.5	28.5	
4.0	17.0	
8.5	45.5	

(-01) Workers Compensation, Safety
and Health
(-02) Enforcement

TOTAL -- Internal Program Units

9,202.6	
684.6	
9,887.2	

Personnel			S Program		S Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(60-08-00) Vocational Rehabilitation						
116.0		2.0				50.6
						0.3
					108.1	1,585.7
						39.9
						310.4
						8.0
116.0		2.0	TOTAL -- Vocational Rehabilitation		108.1	1,994.9
86.0		2.0	(-10) Vocational Rehabilitation Services		108.1	1,994.9
30.0			(-20) Disability Determination Services			
116.0		2.0	TOTAL -- Internal Program Units		108.1	1,994.9
(60-09-00) Employment and Training						
97.9	3.0	14.1			144.1	508.8
					0.2	3.5
					42.4	470.1
					2.0	3.4
						3.0
						40.0
						16.6
						235.2
97.9	3.0	14.1	TOTAL -- Employment and Training		725.2	
					913.9	1,280.6
61.9		4.0	(-10) Placement Services		913.9	187.6
36.0	3.0	10.1	(-20) Training Services			1,093.0
97.9	3.0	14.1	TOTAL -- Internal Program Units		913.9	1,280.6
362.4	95.0	21.6	TOTAL -- DEPARTMENT OF LABOR		13,693.4	3,580.6

(65-00-00) DEPARTMENT OF AGRICULTURE

Personnel

NSF	ASF	GF
16.8	18.8	82.5
16.8	18.8	82.5

(65-01-00) Agriculture

Personnel Costs
 Travel
 Contractual Services
 Energy
 Supplies and Materials
 Capital/Equipment
 First State Trotting & Pacing Series
 Agriculture Development Program
 Laurel Auction
 Alternative Agriculture Projects
 Agriculture Advertising
 Cooperative Advertising
 Gypsy Moth Program
 Educational Assistance
 Tree Seedling Refunds
 Debt Service

TOTAL -- Agriculture

S Program		S Line Item	
ASF	GF	ASF	GF
		922.9	3,333.1
		24.4	42.8
		117.3	364.0
		7.3	96.7
		83.3	98.2
		101.8	
			150.0
			23.0
			9.5
			15.0
			39.0
			40.0
			207.2
		10.0	
		11.0	
			21.8
		1,278.0	4,440.3

	1.0	13.0
		5.0
7.0	12.0	7.0
5.8	1.8	15.5
4.0	0.5	4.5
		9.0
	3.5	12.5
		7.0
		9.0
16.8	18.8	82.5

(-01) Administration
 (-02) Agriculture Compliance
 (-03) Food Products Inspection
 (-04) Forest Service
 (-05) Harness Racing Commission
 (-06) Pesticides
 (-07) Planning, Promotion and Marketing
 (-08) Plant Industries
 (-09) Poultry & Animal Health
 (-10) Thoroughbred Racing Commission
 (-11) Weights & Measures
 TOTAL -- Internal Program Units

253.3	770.0
11.1	232.5
587.1	331.9
142.2	641.4
	163.8
15.4	189.8
12.2	653.6
256.7	751.5
	367.9
	23.9
	314.0
1,278.0	4,440.3

TOTAL -- DEPARTMENT OF AGRICULTURE

16.8	18.8	82.5
------	------	------

1,278.0	4,440.3
---------	---------

(70-00-00) DEPARTMENT OF ELECTIONS

Personnel		
NSF	ASF	GF

		9.0
		9.0

(70-01-01) Commissioner of Elections

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Commissioner of Elections

S Program	
ASF	GF

S Line Items	
ASF	GF

	339.4
	1.3
	104.0
	16.5
	0.8
	462.0

(70-02-01) New Castle County Department of Elections

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Mobile Registration

TOTAL -- New Castle County Department of Elections

		14.0
		14.0

	533.7
	12.0
	159.5
	13.5
	7.7
	5.0
	731.4

(70-03-01) Kent County Department of Elections

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Mobile Registration

TOTAL -- Kent County Department of Elections

		6.0
		6.0

	264.0
	0.5
	57.8
	8.5
	3.5
	3.0
	337.3

(70-04-01) Sussex County Department of Elections

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Mobile Registration

TOTAL -- Sussex County Department of Elections

		5.0
		5.0

	233.1
	0.7
	30.9
	8.2
	5.3
	278.2

TOTAL -- DEPARTMENT OF ELECTIONS

		34.0
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	1,808.9
--	---------

(75-00-00) FIRE PREVENTION COMMISSION

Personnel

NSF	ASF	GF
-----	-----	----

	24.3	20.7
	24.3	20.7

(75-01-01) Office of the State Fire Marshal

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Revenue Refund
Juvenile Firesetter Intervention Program

TOTAL - Office of the State Fire Marshal

S Program

ASF	GF
-----	----

S Line Item

ASF	GF
-----	----

935.1	952.4
34.0	
120.3	54.1
	26.8
48.5	27.5
62.5	80.8
1.5	
	2.0
1,201.9	1,143.6

(75-02-01) State Fire School

Personnel Costs
Contractual Services
Energy
Capital Outlay
Fire School Operations
Stress Management
Debt Service

TOTAL - State Fire School

		17.0
		17.0

	691.3
	102.0
	105.5
	50.0
50.0	
	5.0
	159.3
50.0	1,113.1

(75-03-01) State Fire Prevention Commission

Personnel Costs
Travel
Contractual Services
Supplies and Materials
State-wide Fire Safety Education
Contingency - Extraordinary Expenses
Debt Service

TOTAL - State Fire Prevention Commission

		1.0
		1.0

	35.0
	20.0
7.5	21.8
	1.7
	75.0
	20.0
	118.1
7.5	291.6

TOTAL -- FIRE PREVENTION COMMISSION

	24.3	38.7
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1,259.4	2,548.3
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(70-00-00) DEPARTMENT OF ELECTIONS

1
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48

Personnel		
NSF	ASF	GF
		9.0
		9.0

(70-01-01) Commissioner of Elections

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Capital Outlay

TOTAL -- Commissioner of Elections

S Program		S Line Item	
ASF	GF	ASF	GF
			339.4
			1.3
			104.0
			16.5
			0.8
			462.0

(70-02-01) New Castle County Department of Elections

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Mobile Registration

TOTAL -- New Castle County Department of Elections

		14.0
		14.0

	533.7
	12.0
	159.5
	13.5
	7.7
	5.0
	731.4

(70-03-01) Kent County Department of Elections

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Mobile Registration

TOTAL -- Kent County Department of Elections

		6.0
		6.0

	264.0
	0.5
	57.8
	8.5
	3.5
	3.0
	337.3

(70-04-01) Sussex County Department of Elections

Personnel Costs
Travel
Contractual Services
Supplies and Materials
Mobile Registration

TOTAL -- Sussex County Department of Elections

		5.0
		5.0

	233.1
	0.7
	30.9
	8.2
	5.3
	278.2

TOTAL -- DEPARTMENT OF ELECTIONS

		34.0
--	--	------

	1,808.9
--	---------

(75-00-00) FIRE PREVENTION COMMISSION

Personnel		
NSF	ASF	GF

S Program		S Line Item	
ASF	GF	ASF	GF

(75-01-01) Office of the State Fire Marshal

	24.3	20.7
	24.3	20.7

Personnel Costs
Travel
Contractual Services
Energy
Supplies and Materials
Capital Outlay
Revenue Refund
Juvenile Firesetter Intervention Program
TOTAL -- Office of the State Fire Marshal

935.1	952.4
34.0	
120.3	54.1
	26.8
48.5	27.5
62.5	80.8
1.5	
	2.0
1,201.9	1,143.6

(75-02-01) State Fire School

		17.0
		17.0

Personnel Costs
Contractual Services
Energy
Capital Outlay
Fire School Operations
Stress Management
Debt Service
TOTAL -- State Fire School

	691.3
	102.0
	105.5
	50.0
50.0	
	5.0
	159.3
50.0	1,113.1

(75-03-01) State Fire Prevention Commission

		1.0
		1.0

Personnel Costs
Travel
Contractual Services
Supplies and Materials
State-wide Fire Safety Education
Contingency - Extraordinary Expenses
Debt Service
TOTAL -- State Fire Prevention Commission

	35.0
	20.0
7.5	21.8
	1.7
	75.0
	20.0
	118.1
7.5	291.6

TOTAL -- FIRE PREVENTION COMMISSION

	24.3	38.7
--	------	------

1,259.4	2,548.3
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(76-00-00) DELAWARE NATIONAL GUARD

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Personnel		
NSF	ASF	GF
73.6		30.7
73.6		30.7

(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

S Program		S Line Item	
ASF	GF	ASF	GF
			1,200.5
			0.7
			296.6
			407.1
			60.3
			37.8
			7.0
			5.2
			7.9
			280.8
			2,303.9

(77-00-00) ADVISORY COUNCIL FOR EXCEPTIONAL CITIZENS

1
2
3
4
5
6
7
8
9
10
11
12

Personnel

NSF	ASF	GF
-----	-----	----

(77-01-01) Advisory Council For
Exceptional Citizens

		2.0
		2.0

S Program

ASF	GF
-----	----

S Line Item

ASF	GF
-----	----

Personnel Costs

Travel

Contractual Services

Supplies and Materials

TOTAL -- ADVISORY COUNCIL FOR
EXCEPTIONAL CITIZENS

	70.5
	3.6
	5.4
	0.4
	79.9

(90-00-00) HIGHER EDUCATION

Personnel			S Program		S Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(90-01-00) University of Delaware						
(90-01-01) University of Delaware						
						67,977.1
						4,991.6
						1,245.9
						2,990.0
						694
						31.8
						6,471.9
						83,777.7
TOTAL -- University of Delaware						
(90-01-02) Delaware Geological Survey						
						997.3
						81.0
						1,078.3
TOTAL -- Delaware Geological Survey						
TOTAL -- University of Delaware						
						84,856.0
(90-02-01) Delaware Institute of Medical Education and Research						
						1,651.0
TOTAL -- Delaware Institute of Medical Education and Research						
						1,651.0
(90-03-00) Delaware State University						
(90-03-01) Operations						
						18,669.4
						125.0
						169.5
						86.0
						100.0
						50.0
						15.1
						88.6
						120.0
						50.0
						184.0
						83.1
						120.0
						1,196.8
						3,771.1
						24,828.6
TOTAL -- Operations						
(90-03-05) Sponsored Programs and Research						
TOTAL -- Delaware State University						
						24,828.6

Personnel

NSF	ASF	GF
-----	-----	----

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

(90-04-01) Office of the President

10.0		36.0
10.0		36.0

Personnel Costs
Travel
Contractual Services
Capital Outlay
Energy
Supplies and Materials
Occupational Teacher Program
Academic Incentive
Dental Program
Day Care Training
Salary Plan A & D
Parallel Program - Operations
Parallel Program - Academic
Debt Service

TOTAL -- Office of the President

\$ Program		\$ Line Item	
ASF	GF	ASF	GF

	2,038.2
	6.5
	155.2
	2.0
	16.5
	29.7
	36.8
	50.0
	78.8
	40.0
	754.2
	243.4
	1,167.7
	81.9
	4,700.9

(90-04-02) Owens Campus

40.7		158.0
40.7		158.0

Personnel Costs
Contractual Services
Energy
Supplies and Materials
NDSL Match
Aid-to-Needy Students
Work Study
Debt Service
Capital/Books

TOTAL -- Owens Campus

	8,862.1
	39.8
	361.4
	4.0
	15.4
	122.8
	16.5
	2,112.7
	42.4
	11,577.1

(90-04-04) Wilmington Campus

30.0		122.0
30.0		122.0

Personnel Costs
Contractual Services
Energy
Capital Outlay
Aid-to-Needy Students
Work Study
Debt Service

TOTAL -- Wilmington Campus

	6,741.1
	81.1
	300.5
	76.1
	99.8
	20.0
	1,342.8
	8,661.4

(90-04-05) Stanton Campus

38.0		159.0
38.0		159.0

Personnel Costs
Contractual Services
Energy
Capital Outlay
Aid-to-Needy Students
Work Study
Debt Service

TOTAL -- Stanton Campus

	8,935.2
	113.2
	162.6
	9.0
	84.8
	21.0
	966.3
	10,292.1

Personnel		
NSF	ASF	GF
39.5		100.0
39.5		100.0

158.2		575.0
-------	--	-------

(90-04-06) Terry Campus
 Personnel Costs
 Contractual Services
 Energy
 Supplies and Materials
 Capital Outlay
 NDSL Match
 Aid-to-Needy Students
 Work Study
 Grants
 Debt Service
 Instructional Equipment
 TOTAL -- Terry Campus

TOTAL -- Delaware Technical and
 Community College

(90-06-01) Delaware Institute of Dental
 Education and Research
 Subvention

TOTAL -- Delaware Institute of Dental
 Education and Research

158.2 575.0 TOTAL -- HIGHER EDUCATION

S Program		S Line Item	
ASF	GF	ASF	GF
			5,254.5
			106.9
			184.6
			20.8
			55.0
			1.0
			105.0
			8.0
			6.0
			1,146.7
			51.8
			6,940.3

	42,171.8
--	----------

	100.0
	100.0

	153,607.4
--	-----------

Personnel		
NSF	ASF	GF
		9,854.0
		9,854.0
		9,854.0

(95-02-00) School District Operations

Division I Units (6,385)
 Formula Salaries
 Cafeteria Funds
 Other Employment Costs
 Division II Units (7,283)
 All Other Costs
 Energy
 Division III
 Equalization
 Other Items
 General Contingency
 Other Items
 Delmar Tuition
 Debt Service
 State Board
 School Districts

TOTAL -- School District Operations

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

\$ Program		\$ Line Item	
ASF	GF	ASF	GF
			239,967.2
			2,855.6
			90,200.4
			21,857.6
			9,938.2
			44,028.1
			5,878.1
			334.9
			338.0
			3,540.9
			10,268.3
			429,207.3
	408,847.1		
	6,551.0		
	13,809.2		
	429,207.3		

Year ending June 30, 1996

Personnel			S Program		S Line Item	
NSF	ASF	GF	ASF	GF	ASF	GF
(95-04-00) Pupil Transportation						
Public School Transportation					40,317.8	
Non-Public School Transportation					3,000.0	
Reimbursement					43,317.8	
TOTAL -- Pupil Transportation						
(-01) Transportation					43,317.8	
TOTAL -- Internal Program Unit					43,317.8	
(95-06-00) Delaware Advisory Council on Career and Vocational Education						
1.5		3.5			124.3	
Personnel Costs					6.8	
Contractual Services					1.0	
Travel					2.0	
Supplies and Materials					134.1	
TOTAL -- Delaware Advisory Council on Career and Vocational Education						
1.5		3.5				
1.5		3.5			134.1	
1.5		3.5			134.1	
(-01) Advisory Council					134.1	
TOTAL -- Internal Program Unit					134.1	
(95-07-00) Center for Educational Technology						
Personnel Costs					140.0	
Operations					35.0	
TOTAL -- Center for Educational Technology					175.0	
(-01) Center for Educational Technology					175.0	
TOTAL -- Internal Program Unit					175.0	
63.1	5.9	9,954.5			1,004.5	530,137.1
TOTAL -- PUBLIC EDUCATION						

Year ending June 30, 1996

Personnel				
TFO	TFC	NSF	ASF	GF

\$		
TTF	ASF	GF

TOTALS

1,185.0	233.0	1,609.1	1,019.3	9,602.0	TOTAL - DEPARTMENTS	168,277.1	253,450.7	921,557.4
		158.2		575.0	TOTAL - HIGHER EDUCATION			153,607.4
		63.1	5.9	9,954.5	TOTAL - PUBLIC EDUCATION		1,004.5	530,137.1
1,185.0	233.0	1,830.4	1,025.2	20,131.5	GRAND TOTAL	168,277.1	254,455.2	1,605,301.9

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, 1996, and as the Governor and members of the General Assembly have reviewed the findings of such surveys, effective July 1, 1995, 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**	16,050	19,260
2	13,738	17,173	20,608
3	14,702	18,377	22,052
4	15,729	19,661	23,593
5	16,832	21,040	25,248
6	18,010	22,513	27,016
7	19,267	24,084	28,901
8	20,618	25,772	30,926
9	22,062	27,577	33,092
10	23,606	29,508	35,410
11	25,257	31,571	37,885
12	27,026	33,782	40,538
13	28,918	36,147	43,376
14	30,939	38,674	46,409
15	33,106	41,383	49,660
16	35,426	44,283	53,140
17	37,906	47,382	56,858
18	40,556	50,695	60,834
19	43,397	54,246	65,095
20	46,437	58,046	69,655
21	49,686	62,107	74,528
22	53,164	66,455	79,746
23	56,886	71,107	85,328
24	60,870	76,087	91,305
25	65,129	81,411	97,693
26	69,688	87,110	104,532

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	13,696	17,120	20,544
2	14,654	18,318	21,982
3	15,680	19,600	23,520
4	16,778	20,972	25,166
5	17,954	22,442	26,930
6	19,209	24,011	28,813
7	20,553	25,691	30,829
8	21,993	27,491	32,989
9	23,531	29,414	35,297
10	25,179	31,474	37,769
11	26,939	33,674	40,409
12	28,827	36,034	43,241
13	30,845	38,556	46,267
14	33,005	41,256	49,507

15	35,314	44,143	52,972
16	37,789	47,236	56,683
17	40,432	50,540	60,648
18	43,260	54,075	64,890
19	46,290	57,863	69,436
20	49,532	61,915	74,298
21	52,999	66,249	79,499
22	56,710	70,887	85,064
23	60,678	75,847	91,016
24	64,927	81,159	97,391
25	69,471	86,839	104,207
26	74,333	92,916	111,499

(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, Telecommunication Specialist (ERC) Series in the Department of Public Safety, Meat Inspectors and Meat and Poultry Inspection Coordinators in the Department of Agriculture, Emergency Services Training Administrator class assigned to the State Fire School, and Support Services Manager and Treatment Administrator assigned to the Delaware Correctional Center shall be 40 hours.

(ii) During the fiscal year ending June 30, 1996, 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 1996 shall be limited to those governments and institutions of higher education as follows:

DELAWARE	Other Counties and Municipalities	Other States
New Castle County	Cecil County, Maryland	Maryland
Kent County	Caroline County, Maryland	Pennsylvania
Sussex County	Salisbury, Maryland	New Jersey
Wilmington	Chester County, Pennsylvania	North Carolina
Newark	Delaware County, Pennsylvania	Massachusetts
Dover	Salem County, New Jersey	New York
University of Delaware		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,

- 1995, 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, 1995, prior to application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1995, 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, 1995, after the application of the general increase outlined in Section 8(d)(1), whose salary in effect as of June 30, 1995, 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) All classes assigned to selective market variation who have not met the criteria to qualify for an adjustment for two consecutive years effective in FY 1995, shall have their midpoints reduced by seven percent effective July 1, 1995. All classes whose midpoint is less than or equal to the midpoint of the regular merit State of Delaware payscale once the general increase has been applied shall move back on to the State of Delaware Pay Plan. The process by which job classes are removed from selective market variation to the regular merit State of Delaware Pay Plan will not result in a reduction in salary for current incumbents who will move from selective market variation to the regular merit State of Delaware Pay Plan.
 - (8) Effective July 1, 1995, the shift differential rates paid to registered nurses in accordance with the provisions of Merit Rule 5.1425 shall be the same amount in effect as of June 30, 1995.

(d) SALARY INCREASES FOR FISCAL YEAR 1996.

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, 1995, 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, 1995, is near or above the maximum salary of the assigned paygrade of the pay plan in effect on July 1, 1995, 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)
 - (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)(i)(ii) due to an unsatisfactory performance rating in accordance with

Merit Rule 5.1000, shall become eligible for the salary increase upon meeting job requirements as defined by their supervisor, but the salary increase shall not be retroactive.

(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, 1996, 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, 1996, or July 1, 1996, 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, 1996.

(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 \$17,327.00, 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, 1996, paragraph 5.1100 of the Merit Rules for a Merit System of Personnel Administration shall be null and void.

(3) PERFORMANCE REVIEWS.

Consistent with Chapter 16 of the Merit Rules, all state agencies shall implement the performance review prescribed by Office of State Personnel after applicable training by the Office of State Personnel. The initial performance review shall be completed for employees no later than December 31, 1996.

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(b), Delaware Code, by striking the words, "1995, shall be \$16,822.00." as it appears therein and by substituting in lieu thereof the value, "1996, shall be \$17,327.00."

(2) Amend Title 14, Subsection 1308(a), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

Years of Experience	Senior		Financial		Administrative	
	Clerk	Secretary	Secretary	Secretary	Secretary	Secretary
0	9,307	10,581	11,321	11,752	12,469	
1	9,773	11,064	11,807	12,241	12,964	
2	10,237	11,548	12,293	12,730	13,460	
3	10,704	12,033	12,778	13,218	13,954	
4	11,168	12,517	13,264	13,707	14,450	
5	11,634	13,001	13,752	14,195	14,945	
6	12,098	13,484	14,238	14,684	15,441	
7	12,565	13,968	14,724	15,173	15,935	

8	13,030	14,453	15,210	15,661	16,431
9	13,495	14,936	15,695	16,150	16,926
10	13,961	15,420	16,181	16,639	17,421
11	14,426	15,904	16,667	17,127	17,916
12	14,891	16,387	17,154	17,616	18,412
13	15,356	16,872	17,640	18,104	18,907
14	15,822	17,357	18,125	18,594	19,401
15	16,287	17,840	18,612	19,082	19,898
16	16,752	18,324	19,098	19,570	20,392
17	17,219	18,808	19,584	20,059	20,887
18	17,683	19,292	20,071	20,547	21,382
19	18,149	19,776	20,557	21,037	21,878
20	18,613	20,260	21,042	21,525	22,373"

- (3) Amend Title 14, Subsection 1311(a), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"Years of Exp.	Custodian	Chief Custodian Supervising Custodian 5 or Fewer Fireman Custodians		Chief Custodian Supervising 6 or More Custodians		Maintenance Mechanic	Building & Grounds Supervisor or Skilled Craftsman
0	11,907	12,394	12,641	13,619	14,072	14,472	
1	12,273	12,762	13,009	13,987	14,497	14,964	
2	12,641	13,127	13,376	14,353	14,925	15,453	
3	13,008	13,496	13,742	14,719	15,351	15,942	
4	13,376	13,862	14,111	15,087	15,723	16,432	
5	13,742	14,227	14,474	15,455	16,203	16,922	
6	14,111	14,598	14,842	15,820	16,629	17,410	
7	14,474	14,966	15,209	16,187	17,056	17,900	
8	14,842	15,331	15,575	16,554	17,482	18,388	
9	15,209	15,698	15,942	16,922	17,908	18,880	
10	15,575	16,066	16,310	17,289	18,335	19,368	
11	15,942	16,434	16,678	17,654	18,762	19,858"	

- (4) 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
Number of Pupils in School Served by Cafeteria

"Yrs of Exp.	Below 351	351-500	501-800	801-1200	1201-1600	1601-2000	2000+
0	10,734	11,526	12,318	13,109	13,904	14,693	15,488
1	11,129	11,920	12,715	13,507	14,298	15,092	15,884
2	11,526	12,318	13,109	13,904	14,693	15,488	16,280
3	11,920	12,715	13,507	14,298	15,092	15,884	16,677
4	12,318	13,109	13,904	14,693	15,488	16,280	17,074
5	12,715	13,507	14,298	15,092	15,884	16,677	17,472

6	13,109	13,904	14,693	15,488	16,280	17,074	17,866
7	13,507	14,298	15,092	15,884	16,677	17,472	18,263
8	13,904	14,693	15,488	16,280	17,074	17,866	18,661
9	14,298	15,092	15,884	16,677	17,472	18,263	19,057
10	14,693	15,488	16,280	17,074	17,866	18,661	19,452
11	15,092	15,884	16,677	17,472	18,263	19,057	19,848
12	15,488	16,280	17,074	17,866	18,661	19,452	20,246
13	15,884	16,677	17,472	18,263	19,057	19,848	20,642
14	16,280	17,074	17,866	18,661	19,452	20,246	21,041
15	16,677	17,472	18,263	19,057	19,848	20,642	21,438"

- (5) Amend Title 14, Subsection 1322(c), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following.

"SCHOOL LUNCH COOKS AND GENERAL WORKERS

Years of Experience	General Worker	Cook/Baker
0	6.18	6.86
1	6.29	6.96
2	6.41	7.07
3	6.49	7.16
4	6.60	7.27
5	6.74	7.42
6	6.85	7.51
7	6.93	7.58
8	7.00	7.66
9	7.09	7.76
10	7.19	7.88
11	7.33	8.00
12	7.45	8.11
13	7.55	8.21
14	7.65	8.30
15	7.76	8.43
16	7.89	8.56
17	8.01	8.65"

- (6) Amend Title 14, Subsection 1324(b), Delaware Code, by striking the salary schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"(b) Aides actually working and paid ten months per year shall receive annual salaries in accordance with the following schedule:

Years of Experience	Service Aides	Instructional Aides
0	8,640	10,565
1	8,926	10,918
2	9,215	11,269
3	9,504	11,623
4	9,792	11,974
5	10,079	12,327
6	10,367	12,678
7	10,655	13,031
8	10,943	13,382
9	11,232	13,735
10	11,520	14,086
11	11,807	14,440

12	12,096	14,791
13	12,383	15,144
14	12,671	15,495
15	12,959	15,849
16	13,248	16,200
17	13,535	16,553
18	13,823	16,904
19	14,112	17,257
20	14,399	17,609"

- (7) Amend Title 14, Subsection 1326(a), Delaware Code, by striking schedule contained in said subsection in its entirety and by substituting in lieu thereof the following:

"Class A - \$62.18 per day
 Class B - \$50.22 per day
 Class C - \$38.24 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 days 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 salary paid to any Salary Plan A employee shall be determined as follows:

- (1) Placement on the index 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 of the current fiscal year. Advancement for additional degrees and credits completed on or after that date and through December 31 will become effective on January 1. Advancement in any of these areas after January 1 will become effective for salary purposes on July 1 of the following fiscal year."

(o) Amend Title 14, Section 9219, Delaware Code, by adding thereto Subsection (f), (g) and (h) to read as follows:

"(f) The salary paid to any Plan B employee shall be paid in accordance with a merit system comparable pay system. Such a system shall be subject to the following provisions:

1. For salary purposes, the 37.5 hour merit salary schedule shall be the pay plan for Plan B employees. Salary adjustments shall be granted under the same conditions as listed in Section 8(d)(1) (i) (ii), of the Budget 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 shall be processed under the normal State Personnel maintenance review processes. Critical reclassifications shall 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 100 percent of the midpoint of an assigned paygrade upon the signature of the appropriate Vice President and Campus Director; 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 shall 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 may compensate Plan B employees for additional degrees as earned. This compensation shall 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. Employee benefits paid by a college plan in addition to state benefits shall remain at the discretion of the College.
- (g) 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 under Title 14, Section 9219, Delaware Code;
 - (b) In addition to the salary received under Title 14, Section 9219, an employee shall receive an annual amount for administrative responsibility. That amount shall be computed by multiplying the amount provided under Title 14, Section 9219, Delaware Code, by the index volume specified in the schedule below that corresponds with the appropriate classification level and experience level. The experience level 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 shall 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.

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%

- (h) For each fiscal year, the minimum increase for a Plan A or Plan D employee shall be one-half of the general increase for all eligible merit and merit comparable state employees of the employee's Fiscal Year 1995 salary."

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), 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 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, 1996, the salaries displayed below represent the salary effective on July 1, 1995.

Budget Unit	Line Item	General Funds	All Other Funds
(01-01-01)	Representative	27.0	
(01-02-01)	Senator	27.0	
(02-01-00)	Chief Justice - Supreme Court	115.5	
(02-01-00)	Justice - Supreme Court	111.5	
(02-02-00)	Chancellor - Court of Chancery	110.0	
(02-02-00)	Vice Chancellor - Court of Chancery	106.0	
(02-03-00)	President Judge - Superior Court	110.0	
(02-03-00)	Associate Judge - Superior Court	106.0	
(02-03-00)	Commissioner - Superior Court	56.7	
(02-03-00)	New Castle County Prothonotary	46.6	
(02-03-00)	Kent County Prothonotary	37.8	
(02-03-00)	Sussex County Prothonotary	35.4	
(02-06-00)	Chief Judge - Court of Common Pleas	108.8	
(02-06-00)	Judge - Court of Common Pleas	103.2	
(02-06-00)	Commissioner - Court of Common Pleas	56.7	
(02-08-00)	Chief Judge - Family Court	108.8	
(02-08-00)	Associate Judge - Family Court	103.2	
(02-08-00)	Commissioner - Family Court	56.7	
(02-13-00)	Chief Magistrate - Justice of the Peace Courts	75.9	

(02-13-00)	Magistrate - Justice of the Peace Courts	43.1	
(02-17-00)	Director - Administrative Office of the Courts	76.1	
(02-18-00)	Public Guardian	46.5	
(02-18-00)	Executive Secretary - Violent Crimes Compensation Board		47.0
(02-18-00)	Executive Director - Foster Care Review Board	43.1	
(10-01-01)	Governor	95.0	
(10-02-00)	Budget Director	91.7	
(10-02-00)	Executive Director - Higher Education Commission	57.9	
(10-03-01)	Director - Delaware Economic Development Office	85.6	
(10-03-04)	Director - State Housing Authority		75.0
(10-04-00)	Personnel Director	85.6	
(10-06-00)	Executive Director - Information Systems	90.8	
(10-07-01)	Executive Director - CJC	66.1	
(10-07-02)	Executive Director - DELJIS	58.2	
(10-07-03)	Executive Director - SAC	65.3	
(12-01-01)	Lieutenant Governor	40.7	
(12-02-01)	Auditor	70.0	
(12-03-01)	Insurance Commissioner	70.0	
(12-05-01)	State Treasurer	75.9	
		General Funds	All Other Funds
Budget Unit	Line Item		
(15-01-01)	Attorney General	94.3	
(15-01-02)	Director - Consumer Protection	53.1	
(15-02-01)	Public Defender	75.9	
(15-03-01)	Parole Board Chairman	58.5	
(20-01-00)	Secretary - State	85.6	
(20-02-00)	Director - Human Relations	51.6	
(20-05-00)	Director - Corporations	35.0	34.1
(20-06-00)	Director - Historical and Cultural Affairs	65.2	
(20-07-00)	Director - Arts	48.7	
(20-08-00)	State Librarian	62.0	
(20-15-00)	State Banking Commissioner		79.1
(25-01-00)	Secretary - Finance	91.7	
(25-05-00)	Director - Accounting	73.9	
(25-06-00)	Director - Revenue	86.3	
(25-07-00)	Director - State Lottery		67.5
(30-01-00)	Secretary - Administrative Services	79.8	
(30-01-00)	Director - Administration	64.2	
(30-01-00)	Executive Director - Public Employment Relations Board	55.5	
(30-03-00)	Public Advocate	53.6	
(30-03-00)	Director - Public Service Commission		56.0
(30-03-00)	Director - Professional Regulation		57.9
(30-04-00)	Director - Support Operations		56.2
(30-05-00)	Director - Facilities Management	66.3	
(30-05-00)	Executive Secretary - Architectural Accessibility Bd.	30.6	
(30-06-00)	Director - Purchasing	58.9	

(35-01-00)	Secretary - Health and Social Services	91.7	
(35-01-00)	Director - Management Services	63.7	7.1
(35-04-00)	Chief Medical Examiner	113.1	
(35-05-00)	Director - Public Health	117.8	
(35-06-00)	Director - Alcoholism, Drug Abuse & Mental Health	101.1	
(35-07-00)	Director - Social Services	42.1	38.9
(35-08-00)	Director - Visually Impaired	50.9	
(35-10-00)	Director - Child Support Enforcement	25.1	36.5
(35-11-00)	Director - Mental Retardation	81.0	
(35-12-00)	Director - State Service Centers	59.8	
(35-12-00)	Director - Community Services	52.3	
(35-14-00)	Director - Services for Aging and Adults with Physical Disabilities	59.0	
		General	All Other
Budget Unit	Line Item	Funds	Funds
(37-01-00)	Secretary - Services for Children, Youth and Their Families	91.7	
(37-01-00)	Director - Management Services	70.8	
(37-02-00)	Director - Family Services	79.7	
(37-03-00)	Director - Child Mental Health Services	91.3	
(37-05-00)	Director - Youth Rehabilitative Services	76.3	
(38-01-00)	Commissioner - Correction	85.6	
(38-04-00)	Bureau Chief - Prisons	81.0	
(38-06-00)	Bureau Chief - Community Custody and Supervision	68.1	
(40-01-00)	Secretary - Natural Resources and Environmental Control	85.6	
(40-01-00)	Deputy Secretary - Natural Resources and Environmental Control	72.6	
(40-05-00)	Director - Fish and Wildlife	33.2	33.1
(40-06-00)	Director - Parks and Recreation	70.1	
(40-07-00)	Director - Soil and Water Conservation	66.7	
(40-08-00)	Director - Water Resources	74.7	
(40-09-00)	Director - Air and Waste Management	77.6	
(45-01-00)	Secretary - Public Safety	79.8	
(45-01-00)	Director - Boiler Safety	44.3	
(45-01-00)	Director - Delaware Emergency Management Agency	27.1	27.1
(45-04-00)	Executive Secretary - Alcoholic Beverage Control Commission	57.4	
(45-06-00)	Superintendent - State Police	82.5	
(45-06-00)	Assistant Superintendent - State Police	72.1	
(45-07-00)	Director - Motor Vehicles	69.0	
(55-01-01)	Secretary - Transportation		85.6
(55-02-01)	Director - Administration		64.2
(55-03-01)	Director - Transportation Planning		82.6
(55-04-01)	Director - Highway Operations		82.6
(55-06-01)	Director - Delaware Transit Corporation		82.6
(55-07-10)	Director - Pre-construction		82.6
(60-01-00)	Secretary - Labor	8.0	71.8
(60-06-00)	Director - Unemployment Insurance		67.1

(60-07-00)	Director - Industrial Affairs	67.1
(60-08-00)	Director - Vocational Rehabilitation	67.1
(60-09-00)	Director - Employment and Training	4.1 63.0

(65-01-00)	Secretary - Agriculture	73.5
(65-01-00)	Deputy Secretary - Agriculture	60.0

<u>Budget Unit</u>	<u>Line Item</u>	<u>General Funds</u>	<u>All Other Funds</u>
(70-01-01)	Commissioner - Elections	47.7	
(70-02-01)	Administrative Director - New Castle Co. Elections	44.7	
(70-02-01)	Deputy Administrative Director - New Castle County Elections	44.1	
(70-03-01)	Administrative Director - Kent County Elections	44.7	
(70-03-01)	Deputy Administrative Director - Kent Co. Elections	44.1	
(70-04-01)	Administrative Director - Sussex County Elections	44.7	
(70-04-01)	Deputy Administrative Director - Sussex County Elections	44.1	
(75-01-01)	State Fire Marshal	38.3	18.7
(75-02-01)	Director - State Fire School	57.0	
(76-01-01)	Adjutant General	70.3	
(95-01-00)	Superintendent - State Board of Education	108.2	
(95-01-00)	Deputy Superintendent - State Board of Education	91.7	
(95-06-00)	Executive Secretary - Advisory Council on Career and Vocational Education	36.1	36.2

(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) 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, 1996, 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 1996 and the number of points of any recommended changes for any position for Fiscal Year 1997.

(d) For this fiscal year, 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.

Budget Unit	Line Item	July 1, 1995,	
		General Funds	All Other Funds
(10-02-00)	Higher Education Commissioners	2.4	
(10-04-00)	Board Members - Pensions		9.6
(15-01-02)	Board Members - Consumer Protection	3.5	
(15-03-01)	Board Members - Parole	19.5	
(20-02-00)	Board members - Human Relations	2.5	
(25-01-00)	Board Members - Revenue	33.0	
(30-01-00)	Board Members - Public Employment Relations Board	7.4	
(30-01-00)	Board Members - Merit Employee Relations Board	20.0	
(30-03-00)	Board Members - Professional Regulations		71.5
(30-03-00)	Board Members - Public Service Commission		105.0
(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	
(95-01-01)	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:

President Pro Tempore of the Senate	\$11,033.00
Speaker of the House of Representatives	11,033.00
Majority and Minority Leader of the Senate	8,593.00
Majority and Minority Leader of the House	8,593.00
Chairperson and Vice Chairperson of the Joint Finance Committee	7,957.00
Majority and Minority Whip of the Senate	5,411.00
Majority and Minority Whip of the House	5,411.00
Members of the Joint Finance Committee	6,684.00

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."

(f) Upon the enactment of legislation to standardize property assessments across all three counties and the creation of a State Assessment Practices Board, consisting of seven members, to provide guidance and oversight of the property tax system, there shall be established a salary of \$0.5 per Board member.

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, 1995, 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/regarding, 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(e) 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, 1995, 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 the current fiscal year, 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 transportation purposes.

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 this fiscal year.

(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.

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 18. Section 1 of this Act provides funding for a state employee pension rate of 11.05 percent. The components of the rate are approximately 5.62 percent for the pension liability, 3.50 percent for the retiree health insurance liability and 1.93 percent for the Post-retirement Benefit Fund. The 1991 Early Retirement Option (ERO) accounts for approximately .8 percent of the pension liability and .875 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. 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.

Section 21. 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 22. 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 23. 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 24. 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 1996.

Section 25. 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 26. Notwithstanding the provisions of Title 29, §5903(17), Delaware Code, effective July 1, 1995 agencies utilizing temporary, casual and seasonal employees shall comply with the recommendations contained in the April 28, 1995 *Final Report on the Use of Casual Seasonal and Temporary Employees* prepared by the State Personnel Director, Budget Director and Controller General, which are incorporated herein by reference. The State Personnel Director shall issue implementing instructions to all agencies (01-77 and Department of Public Instruction) no later than July 31, 1995.

Section 27. (a) The 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; Chief Judge and Associate Judges of the Family Court shall be paid a salary in accordance with the lag payroll set forth in Title 29, Sections 2712(b)(1), (b)(2) and (b)(3) of the Delaware Code.

(b) Those judicial officers, as set forth in subsection (a) of this section, who were employed in such positions on December 31, 1994, shall receive a lag pay adjustment on August 15, 1995 equal to one twenty-fourth of the base pay in effect on July 15, 1995. This is a one-time adjustment to enable implementation of the lag payroll system effective August 1, 1995 with respect to those judicial officers in office as of December 31, 1994 on the same basis afforded to the other state officials and employees except the Governor, employed by the State on that same date in positions set forth in Section 10(a) of Senate Bill 420 of the 137th General Assembly. This lag pay adjustment is not a salary increase and is not available to judicial officers who were not employed in such positions on December 31, 1994.

(c) Judicial officers, as set forth in subsection (a) of this section, whose service commenced after December 31, 1994 shall participate in the lag payroll on the same terms and conditions as other participating employees of the State of Delaware hired after that same date.

Section 28. 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 29. Amend Section 5112(b), Chapter 51, Title 29, Delaware Code by adding a new paragraph (4) to read as follows:

"(4) The expenditures of funds for food supplied as part of an agency training function, such as a retreat or workshop, held away from the agency's home location."

Section 30. Amend Section 5201, Chapter 52, Title 29 of the Delaware Code by adding a new subsection (a)(i) thereto, to read as follows:

"(a)(i) Beginning July 1, 1994, a regular officer or employee called to active duty with Guard or Reserve for other than training purposes shall continue to receive state contributions toward health insurance coverage for a period of up to 180 days."

Section 31. Amend Section 5905, Chapter 59, Title 29, subsection (a) of the Delaware Code by deleting the words "at the rate of 1 1/4 work days" and adding thereto "9.5 hours."

Section 32. Amend Section 5940, Title 29 of the Delaware code by deleting the words "July 1" and adding thereto "December 31".

Section 33. Amend Section 5209, Chapter 52, Title 29 of the Delaware Code by adding a new section to read as follows:

"Any Delaware Authority or Commission may elect to participate in the health care insurance plans provided by the provisions of this Chapter for regularly scheduled full-time employees. The full cost of such coverage shall be remitted to the State of Delaware by the authority or commission 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 Delaware Authority or Commission participating in the State Group Health Insurance program shall be governed by all provisions, rules and regulations of this Chapter and the Group Health Insurance Committee."

Section 34. (a) Notwithstanding any other provision of law, all State wage and salary payments shall be paid to employees who begin to receive such payments on or after January 1, 1996, and recipients of State retirement payments who begin to receive such retirement payments on or after January 1, 1996, by electronic funds transfer, unless another method has been determined by the Secretary of Finance to be appropriate.

(b) Each recipient of State wage, salary or retirement payments shall designate one financial institution and associated account and provide the payment authorizing information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

(c) The Secretary of Finance may waive the requirements of Subsection (a) of this section for any State employee upon request by the head of an agency under standards prescribed by the Secretary of Finance.

(d) The Director of State Personnel may waive the requirements of Subsection (a) of this section for any State pensioner upon request by the Pension administrator under standards prescribed by the Director of State Personnel.

Section 35. (a) For the fiscal year ending June 30, 1995, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1996.

Fiscal Year Appropriation	Account Codes	Remarks
1995	(01-05-01-01-41)	Legislative Travel
1995	(01-08-02-01-50)	Contractual Services
1995	(01-08-02-01-70)	Capital
1995	(01-08-02-01-81)	Contingency - Legislative
1995	(01-08-02-01-82)	Family Law Commission
1995	(01-08-02-01-86)	Juvenile Detention Comm.
1994	(01-08-02-01-70)	Capital

1994	(01-08-02-01-84)	Contingency - NCSL
1991	(02-02-10-01-98)	Historical Records Reproduction - Kent County
1995	(02-17-04-01-98)	One Day/One Trial
1993/94/95	(10-02-01-01-82)	Computer One-times
1993/94/95	(10-02-01-01-85)	Data Development
1993/94/95	(10-02-01-01-91)	Budget Automation
1995	(10-02-04-01-85)	Legal Obligations
1995	(10-02-04-01-97)	Salary Shortage
1995	(10-02-12-01-98)	800 MHz
1993	(10-02-15-01-97)	Special Projects
1995	(10-02-15-01-98)	Voting Machine
1994	(10-02-15-01-99)	Special Projects/Maintenance
1995	(10-03-03-01-85)	Other Items
1995	(10-04-05-01-83)	Self Insurance
1995	(10-04-05-01-99)	Dickinson Fire
1995	(10-05-01-01-80)	Pilot Projects
1994	(10-07-02-01-98)	Data-Base Clean-up
1995	(12-01-01-01-81)	Personnel Task Force
1994	(15-02-01-01-98)	Computer Equipment and Polygraph Training
1995	(15-02-01-01-98)	Office Automation
1995	(20-05-01-01-98)	Corporations Imaging
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
1995	(20-06-02-01-98)	Historical Preservation
1994	(20-08-01-01-98)	SARA Title 3
1995	(25-01-01-01-98)	Deferred Compensation
1995	(25-06-01-01-86)	Systems Development
1995	(25-06-01-01-98)	Workstations
1995	(30-01-10-01-98)	Service and Information Guide
1995	(30-01-40-01-98)	Collaborative Bargaining
Fiscal Year	Account	Remarks
Appropriation	Codes	
1995	(35-01-20-01-80)	Family Service Partnerships
1995	(35-01-20-01-84)	Electronic Benefit Transfer
1994	(35-04-01-01-98)	DNA Lab
1995	(35-07-01-01-86)	First Step
1994	(37-01-50-01-82)	MIS Development
1995	(37-05-50-01-98)	Ferris Retraining
1995	(38-01-02-01-80)	Settlement
1995	(38-01-10-01-80)	High Density Filing
1995	(38-01-30-01-80)	Medical Services
1995	(38-01-40-01-99)	Maintenance and Restoration
1995	(38-04-03-01-59)	Energy
1994	(38-06-01-01-87)	Victims Rights

1995	(40-09-03-01-80)	Superfund
1986	(45-01-01-03-81)	Hazardous Waste Revolving Fund
1995	(45-06-10-01-98)	Antenna Upgrade and Radio Purchase
1995	(75-01-01-01-98)	Computerization and Arson Van
1995	(90-04-01-01-98)	Automation
1995	(95-03-10-01-83)	Professional Accountability Block Grant
1995	(95-03-20-01-53)	Pre-Handicapped Program
1995	(95-04-01-01-90)	Transportation
1994	(95-13-00-01-48)	Teacher in Space
1995	(95-17-00-01-61)	Discipline Program-Prevention
1995	(95-23-00-01-61)	Discipline Program-Prevention
1995	(95-33-00-01-61)	Discipline Program-Prevention

(b) For the fiscal year ending June 30, 1995, any sums over \$25.00 in appropriation account 0185 for school districts shall remain as continuing and not be subject to reversion until August 31, 1995.

(c) The following appropriations shall be continued and shall not be subject to reversion until June 30, 1997:

Fiscal Year	Account	Remarks
Appropriation	Codes	
1995	30-05-10-0195	Match/Asbestos
1995	30-05-10-0196	MCI/Asbestos Abatement
1995	90-01-01-0198	MCI/Equipment
1995	90-03-01-0197	MCI/Equipment
1995	90-04-01-0199	MCI/Equipment
1995	90-04-02-0199	MCI/Equipment
1995	90-04-04-0199	MCI/Equipment
1995	90-04-06-0199	MCI/Equipment

Section 36. For FY 1997, the provisions of Section 6502(a), Title 29, Delaware Code, shall be waived for school districts. In its place, school districts shall be required to provide to the Budget Director and Controller General a signed copy of its approved district budget for expenditures, including positions to be funded from all funds, as well as any other information required by the Budget Director (provided the Budget Director furnishes official blank forms for such data).

Section 37. Notwithstanding the provisions of Title 29, Section 6334(c), Delaware Code, for Fiscal Year 1997, the proposed budget plan, as prepared by the Budget Director, shall be in such a format that it can readily be analyzed and comprehensive in nature.

LEGISLATIVE

Section 38. 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 39. Section 1 of this Act provides an appropriation to the Office of the Controller General (01-08-02) for Personnel Costs. Requests from the Chairs 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 40. 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 41. The Hay points and the salary schedule for the Controller General shall be calculated in a manner comparable to division directors.

Section 42. Section 1 of this Act appropriates \$500.0 to Office of the Controller General (01-08-02) for Contingency - House of Representatives Desegregation Committee, for legal fees.

JUDICIAL

Section 43. Section 1 of this Act authorizes General Fund positions and makes associated appropriations for the Superior Court (02-03-10). Included in these position authorizations and associated appropriations shall be one (1) new Bailiff for the Court in Sussex County.

Section 44. Section 1 of this Act, provides the Department of Services for Children, Youth and Their Families, Appropriated Special Fund (ASF) authority in the amount of \$34.8 in order to provide public notice of court action(s) involving minors under the department's custody whose parents' whereabouts are unknown, per Family Court rules. Any other fees, assessments, costs or financial obligations imposed by Family Court for the issuance and service of subpoenas or summons by way of court rules, regulations or administrative procedures 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 45. 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 46. Section 1 of this Act makes the following appropriations for the purpose of merging the Wilmington Municipal Court into the State's court system: \$218.1 and 9.0 General Fund FTE's to the Court of Common Pleas (02-06-10); \$315.5 and 15.0 FTE's to the Justices of the Peace Courts (02-13-10); and \$80.0 in one-time items to Office of the Budget, Contingencies and One-Time Items (10-02-04) for the Court of Common Pleas and the Justices of the Peace Courts. These appropriations are contingent upon passage of legislation authorizing this merger. If this legislation is not enacted, the funds will revert to the General Fund and the positions will be removed from the budget complement.

Section 47. Section 1 of this Act contains position authorizations within Family Court (02-08-10) and Administrative Office of the Courts, Judicial Information Center (02-17-04) representing two (2) Application Support Project Leaders. The positions are hereby authorized within the Family Court as Appropriated Special Fund positions for the period from July 1, 1995 through December 31, 1995. After January 1, 1996, these positions shall be General Fund positions within the Administrative Office of the Courts (02-17-04) and the Appropriated Special Fund authorizations for the two (2) positions within Family Court shall be rescinded.

EXECUTIVE

Section 48. (a) The appropriation in Section 1 of this Act to the Office of the Budget (10-02-01) for Data Processing - Development Projects contemplates information technology planning, development and procurement services for the following state department/agencies development projects and feasibility studies:

<u>DEPARTMENT/AGENCY</u>	<u>SERVICE NEEDED</u>
Legislative	Information System Enhancements
Executive	
Office of Information Systems	Geographic Information System Direction/Coordination

Finance	BSMP/Imaging Project
State Libraries	Expansion of DELNET
Health and Social Services	Enhancements to Child Support Enforcement Technology Upgrades to Public Health's Master Client Index System
Public Safety	Anti-car Theft (Phase 2)

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 this fiscal year, 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 and approved by 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 and the Office of the Budget and the concerned department/agency, Information Systems shall maintain staff support to the benefit of department/agency at the projected level of effort (subject to recruitment delays) until the project work has been accomplished.

(f) No funds appropriated in Section 1 of this Act may be used to employ data or word processing professionals in support of current or proposed data or word processing systems without prior written approval of the Budget Director.

(g) Any appropriation for computer hardware, software, telecommunications or other information system technologies within the Office of the Budget - Contingency and One-Time Appropriations (10-02-04) or the Office of the Budget - Contingency - Technology Fund (10-04-04) shall be subject to the conditions of this section.

Section 49. 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 enumbering sufficient funds to cover known expenses: proof of circumstances beyond an agency's ability to enumber

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 50. During this fiscal year, 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 51. (a) Section 1 of this Act contains an appropriation in Office of the Budget (10-02-04) for Hedging. 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.

(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 this fiscal year. 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.

Section 52. For Fiscal Year 1996, 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 53. 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 54. Section 1 of this Act appropriates \$117.6 Personnel Costs and 2.0 FTEs to the Office of the Budget, Administration (10-02-01). It is the intent of the General Assembly that those positions will be filled by the incumbents in BP #62712 and BP #934 in the Department of Natural Resources (40-01-00) thereby transferring the Statewide Planning Council function to the Office of the Budget.

Section 55. (a) Section 1 of this Act provides an appropriation to Office of the Budget - Contingency and One-Time Items (10-02-04), for the current fiscal year. It is the intent that the appropriation for One-Time Appropriations in the amount of \$38,647.8 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 expenditure of computer or computer related funds shall be subject to the restrictions of Section 48 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 1997 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
01-01-01	2.5	Software/Roll Calls
01-02-01	40.0	Software/Roll Calls
01-08-02	100.0	LIS
02-03-10	6.1	Herrmann Courthouse Security
02-06-10	20.0	Computers/Furniture - Municipal Court Merger
02-13-10	60.0	Computers/Furniture - Municipal Court Merger
02-17-04	184.0	Computer Equipment
02-17-04	180.7	Court Telephone/Communication Systems
02-17-04	142.0	Productivity Improvement Software
10-01-01	57.0	Woodburn Refurbishment
10-02-01	10.0	NASBO
10-03-02	50.0	Main Street
10-03-02	45.0	Flags & Pins
10-03-03	23.3	Faxcom
10-03-03	300.0	Business Marketing
10-03-04	150.0	Security - WHA
10-03-04	3,000.0	Housing Development Fund
10-04-02	84.0	Hay Expert - Fees
10-04-02	100.0	First Quality Fund
10-06-09	100.0	DOS Folder/Stuffer
10-06-09	40.0	COMPTEN Cards
10-06-09	250.0	CPU Upgrades
10-06-12	125.0	STAR 57 Phone Enhancement
10-06-12	2,000.0	800 MHz End-User Equipment
10-07-03	6.0	Computer
12-05-03	20.0	Audit Costs
15-02-01	19.2	Computer Equipment - Kent County
15-03-01	3.0	Telephone System
15-03-01	10.0	Computer Networking Equipment
20-01-01	1,900.0	Port Reserve
20-01-03	11.6	Casket Transporter
20-01-03	57.0	Mower and Front End Loader
20-06-01	5.0	Desk, Chair, Printer and Computer
20-06-02	6.5	Equipment - Legislative Tape Preservation
20-06-02	16.0	Historical Markers
20-06-02	30.0	Re-film Deteriorated Microfilm
20-06-02	30.0	Design an Automated Archives Records Management System
20-06-02	20.0	Historic Document Preservation
20-06-02	4.2	Repairs to World War II Monument
20-06-02	7.0	Training
20-06-04	50.0	Museum Maintenance Fund
20-06-04	5.0	Copy Machines for Visitor Center, Dickinson and
Zwaanendael		
20-06-04	18.0	Batwing Mower for Buena Vista
20-06-04	50.0	Museum Conservation Fund
30-01-10	5.0	MERB
30-05-10	50.0	Carvel State Office Building Security
30-05-10	914.0	School Asbestos Abatement
30-05-10	795.0	Asbestos Abatement
30-05-10	10,981.8	MCI/Equipment
30-06-00	7.0	Tools and Equipment

<u>DDS</u>	<u>Amount</u>	<u>Purpose</u>
35-01-20	30.0	Automation, Network Upgrader
35-01-20	14.0	Vehicle
35-01-20	160.0	Special Vehicles
35-05-20	25.0	School Wellness Centers
35-05-20	200.0	HIV Services - Kent County
35-06-10	207.5	Managed Care Mental Health Start-up Costs
35-07-01	91.0	Welfare Reform
35-08-01	5.9	Braille Machines
35-11-20	100.0	Therapeutic Pool
35-11-30	58.0	POST 21
35-12-10	194.4	Family Services Partnerships
35-12-30	300.0	Emergency Shelter Services
35-14-01	24.1	Milford Office Space for Aging
37-01-50	228.0	Information Systems
38-01-01	36.7	Communication Equipment
38-01-10	320.4	Computer Equipment for Probation and Parole Officers
38-01-80	160.0	Replacement Vehicles
38-01-80	44.0	Vehicles - Vans for Transportation
38-01-80	72.0	Vehicles - Vans for Institutions
38-04-01	2.0	Travel - Prison Arts Program
38-04-01	21.3	Security Equipment for Institutions
38-04-05	10.0	Signs
38-04-06	32.6	Computer Equipment
38-06-01	425.0	Field Monitoring Devices
38-06-01	82.5	Fleet Cars, Home Confinement
38-06-04	90.0	Equipment - Field Monitoring Devices
38-06-04	33.0	Fleet Cars, Day Reporting Centers
38-06-04	30.0	Computers, Day Reporting Centers
40-01-01	367.9	MCI's
40-05-04	28.1	(2) 4 x 4 Vehicles
40-06-02	70.0	State Park Partnership
40-08-07	50.0	Center for Inland Bays
40-09-02	5.0	Computers
45-01-01	20.4	Network
45-01-20	39.0	800 MHz Training
45-01-20	.5	Telecommunication Equipment
45-01-20	22.3	Storage Space
45-01-20	7.8	Soldering Station
45-02-10	2.0	Training
45-06-01	55.0	Vest Replacement
45-06-10	61.3	Emergency Dispatch Equipment
45-06-11	294.0	Vehicles
45-07-20	50.0	Training
60-07-01	300.0	Switch to ASF
<u>DDS</u>	<u>Amount</u>	<u>Purpose</u>
65-01-02	2.5	Computer
65-01-04	57.0	Loader/Backhoe
65-01-05	3.0	Breathalyzers
65-01-10	1.5	3 Breathalyzers
65-01-10	2.5	Computer
65-01-11	8.9	Computer Equipment
65-01-11	15.0	Ultra Precision Microbalance
65-01-11	69.0	Metrology Lab Equipment
65-01-11	2.3	Standards Calibration
70-01-01	69.2	CY 1996 Presidential Primary

70-02-01	25.0	Casual Salaries for Motor Voter
70-02-01	372.0	CY 1996 Presidential Primary
70-02-01	37.5	Office Supplies for Motor Voter
70-02-01	15.0	Binders and Shelves for Motor Voter
70-03-01	70.3	CY 1996 Presidential Primary
70-04-01	54.5	CY 1996 Presidential Primary
75-01-01	12.0	Training and Equipment
75-01-01	12.0	Training and Equipment
75-01-01	34.0	Vehicles
75-01-01	30.0	Arson Van
75-01-01	2.5	National Conference on Building Codes and Standards
75-02-01	50.0	Computer Equipment
75-02-01	67.6	Replacement Vehicles
90-01-01	100.0	Parallel Program - Computer Equipment
90-01-01	1,000.0	Facilities Renewal/Renovation
90-03-01	1,000.0	Minor Capital Improvements and Equipment
90-04-01	50.0	Minor Capital Improvements and Equipment
90-04-02	350.0	Minor Capital Improvements and Equipment
90-04-02	35.0	Computer Equipment
90-04-04	530.0	Minor Capital Improvements and Equipment
90-04-05	10.0	Computer Equipment
90-04-06	21.2	Computer Equipment
90-04-06	350.0	Minor Capital Improvements and Equipment
95-01-01	150.0	Jobs for Delaware Graduates (JDG)
95-01-01	1,130.0	Annual Maintenance
95-01-01	5,836.0	Minor Capital Improvements and Equipment
95-03-10	200.0	Computers - Adult Education
95-04-01	410.7	School Buses

(b) Subsection (a) of this Section allocates \$10,981.8 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, 1998:

Department of State	642.3
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	382.4
Department of Correction	2,000.0
Department of Public Safety	139.8
Delaware National Guard	243.3

(c) The following appropriations so listed in Subsection (a) of this Section shall not be subject to reversion until June 30, 1998:

30-05-10	914.0	State-match School Asbestos Abatement
30-05-10	795.0	MCI - Asbestos Abatement
40-01-01	367.9	MCI/Equipment
90-01-01	1,000.0	MCI/Equipment
90-03-01	1,000.0	MCI/Equipment
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	1,130.0	Annual Maintenance

(d) Not more than \$250.0 of minor capital improvement and equipment funds authorized to the Department of Correction shall be used to complete renovation of cellblock space in the Herrmann 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.

(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) Not more than \$60.0 of minor capital improvement and equipment funds authorized to the Department of Administrative Services shall be used to make repairs to the training pads at the State Fire School in Dover.

(g) It is the intent of the General Assembly that the sum of \$5,836.0 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, 1998. 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	\$170,952	\$113,968	\$284,920
Brandywine	566,369	377,579	943,948
Special	20,680	0	20,680
Christina	958,162	638,775	1,596,937
Special	55,486	0	55,486
Colonial	511,479	340,986	852,465
Special	16,084	0	16,084
New Castle Vo-Tech	271,560	0	271,560
Red Clay	738,496	492,331	1,230,827
Special	38,636	0	38,636
Caesar Rodney	264,394	176,263	176,263
Special	12,510	0	12,510
Capital	320,255	213,503	533,758
Polytech	85,442	0	85,442
Lake Forest	177,590	118,393	295,983
Milford	191,479	127,653	319,132
Smyrna	160,127	106,751	266,878
Cape Henlopen	198,781	132,521	331,302
Special	12,084	0	12,084
Delmar	33,037	22,025	55,062
Indian River	346,602	231,068	577,670
Special	14,723	0	14,723
Laurel	90,531	60,354	150,885
Seaford	181,522	121,015	302,537
Special	3,659	0	3,659

Sussex Vo-Tech	89,102	0	89,102
Woodbridge	<u>88,642</u>	<u>59,095</u>	<u>147,737</u>
Total to Schools	\$5,618,384	\$3,332,280	\$8,950,664
	Maximum	Maximum	
<u>School District</u>	<u>State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
STATE BOARD OF EDUCATION	\$ 132,616	\$ 88,411	\$ 221,027
VOCATIONAL EQUIPMENT	<u>85,000</u>	<u>56,667</u>	<u>141,667</u>
<u>TOTAL</u>	\$5,836,000	\$3,477,358	\$9,313,358

Section 56. (a) Section 1 of this Act provides an appropriation to Office of the Budget, Contingency and One-Time Items (10-02-04), for this fiscal year. It is the intent that the appropriation for the Technology Fund Initiatives in the amount of \$13,000.0 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, 1998. Allocations may be transferred among agencies and projects upon request of the Executive Director of the Office of Information Systems and upon approval of the Budget Director and the Controller General.

Where applicable, the appropriation to Office of the Budget, Contingency and One-Time Items, Technology Fund of \$13,000.0 is subject to the following terms and conditions:

<u>Department/Agency</u>	<u>Initiative</u>
Executive	Integrated Management Project
Budget Office	Integrated Management Project
Office of Information Systems	FY 1994-1995 Network Annualizations
	State-wide Internet/Network Integration
State	LAN System and Telecommunication Equipment
Health and Social Services	DCIS Project (Year 2)
Correction	Management Information System (Year 2)
Public Safety	NCIC 2000
	AFIS Upgrade
	LAN (Division of Communications) and OHS Grants
Electronic	Data Link
Natural Resources	Imaging Project--Permits
Public Instruction	Imaging Project--Certification

(b) The allocation to the Office of the Budget for Integrated Management Systems anticipates enhancements to the Delaware Financial Management System (DFMS) 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, the Budget Director, the Secretary of Health and Social Services, the Deputy Superintendent of Public Instruction and the Secretary of Natural Resources and Environmental Control. The Committee shall provide a status report of development activities to the Controller General by September 1, 1995 and March 1, 1996.

Section 57. Section 1 of this Act makes an appropriation to the Office of the Budget - Contingency and One-Time Items (10-02-04) for the Hay Expert Project. These funds are to be used to further implement

the initiative. A status report shall be submitted by the Office of State Personnel to the Budget Director and the Controller General no later than January 1, 1996, to include an evaluation of the program.

Section 58. Section 1 of this Act provides an appropriation in Office of the Budget - Contingency 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, marketing efforts to encourage state employees to commute using alternative means of transportation, and to provide incentives to state employees to use alternative means of transportation.

Section 59. Section 1 of this Act makes an appropriation to the Office of the Budget, Contingency and One-Time Items (10-02-04) for 800 MHz radios. These funds shall be used for the purchase of 800 MHz end user equipment for state agencies. 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 60. 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 61. Section 1 of this Act makes a one-time appropriation to the Office of the Budget, Contingency and One-Time Items (10-02-04) to establish the Delaware Business Marketing Program within the Delaware Economic Development Authority (10-03-03). It is the intent of the General Assembly that the aforementioned appropriation shall be used to match non-state contributions to the program. Receipt of non-state funds shall be deposited in a state special fund for business marketing and recruitment purposes only. Expenditures of the program shall be divided between non-state contributions and the state matching appropriation such that non-state contributions are not less than one half of total expenditures. None of these funds shall be used for the hiring of full-time employees. On or before April 1, 1996, the Director of the Delaware Economic Development Office shall provide to the Budget Director and the Controller General a report on the Delaware Business Marketing Program. The report shall include an itemized list of non-state funds received, total expenditures, and an assessment of the performance of the program to date.

Section 62. Section 1 of this Act makes an appropriation of \$150.0 to the Office of the Budget, Contingency and One Time Items (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 solution until the WHA assumes the financial responsibility for these services. The WHA shall provide a full accounting of all expenditures from this appropriation and from the Fiscal Year 1995 appropriation for security at the Wilmington Housing Authority. Such accounting shall be done quarterly beginning September 30, 1995, and reported to the Controller General and the State Budget Director.

Section 63. Section 1 of this Act makes an appropriation of \$500.0 to the Office of the Budget, Contingency and One-Time Items (10-02-04) for the Department of Public Safety Crime Bill Match. These

funds shall be utilized by the Department of Public Safety (45-00-00) to maximize funds available through the Federal Crime Bill and may be used for, but not limited to, the hiring of 15.0 additional officers for the Division of State Police.

Section 64. Section 1 of the Budget Act makes an appropriation of \$75.0 to the Office of the Budget, Contingency and One-Time Items (10-02-04) to provide Federal Crime Bill matching funds for the Violence Against Women Act. Should the total amount of the appropriation not be required to match federal funds, the Secretary of Public Safety may use up to, but no more than, \$10.0 to defray administrative costs of this or other programs related to violence against women. Administrative costs shall not include personnel costs.

Section 65. Section 1 of this Act makes an appropriation to the Delaware Higher Education Commission (10-02-07) of \$20.0 to continue the implementation of the Herman M. Holloway, Sr. Scholarship program per the provisions of Senate Bill No. 421 of the 137th General Assembly.

Section 66. Section 1 of this Act makes an appropriation to the Higher Education Commission in the amount of \$135.0 for the FAME and MERIT scholarship programs. Of the total funding, \$110.0 shall be used for the FAME program and \$25.0 shall be used for the MERIT program.

Section 67. Listed below are the allocations of Office of Information Systems services (10-06-00) for this fiscal year.

Agency	FY 1996 Projections	
	General Funds	Other Funds
Legislative	\$ 55.0	\$
Judicial	300.0	
Executive	3,031.3	471.2
Other Elective Offices	225.0	
Legal	170.0	
State	1,310.0	85.0
Finance	5,900.0	108.0
Administrative Services	100.0	55.0
Health and Social Services (Dover)	240.0	45.0
Health and Social Services (Biggs)	1,322.1	1,186.8
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	75.0	
Public Safety	1,000.0	
Transportation		300.0
Labor	115.0	
Agriculture	10.0	
Elections	750.0	
Fire Prevention Commission	3.0	
National Guard	2.0	
Higher Education	22.0	
Public Education	200.0	
Total	\$ 15,095.4	\$ 2,521.8

GRAND TOTAL

\$ 17,617.2

Section 68. 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 69. 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 70. The Delaware Economic Development Authority (10-03-03) will continue to use revenue from Blue Collar Training Fund for the Workforce Development Grant. Funding for this grant shall be maintained at current levels.

Section 71. (a) Section 1 of this Act appropriates to the State Housing Authority (the "Authority") \$5,968.0 for its 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 72. Section 1 of this Act appropriates \$267.7 to the Office of State Personnel, Operations (10-04-02) for Generic Aides/Handicapped Employees. This appropriation is intended to encourage and enable qualified mentally and physically handicapped persons to obtain state employment per the provisions of Senate Bill No. 496 of the 132nd General Assembly and House Bill No. 136 of the 134th General Assembly.

Section 73. 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 74. 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.

Section 75. 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 76. 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 77. 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.

Section 78. The Delaware Health Care Commission (10-05-01) is hereby authorized to reimburse Commission members for mileage associated with Committee responsibilities.

OTHER ELECTIVE OFFICES

Section 79. 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 80. 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 any fiscal year, 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 81. Amend Section 4, Chapter 463 of 69 Del. Laws, by deleting the last sentence of Section 4.

Section 82. Section 1 of this Act contains appropriated Special Fund position authorizations and associated appropriations for the Bureau of Examination, Rehabilitation and Guaranty within the Insurance Commissioner's Office (12-03-02). Said authorizations and appropriations include an authorization for one (1.0) Director of Administration which shall be exempt.

Section 83. 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) Arbitration Secretary which shall be exempt.

Section 84. Section 1 of this Act provides a special fund appropriation of \$1,551.7 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 \$1,551.7 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 85. Section 1 of this Act authorizes \$231.9 for Expense of Issuing Bonds in the Office of the State Treasurer, Debt Management (12-05-03), for payment of expenses relating to the issuance of State Long-Term Debt. Disbursement from the Expense of Issuing Bonds fund shall not be made without the prior approval of the State Treasurer and the Secretary of Finance.

Section 86. Section 1 of this Act establishes a special fund appropriation entitled Electronic Data Interchange, in the State Treasurer, Administration (12-05-01) Cash Management Policy Board to support the Electronic Data Interchange/Electronic Data Systems Transfer Initiative. Use of these funds shall be coordinated with and approved by the Office of Information Systems and the Department of Finance.

LEGAL

Section 87. Section 1 of this Act authorizes an appropriation for contractual services for the Office of Attorney General (15-01-01). Of this amount, \$431.3 shall be used for the purpose of providing services covering family violence in New Castle County, and \$246.4 shall be used for the purpose of providing services covering family violence in Kent and Sussex counties.

Section 88. Of the total Deputy Attorneys General authorized in Section 1 of this Act to the Office of Attorney General (15-01-01):

- (a) Two shall be assigned to the Family Court for service in Kent and Sussex counties;
- (b) 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;
- (c) Two special fund Deputy Attorneys General shall be assigned to the Family Court to enhance prosecution of domestic violence cases;
- (d) Four shall be 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 per Title 19, Subsection 2392(c)(1) of the Delaware Code and the annual administrative assessment per Subsection 2392(d) of the same Title;
- (e) One half (.5) shall be assigned to the Foster Care Review Board;
- (f) Two shall be assigned to provide legal representation as required to the Department of Correction;
- (g) Two shall be assigned to the Domestic Violence Units serving Kent and Sussex counties, two Administrative Assistants shall also be assigned to these units;
- (h) One shall be devoted exclusively to the handling of personnel related issues and is not intended to supplant existing Deputy Attorney General assignments in this area; and

(i) The Attorney General shall provide legal assistance/representation as needed for the implementation of Title 6, Chapter 46, Delaware Code (Delaware Fair Housing Act) until funds in the "Special Administration Fund" are sufficiently available.

(j) The Attorney General shall provide 1.0 ASF Deputy Attorney General assigned to the State Lottery Office to assist the State Lottery Director in the implementation of Volume 69, Chapter 446, Laws of Delaware.

Section 89. Section 1 of this Act provides an appropriation of \$308.4 in Appropriated Special Funds and 5.0 positions to the Office of the Attorney General (15-01-01) to support the Securities Division. The Attorney General is authorized to collect and use revenues from the increased fees realized by Title 29, Subsection 2512; Title 6, Chapter 73, Delaware Code (Delaware Securities Act). Balances at the end of any fiscal year in excess of \$100.0 collected from these fees shall be deposited into the General Fund.

Section 90. Section 1 of this Act makes an appropriation of \$15.0 to the Office of the Attorney General (15-01-01) in Appropriated Special Funds to establish an Attorney General Opinion Fund. The Office of the Attorney General is authorized to publish and sell the opinions of the Attorney General; to deposit the proceeds of any sales in a special fund to be designated "Attorney General Opinion Fund"; and 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 91. Section 1 of this Act makes an appropriation of \$805.0 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, 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 92. Notwithstanding any other laws to the contrary including, but not limited to Part VI of Title 29, Delaware Code the Attorney General is authorized to enter into a contract for the production, distribution and marketing of the video entitled "Crossing the Line" on such terms and conditions as the Attorney General deems appropriate. All revenues received by the Attorney General from such contract shall be deposited in an Appropriated Special Fund. Revenues received and deposited into such ASF account shall be used for the purpose of reproducing, marketing, and distributing copies of this film.

STATE

Section 93. Section 1 of this Act makes an appropriation to the Budget Office One-Time and Contingencies (10-02-04), in the amount of \$1,900.0, for an operating reserve for the Diamond State Port Corporation. It is the intent of the General Assembly that these funds support the State's interest in the continued economic viability of the Port of Wilmington and its related facilities. These funds shall be used to meet short term cash flow obligations resulting from the transition of port operations to the Diamond State Port Corporation. The Port Director will report to the Budget Director, Controller General and the Secretary of State on all expenditures made from this appropriation on a quarterly basis. Should legislation transferring the Port of Wilmington by lease/purchase or purchase to the Diamond State Port Corporation not be enacted, this section will not be valid.

Section 94. 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 95. 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 Personnel Costs and General Fund positions. Of that amount, \$25.0 and 1.0 GF position shall be used for a Veterans Service Officer.

Section 96. 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 69 Laws of Delaware, Chapter 52, 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 97. 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 98. 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:

- Line United Methodist Church - Whitesville
- Prospect A.M.E. Church - Georgetown
- Sussex County Whipping Post History
- Bethany Methodist Church
- Gumboro Methodist Church
- Home of Judy Johnson - Marshallton
- Grave Site of Eli Crozier
- Saint Joseph Church

Section 99. Section 1 of this Act provides a special fund appropriation to the Department of State, Delaware State Museums for conference center operations. The Department is hereby authorized to retain revenue received from land and building rentals at Buena Vista, Belmont Hall and the McCrone House to support these operations.

Section 100. 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 101. Section 1 of this Act provides an appropriation to Executive, Office of the Budget (10-02-01), Development Fund. A portion of these funds shall be used for the DELNET Project.

First, public library automation and network projects and network 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 \$300.0 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 costs from the State represents approximately 35 percent of total project costs 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 costs (non-federal share). The remaining project from local funds represents approximately 25 percent of total project costs 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.

Section 102. Section 1 of this Act provides an appropriation to the Department of State, Division of Libraries (20-08-01) for Personnel Costs. Of that amount, \$45.9 and 1.0 GF position shall be used for a Public Information Specialist.

FINANCE

Section 103. 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, 1996, pursuant to policy and procedures as established by the Secretary of Finance.

Section 104. The Department of Finance, Office of the Secretary, is authorized in Fiscal Year 1996 to maintain a special fund with the State Treasurer for 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 \$330.0.

Section 105. 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 106. 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 107. 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 108. 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 109. 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 this fiscal year, shall not exceed 20 percent of gross sales as limited by Title 29, Chapter 48, Delaware Code.

ADMINISTRATIVE SERVICES

Section 110. For the fiscal year ending June 30, 1996, the Department of Administrative Services is allowed to retain as a continuing appropriation up to 25 percent of its unencumbered General Funds in excess of \$.1, except for debt service, one-time items and personnel costs. The Department of Administrative Services shall use this appropriation for the maintenance and restoration of state facilities.

Section 111. Section 1 of this Act makes an appropriation of \$138.7 and 2.0 FTEs (1.0 Attorney and 1.0 Administrative Assistant II) to the Department of Administrative Services, Office of Administration (30-01-10) for the Public Integrity Commission. Of this amount \$104.5 is to be used for personnel and other employment costs and \$34.2 for operational costs.

Section 112. Section 1 of this Act makes an appropriation of \$83.6 and 1.0 FTE (Administrative Assistant II) to the Department of Administrative Services, Office of Administration (30-01-10) for the Merit Employee Relations Board. Of this amount \$48.2 is to be used for personnel and other employment costs associated with the 1.0 FTE and the Board members and \$29.2 for operational costs.

Section 113. For the fiscal year ending June 30, 1995, any unused ASF authority and the associated ASF account for 30-04-20-9880 "telecommunications management" in the Department of Administrative Services shall be considered continuing in nature and shall not be subject to Delaware Financial Management System (DFMS) appropriation file maintenance until June 30, 1996.

Section 114. Section 1 of this Act recognizes that legislation establishing a state-wide Fleet Management System (30-04-40) 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 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. Therefore, the Budget Director, with the concurrence of the Controller General, is authorized 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.

Section 115. 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 116. Notwithstanding the provisions of Title 29, Subsection 8806(e) of the Delaware Code, funds generated by the Surplus Property Unit and deemed to be surplus by the Secretary of Administrative Services, shall be transferred to the Division of Facilities Management (30-05-10) by the Budget Office for the maintenance and restoration of state buildings and grounds maintained by the Department of Administrative Services.

Section 117. During Fiscal Year 1996, the Department of Administrative Services, Division of Facilities Management (30-05-10), shall retain the rental fees as appropriated special funds for the buildings known as the Daniel L. Herrmann Courthouse and the Sussex County Courthouse. The retained portion must be deposited as per state laws and shall be disbursed per Section 1 of this Act.

Section 118. (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 1996, 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 119. For energy backcharge purposes, the Department of Administrative Services (host department) Fiscal 1996 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 120. 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 121. Temporary, casual and seasonal Registered Nurses, Licensed Practical Nurses and Certified Nursing Attendants 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 122. Section 1 of this Act provides a total appropriation for Welfare Reform of \$5,942.9 between the Department of Health and Social Services (DHSS) (35), the Department of Labor (60), the Delaware Economic Development Office (10-03-00), and the Department of Services for Children, Youth and Their Families (37). The AFDC waiver will allow families already receiving AFDC to keep more of their income from work and child support; will provide benefits to two-parent families; and will enable Social Services to enter into contracts of mutual responsibility and apply time limits to the receipt of AFDC benefits. The first year of Welfare Reform will begin in these areas: in the Enterprise Zone of Wilmington; near the Williams State Service Center in Dover, in Kent County; and the Georgetown State Service Center in Sussex County. A state-wide program for teen mothers and fathers, and for two-parent families will be initiated. Approximately 2,500 families will receive child care and employment and training services that will allow them to be working and off welfare within two years from the time they find a job.

Section 123. The City of Wilmington has been designated one of the federal "empowerment communities" and will receive \$3,000.0 from a federal grant designed to aid communities in reviving their economies, cutting unemployment and strengthening their families. The enterprise community area to receive this funding is also targeted for Welfare Reform designed to enable AFDC recipients to become self-sufficient within a two year time frame. Welfare reform will allocate approximately \$2,100.0 to the

enterprise community area for child care and employment and training services for residents on AFDC. It is strongly encouraged that the City of Wilmington allocate a portion of this federal grant toward initiatives that further the goal of enabling these residents to achieve self sufficiency and stay off welfare by obtaining employment.

Section 124. 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 125. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, Social Services (35-07-01), for Title XIX Federal Programs (Medicaid). Notwithstanding the provisions of the Delaware Code to the contrary, the Division shall be permitted to use Medicaid (XIX-OTSI) funds when necessary to reimburse the federal government for its portion of overpayments not collected within sixty (60) days of identification. When such overpayments are collected, the funds collected shall be deposited back into the Medicaid XIX-OTSI account.

Section 126. The Division of Public Health, Community Health (35-05-20), is appropriated \$2,307.0 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 1996, Community Health shall implement five new school-based health centers which will be open for 9.5 months and shall complete planning for up to 11 additional centers. Status reports shall be submitted to the Budget Director and the Controller General not later than December 15, 1995, and May 15, 1996.

During Fiscal Year 1996, Community Health shall complete a cost/benefit analysis of health insurance reimbursement for services provided to children in School-Based Health Centers. A final report shall be submitted to the Budget Director and the Controller General not later than December 1, 1995.

Section 127. 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:

Nursing Home Director I, Emily Bissell 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 128. The Division of Public Health (35-05-00) currently operates the following programs for which a fee for service is charged to cover the cost of the program:

Child Health

Vanity Birth Certificate

Public Water

Medicaid Enhancements

Infant Mortality

Medicaid Aids Waiver

Children with Special Needs

Family Planning

Newborn

Indirect Costs

Vaccines

Food Inspection

Medicaid Contractors/Lab Testing and Analysis

Maternal and Child Health Services

Tuberculosis (TB)

Sexually Transmitted Diseases (STD)

Child Development Watch

Preschool Diagnostic and Development Nursery (PDDN)

Home Visits

Casual/Seasonal Nursing Services

Case Management for High Risk Pregnancies

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 Children with Special Needs and Child Health programs shall continue to deposit 30 percent of program collections to the General Fund.

Section 129. 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 130. 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 131. 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 132. 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 133. 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, \$65.0 shall be used to contract for mammography screening. These services shall be provided by the mobile mammography van. In addition to the above General Funds, \$19.0 shall be made available from the Preventive Health and Health Services Block Grant. This will bring total program funding to \$84.0.

Section 134. The Department of Health and Social Services, Alcoholism, Drug Abuse and Mental Health (35-06-00) will be able to bill for additional Medicaid Revenue due to a waiver of the Institution for Mental Diseases exclusion, as part of the Medicaid Managed Care waiver. This additional revenue shall be deposited to the General Fund, and the division shall make every effort to ensure that these bills are submitted to the appropriate entities in an expeditious manner.

Section 135. Section 1 of this Act provides General Funds in the amount of \$3,800.0 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 1996. The Department shall deposit this \$3,800.0 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 136. 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 137. 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. The charges associated with food contracts between Inpatient Mental Health

(35-06-30) and the Terry Children's Psychiatric Center for Fiscal Year 1997 shall be finalized by October 1, 1995. 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 138. Inpatient Mental Health maintains appropriation account 35-06-30-98-37 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 139. 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 ensure 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; and 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 the Claymont community.

Section 140. 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 141. (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 within the state plan under Title XIX of the Social Security Act and the requirement of Section 121(a) of P.L. 89-97 and all subsequent amendments 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 and other services defined in the federally approved state plan.
 - (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.
 - (26) Services provided to eligible Delawareans under federally approved 1115 waivers.
- (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 co-insurance 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 142. 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 143. There will be additional costs to the Department of Health and Social Services, Social Services (35-07-00), for processing claims associated with the Children's Services Cost Recovery Project (CSCR). The Office of the Budget (10-02-00) will provide funding from CSCR recoveries, as the first priority for payment, to pay for the state's one-quarter share of the processing charges.

Section 144. 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 145. (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 25.0 positions and establish or contract for an additional 10.5 positions needed to provide appropriate services for Children Birth to Three, selected through the early intervention process and to ensure coordination with the Program for Children with Disabilities. In addition, the IRMC may recommend the transfer of General Fund positions and/or General Fund dollars from the Department of Health and Social Services as necessary to operate this program. The lead agency shall report to the Budget Director and the Controller General on additional revenues that will be generated from Medicaid matching funds for reimbursable appropriate services that will be deposited into the General Fund in Fiscal Year 1996.

(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.

(d) 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 146. Section 1 of this Act appropriates \$498.9 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 implement the managed care program on January 1, 1996, for the categorically eligible population and beginning no later than March 1, 1996, for the expanded population. The department anticipates serving the following populations under the Medicaid waiver: all uninsured adults to 100 percent 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. 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 147. 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 148. For the Fiscal Year ending June 30, 1995, any sum in the Medicaid -- Non-State 1994 appropriation (35-07-01-01-86) shall remain encumbered and shall not revert until June 30, 1996.

Section 149. 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 \$14,500.0 ASF for the Medicaid program in Social Services, (35-07-00); the \$1,109.0 ASF for child support programs in Child Support Enforcement, (35-10-00); the \$4,504.2 ASF for programs in Public Health (35-05-00); and the \$4,710.9 ASF for programs in Alcoholism, 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 will support the Appropriated Special Fund accounts.

Section 150. The Department of Health and Social Services, Division of Social Services (35-07-01) is authorized to establish bank accounts to advance funds from the First Step program to clients in a timely manner. These advances would be in the nature of clothing allowances, to advance client self-sufficiency, as proposed in Delaware's Welfare Reform plan "A Better Chance".

Section 151. 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 152. 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 153. 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 Personnel Services. Of that amount, a total of \$91.2 shall be used for an additional .8 Community Services Rehabilitation Instructor, .5 Orientation and Mobility Instructor, and 1.0 Itinerant Teacher. The Itinerant Teacher shall serve Kent and Sussex Counties.

Section 154. 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 155. Section 1 of this Act includes an appropriation to the Department of Health and Social Services, Division of Mental Retardation, Institutional Services (35-11-20) for contractual services. Of that amount, \$200.0 was funded to augment therapy services at the Stockley Center.

Section 156. Section 1 of this Act provides an appropriation of \$1,109.0 Appropriated Special Funds (ASF) in the Department of Health and Social Services, Child Support Enforcement (35-10-00), for the operation of the division. Revenue from child support collections shall fund this account and the related 16.3 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 157. The Division of Mental Retardation, Community Services (35-11-30) 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 158. 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, 1995. 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 1996.

The Division is encouraged, where appropriate, to provide supported employment opportunities for these clients within the appropriation limit.

Section 159. The Division of Mental Retardation (35-11-30) 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 160. The Division of Mental Retardation, Institutional Services (35-11-30) 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 161. 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 \$163.0 was funded for respite care. These funds shall be used to serve families on the current waiting list and to provide additional hours of service to those currently receiving services. Also appropriated is an additional \$500.0 for community residential placements. These funds and the respite funds shall be used to maintain clients in community settings with their families and to aid in creating new community supports for clients in institutions.

Section 162. 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 163. The Division of State Service Centers, Family Support (35-12-10) 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 164. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of State Service Centers, Family Support (35-12-10) for Contractual Services. Of that amount, \$42.0 shall be used for security for planned visitation centers in the Hudson and Milford State Service Centers.

Section 165. Section 1 of this Act provides an appropriation to the Department of Health and Social Services, Division of State Service Centers, Family Support (35-12-10) for Contractual Services. Of that amount, \$75.0 shall be used to provide alcohol and drug prevention for youth in Kent and Sussex Counties.

Section 166. 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 167. 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 168. Section 1 of this Act makes an appropriation to the Department of Health and Social Services, State Service Centers, Community Services (35-12-30), for emergency assistance. Some of this appropriation may be used for programs of longer than 30 days duration.

Section 169. The position of Director, Community Services, shall remain exempt from classified service until such time as the position becomes vacant.

Section 170. 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 171. 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 172. 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 173. Effective July 1, 1995, the Treatment Access Center in the Criminal Justice Council (10-07-01) shall be transferred to the Department of Health and Social Services, Division of Alcoholism, Drug Abuse and Mental Health, Alcoholism and Drug Abuse (35-06-40). The Treatment Access Center program and staff shall report to and be under the supervision of the Director of Alcoholism and Drug Abuse and shall continue to provide case monitoring to the Superior Court's Drug Court. Included in this transfer are any current and pending federal grants awarded to support the operations of the Treatment Access Center. These grants may include but not be limited to the Offender Specific Punishment Grant in Delaware, Women's Correctional Institution Village Therapeutic Community Grant and the pending Delaware Superior Court Drug Court Enhancement.

This transfer will include the following resources: 6.0 GF FTEs totaling \$256.3 in personnel costs from the Criminal Justice Council (10-07-01), 1.0 NSF FTEs totaling \$33.0 in personnel costs from the WCI Village Grant, \$50.0 in operations costs, and \$630.0 GF from the Department of Correction, Bureau Chief-Community Custody and Supervision (38-06-01) entitled SENTAC Treatment Initiatives for on-going drug treatment services which are currently used for drug court clients.

The Department of Health and Social Services, Division of Alcoholism, Drug Abuse, and Mental Health shall convene a task force to study the effectiveness of drug treatment services.

Such study shall evaluate the efficiency and effectiveness of all drug treatment services, how services are coordinated among differing client populations, and any other measurements on the efficacy of the drug treatment effort statewide. A copy of the final report shall be submitted to the Budget Director, Controller General and members of the Joint Finance Committee no later than April 1, 1996.

CHILDREN, YOUTH AND THEIR FAMILIES

Section 174. The Secretary of the Department of Services for Children, Youth and Their Families shall keep the Budget Director and 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 175. For the fiscal year ending June 30, 1995, any unused ASF authority in the following accounts shall be considered continuing in nature and shall not be subject to Delaware Financial Management System (DFMS) appropriation file maintenance until June 30, 1996.

<u>FY</u>	<u>Account Codes</u>	<u>Remarks</u>
1995	37-01-10	Environmental clean-up of Woods Haven-Kruse. (APPR-9850)
1995	37-01-15	Onetime funding for Barley Mill move. (APPR-9884)
1995	37-01-15	One-time funding for cars and wagons. (APPR-9877)
1995	37-01-20	Furniture and equipment. (APPR-9870)
1995	37-01-25	Furniture and equipment. (APPR-9870)
1995	37-01-50	Funding for Client Payments Automation Project. (APPR-9850)
1995	37-02-10	Furniture and equipment. (APPR-9870)
1995	37-02-20	Furniture and equipment. (APPR-9870)
1995	37-02-40	Furniture and equipment. (APPR-9870)
1995	37-02-40	Foster Care Coordination project (APPR-9881)
1995	37-03-10	Furniture and equipment. (APPR-9870)
1995	37-03-20	Furniture and equipment. (APPR-9870)
1995	37-03-40	Furniture and equipment. (APPR-9870)
1995	37-03-60	Furniture and equipment. (APPR-9870)
1995	37-05-40	Funding for Alternatives Evaluation. (APPR-9850)
1995	37-05-50	Funding for Mowlds expansion/YRS community alarm. (APPR-9870)

Section 176. The FY 1995 Budget Act (Senate Bill 420) provided 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 consultant shall not be paid before 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 177. 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 1996.

Section 1 of this Act also provides appropriations to the Department of Services for Children, Youth and Their Families for Parent Education (training). 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 1996.

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 178. 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 Title IV-A Emergency Assistance 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 sum of \$6,620.0 shall be deposited to the General Fund. The Budget Director and Controller General may approve modification of this amount.

On a regular basis, the Department shall transfer the required Medicaid State match 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 pay consultant(s) fees, to support the required cost recovery infrastructure and to continue support of program improvements commenced during FY 1995 and to reinvest in the following additional improvements:

Management Services: Lease space, education for Sussex day treatment programs.

Family Services: Diagnostics volume, group home reimbursement rate increase (to 80 percent), parent locator advertising, criminal background check volume, family preservation grant match, adoption payments equalization.

Child Mental Health Services: Crisis intervention expansion.

Youth Rehabilitative Services: Alternatives volume, Grace Cottage Program for girls.

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.

Section 179. For the current fiscal year, the Department of Services for Children, Youth and Their Families, Division of Family Services (37-02-00), shall have 1.0 FTE exempt position in addition to those authorized by Title 29, Section 5903, Delaware Code. Also, for Fiscal Year 1996, 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 becomes vacant, it shall be classified by the Director of Personnel in accordance with the Merit System, Title 29, Chapter 54, Delaware Code.

Section 180. 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, 1995, 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 181. 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 182. 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 183. Section 1 of this Act provides \$300.0 and 3.0 FTEs in the Department of Services for Children, Youth and Their Families, Clinical/Administrative Office (37-03-10), for the initiation of Medicaid managed care within the Division of Child Mental Health Services. This is in response to the submission of a 1115 Research and Demonstration waiver by the Department of Health and Social Services to operate a managed care program for Medicaid recipients as defined in the waiver document. Of the \$300.0, \$150.0 shall be used for the funding of a clinical treatment team and \$150.0 shall be used for other associated costs. These funds shall only be available for administrative costs and services which are consistent with providing for the managed care of Medicaid eligible children.

Furthermore, \$850.0 General Fund exists within the Department of Health and Social Services, Other Than State Institutions appropriation line (35-07-01). This amount is matched with \$850.0 from the federal government. The Division of Child Mental Health is authorized to approve payment toward the total of these amounts for administrative costs and services provided to Medicaid eligible children through their managed care activities. Upon implementation of the waiver, no claims for child mental health services submitted by any provider directly to Medicaid, except for those submitted by Managed Care Organizations, shall be paid unless prior authorization is given by the Department of Services for Children, Youth and Their Families. The Medicaid agency and the Department of Services for Children, Youth and Their Families will work together to develop a mechanism to identify which claims will be processed in this manner and to ensure that only those mental health claims authorized by the Department of Services for Children, Youth and Their Families or Managed Care Organizations will be processed by Medicaid's fiscal agent. If costs exceed a total of \$1.7 million, the Division of Child Mental Health will be responsible for providing a 50% state match for each Medicaid claim. This match may be obtained from existing appropriations, if available, within the Department of Services for Children, Youth and Their Families.

If ASF funds are available in other areas of the Department of Services for Children, Youth and Their Families, the Budget Director and Controller General may increase ASF spending authority for use with Medicaid managed care shortages.

Section 184. (a) During Fiscal Year 1996, the Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services (37-05-00), shall continue implementation of 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 employment 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 185. Section 1 of this Act provides Appropriated Special Fund (ASF) authority in the amount of \$3,601.5 to the Department of Services for Children, Youth and Their Families, Division of Youth Rehabilitative Services (37-05-00) for the Alternatives to Incarceration programs. The division shall ensure that meaningful evaluation of the effectiveness of such programs, including the Grace Cottage Program, is undertaken. Evaluation criteria shall include, but shall not be limited to: analysis of contractor expulsion rates and reasons for expulsion; incidence of recidivism among alternatives' clients; and a cost benefit analysis comparing these alternative programs to the Ferris School. The division shall report the findings of such evaluation(s), preliminary or otherwise, to the Budget Director and Controller General by November 15, 1995.

Section 186. 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 187. 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.

CORRECTION

Section 188. Section 1 of this Act provides an appropriation to the Department of Correction, Medical Services (38-01-30). Administration of the Medical Services contract shall be the responsibility of the Commissioner of Correction or his designee.

Section 189. The Department of Correction, Facilities Maintenance (38-01-40), receives funding for maintenance and restoration projects in the Budget 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 1997 by October 30, 1995, to the Budget Director and the Controller General.

Section 190. 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 191. 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 192. Section 1 of this Act makes an appropriation for contractual services to the Department of Correction, Bureau of Administrative Services (38-01-10). Of this appropriation, \$35.0 shall be used to provide technical support to assist the Management Information Systems Unit.

Section 193. 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 194. 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 195. Section 1 of this Act provides no funding for oversight of paralegal staff in the Department of Correction (38-00-00).

Section 196. 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 197. Section 1 of this Act provides an appropriation for Supplies and 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 198. 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 199. Of the total positions authorized in Section 1 of this Act for the Multi-Purpose Criminal Justice Facility (38-04-06), the intent is to move five Correctional Officer positions to the Delaware Correctional Center (38-04-03) and five Correctional Officer positions to the Sussex Correctional Institution (38-04-04) upon the closing of all temporary dorm space at MPCJF.

Section 200. (a) Of the total positions authorized in Section 1 of this Act for the Morris Correctional Institution (38-04-07), three positions shall be used to continue the existing highway beautification project.

(b) Of the total positions authorized in Section 1 of this Act for the Delaware Correctional Center (38-04-03), four positions shall be used to continue the existing highway beautification project.

(c) Of the total positions authorized in Section 1 of this Act for the Sussex Correctional Institution (38-04-04), four positions shall be used for a highway beautification project.

(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 201. 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, \$378.9 shall be used for the KEY program.

Section 202. 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 all follow-up regarding referrals to the various support programs.

Section 203. The Department of Correction will modify the John L. Webb Correctional Facility (formerly 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.

Section 204. Section 1 of this Act provides an appropriation to the Department of Correction, Probation and Parole (38-06-02). The department must submit a semi-annual report to the Budget Director and the Controller General that details the expenditure of these funds by SENTAC level (levels I, II and III) and the average personnel complement for each level. These reports are due on December 31 and June 30.

NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 205. 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 206. Section 1 of this Act appropriates \$100.0 to the Division of Water Resources, Watershed Assessment (40-08-07) for Inland Bays Research. 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 207. 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.

Section 208. Section 1 of this Act appropriates funds to the Division of Air and Waste Management (40-09-00), for the SARA III Program. All ASF collected in this program shall be distributed to the Local Emergency Planning Committees.

Section 209. Section 1 of this Act appropriates \$100.0 to the Department of Natural Resources and Environmental Control, Department Management Section (40-01-01) for a Salary Contingency Account. All funds in this account shall be used for termination pay for retiring employees. Any expenditure of these funds shall be approved by the State Budget Director.

Section 210. The Department of Natural Resources and Environmental Control, Division of Fish and Wildlife (40-05-02) is authorized to spend up to \$156.2 in Appropriated Special Funds to replace 10 special purpose vehicles and computer equipment from existing ASF authority.

Section 211. Section of this Act appropriates \$553.1 in General Funds and \$90.0 in Appropriated Special Funds for a dog control contract in the Department of Natural Resources and Environmental

Control, Division of Fish and Wildlife, (40-05-05). The recipient of this contract will be responsible for the enforcement of Title 7, Chapter 17 (Dogs), of the Delaware Code. Beginning in the FY 1997 budget cycle, the Department of Natural Resources and Environmental Control will issue a Request for Proposal for this contract in New Castle County.

Section 212. Section 1 of this Act appropriates funds to support the establishment of a new position within the Department of Natural Resources and Environmental Control, Division of Air and Waste Management, Management and Support Section (40-09-01). This position will be an Environmental Engineer II/IV and assigned to the Delaware City Petro Chemical Complex. This position will respond to and provide follow-up on complaints from the community on air quality throughout New Castle County.

Section 213. Section 1 of this Act appropriates \$200.0 to the Underground Storage Tank Loan Program for the Hazardous Substance Cleanup Fund, as authorized by Title 7, Subsection 9113(c)(6), Delaware Code.

Section 214. Prior to all new land acquisitions the Department of Natural Resources and Environmental Control will be required to provide cost estimates to the Joint Finance Committee. The cost estimates will include estimates to develop infrastructure, maintenance and the number of positions needed to maintain the land and the associated personnel costs.

Section 215. The Department of Natural Resources and Environmental Control will provide the Joint Finance Committee with information on the actual cost of all Title V program activities, including permitting, enforcement and monitoring. A report on the first six months of activities will be submitted to the Joint Finance Committee by January 31, 1996.

Section 216. The Title V Operating Permit Program ASF holding account in Air and Waste Management, Air Quality Management (40-09-02) shall be interest earning for the duration of the program.

Section 217. Section 1 of this Act appropriates \$70.0 from the Office of the Budget Contingency and One-Time Items (10-02-04) to the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, Operations and Maintenance (40-06-02), for the State Park Partnership. This program utilizes inmate labor for the purpose of renovating specific State park facilities while providing inmates with vocational training.

Section 218. Any expenditure or transfer of Penalty Fund Revenues must be approved by the State Budget Director and the Controller General.

Section 219. Section 1 of this Act appropriates \$63.9 ASF for two Environmental Compliance Specialists and \$35.0 ASF for operating expenses for the Enhanced Inspection and Maintenance Program, within the Division of Air and Waste Management (40-09-02), pursuant to the Clean Air Act requirements. Any expenditure of these funds must be approved by the State Budget Director and the Controller General.

PUBLIC SAFETY

Section 220. Section 1 of this Act appropriates funds for Pension - 20 Year Retirees in State Police, Executive (45-06-01). This appropriation includes \$50.0 for benefits provided if S.B. 112 of the 138th General Assembly is enacted into Law. If S.B. 112 of the 138th General Assembly fails to be enacted into Law, the \$50.0 shall revert to the General Fund of the State of Delaware.

Section 221. 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 20.0 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 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 222. The Department of Public Safety (45-00-00) is hereby authorized to continue 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.

In Section 1 of this Act, ASF authority 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 terminated, this authority shall be deauthorized.

Section 223. Section 1 of this Act appropriates 1.2 NSF and .8 General Fund positions in the Division of State Police, Executive (45-06-01) and 1.2 NSF and .8 General Fund positions in Division of State Police, Communications (45-06-10) in anticipation of a federal grant award. The General Fund match will be transferred from the Office of the Budget, Contingency - Public Safety Crime Bill Match upon award of the grant. In the event that the federal grant is not awarded to the Division of State Police, these positions shall be deauthorized.

Section 224. 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 225. 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 226. The positions transferred from Capitol Police (45-02-10) to the Division of State Police, Communications (45-06-10) in Section 1 of this Act, shall remain in the classified service until such time as a vacancy occurs. As vacancies occur, the position(s) shall be made exempt from the classified service and shall be given merit system comparability in accordance with Section 11 of this Act.

Section 227. The 2.0 positions authorized to the Department of Public Safety, Division of Communications in Section 1 of this Act shall be limited term status as stipulated by Merit Rule 12.0240. Notwithstanding provision to the contrary, these limited term appointments shall extend to June 30, 1997, at which time the need for the positions shall be reviewed by the State Personnel Director, Budget Director and Controller General.

Section 228. Volume 69, Chapter 291, Section 249 Laws of Delaware, authorized the Division of State Police to utilize "a portion of proceeds derived from the resale/trade of the helicopter" replaced during FY 1995. In addition, the division may use remaining trade-in proceeds, not to exceed \$100.0, to purchase an aircraft hangar in Georgetown. Any residual balance of such proceeds shall be deposited to the State Agency Bond Reversion Account (12-05-03-8101).

TRANSPORTATION

Section 229. 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 230. Section 1 of this Act provides an appropriation of \$150.0 to the Office of the Secretary (55-01-01) for an Environmental Contingency account. The department shall provide a quarterly report of potential liabilities and expenditures to the Office of the Controller General and Budget Office.

Section 231. 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 "Transit Operations" are intended to include funding to allow the Delaware Transit Corporation 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 the Delaware Transit Corporation to the extent that such service does not place the Delaware Transit Corporation in violation of federal Americans with Disabilities Act.

Section 232. Section 1 of this Act makes an appropriation of \$547.7 to the Office of Planning (55-03-01) for Operations/Capital.

(a) 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.

(b) 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 233. 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 234. Section 1 of this Act authorizes disbursement of \$5,603.1 in Transportation Trust Funds for Debt Service, General Obligation.

Section 235. 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 236. Section 1 of this Act makes an appropriation to the Division of Highway Operations, Expressways Operations/Toll Administration (55-04-90), to cover the cost of Toll Facility Operations during the fiscal year ending June 30, 1996. Of this amount, \$4,575.5 is appropriated for the operation of the Delaware Turnpike Toll Facilities, and \$2,238.6 is appropriated for the operation of the State Route 1 Toll Facility. Additionally, the Turnpike Operating Reserve Fund is authorized at \$762.6.

Section 237. 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 department may also transfer funds to municipalities to reimburse them pursuant to contracts entered into by the department and the municipality to keep transit routes open during snow and storm emergencies. 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 238. It is the intent of the General Assembly that from unspent funds previously appropriated in Section 261 of 69 Delaware Laws, Chapter 291, \$887.7 shall be reprogrammed for use in Fiscal Year 1996 to the following accounts for the following purposes:

Bureau of Traffic (55-04-50)	
Lighting rehabilitation	\$350.0
Bureau of Maintenance (55-04-70)	
Equipment repair/parts	\$287.7
Landfill fees	\$100.0
Equipment (spreaders/plows)	\$150.0

Section 239. 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 and/or the Energy and Transit Committee.

Section 240. AMEND Chapter 13, Title 2, Delaware Code, by adding a new Section 1326 to read as follows:

"Section 1326. Status of Former DTA Employees.

Any employee of the Delaware Transportation Authority as of June 30, 1994, and retaining merit system status at that time who is transferred to the Delaware Transit Corporation before August 31, 1995, shall be deemed to be employed by the State in the classified service with all the benefits accrued as a merit employee as of July 31, 1995, notwithstanding any provision of Section 1325 of this Chapter to the contrary."

Section 241. Section 1 of this Act includes appropriations to the Department of Transportation for certain merit positions derived from the reallocation of certain non-merit positions previously funded by the Delaware Transportation Authority. Section 1 of this Act also includes appropriations to the Department which, when combined with FY 1995 carryover funds, is sufficient to support positions held by other non-merit employees of the Delaware Transportation Authority or its subsidiaries, who were so employed as of June 30, 1995, but who were not committed to FY 1996 positions with the Delaware Transit Corporation by June 30, 1995. It is the intent of the General Assembly that the Department shall be authorized to continue the funding of these non-merit positions through the Delaware Transportation Authority for up to six months from the effective date of this Act. During that time, the Department of Transportation shall work with the State Personnel Office to establish, classify, and fill competitively these new merit positions according to standard established procedures. The current employees holding these non-merit positions may continue to work for the Department as assigned until these new merit positions are filled competitively, or until six months from the effective date of this Act, whichever is earlier, any other state law to the contrary notwithstanding.

Section 242. The Budget Director and the Controller General with assistance from the Department of Transportation shall assess the implementation of lag payroll for Department of Transportation hourly employees. The Budget Director and Controller General shall make a final recommendation to the Joint Finance Committee no later than December 1, 1995.

LABOR

Section 243. Section 1 of this Act makes an appropriation of \$300.0 to the Office of the Budget Contingency and One-Time Items (10-02-04). The funds are intended to facilitate the transition of funding for the administrative costs of the Department of Labor, Division of Industrial Affairs (60-07-00) from the general fund to an appropriated special fund (ASF). The Division of Industrial Affairs shall reimburse this appropriation to the General Fund in three installments due no later than March 31, 1996, September 30, 1996, and March 31, 1997.

Section 244. (a) Amend Title 19, Chapter 23, section 2392(b) of the Delaware Code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(b) Semi-annually, on or before September 30 and March 31, every insurance carrier, insuring employees who are or may be liable under this chapter to pay for compensation for personal injuries to or death of their employees, shall report, under oath, or, in the case of a corporation, verified by the affidavit of

its president and secretary or other chief officers or agents, to the Secretary of Finance, the amount of all compensation payments and awards actually paid by said carrier during the preceding assessment period, excluding payments made under section 2395 of this title and reimbursements received under section 2396 of this title."

(b) Amend Title 19, Chapter 23, section 2392(c) of the Delaware Code by striking the phrase "annually as soon as practicable after January 1st" in the first sentence thereof and substituting in lieu thereof "semi-annually as soon as practicable after January 1, 1996, and July 1."

(c) Amend Title 19, Chapter 23, section 2392(d) of the Delaware Code by striking the final sentence thereof and substituting in lieu thereof the following:

"The amounts so secured shall be paid to the Department of Labor, Division of Industrial Affairs for the expenses of administering this chapter. Such sums shall not be part of the General Fund of the State."

Section 245. (a) Section 1 of this Act provides an appropriation of \$235.2 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, 1995. This sum is to be allocated in the following manner:

New Castle County (outside the City of Wilmington)	\$ 70.4
City of Wilmington	70.8
Kent County	47.0
Sussex County	<u>47.0</u>
TOTAL	\$235.2

(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 246. 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 247. During Fiscal Year 1996, 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 248. (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 percent for 1st Place

25 percent for 2nd Place

12 percent for 3rd Place

8 percent for 4th Place

5 percent 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 249. During the first six months of Fiscal Year 1996, 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, 1996.

Section 250. 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 251. Of the funds appropriated in Section 1 of this Act to the Fire Prevention Commission (75-03-01) in the line item "Contingency - Extraordinary Expenses", an amount not to exceed \$20.0 may be used to reimburse volunteer fire companies which incur extraordinary expenses. These funds may be disbursed to volunteer fire companies only for extraordinary expenses at the discretion of the Fire Prevention Commission upon the request of a volunteer fire company. An extraordinary expense under the provisions of this Act shall be defined as those expenses for which a volunteer fire company would not normally prepare for in its company budget and are not covered by said company's own private insurance.

NATIONAL GUARD

Section 252. 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 253. (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 \$2,056.7 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 \$100.0.

Section 254. Section 1 of this Act appropriates amounts for "Scholarships", "Agricultural Programs" and "Other Programs" to the University of Delaware (90-01-01). Those amounts shall be allocated as follows:

Scholarships:
General
Scholarships

\$ 1,377.0
1,143.2

Minority Student Recruitment	1,071.2	
Aid-to-Needy Students	863.3	
Delaware Scholars Program	400.0	
Student Employment Program	136.9	
Total		\$ 4,991.6
Agricultural Programs:		
Agricultural Experimental Station	\$ 169.0	
Agricultural Cooperative Extension	455.9	
Poultry Disease Research	332.4	
Crop Extension	64.4	
Agricultural Environmental Quality	40.6	
Soil Testing and Pesticide Control	116.5	
Diagnostic Poultry Program	56.8	
Total		\$ 1,235.6
Other Programs:		
Academic Incentive	\$ 110.2	
Sea Grant	383.8	
Summer School for Teachers	223.8	
Urban Agent Program	103.3	
Public Service and Applied Research Projects	151.9	
Research Partnership Fund	1,119.2	
Afro-American and Other Minority Person Recruitment	219.6	
Urban Journalism	4.1	
Pike Creek Greenway	50.0	
Financial Services Center	26.7	
Local Government Research and Assistance	46.4	
Women's Basketball	36.8	
Graduate Education (Southern Delaware)	61.2	
Library Automation	50.0	
MALS/BALS - Southern Delaware	53.0	
Nurse Practitioner	208.7	
Science, Engineering and Technology Service Program	32.6	
Management Training and Technical Assistance	51.0	
Women's Soccer Coach	37.0	
Total		\$ 2,969.3

Section 255. Section 1 of this Act appropriates \$1,119.2 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 256. 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 257. Section 1 of this Act appropriates \$1,651.0 to the Delaware Institute of Medical Education and Research (90-02-01). This amount shall be allocated as follows:

Jefferson Medical College	\$ 1,000.0
University of Delaware	50.0
Medical Center of Delaware	200.0
Scholarships/Loans	400.0
Academy of Medicine	1.0
	\$ 1,651.0

Any changes in this allocation must receive prior approval from the Budget Director and the Controller General.

The scholarship loan allocation of \$400.0 as identified above is to be used to provide financial assistance in the form of loans for students attending Jefferson Medical College and allocated by the DIMER Board. Beginning July 1, 1993, persons receiving loans who had not previously received loans shall be required to repay those loans. 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 258. 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 259. Section 1 of this Act appropriates \$240.0 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 260. For the period July 1, 1995, through June 30, 1996, 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 261. 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 262. 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 263. At the end of Fiscal Year 1995, 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 264. Section 1 of this Act authorizes positions for Public Education, School District Operations, Division Funding (95-02-01). This number is an estimate of state funded positions, including all administrators, teachers, custodians, secretaries, cafeteria workers, aides and other state funded positions associated with pass through programs through the Department of Public Instruction. In addition to these state funded positions, it is estimated that there will be 240.65 FTE locally funded positions and 555.27 FTE federally funded positions in the school districts of the State in Fiscal Year 1996.

Section 265. Section 1 of this Act makes an appropriation to Public Education (95-00-00). 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 amended by FY 1995 Budget Act and further amended in FY 1996 by the addition of 5.0 General Fund/FTE positions), as proposed by the State Board of Education to the Joint Finance Committee. 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 266. Section 1 of this Act makes an appropriation to Public Education, State Board of Education and State Board for Vocational Education, Department and Superintendent and Department of Public Instruction (95-01-01), for the Professional Standards Council. The Governor and the General Assembly recognize the need to continue implementation of the Professional Standards Council's "Educational Plan for Certification and Career Development". This appropriation is intended for use in the following areas: standard setting for PRAXIS I and II; new teacher assessment procedures; and, establishing an alternative route to teacher certification. 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. These funds represent steps toward meeting that goal.

The Department of Public Instruction is authorized to utilize \$33.4 to support 1.0 clerical FTE.

Section 267. Section 1 of this Act makes an appropriation of \$2,687.7 to Public Education, Department and Superintendent and Department of Public Instruction (95-01-01), for Curriculum Development. This funding is to be utilized by districts for the purpose of developing curriculum based upon the content standards established by the Curriculum Framework Commissions as approved by the State Board, which include Math, Science, English/Language Arts and Social Studies. Of this amount, \$2,000.00 shall be utilized for grants to districts. Districts shall submit application to the Department of Public Instruction detailing the district's plan for utilization of the funds. The State Board of Education will provide review and approval. The State Board of Education shall allocate an amount not to exceed \$250 per certificated employee based upon each district's personnel complement for school year 1994-95 (including official administrative, instructional support, professional other and teachers). Grants may be utilized for training, planning, in-service programs and contractual services for assistance in developing the new curriculum for students which will be integrated and applied in classrooms in September 1996. For purposes of this program, inter-district collaboration and cooperation is encouraged as a means toward maximizing resources on a state-wide basis.

The remaining \$687.7 may be utilized by the Department of Public Instruction to purchase the release time for exemplary teachers in the four approved content areas, who will provide assistance to districts on a state-wide basis in designing and demonstrating best teaching practices in the development of curriculum to meet the established standards.

Section 268. Section 1 of this Act makes an appropriation of \$20.0 to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction (95-01-01) for Odyssey of the Mind. This appropriation shall be made available to school students to assist in defraying out-of-state travel expenses associated with this program.

Section 269. Section 1 of this Act provides appropriations of \$239,967.2 for Formula Salaries and \$90,200.4 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 \$7.9 and \$88.9, respectively.

Section 270. The Delaware Code to the contrary notwithstanding, during Fiscal Year 1996, 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 271. Strike Section 1707 (b)(3), Title 14, Delaware Code and substitute in lieu thereof the following:

"Authorized amount" means \$23,000 for fiscal year 1996 and as established in the annual State Budget Appropriation Act thereafter.

Section 272. Amend Section 1707(b)(10), Title 14, Delaware Code by striking the number "75%" as it appears therein and replacing it with "69%".

Section 273. Strike Section 1707(c), Title 14, Delaware Code in its entirety and substitute in lieu thereof the following:

"(c) The formula for determining the sums to be allocated in Division III, to school districts other than those created under the provisions of §1028(k) of this title, shall be as provided in this subsection. The state share per unit is equal to the authorized amount times the effort index times the quantity of 1 minus .69 times the ability index; provided, that in no case shall the state share be less than the equivalent of 10% of the authorized amount times the effort index. The state share for special schools as defined in paragraph (1) of subsection (b) of this section shall be equal to the state share for the vocational-technical school district in the county in which the special school is located. The state share per unit in any fiscal year shall not be less than 95% or more than 110% of the state share per unit in the preceding fiscal year, except as provided in subsection (c) of this section."

Section 274. Strike Section 1707(d), Title 14, Delaware Code in its entirety and substitute in lieu thereof the following:

"(d) The formula for determining the sums to be allocated in Division III, to school districts created under the provisions of §1028(k) of this title, shall be provided in this subsection. The state share per unit is equal to the sum of the 2 amounts defined as follows. The "tax district share" is equal to the authorized amount times the tax district effort index times the quantity of 1 minus .69 times the tax district ability index; provided, that in no case shall the tax district share be less than the equivalent of 10% of the authorized amount times the tax district effort index. The "individual district share" is equal to the authorized amount times the local district effort index times the quantity of 1 minus .69 times the individual district ability index; provided, that in no case shall the individual district share be less than the equivalent of 10% of the authorized amount times the individual district ability index. The state share per unit, the sum of the tax district share and the individual district share, in any fiscal year shall not be less than 95% or more than 110% of the state share per unit in the preceding fiscal year, except as provided in subsection (e) of this section.

Section 275. Amend Section 1707(e), Title 14, Delaware Code by striking the number "120%" as it appears therein and replacing it with "110%".

Section 276. For FY 1996, any school district whose per unit amount for Division III - Equalization funding, as computed under the provisions of Section 1707, Title 14, Delaware Code, is less than the computed per unit amount in FY 1995, shall receive Equalization funding based on the FY 1995 per unit amount.

Section 277. 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 1 of this Act also 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. 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.

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 278. 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 279. 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, 1996, 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 \$1,364.00. A Division II - All Other Costs Unit shall be valued at \$3,000.00. The Division II - All Other Costs appropriation shall be used for all school costs (including library resources and standards based materials such as calculators) 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.

Section 280. Section 1 of this Act provides an appropriation of \$3,911.2 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/districts: Adult Incarcerated (New Castle County Vocational Technical School District), Adult Trade Extension (state-wide), Apprentice Program (state-wide), James H. Grove High School (state-wide), Adult Basic Education (state-wide), New Castle County Learning Center (Christina School District), Delaware Skills Center (New Castle County Vocational Technical School District), Alternative Secondary Education Program (state-wide) and Cities in Schools of New Castle County (Colonial School District). For Fiscal Year 1996, each program shall receive no less than the same allocation from this appropriation as its Fiscal Year 1995 allocation, except that the allocation for the Delaware Skills Center and New Castle County

Learning Center shall be increased by \$56.0 and \$8.5 respectively. 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 281. 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, \$16,981.1 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 \$3,629.3 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 1995. School districts may use the funds to: purchase computer hardware, software or services; calculators; library resources; 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 consortia, 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, except for special education students.

Section 282. For the fiscal year beginning July 1, 1995, any local school district that has had two consecutive failed current expense tax referendums during the time period July 1, 1993 to January 1, 1996, is authorized to exercise the cash option on Academic Excellence units up to the total number of units provided under that program. This provision will apply for Fiscal Year 1996 only. In addition, districts meeting this criteria are authorized to utilize funds derived from this cash option to pay local salary supplements. Any district that has had a successful current expense tax referendum subsequent to two consecutive failed current expense tax referendums is ineligible for the provisions of this section.

Section 283. The unit size for an Academic Excellence Unit was reduced from 290 full-time equivalent students to 250 full-time equivalent students in Fiscal Year 1995. These 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 1996 Academic Excellence funds to the Budget Office and Office of the Controller General no later than January 15, 1996.

Section 284. Amend Section 1716A, subsection (e), Title 14, Delaware Code by striking said subsection and substituting in lieu thereof the following:

"(e) Funds appropriated in support of this unit may be used for expenditures under Division I or Division II for the purchase of assistive materials or services from persons or agencies to be used in support of students with disabilities herein authorized and for no other purpose."

Section 285. Section 1 of this Act appropriates General Funds and 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 \$525.0 in Appropriated Special Funds and up to \$2,210.1 in General Funds appropriated in that line be used to continue the "New Directions for Education in Delaware" plan. Of the \$525.0 in Appropriated Special Funds, the State Board of Education may, with the approval of the Budget Director and Controller General, allocate up to \$325.0 to help underwrite the cost of the Smithsonian Elementary Science project, and the "Science in Motion" project, if private sector fundraising efforts are not sufficient. In addition the Board may also utilize these funds to support a technology acquisition promotion program that may include either subsidizing interest rates or offering docking stations or similar equipment or software as an incentive to purchase lap-top computing equipment by certificated district staff. The State Board of Education may utilize up to \$100.0 of this \$2,210.1 for communications efforts associated with the "New Directions" program. The Budget Office shall establish local accounts for school districts to deposit the local contributions for New Directions. These funds are to be used to acquire school-based materials which support the standards implementation work. School districts should submit to the department a plan outlining their use of these funds.

Section 286. Section 1 of this Act provides an appropriation of \$2,210.1 to the 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 and submitted to the State Board of Education for approval in June 1995. The State Board of Education shall provide quarterly reports on September 30, 1995, December 30, 1995, and March 30, 1996, to the Controller General and Budget Director on the progress of the development of the comprehensive assessment system, and building level staff curriculum development activities.

Section 287. Section 1 of this Act provides an appropriation of \$160.0 to Public Education, State Board of Education and State Board for Vocational Education and Department of Public Instruction (95-01-01) for professional mentoring. The intent of this appropriation is to provide for exemplary teachers to assist new teachers through leadership and guidance. While it is recognized that a planning phase was undertaken in FY 1995, with limited district participation, this funding is intended for state-wide distribution during the 1995-96 school year. The Department of Public Instruction is authorized to extend as much as practicable the current mentoring initiative to a state-wide program.

Section 288. 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 289. 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-ALOUD Delaware Program. READ-ALOUD Delaware is to continue to develop and foster programs for the purpose of encouraging regular reading to preschool-aged children as an effective way to prepare them for learning. The monies passed through to READ-ALOUD Delaware shall be used to provide programs in each county, focused on the more disadvantaged segment of the population of preschool-aged children. The State Board of Education shall report annually on the number of children participating and the effectiveness of the program.

Section 290. 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 291. Section 1 of this Act provides an appropriation of \$105.0 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 292. 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 1996. 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 293. 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 294. Section 1 of this Act makes an appropriation of \$615.6 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Children's Services Cost Recovery Project (CSCRPP). All local school districts shall fully participate in the implementation and operation of the project for the fiscal year ending June 30, 1996. Local school district participation shall be on a district-wide basis.

The following resources are appropriated to operate the Children's Services Cost Recovery Project during the fiscal year ending June 30, 1996. 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 which, pursuant to this section, are passed through to the local school district shall be dedicated to implementing the Children's Services Cost Recovery Project.

In addition, 13.0 FTE staff positions are appropriated to support this project: 1.0 FTE shall be an Education Associate - Cost Recovery Associate at the Department of Public Instruction (DPI). The State Board of Education is hereby permitted to authorize the hiring of up to 12.0 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 districts shall be paid in accordance with the Financial Secretary Salary Schedules 1308 and 1309 including the local salary supplement in place at the employing school districts. At the discretion of the State Board of Education, 1.0 FTE may be paid in accordance with the Administrative Secretary Salary Schedules 1308 and 1309 including the local salary supplement in place at the employing local school district.

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 non-transportation 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 295. 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 296. Section 1 of this Act provides an appropriation of \$1,991.9 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 297. Section 1 of this Act provides an appropriation of \$1,991.9 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for the Program for Children with Disabilities (PCD).

The IRMC shall be composed of the following members:

- Superintendent of Public Instruction who shall be the chairperson of the IRMC;
- Cabinet Secretary, Department of Health and Social Services;
- Cabinet Secretary, Department of Services for Children, Youth and Their Families;
- Budget Director;
- Controller General.

The affirmative vote of a majority of all members shall be required to take action.

The IRMC shall periodically review eligibility criteria for services under PCD and make recommendations to the State Board of Education as appropriate.

The IRMC was created to promote interagency collaboration in the service of those eligible for the PCD, to promote the cost-effective use of existing resources -- federal and state, public and private, and to promote the opportunity for coordination with programs for other exceptional children. To accomplish these goals, the IRMC shall do the following:

1. Allocate all funds provided by the State, obtained by it, or under its control, which are designated for the service of children eligible for the PCD including:
 - a. state General Funds authorized by this section; and,
 - b. monies provided by the federal government.
2. Seek to coordinate services to children eligible for the PCD with those provided by other public and private agencies.
3. Coordinate resources to support family-centered services for eligible children and their families, as appropriate.
4. Seek to develop collaborative approaches with the institutions of higher education for the service of those eligible for the PCD. Special emphasis shall be placed on the use of existing preschool educator training and child care provider training programs.
5. At its discretion, hire a full-time coordinator who shall report to the IRMC. The coordinator shall serve as liaison to the Department of Public Instruction, Instructional Services Branch.
6. The staff of DPI is encouraged to provide assistance in implementation of PCD.

The IRMC may, at its discretion, apply for and allocate grant funds that will serve children eligible for the PCD and further any of the purposes of this Section. Sources of such grant funds may include the federal Childcare Block Grant, Developmental Disabilities Council, federal Child and Maternal Health Grant, federal Title XX, Delaware First Again grants, where appropriate.

The IRMC is hereby granted the power to use any funds under its control and not otherwise restricted to either hire employees or contract for services.

The IRMC shall report to the Governor, President Pro-Tempore of the Senate, and the Speaker of the House on April 15 of each fiscal year. 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 the 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 each Fiscal Year. These programs are required to present program proposals to the IRMC at the first IRMC meeting of each Fiscal Year. Upon IRMC approval, adjustments to the program allocations may be made.

The IRMC shall be the designated forum through which the Coordinating Council for Children with Disabilities (CCCD) will provide regular program updates regarding ISIS. The IRMC will also serve as the venue through which additional funding request and/or program needs of ISIS may be presented. An active partnership with the private sector participants of ISIS shall be maintained, with related activities included in the status reports to the IRMC.

Section 298. Section 1 of this Act appropriates \$1,405.0 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. It is anticipated that for Fiscal Year 1996, approximately 136 additional four-year-old children will be served via this funding. The Interagency Resource Management Committee (IRMC) has administrative responsibility, which includes reviewing and disbursing 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 for all classrooms on an annual basis. The Department of Public Instruction shall assist with the implementation and ongoing administration of this program. The IRMC shall report to the Budget Director and the Controller General on or before January 1 each fiscal year on the status of the program.

Section 299. (a) Section 1 of this Act makes an appropriation of \$6,391.4 to Public Education, Block Grants and Pass Through Programs, Special Needs Programs (95-03-20) for Student Discipline Programs. Of this appropriation, the following allocations shall be made: \$1,560.0 is allocated for the state-wide implementation of programs for severe discipline cases. If funds provided under this section are used for costs associated with teachers and aides, as provided for in Title 14, Section 1305, Delaware Code, the funds can only be used for costs associated with the state share.

(b) A total of \$3,732.0 is authorized for disruptive students at the school and district levels. The base incentive grants shall be provided to all school districts in the State as follows:

Schools with grades K, K-1, K-2 and K-3 only:	\$12.0
Schools with less than 500 pupils in grades 3-12:	\$12.0
Schools with 500 to 799 pupils in grades 3-12:	\$20.0
Schools with 800 to 1,199 pupils in grades 3-12:	\$28.0
Schools with 1,200 or more pupils in grades 3-12:	\$36.0

Enrollment levels shall be computed utilizing September 30, 1994, 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.

Per House Bill 281 of the 138th General Assembly, local school districts are eligible to receive a supplemental grant, equal to double the base award, for grades 7,8,9, 10, upon approval of the State Board of Education and certification in the district's grant application that the school is in compliance with the provisions of the bill requiring the establishment of school site-based committee to govern discipline matters.

In order to provide districts with grants in a timely manner, all applications for base grants must be submitted for review by the State Board of Education no later than November 15 of each year.

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 1994-1995 school year.

(c) \$1,021.0 is appropriated for the prevention component with a total of up to \$75.0 provided for the planning phase, which requires the Family Services Cabinet Council (FSSC) to identify three communities in which to develop comprehensive plans for delivering prevention services through a community-based, inter-agency collaborative effort. The FSSC, 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 \$946.0 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 1.5 FTEs, including 1.0 FTE Discipline Associate, and .5 FTEs clerical to administer the programs funded by this section.

Section 300. (a) Section 1 of this Act makes an appropriation to Public Education (95-03-20) Special Needs Programs for Student Discipline Programs. The Department of Services for Children, Youth and Their Families is hereby authorized to provide early intervention services to address problems such as, but not limited to, Early Onset Conduct Disorder. These services are intended for grades K-3. The Department may enter into contractual agreements, may employ casual/seasonal personnel, or may create the necessary positions with Clearinghouse approval and maintain an ASF account with sufficient spending authority to operate the program.

(b) The Family Services Cabinet Council, with the Department of Public Instruction and the Department of Services for Children, Youth and Their Families acting as lead agencies, shall administer a competitive Request for Proposal (RFP) process to determine grant awards to local school districts. Grant awards shall be for a period of 12 months. Factors that may be utilized in the evaluation of proposals can be, but are not limited to, the following: links to Part II discipline funding or other district resources; the use of collaborative partnerships; the relative need of the local school district community; and the recognition within a proposal of the need to provide services to meet the presenting problems of both the child and the family. To the extent possible, the Department of Services for Children, Youth and Their Families is authorized to pursue Medicaid cost recovery for eligible services provided to Medicaid eligible children. Funds resulting from these cost recovery efforts may be used to expand these services with the prior approval of the Budget Director and the Controller General.

Section 301. Section 1 of this Act provides an appropriation of \$2,721.6 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, 1996, 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, 1996, 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 302. Section 1 of this Act makes an appropriation of \$2,721.6 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 DSCYF;
- Division Director, Family Services of DSCYF;
- Division Director, Division of Mental Retardation of DHSS;
- Division Director, Division of Alcoholism, Drug Abuse and Mental Health of DHSS;
- Director of the Office of the Budget or designee;
- The Controller General or designee;
- The Team Leader, Exceptional Children's Team, DPI, who will serve as Chair;
- Associate Superintendent, Improvement and Assistance, DPI;
- The Director of Youth Rehabilitative Services.

The Interagency Collaborative Team shall invite to its meetings:

- A representative of a responsible school district for the case under consideration;
- The parents of the child;
- Other persons the team believes can contribute to their deliberations.

The Interagency Collaborative Team shall:

- Review existing assessments of new referrals;
- Prescribe, if required, additional assessments for new referrals;
- Review proposed treatment plans of new referrals;
- Recommend alternatives for treatment plans of new referrals;
- Coordinate interagency delivery of services;
- Review at least annually, current Unique Educational Alternatives for the appropriateness of treatment plans and transition planning;
- 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 and May 15 of each fiscal year. 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 303. Any placement made pursuant to Section §3124, Title 14, Delaware Code in which the individual involved is a ward of the State shall be funded fully from the State appropriation made for this purpose.

Section 304. Section 1 of this Act provides an appropriation of \$780.2 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 305. 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, two for Capital School District, the Seaford School District and the Woodbridge School District, and one in Caesar Rodney School District.

Section 306. 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, 1995, 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 307. 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, 1996. 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 308. 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, 1995.

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, 1995. 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, 1996. The second one-half shall be prorated as described above among eligible employees who complete their courses prior to June 15, 1996. 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 309. Section 1 of this Act makes an appropriation of \$224.0 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

Poly-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 Poly-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 310. Section 1 of this Act appropriates \$40.0 to the Special Need Programs (95-03-20) for ADHD and ADD Parent Focus Groups. If SJR 10 is not enacted into law, these funds shall revert to the General Fund.

Section 311. (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, 1996, shall be allocated and shall not exceed \$40,047.0, 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 1996 operating allowance will be adjusted for inflation by a rate of 3.48 percent.

(3) For the fiscal year ending June 30, 1996, the allowable cost of a new bus purchased by a contractor shall be the Fiscal Year 1995 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 1995. 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, 1996, 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.

(f) The State Board of Education is authorized to amend its formula such that automatic transmissions shall be considered standard equipment on contractor and school district bus purchases.

Section 312. (a) During the fiscal year ending June 30, 1996, 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.
- (20) Woodbridge Elementary School students living in the town of Greenwood, west of the railroad tracks.
- (21) Woodbridge Jr./Sr. High School students living on Route 13A from Route 13 north of Bridgeville to Bridgeville north of town limits including streets with access to that part of Route 13A.
- (22) Talley Jr. High School students who reside in the Ashburn Hills, Greentree, Stoney Brook areas, students who reside in the Woodacre Apartments and students who live along Peachtree Road.
- (23) Springer Middle School students residing in Eden Ridge III, Tavistock, Sharpley and Eden Ridge who must cross Concord Pike.
- (24) Indian River High School students who live east of Bedford Street.

The transportation of the students specified herein shall continue until the funds requested are appropriated and construction is completed. Spur routes shall continue to be served as at present.

Section 313. During the fiscal year ending June 30, 1996, the State Board of Education is hereby directed that students attending the Woodbridge School District, who live in the Canterbury Apartments in Bridgeville, will embark and disembark, in the parking lot of the apartment complex in lieu of the bus stop area along the heavily traveled U.S. 13.

Section 314. The State Board of Education and the Department of Public Instruction shall continue to provide funding through its discretionary federal special education funds for the local share of education costs associated with prison inmates aged 18 to 21 years, who qualify as special education students.

Section 315. Section 1 of this Act makes an appropriation of \$150.0 to Public Education, State Board of Education and State Board for Vocational Education, Department and Superintendent and Department of Public Instruction (95-01-01), for Student Mentoring. The State Board of Education is authorized to review and award grants to school districts for the establishment of student mentoring programs for elementary and middle school students. Programs selected shall provide at-risk children with academic tutoring and instruction through the involvement of parents and volunteer mentors. These programs may also utilize federal funds to maximize resources. In evaluating applications, the State Board of Education shall consider the following criteria: (1) demonstrated record of improved academic achievement; (2) provision of a cost-effective plan that is mutually beneficial to the State; (3) collaborative involvement of more than one school district and/or more than two schools within the same district; (4) integration with discipline prevention programs, as funded through House Bill 247, of the 137th General Assembly; and (5) adherence to academic standards established by the Curriculum Framework Commissions, as part of the overall education reform initiative.

Section 316. For the purpose of promoting a thorough review of the Department of Public Instruction staffing patterns and the extent to which they are aligned with the needs of the Public Education system, the provisions of §121(3) and (4), Title 14, Delaware Code, relating to the requirement to provide notice of non-renewal six months prior to the expiration date of the contracts of professional certificated staff persons and officers is hereby waived. During the fiscal year ending June 30, 1996, such notice shall be provided not later than four months prior to the expiration date of such contracts, provided however that any person so notified will automatically be entitled to a 2-month extension of their existing contract in order that they still may be afforded a total of six months notice.

Section 317. Amend §1310 (b) Title 14, Delaware Code, by striking the phrase "provided further that each reorganized school district shall have at least 1 school nurse," and by substituting in lieu thereof the following:

"provided further that each reorganized school district shall have at least 1 school nurse per facility".

Section 318. For Fiscal Year 1996 only, the 10% unobligated balance requirement as contained in Section 1509, Title 14, Delaware Code, shall be 7.5%.

Section 319. Provisions of the Delaware Code to the contrary notwithstanding it is the intention of the General Assembly that for Fiscal Year 1996 and previous fiscal years that the positions of Director and Statewide Coordinator (2) at the Sterek for the Hearing Impaired be considered State unit positions and paid according to Delaware Code, Title 14, with appropriate local supplement.

Section 320. Amend Chapter 6, Title 14 of the Delaware Code by adding thereto a new Section 607, which shall read as follows:

§607. Children of District Employees Who Reside Out-of-State.

- (a) Out-of-State children whose parent or legal guardian is employed on a full-time basis by any reorganized school district may attend school in the district where the parent or guardian is employed during the period of the parent or guardian's employment upon written approval of the receiving district and payment of tuition if charged by the district. Such children may not be included in the annual unit count for state funding purposes.
- (b) Tuition charges, if imposed, shall be computed and certified by the State Superintendent of the Department of Public Instruction in accordance with Sections 602 (b) and (c) of this Title.

Approved July 1, 1995.

CHAPTER 119

FORMERLY

HOUSE BILL NO. 360

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT MAKING APPROPRIATIONS FOR CERTAIN GRANTS-IN-AID FOR THE FISCAL YEAR ENDING JUNE 30, 1996; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN PERTINENT STATUTORY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (THREE-FOURTHS OF ALL THE MEMBERS ELECTED TO EACH HOUSE THEREOF CONCURRING THEREIN):

Section 1. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

Accounting

<u>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	\$ 5,220,000

Accounting

<u>Code</u>	<u>Organization/Description</u>
<u>Amount</u>	

(35-14-10)	<u>Division of Aging</u>
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Senior Center

Absolom Jones Senior Center	\$ 124,683
Brandywine Senior Center	95,936
Bridgeville Senior Center	87,884
Cape Henlopen Senior Center	143,026
Chesapeake and Delaware Senior Center	59,630
Clarence Fraim Senior Center of Delaware, Inc.	124,030
Claymore Senior Center	
(formerly St. Hedwig's Senior Center, Inc.)	173,114
Cornerstone United Methodist Church Senior Center	36,059
DeLaWarr Senior Center	99,936
Frederica Adult Center, Inc.	80,448
Georgetown CHEER Center	38,162
Graham Senior Center., Inc.	
(formerly St. Ann's Neighborhood Services, Inc.)	91,385
Greenwood CHEER Senior Center	38,701
Harrington Senior Center, Inc.	71,805
Harvest Years Senior Center, Inc.	41,205
Howard J. Weston Community & Senior Center, Inc.	243,028
Huling Cove CHEER Center	62,460
Indian River Senior Center, Inc.	90,974
Jewish Community Center, Senior Center	76,921
Jimmy Jenkins Senior Center	71,558
Laurel Senior Center, Inc.	149,958
Lewes Senior Citizens Center, Inc.	44,495
Los Abuelos Center	26,106
M.O.T. Senior Citizen Center, Inc.	86,457
Mamie A. Warren Maturity Center, Inc.	72,619
Mid-County Senior Center, Inc.	151,733

Milford Senior Center, Inc.	85,582
The Modern Maturity Center, Inc.	214,368
Nanticoke Indian Elder CHEER Center	30,933
Nanticoke Senior Center, Inc.	122,471
New Castle Senior Center	69,522
Newark Senior Center, Inc.	126,405
Northeast Senior Center, Inc.	69,958
Oak Grove Senior Center, Inc.	147,564
Oak Orchard CHEER Center	41,252
Ocean View Leisure Center	21,540
Peoples Settlement - Senior Citizens Program	59,202
Roxana CHEER Senior Center	38,701
St. Anthony's Senior Center	95,505
St. Patrick's Center, Inc.	116,365
St. Peter's Adult Center, Inc.	91,725
St. Thomas Senior Center, Inc.	105,241
The Salvation Army Senior Center (formerly Julia Tallman Golden Age Center)	66,806
Sellers Senior Center, Inc.	100,109
Slaughter Neck CHEER Center	38,701
Lillian Smith Senior Center	30,369
South Wilmington Senior Adult Center	20,932
West Center City Adult Center, Inc.	79,006
Wilmington Senior Center, Inc.	151,494

Department of Public Safety

(45-01-01)	Office of Secretary - Administration	
	Local Police Coordination	\$ 53,000
	Aid to Local Law Enforcement	<u>475,000</u>
	TOTAL - Section 1	<u>\$ 10,608,564</u>

Section 2. Funds are hereby appropriated to the following grants-in-aid in the amounts listed:

<u>Category/Description</u>	<u>Amount</u>
<u>One-Time Items:</u>	
Department of Public Safety -	
Aid to Local Law Enforcement	\$ 1,400,000
Talleyville Fire Company	3,432
SODAT - Delaware, Inc.	50,000
<u>Arts/Historical/Cultural/Tourism</u>	
Afro-American Historical Society of Delaware, Inc.	\$ 18,000
Associated Community Talents, Inc.	18,000
City of New Castle - Separation Day	14,000
Delaware Academy of Science, Inc.-Iron Hill Museum	12,000
Delaware Agricultural Museum Assoc., Inc.	40,000
Delaware Center for Horticulture, Inc.	23,000
Delaware City Day Committee	19,000
Delaware Humanities Council, Inc.	35,000
Delaware Nature Society, Inc.	22,000
Delaware State Fair, Inc.	195,000
Delaware State Police Museum, Inc.	13,500
Duck Creek Historical Society, Inc.	3,700
Fort Delaware Society	5,000
Friends Society of Brandywine Park	5,000
Georgetown Historical Society	12,000
Greater Harrington Historical Society	16,500
Historic Red Clay Valley, Inc.	
Wilmington & Western Railroad	13,500
The Historical Society of Delaware	68,000
Kalmar Nyckel Foundation	5,000
Millsboro Historical Society	10,000
Miss Delaware Scholarship Pageant, Inc.	7,000
Naamans Kill Questers, Inc.	6,200
Nanticoke Indian Association, Inc.	10,000

New Castle Historical Society	7,000
Northern Delaware Greenway Council, Inc.	6,000
Preservation Delaware	6,500
Sussex County Return Day, Inc.	5,000
Taylor's Bridge Community Center	2,000
WHYY, Inc.	462,000

Aging - Other

Boys & Girls Clubs of Delaware, Inc.	\$ 45,000
Catholic Charities, Inc./HERO	38,000
Creative Grandparenting, Inc.	20,000
Delaware Senior Olympics	20,000
Geriatric Services of Delaware, Inc.	130,000
HERO, Inc.	10,000
Meals on Wheels of Lewes and Rehoboth, Inc.	45,000
Modern Maturity Center, Inc. - Meals on Wheels	10,000
Sussex County Home Services, Inc.	46,000
Sussex County Senior Services - Cheernobile Mini Market	10,000
William "Hicks" Anderson Community Center	
- Senior Physical Fitness Program	8,000

Handicapped/Health/Labor

Adult Special Education Program, Inc.	\$ 49,140
AHEDD, Inc. - Dover/Wilmington	48,048
Alliance for the Mentally Ill in Delaware	57,200
American Diabetes Assoc. - Delaware Affiliate, Inc.	6,240
Arthritis Foundation, Delaware Chapter	17,680
Association for the Rights of Citizens with Mental Retardation in Delaware	9,360
Career Exploration Program, Inc.	39,858
Delaware Association for Blind Athletes	6,240
Delaware Association for the Blind	51,542
Delaware Center for Wellness, Inc.	52,000
Delaware Chapter Alzheimer's Association	8,944
Delaware Elwyn, Inc.	20,311
Delaware Epilepsy Association	10,920
Delaware Head Injury Association, Inc.	7,000
Delaware Hospice, Inc.	208,000
Delaware Mental Health Consumer Coalition, Inc.	5,000
Delaware Nursing Centers, Inc.	20,800
Delaware Paralyzed Veterans Prosthetic Foundation, Inc.	34,788
Delaware Special Olympics	20,000
Easter Seal Society of Del-Mar, Inc.	93,600
Institute for Development of Human Resources	24,960
Jobs for Delaware Graduates, Inc.	215,000
Kent/Sussex Industries, Inc.	59,280
Kent/Sussex Industries, Inc. - Cafeteria	10,000
Mancus Foundation	38,657
Mental Health Association in Delaware, Inc.	18,500
Mom's House, Inc. of Dover	5,000
National Multiple Sclerosis Society	11,440
Opportunity Center, Inc.	10,400
Perinatal Association, Inc.	15,600
Ronald McDonald House of Delaware	32,000

W. E. Tobin Foundation for the Visually Impaired	2,500
Tressler Centers of Delaware	2,500

Family and Youth Services

Residential Treatment

Aid-in-Dover, Inc.	\$ 52,000
Children's Home, Inc.	47,000
Diamond State Youth, Inc.	119,000
Home for Aged Women - Minquadales Home, Inc.	14,000
Independent Living, Inc.	100,000
Layton Home for Aged Persons	165,000
The Shepherd Place, Inc.	35,000

Other

Because We Care, Inc.	\$ 41,000
Big Brothers/Big Sisters of Delaware, Inc.	50,000
Boys & Girls Clubs of Delaware, Inc.	72,000
Camp Barnes, Inc.	23,500
Central Delaware Branch of YMCA	28,100
Child Care Connection, Inc.	124,000
Child, Inc.	86,200
Delaware Bay Marine Institute	9,000
Delaware Children's Trust Fund	14,000
Del. Guidance Services for Children & Youth, Inc.	175,000
Del. Parent Aide & Resource Mother Coalition	15,000
Del. State Parents Association, Inc.	17,680
Delawareans United To Prevent Child Abuse	42,000
Family & Children Services of Delaware, Inc.	196,860
Harrison House Community Programs, Inc.	10,000
Interfaith Housing Delaware, Inc.	15,000
Jewish Family Service of Delaware, Inc.	23,000
Lutheran Community Services, Inc.	11,550

Family and Youth Services (continued)

Other (continued)

National Council on Agricultural Life and Labor Research Fund, Inc.	\$ 39,000
New Hope Recreation and Development Center	15,000
Northern Delaware Youth for Christ, Inc.	11,000
PAL of Delaware	20,000
People's Place II, Inc.	105,000
"Slam Dunk to the Beach" - National Holiday Basketball Invitational.	50,000
SOAR, Inc.	11,000
Supporting K.I.D.D.S.	15,000
Turnabout Counseling & Community Services, Inc.	195,000
United Cerebral Palsy of Delaware, Inc.	63,000
Youth Guidance Program	15,700

Alcohol/Drug Abuse

The 1212 Corporation	\$ 31,824
Addictions Coalition of Del., Inc.	25,000
ANKH, Inc.	29,500
Brandywine Counseling, Inc.	13,400
Center for Pastoral Care	39,220
City of Dover Police Department, Substance Abuse Prevention Program	24,000
Delaware Association for Children of Alcoholics	25,000
Georgetown DECCASA Youth & Recreation	16,000
Kent County Counseling	18,000
Limen House, Inc.	47,000
Open Door, Inc.	143,100
Peoples Settlement Association	18,500
Resource Center of the YMCA of Delaware	57,000
Sojourners' Place, Inc.	25,000

Neighborhood/Community Services

A Door of Hope, Inc.	\$ 32,000
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American Red Cross - Military/Social Services	15,000
American Red Cross - Emergency/Disaster Services	15,000
Casa San Francisco	57,700
Chesapeake Bay Girl Scout Council, Inc.	35,000
Civil Air Patrol, Delaware Wing	17,000
Claymont Community Council, Inc.	265,000
Community Design Center	18,000
Community Legal Aid Society, Inc.	111,500
CONTACT Delaware, Inc.	75,000
Delaware Chapter - People to People International	4,500
Delaware Council on Crime and Justice	10,000
Delaware Crime Stoppers, Inc.	16,500
Delaware Crop Improvement Association	2,500
Delaware Housing Coalition	26,500
Delaware Humane Association, Inc.	10,000
Delaware Mentor Program	15,000
Delaware Partners of the Alliance	5,000
Delaware Rural Water Association	11,000
Delaware Safety Council, Inc.	39,000
Delaware Teachers Academy for Service Learning	16,000
Delmarva Rural Ministries, Inc.	26,500
Eastlawn Area Human Services, Inc.	60,000
Eastside Citizens, Inc.	15,000
Edgemoor Community Center, Inc.	202,000
Elsmere Recreation, Inc.	159,000
First State Resource Conservation & Dev. Council, Inc.	22,300
Food Bank of Delaware	150,000

Neighborhood/Community Services (continued)

Girls Inc. of Delaware	\$ 39,000
Hilltop Lutheran Neighborhood Center, Inc.	55,600
Hockessin Community Center, Inc.	90,100
Home of Divine Providence, Inc./Bayard House	44,200
Homeward Bound, Inc.	60,000
Ingleside Homes, Inc. - KAMIN	39,300
Ingleside Homes, Inc. - Project C.A.R.E.	29,200
Jewish Community Center	13,000
Latin American Community Center, Inc.	40,000
Milford Housing Development Corporation	15,000
Ministry of Caring, Inc. - House of Joseph	42,000
Ministry of Caring, Inc. - Phase I	70,000
Ministry of Caring, Inc. - Phases II and III	69,000
Ministry of Caring, Inc. - Emmanuel Dining Room	68,000
Ministry of Caring, Inc. - Job Placement Center	26,000
Methodist Action Program	42,000
Neighborhood House, Inc.	59,000
Neighborhood House, Inc./MOT Community Action	75,000
Richardson Park Community Action Program, Inc.	21,638
Rose Hill Community Center, Inc.	173,000
The Salvation Army, Inc. - Emergency Housing	105,000
The Salvation Army, Inc. - Kent Co. Crisis Alleviation	35,000
The Salvation Army, Inc. - Sussex Co. Crisis Alleviation	6,200
The Salvation Army, Inc. - Supported Employment Program	10,000
Science Alliance, Inc.	16,000
Seamen's Center of Wilmington, Inc.	6,000
Slaughter Neck Community Action Agency, Inc.	45,150
Southbridge Medical Advisory Council, Inc. (HJCC)	105,000
Southwest Wilmington Community Center, Inc.	105,000
STEHM, Inc.	14,000
Sussex Community Crisis Housing Services, Inc.	27,000
The Sussex Family YMCA	25,000

Tri-State Bird Rescue and Research, Inc.	29,000
Union Baptist Community Services, Inc.	80,000
West End Neighborhood House, Inc.	43,000
West Wilmington Civic Assoc.	5,000
Whatcoat Social Service Agency	66,200
Wilmington Public Allies, National Office	10,000
YWCA of New Castle County, Delaware	220,000
First State Community Action Agency, Inc.	<u>40,000</u>

TOTAL - Section 2

\$ 10,141,562

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	\$ 17,984
Belvedere Volunteer Fire Company	Belvedere	17,984
Brandywine Hundred Fire Co. No. 1	Bellefonte	17,984
Christiana Fire Co.	Christiana	17,984
Claymont Fire Co.	Claymont	17,984
Cranston Heights Fire Co.	Cranston Heights	17,984
Delaware City Fire Co.	Delaware City	17,984
Elsmere Fire Co.	Elsmere	17,984
Five Points Fire Co. No. 1	Richardson Park	17,984
Goodwill Fire Co. No. 1	New Castle	17,984
Hockessin Fire Co.	Hockessin	17,984

New Castle County (continued)

Holloway Terrace Fire Co.	Holloway Terrace	\$	17,984
Mill Creek Fire Co.	Marshallton		17,984
Minquadale Fire Co.	Minquadale		17,984
Minquas Fire Co. No. 1	Newport		17,984
Odessa Fire Co., Inc.	Odessa		17,984
Port Penn Volunteer Fire Co., Inc.	Port Penn		17,984
Talleyville Fire Co., Inc.	Talleyville		17,984
Townsend Fire Co., Inc.	Townsend		17,984
Volunteer Hose Co., Inc.	Middletown		17,984
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor		17,984

Kent County

Bowers Volunteer Fire Co., Inc.	Bowers	\$	17,984
Camden-Wyoming Fire Co.	Camden		17,984
Carlisle Fire Co.	Milford		17,984
Cheswold Volunteer Fire Co.	Cheswold		17,984
Citizens' Hose Co. No. 1, Inc.	Smyrna		17,984
Clayton Fire Co.	Clayton		17,984
Robbins Hose Co. (Dover Fire Dept.)	Dover		17,984
Farmington Volunteer Fire Co.	Farmington		17,984
Felton Community Fire Co.	Felton		17,984
Frederica Volunteer Fire Co.	Frederica		17,984
Harrington Fire Co.	Harrington		17,984
Hartly Volunteer Fire Co.	Hartly		17,984
Houston Volunteer Fire Co.	Houston		17,984
Leipsic Volunteer Fire Co.	Leipsic		17,984
Little Creek Volunteer Fire Co.	Little Creek		17,984
Magnolia Volunteer Fire Co.	Magnolia		17,984
Marydel Volunteer Fire Co., Inc.	Marydel		17,984
South Bowers Fire Co.	South Bowers		17,984

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	17,984
Blades Volunteer Fire Co., Inc.	Blades		17,984

Bridgeville Volunteer Fire Co.	Bridgeville	17,984
Dagsboro Volunteer Fire Co.	Dagsboro	17,984
Delmar Fire Department	Delmar	17,984
Ellendale Volunteer Fire Co.	Ellendale	17,984
Frankford Volunteer Fire Co.	Frankford	17,984
Georgetown Fire Co., Inc.	Georgetown	17,984
Greenwood Volunteer Fire Co.	Greenwood	17,984
Gumboro Volunteer Fire Co., Inc.	Gumboro	17,984
Indian River Volunteer Fire Co.	Indian River	17,984
Laurel Fire Department, Inc.	Laurel	17,984
Lewes Fire Department, Inc.	Lewes	17,984
Millsboro Fire Co.	Millsboro	17,984
Milton Volunteer Fire Co.	Milton	17,984
Millville Volunteer Fire Co.	Millville	17,984
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	17,984
Roxanna Volunteer Fire Co.	Roxanna	17,984
Seaford Volunteer Fire Dept., Inc.	Seaford	17,984
Selbyville Volunteer Fire Co., Inc.	Selbyville	17,984
Slaughter Beach Memorial Fire Co.	Slaughter Beach	<u>17,984</u>
TOTAL		\$ 1,079,040

(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	\$ 2,463
Blades Volunteer Fire Co., Inc.	Blades	2,463
Bridgeville Volunteer Fire Co.	Bridgeville	2,463
Bowers Volunteer Fire Co., Inc.	Bowers	2,463
Brandywine Hundred Fire Co., No. 1	Bellefonte	2,463
Camden-Wyoming Fire Co.	Camden	2,463
Carlisle Fire Co.	Milford	2,463
Cheswold Volunteer Fire Co.	Cheswold	2,463
Christiana Fire Co.	Christiana	2,463
Claymont Fire Co.	Claymont	2,463
Cranston Heights Fire Co.	Cranston Heights	2,463
Dagsboro Volunteer Fire Co.	Dagsboro	2,463
Delaware City Fire Co.	Delaware City	2,463
Delmar Fire Department	Delmar	2,463
Ellendale Volunteer Fire Co.	Ellendale	2,463
Elsmere Fire Co.	Elsmere	2,463
Felton Community Fire Co.	Felton	2,463
Five Points Fire Co. No. 1	Richardson Park	2,463
Frankford Volunteer Fire Co. No. 1	Frankford	2,463
Frederica Volunteer Fire Co.	Frederica	2,463
Goodwill Fire Co. No. 1	New Castle	2,463
Greenwood Volunteer Fire Co.	Greenwood	2,463
Gumboro Volunteer Fire Co., Inc.	Gumboro	2,463
Harrington Fire Co.	Harrington	2,463
Hartly Volunteer Fire Co., Inc.	Hartly	2,463
Holloway Terrace Fire Co.	Holloway Terrace	2,463
Hockessin Fire Co.	Hockessin	2,463
Laurel Fire Department, Inc.	Laurel	2,463
Leipsic Volunteer Fire Co.	Leipsic	2,463
Lewes Fire Department, Inc.	Lewes	2,463
Magnolia Volunteer Fire Co.	Magnolia	2,463

Mill Creek Fire Co.	Marshallton	2,463
Millville Volunteer Fire Co., Inc.	Millville	2,463
Milton Volunteer Fire Co.	Milton	2,463
Minquadale Fire Co.	Minquadale	2,463
Minquas Fire Co. No. 1	Newport	2,463
Port Penn Volunteer Fire Co.	Port Penn	2,463
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,463
Roxanna Volunteer Fire Co.	Roxanna	2,463
Seaford Volunteer Fire Co., Inc.	Seaford	2,463
Selbyville Volunteer Fire Co., Inc.	Selbyville	2,463
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,463
Talleyville Fire Co., Inc.	Talleyville	2,463
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	<u>2,463</u>
	TOTAL	\$ 108,372

(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	\$ 2,463
Bethany Beach Volunteer Fire Co.	Bethany Beach	2,463
Blades Volunteer Fire Co.	Blades	2,463
Bowers Volunteer Fire Co., Inc.	Bowers	2,463
Brandywine Hundred Fire Co. No. 1	Bellefonte	2,463
Bridgeville Volunteer Fire Co.	Bridgeville	2,463
Camden-Wyoming Fire Co.	Camden	2,463
Carlisle Fire Co.	Milford	2,463
Cheswold Volunteer Fire Co.	Cheswold	2,463
Christiana Fire Co.	Christiana	2,463
Citizens' Hose Co. No. 1, Inc.	Smyrna	2,463
Claymont Fire Co.	Claymont	2,463
Clayton Fire Co.	Clayton	2,463
Cranston Heights Fire Co.	Cranston Heights	2,463
Dagsboro Volunteer Fire Co.	Dagsboro	2,463
Delaware City Fire Co.	Delaware City	2,463
Delmar Fire Department	Delmar	2,463
Robbins Hose Co. (Dover Fire Dept.)	Dover	2,463
Elsmere Fire Co.	Elsmere	2,463
Farmington Volunteer Fire Co.	Farmington	2,463
Felton Community Fire Co.	Felton	2,463
Five Points Fire Co. No. 1	Richardson Park	2,463
Frederica Volunteer Fire Co.	Frederica	2,463
Georgetown Fire Co.	Georgetown	2,463
Greenwood Fire Co. No. 1	Greenwood	2,463
Goodwill Fire Co. No. 1	New Castle	2,463
Gumboro Volunteer Fire Co., Inc.	Gumboro	2,463
Harrington Fire Co.	Harrington	2,463
Hartly Volunteer Fire Co., Inc.	Hartly	2,463
Hockessin Fire Co.	Hockessin	2,463
Holloway Terrace Fire Co.	Holloway Terrace	2,463

Indian River Volunteer Fire Co.	Indian River	2,463
Laurel Fire Dept., Inc.	Laurel	2,463
Leipsic Volunteer Fire Co.	Leipsic	2,463
Lewes Fire Department, Inc.	Lewes	2,463
Little Creek Volunteer Fire Co.	Little Creek	2,463
Magnolia Volunteer Fire Co.	Magnolia	2,463
Marydel Volunteer Fire Co.	Marydel	2,463
Mill Creek Fire Co.	Marshallton	2,463
Millsboro Fire Co.	Millsboro	2,463
Millville Volunteer Fire Co., Inc.	Millville	2,463
Milton Volunteer Fire Co.	Milton	2,463
Minquadales Fire Co.	Minquadales	2,463
Minquas Fire Co. No. 1	Newport	2,463
Odessa Fire Co., Inc.	Odessa	2,463
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,463
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach	2,463
Roxanna Volunteer Fire Co.	Roxanna	2,463
Seaford Volunteer Fire Department, Inc.	Seaford	2,463
Selbyville Fire Co., Inc.	Selbyville	2,463
Slaughter Beach Memorial Fire Co.	Slaughter Beach	2,463
South Bowers Fire Co.	South Bowers	2,463
Ellendale Volunteer Fire Co.	Ellendale	2,463
Houston Volunteer Fire Co.	Houston	2,463
Talleyville Fire Co., Inc.	Talleyville	2,463
Townsend Fire Co., Inc.	Townsend	2,463
Volunteer Hose Co., Inc.	Middletown	2,463
Wilmington Manor Volunteer Fire Co., Inc.	Wilmington Manor	<u>2,463</u>

TOTAL \$ 142,854

(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	\$	3,672
Brandywine Hundred Fire Co., No. 1	Bellefonte		3,672
Christiana Fire Co.	Christiana		3,672
Claymont Fire Co.	Claymont		3,672
Delaware City Fire Co.	Delaware City		3,672
Elsmere Fire Co.	Elsmere		3,672
Five Points Fire Co. No. 1	Richardson Park		3,672
Goodwill Fire Co.No. 1	New Castle		3,672
Hockessin Fire Co.	Hockessin		3,672
Mill Creek Fire Co.	Marshallton		3,672
Talleyville Fire Co., Inc.	Talleyville		3,672
Volunteer Hose Co., Inc.	Middletown		3,672
Wilmington Manor Volunteer Fire Co.	Wilmington Manor		3,672

Kent County

Carlisle Fire Co.	Milford	\$	3,672
Citizens' Hose Co., No. 1, Inc.	Smyrna		3,672
Hartly Volunteer Fire Co., Inc.	Hartly		3,672
Robbins Hose Co., (Dover Fire Dept.)	Dover		3,672

Sussex County

Bethany Beach Volunteer Fire Co.	Bethany Beach	\$	3,672
Delmar Fire Department, Inc.	Delmar		3,672
Georgetown Fire Co., Inc.	Georgetown		3,672
Lewes Fire Department, Inc.	Lewes		3,672
Millsboro Fire Co.	Millsboro		3,672
Rehoboth Beach Volunteer Fire Co., Inc.	Rehoboth Beach		3,672
Seaford Volunteer Fire Co., Inc.	Seaford		3,672
Selbyville Volunteer Fire Co., Inc.	Selbyville		3,672

TOTAL	\$	91,800
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(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:

Delaware City Fire Co.	Delaware City	2,225
Goodwill Fire Co. No. 1	New Castle	2,225
Holloway Terrace Fire Co.	Holloway Terrace	2,225
Leipsic Volunteer Fire Co.	Leipsic	2,225
Little Creek Volunteer Fire Co.	Little Creek	2,225
Milton Volunteer Fire Co.	Milton	2,225
Port Penn Volunteer Fire Co., Inc.	Port Penn	2,225
Roxanna Volunteer Fire Co.	Roxanna	2,225
Seaford Volunteer Fire Co., Inc.	Seaford	2,225
South Bowers Fire Co.	South Bowers	<u>2,225</u>
	TOTAL	\$ 22,250

(f) There is appropriated to the Mayor and Council of Wilmington the following sums to be used for:

(i) The prevention and extinguishment of fires throughout the City of Wilmington and for the maintenance of the apparatus and equipment of the 7 fire companies organized and equipped in the City.	\$125,888
(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.	\$ 7,344
(iii) The maintenance and operation of rescue boats in the public service.	\$ <u>2,225</u>
 TOTAL	 \$135,457

(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	\$ 23,584
Blades Volunteer Fire Co., Inc.	Blades	23,584
Bowers Volunteer Fire Co., Inc.	Bowers	23,584
Bridgeville Volunteer Fire Co.	Bridgeville	23,584
Camden-Wyoming Fire Co.	Camden	23,584
Carlisle Fire Co.	Milford	23,584
Cheswold Volunteer Fire Co.	Cheswold	23,584
Citizens' Hose Co. No. 1, Inc.	Smyrna	23,584
Clayton Fire Co.	Clayton	23,584
Dagsboro Volunteer Fire Co.	Dagsboro	23,584
Delmar Fire Department	Delmar	23,584
Robbins Hose Co., (Dover Fire Dept.)	Dover	23,584
Ellendale Volunteer Fire Co.	Ellendale	23,584
Farmington Volunteer Fire Co.	Farmington	23,584
Felton Community Fire Co.	Felton	23,584
Frankford Volunteer Fire Co.	Frankford	23,584
Frederica Volunteer Fire Co.	Frederica	23,584
Georgetown Fire Co., Inc.	Georgetown	23,584
Greenwood Volunteer Fire Co.	Greenwood	23,584
Gumboro Volunteer Fire Co., Inc.	Gumboro	23,584
Harrington Fire Co.	Harrington	23,584
Hartly Volunteer Fire Co.	Hartly	23,584
Houston Volunteer Fire Co.	Houston	23,584
Indian River Volunteer Fire Co.	Indian River	23,584
Laurel Fire Department, Inc.	Laurel	23,584
Leipsic Volunteer Fire Co.	Leipsic	23,584
Lewes Fire Department, Inc.	Lewes	23,584
Little Creek Volunteer Fire Co.	Little Creek	23,584
Magnolia Volunteer Fire Co.	Magnolia	23,584
Marydel Volunteer Fire Co., Inc.	Marydel	23,584
Millsboro Fire Co.	Millsboro	23,584

Milton Volunteer Fire Co.	Milton	23,584
Millville Volunteer Fire Co.	Millville	23,584
Rehoboth Beach Volunteer Fire Co.	Rehoboth Beach	23,584
Roxanna Volunteer Fire Co.	Roxanna	23,584
Seaford Volunteer Fire Dept., Inc.	Seaford	23,584
Selbyville Volunteer Fire Co., Inc.	Selbyville	23,584
Slaughter Beach Memorial Fire Co.	Slaughter Beach	23,584
South Bowers Fire Co.	South Bowers	<u>23,584</u>

TOTAL \$ 919,776

(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	\$ 2,463
American Legion, Sussex Post #8	Georgetown	2,463
American Legion, Kent Post #14	Smyrna	2,463
Sussex Memorial Post #7422, V.F.W.	Millsboro	<u>2,463</u>

TOTAL \$ 9,852

TOTAL - Section 3 \$ 2,509,401

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	\$ 31,110
Veterans of Foreign Wars, Department of Delaware	31,110
Disabled American Veterans, Department of Delaware	25,921
Vietnam Veterans of America, Department of Delaware	25,921
Paralyzed Veterans of America, Department of Delaware	25,921

(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	\$ 7,565
American Legion, Department of Delaware	7,565
Disabled American Veterans, Department of Delaware	7,565
Vietnam Veterans of America	7,565
Jewish War Veterans of the U.S., Department of Delaware	4,331
Delaware Veterans of World War I	3,234
Paralyzed Veterans of America, Department of Delaware	6,486

(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 \$6,114 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 \$6,114 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 \$2,443 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

\$ 198,965

Section 5. Section 2 of this Act appropriates \$195,000 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 1996. The remaining \$115,000 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. Any elected official who was employed by an organization which received a Grant-in-Aid prior to their election shall be exempt from this provision;
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 1997 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 in Fiscal Year 1996 shall be paid in quarterly installments. For Fiscal Year 1996, such payments will be made on July 10, October 1, January 1, and April 1. 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 1997:

(i) An audit prepared by a Certified Public Accountant covering the prior full fiscal year of the receiving agency, or

(ii) 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 1997.

(f) For Fiscal Year 1996, 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, 1995. 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, 1996, 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 1996 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 1996 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 any Grant-in-Aid recipient receiving an amount of \$6,000 or less listed in Section 2 of this Act at the beginning of the first quarter of Fiscal Year 1996.

(d) 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 1996.

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, 1996, 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, 1996, 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. Included in this amount is \$30,000 for debt service for the Sussex County Paramedic facility. 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 1996, the remaining balance in the Fiscal Year 1995 account (35-05-30-01-81) shall remain as a continuing appropriation and shall not be subject to reversion until June 30, 1996.

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. 1996, 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 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.

Section 23. Section 2 of this Act appropriates funds to Elsmere Recreation, Inc. Of the total appropriation, \$1,000 shall be used for a boxing program and \$2,100 shall be used for a Police Park Program.

Section 24. Section 2 of this Act appropriates funds to the Delaware State Police Museum, Inc. These funds may not be used for capital/construction costs.

Approved July 1, 1995

CHAPTER 120

FORMERLY

HOUSE BILL NO. 234

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 55, TITLE 30 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES TAXES.

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

Section 1. Amend § 5506(g), Chapter 55, Title 30, Delaware Code, by adding the words "or automobile" after the word "separation" and before the word "manufacturing" as they appear therein.

Section 2. Amend § 5506(g), Title 30, Delaware Code by adding to said subsection the following sentence:

"For purposes of this subsection, the term 'automobile manufacturing' shall refer to the manufacturing operations of an automobile assembly plant and shall not refer to either the administrative operations of an automobile assembly plant or to the manufacture of component parts of an automobile outside an automobile assembly plant."

Section 3. This Act shall be effective for electricity distributed after December 31, 1995.

Approved July 1, 1995

CHAPTER 121

FORMERLY

HOUSE BILL NO. 202

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 § 3317 of Chapter 33, Title 19 of the Delaware Code by inserting "(a)" before the first sentence of § 3317 which begins "Claims for benefits shall".

Section 2. Amend § 3317 of Chapter 33, Title 19 of the Delaware Code by adding new subsections (b) and (c) to read as follows:

"(b) Whenever an individual files a claim for benefits, the Department shall forward to the employer by whom the claimant was most recently employed, hereafter the 'last employer', and to each base period employer relating to the individual's claim a separation notice. The last and base period employer(s) shall return such notices completed, indicating the reason for the claimant's separation from work with them and the individual claimant's last date of work with them, within seven (7) days of the date contained on the separation notice. Any last or base period employer who fails to timely return a separation notice or who fails to complete a separation notice within the period prescribed above shall be barred from claiming subsequently that the individual claimant to whom such separation notice applied shall be disqualified under any provisions of § 3315, Title 19, and shall be barred from seeking relief from benefit wage charges to its experience merit rating account under § 3355 or under § § 3349-56, Title 19, unless the Department for reasons found to constitute good cause, shall release such employer from the default. If the last or base period employer fails to timely submit a completed separation notice, the Department shall not be required to issue a determination on said claim or to make an examination of said claim or be required to follow the remaining procedures as set forth in 19 Del.C. § § 3318-3320.

(c) Upon receipt by the Department of a timely submitted and completed separation notice from the last or base period employer, and if said employer's statement on the separation notice does not contest the claimant's entitlement to benefits by raising a potentially disqualifying issue as the reason for the claimant's separation or indicates that the claimant was laid off due to lack of work, the employer shall be subject to benefit wage charges to its experience merit rating account in accordance with 19 Del.C. § 3355 and § § 3349-56; and such employer shall not be entitled to any further appeal or relief of benefit wage charges on the basis of such claim. In such cases, the Department shall not be required to make an examination of said claim or of benefit wage charges to the employer's experience merit rating account, nor shall the Department be required to issue or send a determination to the last or base period employer or to the claimant on such claim for benefits nor shall the Department be required to follow the remaining procedures for determination of such claims as set forth in 19 Del.C. § § 3318-3320. In addition, in such cases, benefits shall be paid unless it is later determined by the Division that such claimant is not otherwise qualified or eligible for benefits, but in no event, shall such employer be entitled to be a party to such later determination or be entitled to benefit wage charge relief on such claim".

Section 3. Amend § 3318(a) of Chapter 33, Title 19 of the Delaware Code by deleting (a) in its entirety and substituting in lieu thereof the following:

"(a) If the last employer timely files a completed separation notice in accordance with § 3317 of this Title and the employer's statement on the separation notice does raise a potentially disqualifying issue as to the reason for the claimant's separation, the claim

shall be referred to a representative of the Department, hereinafter referred to as a Claims Deputy, who shall examine the claim and on the basis of the facts found by him shall initially determine the individual's qualification and non-monetary eligibility for benefits, and issue a determination in which it is determined whether or not such claim is valid. If valid, the Claims Deputy shall further determine the week with respect to which benefits shall commence. In lieu of making a determination, the Claims Deputy may elect to refer such claim or any question involved therein to an appeal tribunal which shall make its decision with respect thereto in accordance with the procedure described in subsection (c) of this section. In either case, the Claims Deputy shall promptly notify the claimant and the last employer of his determination and the reasons therefor. The Claims Deputy may for good cause reconsider a determination and shall promptly notify the claimant and the last employer of his amended determination and the reasons therefor, as the case may be. Base period employers who have submitted timely and completed separation notices in accordance with § 3317 may seek relief from benefit wages charged to their experience merit rating accounts in accordance with § 3355 of this Title except that for a claim in which the last employer is also a base period employer for such claim, the issue of benefit wage charge relief or such base period employer shall be determined in accordance with the determination on the issue of the claimant's last separation from such employer."

Section 4. Amend § 3318(b) of Chapter 33, Title 19 of the Delaware Code by deleting (b) in its entirety and substituting in lieu thereof the following:

"(b) Unless a claimant or a last employer who has submitted a timely and completed separation notice in accordance with Section 3317 files an appeal within ten (10) calendar days after such Claims Deputy's determination was mailed to the last known addresses of the claimant and the last employer, the Claims Deputy's determination shall be final and benefits shall be paid or denied in accordance therewith. If a Claims Deputy's determination awards benefits, such benefits shall be paid promptly in accordance with such determination upon its issuance. If an appeal is filed from a Claims Deputy's determination that awards benefits, benefits shall be paid in accordance with such determination notwithstanding such appeal, but if the appeals tribunal's determination or a determination of the Unemployment Insurance Appeal Board under Sections 3320, 3321, and 3322 of this Title, or judicial review under Section 3323 of this Title, modifies or reverses the award of the benefits, the claimant shall be paid benefits for the weeks of unemployment following the issuance of such an appeals tribunal, Unemployment Insurance Appeal Board or judicial review decision only in accordance with such decisions."

Section 5. Amend § 3355 of Chapter 33, Title 19 of the Delaware Code by deleting § 3355 and its heading in its entirety and substituting in lieu thereof the following:

"§ 3355. Notice to employers of benefits paid and status of accounts; employer applications for review and redetermination of benefit wages charged to their experience merit rating accounts (relief from charges).

(a) The Department shall provide quarterly notification to base period employers of benefit wages charged to their experience merit rating accounts hereafter referred to as 'benefit wage charge notices'.

(b) Such benefit wage charge notices shall become conclusive and binding upon the base period employer unless, within fifteen (15) days after the mailing of the notice thereof to the last known address or in the absence of mailing within fifteen (15) days after the delivery of such notice, a base period employer who is subject to tax rate assessments under § 3345(a) of this Title files an application for review seeking relief from benefit wages charged to its experience merit rating account. A § 3345(a) base period employer who has filed a timely application for review of its benefit wage charge notice shall be entitled to relief from such benefit wage charges contained in such notice only on the basis that: (I) 'he claimant's separation from the base period employer (if such separation was separate from and prior to the claimant's separation from his last employer and if the base period employer is not also the last employer) was not qualifying under subdivisions (1), (2) and (7) of § 3315 of this Title and (II) the

Department administratively erred in calculating the correct amount of certain benefit wages charged to its account. However, as to (I) and (II) above, any such base period or last employer who has failed to return a completed separation notice which is applicable to the benefit wage charge at issue in a timely manner in accordance with § 3317 shall be barred from seeking benefit wage charge relief unless the Department for reasons found to constitute good cause should release the base period or last employer from the default. Regardless, no employer shall have standing to seek benefit wage charge relief pursuant to the procedure established in § § 3317-3325.

(c) Applications for review shall be referred to an individual designated by the Department, who shall examine the basis for each request for relief from benefit wage charges made to the employer's experience merit rating account. After such review, the Department's representative shall promptly notify the base period employer and each claimant involved of his decision on the base period employer's request for review, and such decision shall become final unless within fifteen (15) days after the mailing of notice thereof to the last known address or in the absence of mailing within fifteen (15) days after the delivery of such notice, the base period employer files and application for redetermination with the Department.

(d) Unless the request for redetermination is withdrawn, an appeals tribunal, after affording the base period employer and the claimant, if a claimant is involved, and the Department a reasonable opportunity for fair hearing with regard to each benefit wage charge, shall affirm, modify, or reverse those portions of the benefit wage charge notice challenged by the employer. The base period employer, the Department, and a claimant, if involved, shall be duly notified of the appeal tribunal's decision on each benefit wage charge for which redetermination is requested, together with its reasons therefor, which shall be deemed to be final unless within fifteen (15) days after the delivery of such decision, a petition for judicial review is filed in the Superior Court. In any proceeding under this section the findings of the appeals tribunal as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of the Court shall be confined to the questions of law. No additional evidence shall be received by the Court but the Court may order additional evidence to be taken before the appeals tribunal or the Department and the Department or appeals tribunal may, after hearing such evidence, modify its redetermination and file such modified redetermination, together with a transcribed copy of the additional record with the Court. Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under § § 3317-25 of this Title and the Workmen's Compensation Law, Chapter 23 of this Title.

(e) Such redeterminations of benefit wage charge notices which have become final and binding after notice and after providing the opportunity for hearing or appeal, and the findings of fact in connection therewith, may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of assessments of any employer for any calendar year and shall be entitled to the same finality as is provided in § 3354 of this Title with respect to findings of fact made by the Department and proceedings to redetermine the assessment rate of an employer."

Section 6. Amend 19 Del.C. § 3354(b) by inserting after the citation "§ § 3317-3325" as it appears therein the following citation: "or § 3355"; and by inserting after the words "only in the event that he was not" and before the words "a party to such determination redetermination or decision or to any other proceedings under this chapter in which the character of such services was determined" as they appear therein the following: "provided the opportunity, via the issuance of a separation notice by the Department, as required pursuant to § 3317(b) of this Title, to be".

Section 7. This Act shall become effective upon enactment and shall apply to all claims for benefits and notices of statement of benefit wage charges to employer's merit rating accounts mailed, issued, filed, or appealed on or after the effective date of this Act.

Approved July 3, 1995

CHAPTER 122

FORMERLY

HOUSE BILL NO. 160

AN ACT TO AMEND CHAPTER 25 OF TITLE 18 OF THE DELAWARE CODE RELATING TO RATES AND RATING ORGANIZATIONS.

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

Section 1. Amend §2503(a), Chapter 25, Title 18 of the Delaware Code by redesignating current paragraph "(8)" as new paragraph "(9)", and by adding thereto a new paragraph "(8)" to read as follows:

"(8) The Commissioner shall require insurers to file an actuarially justified reduction in rates for a 3-year period if all operators of a vessel voluntarily attend and successfully complete a boating safety education course which is approved by the Department of Natural Resources and Environmental Control for the purposes of §2221 of Title 23. The reduction shall be for any individually owned vessel used exclusively for noncommercial purposes. Voluntary attendance shall not include any attendance ordered as permitted by a court or required by the Department of Natural Resources and Environmental Control pursuant to any violations of Title 23."

Section 2. This Act shall become effective 1 year after the date of enactment.

Approved July 3, 1995

CHAPTER 123

FORMERLY

HOUSE BILL NO. 152

AN ACT TO AMEND CHAPTER 9 OF TITLE 4 OF THE DELAWARE CODE RELATING TO THE SALE OF ALCOHOLIC BEVERAGES TO PERSONS UNDER THE AGE OF TWENTY-ONE.

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

§ 904(a)(1) of Title 4 of the Delaware Code is hereby amended by deleting the phrase "\$100" as it exists therein and substituting in lieu thereof the phrase "\$250".

Approved July 3, 1995

CHAPTER 124

FORMERLY

SENATE BILL NO. 130

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO DANGEROUS CRIME AGAINST A CHILD.

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

Section 1. Amend Title 11 of the Delaware Code by adding a new section to read as follows:

"§779. Dangerous crime against a child, definitions, sentences.

(a) A 'dangerous crime against a child' is defined as any criminal sexual conduct against a minor under the age of fourteen (14) years of age as defined in 11 Del.C. §§ 770, 771, 772, and 773. For purposes of this section only, and 11 Del.C. §762 (a) to the contrary notwithstanding, the defendant may use as an affirmative defense that the defendant believed that the victim of the crime was over the age of sixteen (16) years of age.

(b) Except as otherwise provided in this title, a person who is at least eighteen (18) years of age, or who has been tried as an adult and who is convicted of a dangerous crime against a child as defined in subsection (a) of this section, shall be guilty of a Class B Felony. For a second offense under this section, the Court shall impose a mandatory sentence of life imprisonment.

(c) A person sentence pursuant to this section shall not be eligible for suspension of sentence, probation, pardon, or release from confinement on any basis until the sentence imposed by the Court has been served."

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

Section 3. This section shall take effect with respect to all crimes which are committed the day after the date this bill becomes law.

Approved July 3, 1995

CHAPTER 125

FORMERLY

SENATE BILL NO. 219

AN ACT TO AMEND CHAPTER 19, TITLE 2 OF THE DELAWARE CODE RELATING TO THE EMPLOYEE COMMUTE OPTIONS ACT.

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

Section 1. Amend § 1903, Chapter 19, Title 2 of the Delaware Code by adding thereto a new subsection (a) to read as follows:

"(a) 'Regional Plan,' as used in this title, means a Regional Employee Commute Options Plan, administered by the State, which is a traffic reduction plan designed primarily to reduce employee commute trips and developed by the State in conjunction with employers in accordance with regulations adopted and approved by the Secretary consistent with 42 U.S.C. § 7511a (d)(1)(B). Participation in a Regional Plan shall constitute a means of compliance with the Employee Commute Options Act as set forth in this Title. As an alternative, an individualized work site(s) Employee Commute Options Plan may be submitted by individual employers and referred to as the Employee Commute Options Plan or ECO Plan. Every employer, as that term is defined in this title, shall participate in either a Regional Plan or as an alternative, develop and pursue an approved ECO Plan."

Section 2. Amend § 1903(b), Chapter 19, Title 2 of the Delaware Code by inserting the phrase "alternative work schedules" after the phrase "compressed work weeks" and before the phrase "and subscription buses."

Section 3. Amend § 1903(c), Chapter 19, Title 2 of the Delaware Code by deleting the numeral "80" and substituting in lieu thereof the numeral "120".

Section 4. Amend § 1903(e), Chapter 19, Title 2 of the Delaware Code by deleting the phrase 'Employer Commute Option (ECO) Plan' as it appears therein and substituting in lieu thereof the phrase 'Employee Commute Options (ECO) Plan'.

Section 5. Amend § 1903(i), Chapter 19, title 2 of the Delaware code by deleting said subsection in its entirety and substituting in lieu thereof the following:

"(i) 'Regulations' means the rules and regulations enacted by the Secretary pursuant to § 1904 of this title."

Section 6. Amend § 1903, Chapter 19, Title 2 of the Delaware Code by deleting subsections "(k)" and "(l)" in their entirety and redesignating existing subsections "(m)" and "(n)" as "(l)" and "(m)" respectively.

Section 7. Amend § 1903, Chapter 19, Title 2 of the Delaware Code by adding thereto a new subsection (k) to read as follows:

"(k) 'Status report' means a periodic report submitted by each employer reflecting a reporting year beginning on October 1st and ending on September 30th of the following year. The report must be submitted in accordance with regulations adopted by the Department. Any Department-approved measures by which an employer proposes to eliminate any deficits or deficiencies in attaining the target Average Passenger Occupancy (APO) shall become an amendment to that ECO Plan."

Section 8. Amend § 1904, Chapter 19, Title 2 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§ 1904. Rules and regulations.

The Secretary shall prescribe such rules and regulations as may be deemed necessary to carry out the purposes of this Chapter including, but not limited to, the foregoing and the following:

- (1) Procedures by which employers may participate in a Regional Plan.
- (2) Procedures requiring employers which do not participate in a Regional Plan to provide the Department information regarding actions taken and the plans made to comply with an ECO Plan and the revised State Implementation Plan required by 42 U.S.C. § 7511a(d)(1)(B). These procedures may establish a process of plan submission, approval and/or periodic reporting on target achievement.
- (3) Procedures, including conciliation, to assist in the enforcement of the regulations if there is a determination that the employer has not submitted the required information or reports when due, or, if as a result of the submitted reports or monitoring by the Department, there is a determination that the employer has not pursued the terms of the ECO Plan in good faith, or the employer failed to make a good faith effort to reasonably comply with the requirements of this Chapter.
- (4) Procedures for the determination and assessment of fees to be paid by the employer to cover the costs of administration of this program, where deemed to be necessary by the Department.
- (5) Procedures for the review of any determination of penalty imposed by the Department."

Section 9. Amend § 1905(a), Chapter 19, Title 2 of the Delaware Code by deleting the said subsection in its entirety and replacing it with the following:

"(a) The Department shall enforce this chapter. In the event that an employer chooses not to participate in the Regional Plan or in the event that said employer fails to comply with the procedures adopted by the Department relative to a Regional Plan, said employer shall be required to submit an individualized ECO Plan in compliance with this title. The balance of this section shall only apply to employers which are required to file an ECO Plan."

Section 10. Amend § 1905(b), Chapter 19, Title 2 of the Delaware Code by deleting subsections (5) and (7) in their entireties, renumbering existing subsection (6) as subsection (5) and adding a new subsection (6) to read as follows:

"(6) For a failure to pursue the terms and/or time frames of the employer's ECO Plan in good faith, the penalty will be six dollars (\$6) per day, per vehicle in the employer's deficit vehicle count as defined by the Regulations, at the work sites covered by the ECO Plan; provided, however, that in making the determination of whether an employer has failed to pursue in good faith the terms and/or time frames of the employer's ECO Plan, the Department shall only consider whether the employer has acted in good faith in attempting to satisfy the requirements of the ECO Plan and shall not consider whether the employer has actually attained the projected participation rates or APO Target."

Section 11. Amend § 1905(e), Chapter 19, Title 2 of the Delaware Code by deleting therefrom the words "have the discretion to".

Section 12. Amend § 1907(a), Chapter 19, Title 2 of the Delaware Code by deleting therefrom the word "perfected" and substituting in lieu thereof the word "filed".

Section 13. Amend § 1908, Chapter 19, Title 2 of the Delaware Code by deleting said section in its entirety and substituting in lieu thereof the following:

"§ 1908. Regional Plan.

Except as otherwise stated therein, § 1905 of this title and the Regulations shall not apply to employers who participate in the Regional Plan, as that term is defined herein, in accordance with rules and regulations adopted pursuant to this title. Participation in the Regional Plan shall serve as a valid alternative to the submission of an ECO Plan otherwise required under this title, and any ECO Plan previously submitted by an employer shall become null and void upon that employer's participating in the Regional Plan."

Section 14. Amend Chapter 19, Title 2 of the Delaware Code by adding thereto a new Section 1909, to read as follows:

"§ 1909. Administration fees.

The Department is empowered to determine, assess and collect an annual fee pursuant to this chapter and regulations adopted by the Secretary, which fees shall not exceed two dollars (\$2.00) per employee or thirty thousand dollars (\$30,000), per employer, whichever is less, and shall be equitably assessed based upon the number of employees of each employer participating in the Regional Plan. The amount of fees to be charged under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Department as well as any proportional expenses incurred. At the beginning of each calendar year the Department, or any other State agency acting on its behalf, shall compute the appropriate fee for the coming year."

Section 15. Further amend Chapter 19, Title 2 of the Delaware Code by adding thereto a new § 1910, to read as follows:

"§ 1910. Confidentiality.

Written or recorded information constituting the contents of employer plans and provided by employers participating in the Employee Commute Options Program or a Regional Plan shall be treated as confidential and not be considered as a public record under the provisions of Chapter 100, Title 29 of the Delaware Code."

Section 16. Further amend Chapter 19, Title 2 of the Delaware Code by adding thereto a new § 1911, to read as follows:

"§ 1911. Amendments to federal law.

In the event that the Congress of the United States or any agency of the United States Government determines that the Employee Commute Options Program shall thereafter be voluntary in nature and/or in the event affected areas within the State are reclassified from 'severe' to 'serious' or less, the State of Delaware Employee Commute Options Act shall also become voluntary, effective immediately, and the Department shall draft new regulations in accordance therewith within 60 days thereof exclusive of public hearings. In the event that the State of Delaware Employee Commute Options Act becomes voluntary, § 1905(b) shall immediately become null and void."

Section 17. Any reference to the term "Authority" in the ECO Regulations is hereby stricken and the word "Department" substituted in lieu thereof.

Approved July 6, 1995

CHAPTER 126

FORMERLY

SENATE BILL NO. 37

AN ACT TO AMEND CHAPTER 21, TITLE 13 OF THE DELAWARE CODE RELATING TO THE DOMESTIC VIOLENCE COORDINATING COUNCIL.

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

Section 1. Amend §2102, Title 13, Delaware Code by deleting "11 members" as it appears therein and by inserting in lieu thereof "13 members".

Section 2. Amend §2102(11), Title 13, Delaware Code by deleting "An at-large member" as it appears therein and by inserting in lieu thereof "Three at-large members".

Section 3. Amend §2104(a), Title 13, Delaware Code by deleting the number "Six" as it appears therein and by inserting in lieu thereof the number "Seven".

Approved July 6, 1995

CHAPTER 127

FORMERLY

SENATE BILL NO. 213

AN ACT TO AMEND CHAPTER 197, VOLUME 54, LAWS OF DELAWARE, THE CHARTER OF THE CITY OF REHOBOTH BEACH AS AMENDED, WITH REGARD TO FINES AND PENALTIES FOR VIOLATION OF CITY ORDINANCES.

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. §21A, Chapter 197, Volume 54, Laws of Delaware, as heretofore amended, be and the same is hereby further amended as follows:

Paragraph (d) is amended by deleting the words and numerals "Two Hundred Dollars (\$200)" each place where it appears therein and substituting therefor the words and numerals "Five Hundred Dollars (\$500)".

Section 2. §29, Chapter 197, Volume 54, Laws of Delaware, as heretofore amended, be and the same is hereby further amended as follows:

Paragraph (27) is amended by deleting the words and numerals: "One Hundred Dollars (\$100) or 30 days" each place where it appears therein and by substituting therefor the words and numerals "Five Hundred Dollars (\$500) or sixty (60) days".

Approved July 6, 1995

CHAPTER 128

FORMERLY

SENATE BILL NO. 38

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE 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(a)(1), Title 11, Delaware Code by inserting the words "recklessly or" immediately before the word "intentionally".

Section 2. Amend §612(a)(2), Title 11, Delaware Code by inserting the words "recklessly or" immediately before the word "intentionally".

Section 3. Amend §612(a)(6), Title 11, Delaware Code by inserting the words "recklessly or" immediately before the word "intentionally".

Section 4. Amend §612(a), Title 11, Delaware Code by striking paragraph (3) thereof in its entirety, and by redesignating the subsequent existing paragraphs.

Section 5. Amend §612(b), Title 11, Delaware Code, by deleting the citation "subsection (a)(6)" as it appears therein and by inserting in lieu thereof the citation "subsection (a)(5)".

Approved July 6, 1995

CHAPTER 129

FORMERLY

SENATE BILL NO. 212

AN ACT TO AMEND CHAPTER 21, TITLE 19, DELAWARE CODE RELATING TO ATTORNEYS FEES.

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

Section 1. Amend §2127(b), Title 19, Delaware Code, by striking subsection (b) in its entirety and substituting in lieu thereof the following:

"(b) In the event an offer to settle an issue pending before the Industrial Accident Board is communicated to the claimant or his attorney in writing at least 30 days prior to the trial date established by the Board on such issue, and the offer thus communicated is equal to or greater than the amount ultimately awarded by the Board at the trial on that issue, the provisions of subsection (a) of this Section shall have no application. If multiple issues are pending for trial before the Board, said offer of settlement shall address each issue pending, and shall state explicitly whether or not the offer on each issue is severable. The written offer shall also unequivocally state whether or not it includes medical witness fees and expenses, and/or late cancellation fees relating to such medical witness fees and expenses."

Section 2. Amend §2126, Title 19, Delaware Code, by striking the words "attorneys and" as the same appears in said sentence.

Approved July 6, 1995

CHAPTER 130

FORMERLY

HOUSE BILL NO. 117

AN ACT TO AMEND CHAPTER 121, VOLUME 32, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO ESTABLISH A BOARD OF WATER AND LIGHT COMMISSIONERS FOR THE CITY OF NEW CASTLE" RELATING TO THE SECRETARY OF THE BOARD AND THE SALARIES OF THE COMMISSIONERS.

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 121, Volume 32, Laws of Delaware, as amended, by striking Section 2 thereof in its entirety and substituting in lieu thereof the following:

"Section 2. The Commission, in April of each year, shall elect one of their number as President, and shall appoint a Secretary, who need not be a Commissioner. The City Treasurer shall be Treasurer of the Commission, and shall hold the funds of the Commission in a separate account at the New Castle Trust Company, and shall pay the same out on orders signed by the President and Secretary. The Treasurer shall give such additional bond as the Commissioners may require. No Commissioner shall hold any office of profit under the Commission, except as otherwise provided in Section 11, or contract with it for work or supplies."

Section 2. Amend Chapter 121, Volume 32, Laws of Delaware, as amended, by striking Section 6 thereof in its entirety and substituting in lieu thereof the following:

"Section 6. The Commissioners shall appoint a Superintendent. The Superintendent shall perform such services and duties upon such terms and conditions as the Commissioners shall deem appropriate."

Section 3. Amend Chapter 121, Volume 32, Laws of Delaware, as amended, by striking Section 11 thereof in its entirety and substituting in lieu thereof the following:

"Section 11. Commencing April 1, 1995, the President of the Board shall receive an annual salary of Two Thousand Five Hundred Dollars (\$2,500.00) and each member of the Board shall receive an annual salary of Two Thousand Four Hundred Dollars (\$2,400.00) for their services, payable monthly out of the funds of the Board, and in addition to their necessary expenses in the performance of their duties."

Approved July 6, 1995

CHAPTER 131

FORMERLY

HOUSE BILL NO. 299

AN ACT TO AMEND CHAPTER 101 OF TITLE 3 OF THE DELAWARE CODE TO ALLOW THE THOROUGHBRED RACING COMMISSION TO FINGERPRINT ALL LICENSE APPLICANTS WITHOUT USING THE THOROUGHBRED RACING PROTECTION BUREAU.

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

Section 1. Amend Chapter 101 of Title 3 of the Delaware Code by deleting the second sentence of §10128(b) thereof and substituting in lieu thereof the following:

"An individual making application to a licensee for a permit to participate in or be employed at a meet held by a licensee may be fingerprinted by the Commission or the Commissioner's designee for purposes of a criminal record check on the applicant."

Approved July 6, 1995

CHAPTER 132

FORMERLY

HOUSE BILL NO. 316

AN ACT TO AMEND CHAPTER 9, TITLE 4, DELAWARE CODE, RELATING TO ALCOHOLIC LIQUORS.

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

Section 1. Amend Chapter 9, Title 4 of the Delaware Code by adding a new section 916 to read as follows:

"§ 916. Penalties imposed against licensees who threaten employees.

No licensee or representative thereof may discipline, threaten or otherwise penalize an employee for refusing to violate rules of the Commission or statutes of the State of Delaware. Any licensee violating the provisions of this section shall be subject to the penalties described in § 561(b)(10); § 910; and § 913 of this Title."

Approved July 6, 1995

CHAPTER 133

FORMERLY

SENATE BILL NO. 241

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO THE STATUS OF CERTAIN UTILITY SERVICES PROVIDED TO NON-PROFIT ENTITIES.

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

Section 1. Amend §202, Title 26 of the Delaware Code by adding a new subsection as follows:

"(e) Any building owner, engaged in a principal business which does not involve the provision of utility services, providing steam heat or refrigeration chilled water to a non-profit entity occupying a building located in close proximity to the owner's building, shall not be considered a public utility."

Approved July 6, 1995

CHAPTER 134

FORMERLY

SENATE BILL NO. 51

AS AMENDED BY

SENATE AMENDMENT NOS. 2 AND 4

AN ACT TO AMEND TITLE 21, DELAWARE CODE, CLARIFYING LAWS CONCERNING COMMERCIAL DRIVERS.

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

Section 1. Amend §2606, Chapter 26, Title 21, Delaware Code, by striking the word "knowingly" as it appears in §2606(b).

Section 2. Amend §2606, Chapter 26, Title 21, Delaware Code, by adding to §2606(b) a new §2606(b)(3) to read as follows:

"(3) In which the driver does not have a CDL license for the type vehicle the employer requires the driver to drive."

Section 3. Amend §2607, Chapter 26, Title 21, Delaware Code by striking §2607(b) in its entirety and substituting in lieu thereof the following:

"(b) No person may drive a commercial motor vehicle while his or her driving privilege is denied, canceled, disqualified, or in violation of an out of service order. When a CDL driver is eligible for an occupational license as provided for in §2733 (g) or §2118 (r) of this Title, or a conditional license as provided in §4177C or §4177E of this Title, the occupational or conditional license may include CDL privileges. However, notwithstanding these provisions, a driver licensee who has been CDL disqualified may not be issued an occupational or conditional CDL license."

Section 4. Amend §2611, Chapter 26, Title 21, Delaware Code, by changing the figure "\$1" as it appears in §2611(g)(2) to "\$1.15".

Section 5. Amend Title 21 of the Delaware Code by adding thereto a new §4177J to read as follows:

"§4177J. Operating a Commercial Motor Vehicle With a Prohibited Blood Alcohol Concentration Or While Impaired By Drugs.

No person shall drive, operate, or have actual physical control of a commercial motor vehicle with an alcohol concentration of .04 or more in his or her blood or breath or having used a controlled substance or any drug which impairs driving ability. Any person who violates this section shall be subject to the provisions of Chapter 26 of this Title. Prosecution under this section does not preclude prosecution under any other section of the Delaware Code. 'Alcohol concentration of .04 or more' shall mean (1) an amount of alcohol in a sample of a person's blood equivalent to .04 or more grams of alcohol per hundred milliliters of blood; or, (2) an amount of alcohol in a sample of a person's breath equivalent to .04 or more grams per two hundred ten liters of breath."

Approved July 6, 1995

CHAPTER 135

FORMERLY

SENATE BILL NO. 97

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

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

Section 1. Amend subsection (b), §705, Chapter 7, Title 24 of the Delaware Code by striking the words ", unless there is an appeal to the Superior Court within that time" as the same appear in said subsection.

Section 2. Amend subsection (c), §705, Chapter 7, Title 24 of the Delaware Code by striking the final sentence of said subsection (c) in its entirety and substituting the following in lieu thereof:

"Upon such appeal, the Court shall hear the evidence on the record, and any stay of the Board's decision shall be granted according to the Administrative Procedures Act."

Approved July 6, 1995

CHAPTER 136

FORMERLY

SENATE BILL NO. 113

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO HABITUAL MOTOR VEHICLE OFFENDERS.

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 2. Amend Section 2805, Title 21 of the Delaware Code by striking from that section the entire second sentence and inserting, in lieu thereof, the following two sentences:

"A copy of the petition, the show cause order and the abstract shall be served upon the person named therein either by personal delivery thereof or by deposit of such in the United States mail in an envelope with postage prepaid, addressed to such person at his address as shown by the records of the Division of Motor Vehicles. The service of the petition, order and abstract by mail is complete upon the expiration of four (4) days after such deposit of those documents."

Section 3. Amend Section 2809, Title 21 of the Delaware Code by adding a new paragraph "(4)" to read as follows:

"(4) Unless the Attorney General moves the Court for restoration of the privilege to operate a motor vehicle in this State of any person declared to be an habitual offender as defined in §2802(1) of this title after three (3) years from the date of the order of the Court declaring the person to be a habitual offender. In the event of such a motion by the Attorney General, the Court may in its discretion restore the driving privileges of the person in whole or in part only if the person also meets the obligation set forth in paragraphs (2) and (3) of this section."

Section 4. Amend Section 2810, Title 21 of the Delaware Code by striking the second sentence of the section in its entirety and inserting in lieu thereof, the following three sentences:

"Any person found to be an habitual offender under this chapter who is thereafter convicted of operating a motor vehicle in this State while the judgment of the Court prohibiting such operation is in effect shall for the first offense be fined not more than \$1,150 and imprisoned not less than ninety (90) days nor more than thirty (30) months. For each subsequent like offense, be fined not more than \$2,300 and imprisonment not less than one hundred eighty (180) days nor more than five (5) years. The periods of imprisonment under this section shall not be subject to suspension."

Section 5. Amend Section 2810, Title 21 of the Delaware Code by striking the word "exclusive" as it appears in the last sentence of that section.

Approved July 6, 1995

CHAPTER 137

FORMERLY

SENATE BILL NO. 131

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO HATE
CRIMES.

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

Section 1. Amend §4209(e)(1), Title 11 of the Delaware Code by adding a new
subparagraph "v", thereto, said subparagraph to read as follows:

"v. The murder was committed for the purpose of interfering with the victim's free
exercise or enjoyment of any right, privilege or immunity protected by the First Amendment to
the United States Constitution, or because the victim has exercised or enjoyed said rights, or
because of the victim's race, religion, color, disability, national origin, or ancestry."

Approved July 6, 1995

CHAPTER 138

FORMERLY

SENATE BILL NO. 132

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO HATE CRIMES.

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

Section 1. Amend Title 11 of the Delaware Code by adding thereto a new section, said section to be denominated as §1304, which shall read as follows:

"§1304. Hate Crimes; class A misdemeanor, class G felony, class F felony, class E felony, class D felony, class C felony, class B felony, class A felony.

(A) Any person who commits, or attempts to commit, any crime as defined by the laws of this State, and who intentionally:

(1) commits said crime for the purpose of interfering with the victim's free exercise or enjoyment of any right, privilege or immunity protected by the First Amendment to the United States Constitution, or commits said crime because the victim has exercised or enjoyed said rights; or

(2) selects the victim because of his or her race, religion, color, disability, national origin or ancestry, shall be guilty of a hate crime.

(B) Hate crimes shall be punished as follows:

(1) If the underlying offense is a violation or unclassified misdemeanor, the hate crime shall be a class A misdemeanor;

(2) If the underlying offense is a class A, B, or C misdemeanor, the hate crime shall be a class G felony;

(3) If the underlying offense is a class C, D, E, F, or G felony, the hate crime shall be one grade higher than the underlying offense;

(4) If the underlying offense is a class A or B felony, the hate crime shall be the same grade as the underlying offense, and the minimum sentence of imprisonment required for the underlying offense shall be doubled."

Approved July 6, 1995

CHAPTER 139

FORMERLY

SENATE BILL NO. 147

AN ACT TO AMEND CHAPTER 23, TITLE 12, DELAWARE CODE, RELATING TO THE EFFECT OF MANSLAUGHTER OR MURDER ON INTESTATE SUCCESSION, WILLS, JOINT ASSETS, LIFE INSURANCE AND BENEFICIARY DESIGNATIONS.

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

Section 1. Amend §2322(a)(1), Title 12, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(a)(1) Definitions. 'Slayer' shall mean any person who pleads guilty or nolo contendere to, or is convicted of, the offenses defined in §§632, 635, or 636 of Title 11, excluding however, those persons convicted of manslaughter under §632 of Title 11 as a result of the mitigating circumstances of extreme emotional distress as defined in §641 of Title 11. 'Slayer' shall also mean any person who pleads guilty or nolo contendere to, or is convicted under the federal law, or the laws of another state, the District of Columbia, Puerto Rico, or a U.S. possession, of an offense which would be described above if it were committed within the State of Delaware."

Section 2. Amend §2322(c), Title 12 of the Delaware Code by deleting said subsection in its entirety and replacing said subsection with the following:

"(c) Wills and Trusts. The slayer shall be deemed to have predeceased the decedent as to property which would have passed to the slayer by devise or legacy from the decedent, and as to property which would have passed to the slayer from a trust to the extent that the decedent was the grantor of the trust or was the beneficiary of the trust immediately before the death of the decedent."

Section 3. Amend §2322(d), Title 12 of the Delaware Code by deleting said subsection in its entirety and replacing said subsection with the following:

"(d) Tenancy by Entirety. Any property held by the slayer and the decedent as tenants by the entirety shall, upon the death of the decedent, be converted to property held as tenants in common, and 1/2 of the property shall pass to the decedent's heirs, legatees or devisees, and the other half shall pass to the slayer, unless the slayer or the decedent's estate effects a partition of the property."

Section 4. Amend §2322(e)(1) and (e)(2), Title 12 of the Delaware Code by deleting said subsections in their entirety and replacing said subsections with the following:

"(e)(1) Joint Tenancy with Rights of Survivorship. Any property held solely by the slayer and the decedent as joint tenants, joint owners or joint obligees shall, upon the death of the decedent, be converted to property held as tenants in common and 1/2 of the property shall pass to the decedent's heirs, legatees or devisees, and the other half shall pass to the slayer, unless the slayer or the decedent's estate effects a partition of the property."

(2) As to property held jointly by 3 or more persons as joint tenants with right of survivorship, including the slayer and the decedent, the decedent's interest shall be converted to that of a proportional tenant in common, and the decedent's interest shall pass to his or her heirs, legatees and devisees, unless the decedent's estate or a surviving joint tenant effects a partition of the property. The interest of the other tenants remains unaffected."

Section 5. Amend §2322(f), Title 12 of the Delaware Code by deleting said subsection in its entirety and replacing said subsection with the following:

"(f) Vested Remainder. Property in which the slayer holds a reversion or vested remainder and would have obtained the right of present possession upon the death of the decedent shall pass to the heirs, legatees or devisees of the decedent, and be redistributed in accordance with the decedent's will or the laws of intestate distribution, excluding the slayer, during the period of what would have been the life expectancy of the decedent if the decedent had not been slain. If the particular estate is held by a third person, it shall remain in his or her hands for such period."

Section 6. Amend §2322(g)(2), Title 12 of the Delaware Code by deleting said subsection in its entirety and replacing said subsection with the following:

"(g)(2) In any other case, the interest of the slayer shall be extinguished."

Section 7. Amend §2322(h)(1), Title 12 of the Delaware Code by deleting said subsection in its entirety and replacing said subsection with the following:

"(h) Proceeds passing by designation. (1) Except when there are conflicting provisions in a contract governing any policy or certificate of insurance on the life of the decedent, or of a joint life policy on the life of the decedent and the slayer, or governing the designee of any other property, the proceeds of such property shall be paid according to the terms of the contract as though the slayer had predeceased the decedent. If the contract does not provide for a beneficiary in the event that the slayer predeceased the decedent, the property shall be paid to the estate of the decedent."

Approved July 6, 1995

CHAPTER 140

FORMERLY

SENATE BILL NO. 155

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 90, TITLE 29 OF THE DELAWARE CODE RELATING TO THE ADVISORY COUNCIL FOR CHILDREN, YOUTH AND THEIR FAMILIES.

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

Section 1. Amend paragraph (5), subsection (b), §9008, Chapter 90, Title 29 of the Delaware Code by striking the period (.) at the end of said paragraph and substituting a semi-colon (;) in lieu thereof.

Section 2. Amend subsection (b), §9008, Chapter 90, Title 29 of the Delaware Code by adding a new paragraph (6) to read as follows:

"(6) Review and advise the Secretary regarding the Youth Rehabilitative Trust funds."

Approved July 6, 1995

CHAPTER 141

FORMERLY

SENATE BILL NO. 156

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION DEATH BENEFITS.

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

Section 1. Amend §2331, Title 19 of the Delaware Code by deleting "\$700" wherever it appears therein and by substituting in lieu thereof "\$3,500".

Approved July 6, 1995

CHAPTER 142

FORMERLY

SENATE BILL NO. 172

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO DELAWARE TAXES.

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

Section 1. Amend §1124, Title 30 of the Delaware Code by striking the heading thereof in its entirety and substituting in lieu thereof the following new section heading:

"§1124. Income derived from sources in Delaware."

Section 2. Amend §1174(a), Title 30 of the Delaware Code, by striking the reference "§1122" as it appears in said section and substituting in lieu thereof the reference "§1124".

Section 3. Amend §2011(b), Title 30 of the Delaware Code, by striking the date "July 1, 1984" as it appears in paragraph (1) of said subsection and substituting in lieu thereof the phrase "the last day of the taxable year immediately preceding the taxable year in which such qualified facility is placed in service by the taxpayer".

Section 4. Amend §2301, Title 30 of the Delaware Code, by striking subsections (i) through (n) of said section in their entirety.

Section 4. Amend §2701(2), Title 30 of the Delaware Code, by striking the period "." at the end of said subsection and substituting in lieu thereof the following phrase: "but does not include the making, crafting, or painting of art or craft objects by individual artists or craftpersons."

Section 6. Amend §2905(e), Title 30 of the Delaware Code, by striking said subsection in its entirety.

Section 7. Amend §5506(a), Title 30 of the Delaware Code, by striking the reference "§2901(7)d." as it appears therein and substituting in lieu thereof the reference "§2901(7)".

Section 8. Amend Title 30 of the Delaware Code by repealing Chapter 39 of said title in its entirety.

Section 9. Amend §2908, Chapter 29, Title 30, of the Delaware Code by adding thereto a new subsection (j) to read as follows:

"(j) §§2905 and 2906 of this title shall not apply to non-profit organizations exempt from federal income tax under §501(c) of the Internal Revenue Code of 1986 (26 U.S.C. §501(c) as amended."

Section 10. Amend §535(c), Title 30 of the Delaware Code by adding to the end of said subsection the following sentence:

"The term 'person' as used in this subsection, includes an officer or employee of a corporation, or a member or employee of a partnership, who, as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs."

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 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 severable.

Section 12. §§3 and 10 of this Act are intended to express the original intent of the General Assembly with regard to the provisions of law amended by those section. These sections are therefore effective to the fullest extent possible as of the effectiveness of the provisions (or their predecessor provisions) that are amended by such sections. §§5 and 8 shall be effective for tax periods commencing after December 31, 1995. All other provisions of this Act shall be effective upon its enactment into law.

Approved July 6, 1995

CHAPTER 143

FORMERLY

SENATE BILL NO. 190

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 39, TITLE 24 OF THE DELAWARE CODE AND CHAPTERS 88 AND 101, TITLE 29 OF THE DELAWARE CODE RELATING TO THE BOARD OF CLINICAL SOCIAL WORK EXAMINERS

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

Section 1. Amend Chapter 39, Title 24 of the Delaware Code by striking said Chapter in its entirety and substituting the following in lieu thereof:

"Chapter 39. BOARD OF CLINICAL SOCIAL WORK EXAMINERS

§3901. Objectives of the Board.

The primary objective of the Board of Clinical Social Work Examiners, to which all other objectives and purposes are secondary, is to protect the general public (specifically those persons who are direct recipients of services regulated by this Chapter) from unsafe practices, and from occupational practices which tend to reduce competition or fix the price of services rendered. The secondary objectives of the Board are to maintain minimum standards of practitioner competency, and to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop standards assuring professional competency; shall monitor complaints brought against practitioners regulated by the Board; shall adjudicate at formal complaint hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against practitioners.

§3902. 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) 'Board' shall mean the Board of Clinical Social Work Examiners.

(2) 'Clinical social work' shall mean a service in which a special knowledge of social resources, human capabilities and the part unconscious motivation plays in determining behavior is directed at helping people to achieve more adequate, satisfying, productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a non-medical nature with individuals, families and groups.

(3) 'Licensed clinical social worker' shall mean any individual duly licensed under this Chapter.

(4) 'Clinical practice' shall mean the practice of clinical social work for a fee in a setting other than under the auspices of a public or private nonprofit agency exempt from federal income tax under the Internal Revenue Code.

§3903. License required.

No person shall hold himself or herself out to the public as being a licensed clinical social worker qualified for practice as defined in §3907 of this Chapter, or use in connection with his or her name or otherwise assume, use or advertise, any title or description tending to convey the impression that he or she is a licensed clinical social worker unless such person has been duly licensed under this Chapter.

§3904. Board of Clinical Social Work Examiners - Appointment; composition; qualifications; term of office; suspension or removal; compensation.

(a) The Board of Clinical Social Work Examiners shall consist of 7 members appointed by the Governor: Four professional members, who shall be licensed clinical social workers, and 3 public members. To serve on the Board, a public member shall not be, nor ever have been, a clinical social worker, nor a member of the immediate family of a clinical social worker; shall not have been employed by a social work agency; shall not have had a material financial interest in the providing of goods and services to clinical social workers; nor have been engaged in an activity directly related to clinical social work. Such public members shall be accessible to inquiries, comments and suggestions from the general public.

(b) Each member shall serve for a period of 3 years, and may succeed himself or herself for 1 additional term; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only 1 additional full term. Any person appointed to fill a vacancy on the Board shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment, except that each member shall serve until his or her successor is duly appointed.

(c) A person who has never served on the Board may be appointed to the Board 2 consecutive times; but, no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for 6 years within any 9 year period, shall again be appointed to the Board until an interim period of at least 1 term has expired since such person last served.

(d) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, or neglect of duty. A member subject to disciplinary proceedings shall be disqualified from Board business until the charge is adjudicated, or the matter is otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(e) No member of the Board while serving on the Board shall be a president, chairperson or other elected official of a professional association for social workers.

(f) The provisions set forth for employees in Chapter 58 of Title 29 of the Delaware Code, shall apply to all members of the Board, and to all agents appointed or otherwise employed by the Board.

(g) Board members shall be reimbursed for all necessary expenses involved in each meeting, including travel, according to the uniform policy for reimbursement of expenses established by the Division of Professional Regulation; and, in addition, shall receive not more than \$50 for each meeting attended, but not more than \$500 in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

§3905. Same - Officers; meetings; quorum.

(a) In the same month of each year the members shall elect, from among their number, a President, a Vice-President and Secretary. Each officer shall serve for 1 year, and may serve no more than 2 consecutive years in the same office.

(b) The Board shall hold regularly scheduled business meetings at least once in each quarter of a calendar year, and at such other times as the President deems necessary, or at the request of a majority of the Board members.

(c) A majority of members shall constitute a quorum; and no action shall be taken without the affirmative vote of at least 4 members. Any member who fails to attend 3 consecutive meetings, or who fails to attend at least half of all regular business meetings during any calendar year, shall automatically upon such occurrence be deemed to have resigned from office and a replacement shall be appointed.

(d) Minutes of all meetings shall be recorded; and, copies shall be maintained by the Division of Professional Regulation. At any hearing where evidence is presented, 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.

§3906. Same - Powers and duties.

(a) The Board shall have the authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act of this State. Each rule or regulation shall implement or clarify a specific Section of this Chapter;

(2) Designate the application form to be used by all applicants, and to process all applications;

(3) Designate a written national examination, prepared by either the national professional association or by a recognized legitimate national testing service and approved by the Division of Professional Regulation. The examination shall be prepared for testing on a national basis, and not specifically prepared at the request of the Board for its individual use. The national examination shall be taken by persons applying for licensure, except applicants who qualify for licensure by reciprocity;

(4) Provide for the administration of all examinations, including notice and information to applicants;

(5) Evaluate certified records to determine whether an applicant for licensure, who has been previously licensed, certified, or registered in another jurisdiction to practice clinical social work, has engaged in any act or offense that would be grounds for disciplinary action under this Chapter and whether there are disciplinary proceedings or unresolved complaints pending against such applicants for such acts or offenses;

(6) Grant licenses to all persons who meet the qualifications for licensure and/or renewal of licenses;

(7) Establish by rule and regulation continuing education standards required for license renewal;

(8) Refer all complaints from licensees and the public concerning practitioners, or concerning practices of the Board or of the profession, to the Division of Professional Regulation for investigation pursuant to §8810(i) of Title 29 of the Delaware Code; and, assign a member of the Board to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint. Such member shall recuse himself or herself from the deliberations on the complaint;

(8) Determine whether or not a practitioner shall be the subject of a disciplinary hearing; and, if so, to conduct such hearing in accordance with this Chapter and the Administrative Procedures Act;

(9) Conduct hearings and issue orders in accordance with procedures established pursuant to this Chapter, Chapter 101 of Title 29 of the Delaware Code, and §8810, Chapter 88, of Title 29 of the Delaware Code. Where such provisions conflict with the provisions of this Chapter, this Chapter shall govern;

(10) Where it has been determined after a disciplinary hearing, that penalties or sanctions should be imposed, to designate and impose the appropriate sanction or penalty after time for appeal has lapsed;

(11) Bring proceedings in the courts for the enforcement of this Chapter.

§3907. Qualifications of applicants: report to Attorney General: judicial review.

(a) An applicant who is applying for examination and licensure under this Chapter shall submit evidence, verified by oath and satisfactory to the Board, that such person:

(1) has received a doctoral or master's degree in clinical social work from a college or university accredited by the Council on Social Work Education. In addition, the applicant shall submit proof satisfactory to the Board that, subsequent to the receipt of a master's degree from an accredited school of social work, the applicant has acquired 2 years of clinical social work experience acceptable to the Board. The clinical social work experience shall consist of not less than 3,200 hours, at least 1,600 hours of which shall have been under professional supervision acceptable to the Board. Acceptable supervision shall mean supervision by a licensed clinical social worker. When such supervision is not available, the applicant may be supervised by a master's level degree social worker, a licensed psychologist, or a licensed psychiatrist. Persons holding degrees from programs outside the United States or its territories must provide evidence of training and degree equivalent to accredited programs. These applicants are responsible for providing the Board with an educational credential evaluation from an agency or institution recognized by the Board for this purpose; and,

(2) has not engaged in any of the acts or offenses that would be grounds for disciplinary action under this Chapter; has no disciplinary proceedings or unresolved complaints pending against him or her in any jurisdiction where the applicant previously has been, or currently is, licensed to practice clinical social work. Applicants who have been or who currently are licensed to practice clinical social work in another jurisdiction must provide the Board with a certified statement to this effect from the Board, or from a comparable agency of each jurisdiction in which the applicant has ever been licensed to practice clinical social work. Applicants for licensure in this state shall be deemed to have given consent to the release of such information and to waive all objections to the admissibility of such evidence;

(3) shall provide such information as may be required on an application form furnished by the Board. No application form shall require a picture of the applicant; require information relating to citizenship, place of birth, length of state residency; nor require personal references.

(b) Where the Board has found, to its satisfaction, that an application is fraudulent or that false information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

(c) Where the application of a person has been refused or rejected, and such applicant feels that the Board has acted without justification; has imposed higher or different standards for him or her than for other applicants or licensees; or has in some other manner contributed to or caused the failure of such application, the applicant may, within 30 days of such denial, appeal the Board's decision to the Superior Court.

§3908. Examination.

(a) The Board shall administer, in the same month of each year, or at such times as are determined by the American Association of State Social Work Boards (AASSWB), or its successor, a national clinical examination prepared by the American Association of State Social Work Boards, or its successor. Such national written examination shall be obtained from and graded by the American Association of State Social Work Boards, or its successor. There is no limit on the number of times that an applicant may sit for the national examination.

(b) In the event the applicant has already taken and passed the national clinical examination prepared by the American Association of State Social Work Boards, or its successor, the certificate or other evidence of successful completion shall be accepted, and no further state examination shall be necessary.

§3909. Reciprocity.

When an applicant is licensed as a clinical social worker in another state, the Board shall accept proof that the applicant has passed the national clinical examination for clinical social workers. In addition to proof of examination results, the applicant shall meet all the qualifications for licensure under §3907 of this Chapter. The Board shall contact the licensing authority, or comparable agency, in such other jurisdiction(s) which currently or previously has licensed the applicant, and request a certified statement, to determine whether or not there are any disciplinary proceedings or unresolved complaints pending against the applicant. The Board shall also contact the American Association of State Social Work Boards, or its successor, to ascertain if there are any outstanding or ongoing disciplinary actions and/or ethical violations against the applicant. In the event that a disciplinary proceeding or unresolved complaint is pending, the applicant shall not be licensed in Delaware until the proceeding or complaint has been resolved. Applicants to practice licensed clinical social work in this state shall be deemed to have given consent to the release of such information and to waive all objections to the admissibility of such evidence. Applications for licensure shall be accompanied by payment of the application fee.

§3910. Fees.

The amount to be charged for each fee imposed under this Chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of the Board as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board. There shall be a separate fee charged for each service or activity; but, no fee shall be charged for a purpose not specified in this Chapter. The application fee shall not be combined with any other fee or charge. At the beginning of each calendar year the Division of Professional Regulation, or any other state agency acting in its behalf, shall compute, for each separate service or activity, the appropriate Board fees for the coming year.

§3911. Issuance of license; renewal; inactive status; reinstatement.

(a) The Board shall issue a license to each applicant who meets the requirements of this Chapter for licensure as a clinical social worker and who pays the fee established under §3910 of this Chapter.

(b) Each license shall be renewed biennially, in such a manner as is determined by the Division of Professional Regulation, and upon payment of the appropriate fee and submission of a renewal form provided by the Division of Professional Regulation, and proof that the licensee has met the continuing education requirements established by the Board. The license will expire on January 1 of the renewal year. A late fee shall be set by the Division of Professional Regulation. If a practitioner fails to renew his or her license in 1 year from the renewal date, the practitioner must re-apply for licensure.

(c) Any licensee, upon written request, may be placed in an inactive status for up to 1 year. The Board may extend the inactive status for additional 1 year periods upon written request of the licensee. The renewal fee of a licensee on inactive status

will be prorated in accordance with the amount of time a person is on inactive status. The licensee may re-enter practice after written notification to the Board of his or her intent to do so and after satisfying all the continuing education requirements and paying the appropriate renewal fee.

(d) A former licensee, whose license has been revoked, and who subsequently is permitted to apply for reinstatement, shall apply for a new license, and shall successfully complete the national clinical examination and shall pay all appropriate fees.

§3912. Continuing Education.

The Board shall require licensees to complete at least 45 continuing education hours for each biennial licensing period. Continuing education may consist of, but not be limited to, additional professional development in the field of clinical social work, including attendance at workshops, seminars, lectures, and preparation of a first-time clinical course.

§3913. Privileged Communications.

No licensed clinical social worker may disclose any information acquired from persons consulting him or her in a professional capacity except:

(1) With the written consent of such person; or in the case of death or disability, the written consent of such person's personal representative;

(2) That a licensed clinical social worker shall not be required to treat as confidential a communication that reveals the planning of any violent crime or act;

(3) That any licensed clinical social worker who knows or reasonably suspects child abuse or neglect shall make a report to the Division of Child Protective Services of the Department of Services for Children, Youth and Their Families according to §904, Title 16 of the Delaware Code;

(4) When the person waives the privilege by bringing charges against the licensed clinical social worker.

§3914. Complaints.

(a) A practitioner or member of the public desiring to file a complaint against a practitioner or licensee regulated by the Board shall file a written complaint with the Division of Professional Regulation. All complaints shall be received and investigated by the Division of Professional Regulation in accordance with the procedures as specified in §8810(l) of Title 29 of the Delaware Code. The Division shall be responsible for issuing a final written report at the conclusion of the investigation.

§3915. Grounds for Discipline: procedure.

(a) Practitioners regulated under this Chapter shall be subject to those disciplinary actions set forth in §3916 of this Chapter if, after a hearing, the Board finds that the practitioner:

(1) has employed or knowingly cooperated in fraud or material deception in order to be licensed as a clinical social worker; has impersonated another person holding a license, or allowed another person to use his or her license, or aided or abetted a person not licensed as a clinical social worker to represent himself or herself as a clinical social worker;

(2) has illegally, incompetently or negligently practiced clinical social work;

(3) has excessively used or abused drugs either in the past or currently; excessive use or abuse of drugs shall mean any use of narcotics, controlled

substances, or illegal drugs without a prescription from a licensed physician, or the abuse of alcoholic beverage such that it impairs his or her ability to perform the work of a clinical social worker;

(4) has been convicted of a felony or any offense which would limit the ability of the practitioner to carry out his or her professional duties with due regard for the health and safety of clients;

(5) has violated a lawful provision of this Chapter, or any lawful regulation established thereunder;

(6) has had his or her license, certification, or registration as a clinical social worker suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute one or more of the acts defined in this Chapter. Every person licensed as a clinical social worker in this state shall be deemed to have given consent to the release of this information by the Board of Clinical Social Work Examiners or other comparable agencies in another jurisdiction and to waive all objections to the admissibility of previously adjudicated evidence of such acts or offenses;

(7) has failed to notify the Board that his or her license as a clinical social worker in another state has been subject to discipline, or has been surrendered, suspended or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.

(b) Where a practitioner fails to comply with the Board's request that he or she attend a hearing, the Board may petition the Superior Court to order such attendance, and the said Court or any judge assigned thereto shall have jurisdiction to issue such order.

(c) Subject to the provisions of this Chapter and Subchapter IV of Chapter 101, Title 29 of the Delaware Code, no license shall be restricted, suspended or revoked by the Board, and no practitioner's right to practice shall be limited by the Board, until such practitioner has been given notice and an opportunity to be heard in accordance with the Administrative Procedures Act.

§3916. Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that any of the conditions or violations set forth in §3915 of this Chapter applies to a practitioner regulated by this Chapter:

(1) Issue a letter of reprimand;

(2) Censure a practitioner;

(3) Place a practitioner on probationary status, and require the practitioner to:

a. Report regularly to the Board upon the matters which are the basis of the probation;

b. Limit all practice and professional activities to those areas prescribed by the Board; and/or

c. Continue or renew his or her professional education until the required degree of skill has been attained in those areas which are the basis of the probation;

(4) Suspend any practitioner's license;

(5) Revoke a practitioner's license.

(b) The Board may withdraw or reduce conditions of probation when it finds that the deficiencies which required such action have been remedied.

(c) The Board may temporarily suspend a practitioner's license in advance of a final adjudication, during the appeals process, but only in cases where there is a clear and immediate danger to the health, safety and welfare of the public if the licensee is allowed to continue to practice. Such suspension may be appealed in accordance with the Administrative Procedures Act.

(d) Where a license has been suspended due to a disability of the licensee, the Board, at a Board meeting, may reinstate such license if the Board is satisfied that the licensee is able to practice with reasonable skill and safety.

(e) As a condition of reinstatement of a suspended license, or removal from probationary status, the Board may impose such disciplinary or corrective measures as are authorized under this Chapter.

§3917. Hearing procedures.

(a) If a complaint is filed with the Board pursuant to §8810(i) of Title 29 of the Delaware Code, alleging violation of §3915 of this Chapter, the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29 of the Delaware Code.

(b) All hearings shall be informal without use of rules of evidence. If the Board finds, by a majority vote of all members, that the complaint has merit, the Board shall take such action permitted under this Chapter as it deems necessary. The Board's decision shall be in writing and shall include its reasons for such decision. The Board's decision shall be mailed immediately to the practitioner.

(c) Where the practitioner is in disagreement with the action of the Board, he or she may appeal the Board's decision to the Superior Court within 30 days of service, or of the postmarked date of the copy of the decision mailed to him or her. Upon such appeal the Court shall hear the evidence on the record. Stays shall be granted in accordance with §10144 of Title 29 of the Delaware Code.

§3918. Penalties.

(a) Where the Board has reason to believe that a person is practicing clinical social work within this State without having lawfully obtained a license, or that a person previously licensed under this Chapter is engaged in a practice regulated by this Chapter, notwithstanding that his or her license has been suspended or revoked, the Board shall submit a written complaint to the Division of Professional Regulation for investigation. If the investigation confirms such unlawful practice, the Board shall formally warn such person. If the offense continues, the Board shall make a formal complaint to the Attorney General and may issue a cease and desist order. The complaint and/or order shall include all evidence known to, or in the possession of, the Board.

(b) Where the Board has placed a practitioner on probationary status under certain restrictions or conditions, and the Board has determined that such restrictions or conditions are being or have been violated by the practitioner, the Board, after a hearing on the matter, may suspend or revoke the practitioner's license.

(c) Where a person not currently licensed as a clinical social worker under this Chapter is convicted of unlawfully practicing clinical social work in violation thereof, such offender, upon the first offense, shall be fined not less than \$500.00 nor more than

\$1,000 for each offense, and the offender shall pay all costs. Each day a violation continues shall constitute a separate offense. The Court shall order all client fees received for unlawful service to be refunded.

(1) Justices of the peace in the county in which the offense is alleged to have occurred shall have jurisdiction over any violation of this Chapter.

(2) Any person convicted of any such offense before a justice of the peace or in any court of competent jurisdiction, other than the Superior Court, may appeal to the Superior Court in the county in which the conviction was had upon giving bond in the sum of \$200 to this State with surety satisfactory to such justice or trial court; provided, however, that the appeal is taken and bond given within 7 days from the time of the conviction.

(e) A violation of this Chapter shall be cause for revocation of any license issued thereunder, notwithstanding that the same violation may constitute a misdemeanor or felony."

Section 2. Amend paragraph (24), subsection (a), §8810, Title 29 of the Delaware Code by striking said subsection and substituting the following in lieu thereof:

"(24) Board of Clinical Social Work Examiners, as set forth in Chapter 39 of Title 24;"

Section 3. Amend subsection (15), §10161, Chapter 101, Title 29 of the Delaware Code by striking said subsection and substituting the following in lieu thereof:

"(15) Board of Clinical Social Work Examiners;"

Section 4. Members of the Board of Clinical Social Work Examiners currently serving will continue to serve until the expirations of their terms.

Approved July 6, 1995

CHAPTER 144

FORMERLY

SENATE BILL NO. 203

AN ACT TO AMEND CHAPTER 17, TITLE 24 OF THE DELAWARE CODE RELATING TO THE BOARD OF MEDICAL PRACTICE.

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

Section 1. Amend Chapter 17, Title 24 of the Delaware Code by adding a new §1731B, which new Section shall read as follows:

"§1731B. Counseling.

(a) If the Executive Director and the President of the Board determine after the investigation that there has been a violation of this Chapter or regulations enacted pursuant to this Chapter, but that such violation does not warrant a formal disciplinary action under §1734 of this Chapter, the Executive Director and the President may decide to counsel the physician regarding the violation. The Executive Director shall notify the physician of his or her findings and of the decision not to proceed by formal disciplinary action. Such notification shall explain the findings of the Executive Director and shall request the presence of the physician at a counseling session. During the counseling session the Executive Director or President shall discuss the violation with the physician as well as any necessary plans of correction.

(b) Attendance at a counseling session shall be voluntary; but, if the physician fails to be counseled or fails to take the corrective action specified by the Executive Director and President, the Executive Director's notification letter shall be conclusive evidence that such violation occurred and may be used in a subsequent hearing regarding the physician unless challenged by the physician. In the event any physician challenges the findings of the Executive Director, such physician shall be entitled to a hearing in accordance with §1734 of this Chapter as to whether such violations occurred. In the event the physician requests a hearing, the hearing shall be conducted as a disciplinary hearing under §1734 of this Chapter.

(c) The counseling under this Section shall not be considered disciplinary action; and, provided the physician attends and complies with any corrective action required by the Executive Director, the fact of such counseling shall not be considered disciplinary action nor may it be used in considering disciplinary sanctions in any future hearing unrelated to the incident for which the physician is counseled unless such future incident involves the same or similar allegation(s) as that for which the physician was counseled hereunder."

Approved July 6, 1995

CHAPTER 145

FORMERLY

SENATE BILL NO. 211

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO RADIOACTIVE WASTE.

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

Section 1. Amend §7417, Title 16 of the Delaware Code by renaming subsection "c" as subsection "d" and by deleting subsection "(b)" and replacing said subsection with new subsections "(b)" and "(c)" to read as follows:

"(b) No high-level waste material shall be held in temporary storage for longer than five (5) years.

(c) No low-level radioactive waste material shall be held in temporary storage for longer than ten (10) years."

Approved July 6, 1995

CHAPTER 146

FORMERLY

SENATE BILL NO. 104

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO CUSTODY DISPUTES BETWEEN A NATURAL PARENT AND A STEPPARENT UPON THE DEATH OR DISABILITY OF THE CUSTODIAL OR PRIMARY PLACEMENT PARENT.

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

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

"733. Stepparent Custody in Certain Circumstances.

Notwithstanding that there is a surviving natural parent, upon the death or disability of the custodial or primary placement parent, the Court, at the request of the stepparent shall continue the placement of the child(ren) with the stepparent pending a hearing on the merits, provided the child(ren) has resided with the stepparent immediately prior to the death or disability of the custodial or primary placement parent. Where the child(ren) has so resided with the stepparent the Court shall apply the provisions of §722 of this Chapter and may grant permanent custody or primary physical placement to the stepparent. If the Court grants custody or primary placement of the child(ren) to the stepparent, the stepparent shall have all of the rights and obligations of a parent until such time as he/she no longer has custody or primary placement of the child(ren)."

Approved July 6, 1995

CHAPTER 147

FORMERLY

HOUSE BILL NO. 183

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 16, 18, 21, 24, 28, AND 29 OF THE DELAWARE CODE, TO PROVIDE THAT POWERS AND DUTIES VESTED IN THE STATE BOARD OF HEALTH SHALL NOW BE VESTED IN THE DIVISION OF PUBLIC HEALTH, ITS DIRECTOR OR DESIGNEE UNDER THE DIRECTION AND CONTROL OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

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

Section 2. Amend Subsection (a), § 144, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 3. Amend Subsection (a), § 144, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "the Director of the Division of Public Health or his designee" in lieu thereof.

Section 4. Amend Subsection (a), § 190, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Director of the Division of Public Health" in lieu thereof.

Section 5. Amend Subsection (b), § 190, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 6. Amend Subsection (a), § 505, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Director of the Division of Public Health or his designee" in lieu thereof.

Section 7. Amend Subsection (c), § 1202A, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 8. Amend § 1204A, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 9. Amend § 1205A, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 10. Further amend § 1205A, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 11. Amend Subsection (a), § 2801, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 12. Further amend Subsection (a), § 2801, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 13. Amend § 7901, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 14. Amend § 7903, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 15. Amend § 7904, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 16. Further amend § 7904, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 17. Amend § 7905, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 18. Amend Subsection (a), § 7906, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 19. Amend Subsection (a), § 7907, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 20. Amend Subsection (b), § 7907, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 21. Amend Subsection (a), § 7910, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 22. Amend § 7931, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 23. Amend Paragraph (9), § 9802, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that paragraph and inserting the phrase "Division of Public Health" in lieu thereof.

Section 24. Amend Paragraph (4), Subsection (a), § 9803, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that paragraph and inserting the phrase "Division of Public Health" in lieu thereof.

Section 25. Amend § 7904, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 26. Amend Paragraph (1), Subsection (c), § 3552, Title 18 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Director of the Division of Public Health or his designee" in lieu thereof.

Section 27. Amend Subsection (a), § 2723, Title 21 of the Delaware Code by striking the phrase "Executive Secretary of the State Board of Health" as it appears in that subsection and inserting the phrase "Director of the Division of Public Health" in lieu thereof.

Section 28. Amend Subsection (c), § 1770, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Director of the Division of Public Health" in lieu thereof.

Section 29. Amend § 926, Title 28 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Approved July 7, 1995

CHAPTER 148

FORMERLY

HOUSE BILL NO. 184

AN ACT TO AMEND § 7904, CHAPTER 79, TITLE 29 OF THE DELAWARE CODE, TO ESTABLISH THE DIVISION OF PUBLIC HEALTH UNDER THE DIRECTION AND CONTROL OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND TO STATE THE MISSION OF THE DIVISION.

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

Section 1. Amend § 7904, Title 29 of the Delaware Code, by striking said section in its entirety and inserting the following in lieu thereof:

"§ 7904. Division of Public Health; Department of Health and Social Services.

(a) There is hereby established the Division of Public Health under the direction and control of the Secretary of the Department of Health and Social Services for the purpose of protecting and promoting the health of the people.

(b) 'Core public health and preventive services' as used in this section are those activities that lay the groundwork for health communities. They are activities that protect people from diseases and injury. They include activities that: (i) prevent and control communicable disease epidemics; (ii) promote healthy behaviors to control chronic disease; (iii) monitor the health of the population through data analysis and epidemiological studies; (iv) result in policies to promote the health of the public; (v) assure quality health services and systems for the population; (vi) result in the setting of standards for the protection of the public's health; (vii) provide assistance during disasters; (viii) assess environmental health risks; and (ix) offer health protection strategies to environmental control agencies.

(c) The mission of the Division is to protect and promote the health of the people. The Division's responsibilities include the following:

(1) Monitor and assess the health status of the population of the State.

(2) Use scientific knowledge as the basis to promote public policy to protect the health of the people.

(3) Perform duties and functions as may be necessary to assure the protection of the public's health.

(d) The Division shall provide core public health and preventive services that include the following:

(1) Advocate for and facilitate a strong public health delivery system that assures all Delaware citizens have access to core public health and preventive services.

(2) Serve as the focal point in bringing together public and private entities to create public health objectives and strategies for Delaware.

(3) Facilitate and support community efforts, including the creation of public/private partnerships, for the prevention of disease and injury and the promotion of health.

(4) Monitor the health of the population through the collection and analysis of data on health status, including epidemiological and other studies of health problems.

(5) Develop and provide information on the prevention and control of health problems affecting the population, including environmentally-related illness, communicable disease, chronic disease, injury and such other problems as may affect the public's health.

(e) The Secretary of the Department of Health and Social Services shall 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 public health, unless the receipt and disbursement of such funds is otherwise provided by law.

(f) The Director of the Division shall be the State Health Officer and State Registrar of Vital Statistics and shall have the power to perform and shall be responsible for the performance of all of the powers, duties and functions as delegated to him by the Secretary of the Department of Health and Social Services."

Approved July 7, 1995

CHAPTER 149

FORMERLY

HOUSE BILL NO. 195

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 7, 9, 11, 13, 16, 18, 21, 24, 26, 29, AND 31 OF THE DELAWARE CODE TO PROVIDE THAT CERTAIN POWERS AND DUTIES VESTED IN THE BOARD OF HEALTH SHALL NOW BE VESTED IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, ITS SECRETARY OR HIS DESIGNEE.

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

Section 1. Amend Subsection (b), § 772, Title 7 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services or his designee" in lieu thereof.

Section 2. Amend Subsection (a), § 6077, Title 7 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 3. Amend Subsection (b), § 7124, Title 7 of the Delaware Code by striking the phrase "county board of health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 4. Amend Subsection (a), § 4813, Title 9 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 5. Amend Paragraph (1), Subsection (a), § 6803, Title 9 of the Delaware Code by striking the phrase "an appointee of the State Board of Health" as it appears in that paragraph and inserting the phrase "Secretary of the Department of Health and Social Services or his designee" in lieu thereof.

Section 6. Amend Subsection (a), § 6814, Title 9 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 7. Amend § 8324, Title 11 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 8. Amend § 108, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 9. Amend Subsection (a), § 113, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 10. Amend Subsection (e), § 113, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 11. Amend § 114, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 12. Amend § 115, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 13. Amend Subsection (a), § 116, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 14. Amend § 117, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 15. Amend § 119, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 16. Amend Subsection (a), § 122, Title 13 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 17. Amend § 101, Title 16 of the Delaware Code by striking said section in its entirety and inserting the following in lieu thereof: "§ 101. Definitions. As used in this title, unless otherwise provided or the context requires a different meaning:

- (1) 'Department' means the Department of Health and Social Services.
- (2) 'Secretary' means the Secretary of the Department of Health and Social Services or such persons as may be designated by the Secretary.
- (3) 'Division' means the Division of Public Health.
- (4) 'Director' means the Director of the Division of Public Health, or such persons as may be designated by the Director.
- (5) '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
- (6) 'Peace Officer' means any public officer authorized by law to make arrests in a criminal case."

Section 18. Amend § 104, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 19. Amend Subsection (b), § 105, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 20. Amend § 106, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department or Division" in lieu thereof.

Section 21. Amend § 106, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department or Division" in lieu thereof.

Section 22. Amend § 107, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department or Division" in lieu thereof.

Section 23. Amend § 107, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 24. Amend Subsection (a), § 123, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 25. Amend § 123, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 26. Amend § 123, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 27. Amend § 124, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 28. Amend Subsection (a), § 125, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 29. Amend Subsection (b), § 125, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 30. Amend Subsection (b), § 125, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 31. Amend Subsection (a), § 126, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 32. Amend Subsection (b), § 126, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services or his designee" in lieu thereof.

Section 33. Amend Subsection (c), § 126, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 34. Amend Subsection (a), § 127, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 35. Amend § 128, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 36. Amend Subsection (a), § 128, Title 16 of the Delaware Code by striking the phrase "advisory board" as it appears in that subsection and inserting the phrase "advisor" in lieu thereof.

Section 37. Amend Subsection (b), § 128, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services or his designee" in lieu thereof.

Section 38. Amend § 129, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 39. Amend § 129, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department or Division" in lieu thereof.

Section 40. Amend Subsection (a), § 129, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the word "Secretary" in lieu thereof.

Section 41. Amend Subsection (a), § 130, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services or his designee" in lieu thereof.

Section 42. Amend Subsection (b), § 130, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the word "Secretary" in lieu thereof.

Section 43. Amend Subsection (a), § 131, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Secretary or their designee" in lieu thereof.

Section 44. Amend Subsection (b), § 131, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 45. Amend § 132, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Secretary or their designee" in lieu thereof.

Section 46. Amend Subsection (a), § 133, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 47. Amend Subsection (b), § 133, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 48. Amend Subsections (a) and (b) § 134, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 49. Amend Subsection (c), § 134, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 50. Amend Subsection (b), § 135, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 51. Amend § 141, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 52. Amend § 143, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 53. Amend Subsection (b), § 144, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 54. Amend § 151, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 55. Amend § 153, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 56. Amend § 155, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 57. Amend § 156, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 58. Amend § 161, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 59. Amend § 162, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 60. Amend § 163, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 61. Amend § 163, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 62. Amend § 164, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 63. Amend § 164, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 64. Amend § 165, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 65. Amend § 166, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 66. Amend Paragraph (4), § 167, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 67. Amend § 171, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Director or their designee" in lieu thereof.

Section 68. Amend § 172, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 69. Amend § 173, Title 16 of the Delaware Code by striking the words "Board" as it appears in that section and inserting the phrases "Secretary or his designee" in lieu thereof.

Section 70. Amend § 181, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 71. Amend § 182, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 72. Amend § 183, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 40. Amend Subsection (a), § 129, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the word "Secretary" in lieu thereof.

Section 41. Amend Subsection (a), § 130, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services or his designee" in lieu thereof.

Section 42. Amend Subsection (b), § 130, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the word "Secretary" in lieu thereof.

Section 43. Amend Subsection (a), § 131, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Secretary or their designee" in lieu thereof.

Section 44. Amend Subsection (b), § 131, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 45. Amend § 132, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Secretary or their designee" in lieu thereof.

Section 46. Amend Subsection (a), § 133, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Division of Public Health" in lieu thereof.

Section 47. Amend Subsection (b), § 133, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 48. Amend Subsections (a) and (b) § 134, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 49. Amend Subsection (c), § 134, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 50. Amend Subsection (b), § 135, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 51. Amend § 141, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 52. Amend § 143, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 53. Amend Subsection (b), § 144, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 54. Amend § 151, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 55. Amend § 153, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 56. Amend § 155, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 57. Amend § 156, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 58. Amend § 161, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 59. Amend § 162, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 60. Amend § 163, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 61. Amend § 163, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 62. Amend § 164, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 63. Amend § 164, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 64. Amend § 165, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 65. Amend § 166, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 66. Amend Paragraph (4), § 167, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 67. Amend § 171, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Director or their designee" in lieu thereof.

Section 68. Amend § 172, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 69. Amend § 173, Title 16 of the Delaware Code by striking the words "Board" as it appears in that section and inserting the phrases "Secretary or his designee" in lieu thereof.

Section 70. Amend § 181, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 71. Amend § 182, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 72. Amend § 183, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 73. Amend Subsection (a), § 501, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 74. Amend § 502, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 75. Amend § 503, Title 16 of the Delaware Code by striking the phrase "the Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 76. Amend § 504, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Division of Public Health" in lieu thereof.

Section 77. Amend § 506, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 78. Amend Subsection (a), § 701, Title 16 of the Delaware Code by striking the phrases "State Board of Health" as it appears in that subsection and inserting the phrases "Department of Health and Social Services" in lieu thereof.

Section 79. Amend § 702, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 80. Amend § 702, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 81. Amend § 707, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 82. Amend § 708, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 83. Amend Subsection (b), § 708, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 84. Amend § 712, Title 16 of the Delaware Code by striking the word "State" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 85. Amend Subsection (a), § 713, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 86. Amend Subsection (a), § 803, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 87. Amend § 1001, Title 16 of the Delaware Code by deleting Paragraph (4) thereof in its entirety.

Section 88. Amend § 1004, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 89. Amend § 1005, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 90. Amend § 1006, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 91. Amend Subsection (c), § 1006, Title 16 of the Delaware Code by deleting therefrom the words "with the advice of the Hospital Advisory Council."

Section 92. Amend § 1007, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 93. Amend § 1008, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 94. Amend § 1009, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 95. Amend § 1012, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 96. Amend § 1013, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 97. Amend § 1014, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 98. Amend § 1016, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 99. Amend § 1017, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 100. Amend § 1104, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 101. Amend § 1106, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 102. Amend Subsection (a), § 1107, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 103. Amend Subsection (b), § 1107, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services or his designee" in lieu thereof.

Section 104. Amend § 1109, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 105. Amend Subsection (f), § 1141, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services or his designee" in lieu thereof.

Section 106. Amend Subsection (f), § 1141, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Secretary or his designee" in lieu thereof.

Section 107. Amend § 1421, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 108. Amend Subsection (a), § 1501, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 109. Amend § 1502, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 110. Amend § 1503, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 111. Amend § 1504, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 112. Amend § 1505, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 113. Amend § 1506, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 114. Amend § 1507, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 115. Amend § 1701, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 116. Amend § 1701, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 117. Amend § 1702, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 118. Amend § 1703, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 119. Amend Paragraph (4), § 2002, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 120. Amend § 2006, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 121. Amend Subsection (a), § 2006, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 122. Amend Paragraph (3), § 2102, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 123. Amend Subsection (a), § 2103, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 124. Amend 2103, Title 16 of the Delaware Code by striking the phrase "State Board " as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof

Section 125. Amend § 2104, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 126. Amend Paragraph (2), § 2105, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 127. Amend § 2107, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 128. Amend § 2110, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 129. Amend § 2110, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 130. Amend § 2111, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 131. Amend Subsection (a), § 2111, Title 16 of the Delaware Code by striking the phrase "State Board " as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 132. Amend § 2112, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 133. Amend § 2112, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof

Section 134. Amend § 2114, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 135. Amend Subsection (a), § 2303, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 136. Amend Subsection (b), § 2303, Title 16 of the Delaware Code by striking the phrase "State Board " as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 137. Amend § 3101, Title 16 of the Delaware Code by striking Paragraph (11) thereof in its entirety.

Section 138. Amend § 3102, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof

Section 139. Amend § 3103, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 140. Amend Subsection (b), § 3104, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the word "Department" in lieu thereof.

Section 141. Amend Paragraph (4), Subsection (a), § 3105, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that paragraph and inserting the word "Department" in lieu thereof.

Section 142. Amend Subsection (b), § 3107, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department" in lieu thereof.

Section 143. Amend Subsection (a), § 3108, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department" in lieu thereof.

Section 144. Amend § 3110, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department" in lieu thereof.

Section 145. Amend Subsection (d), § 3154, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that subsection and inserting the phrase "Department" in lieu thereof.

Section 146. Amend § 3156, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department" in lieu thereof.

Section 147. Amend § 3158, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department" in lieu thereof.

Section 148. Amend Subsection (a), § 3207, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 149. Amend § 3315, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 150. Amend Subsection (c), § 3315, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 151. Amend § 3323, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 152. Amend § 3501, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 153. Amend § 3502, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 154. Amend § 3502, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 155. Amend § 3503, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 156. Amend § 3503, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 157. Amend § 3504, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 158. Amend § 3507, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 159. Amend § 3507, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 160. Amend § 3508, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 161. Amend § 3509, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 162. Amend § 3509, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 163. Amend § 3511, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 164. Amend § 3512, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 165. Amend § 3513, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 166. Amend § 3702, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 167. Amend § 3703, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 168. Amend § 3703, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 169. Amend Subsection (a), § 3704, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 170. Amend § 3706, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 171. Amend Subsection (a), § 3707, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 172. Amend Subsection (c), § 3707, Title 16 of the Delaware Code by striking the phrase "State Board " as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 173. Amend § 3708, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 174. Amend § 3708, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 175. Amend § 3709, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 176. Amend § 3711, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 177. Amend Subsection (a), § 4301, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 178. Amend § 4301, Title 16 of the Delaware Code by striking the phrase "State Board " as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 179. Amend § 4303, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 180. Amend § 4303, Title 16 of the Delaware Code by striking the phrase "State Board " as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 181. Amend § 4304, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 182. Amend Subsection (a), § 4308, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 183. Amend Subsection (c), § 4308, Title 16 of the Delaware Code by striking the phrase "State Board " as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 184. Amend § 4309, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 185. Amend § 4309, Title 16 of the Delaware Code by striking the phrase "State Board" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 186. Amend § 4310, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 187. Amend Paragraph (5), § 4311, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 188. Amend § 4312, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 189. Amend § 4312, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 190. Amend § 4313, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 191. Amend § 4504, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 192. Amend § 4505, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 193. Amend Subsection (d), § 4505, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 194. Amend § 4506, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 195. Amend § 4507, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 196. Amend § 4509, Title 16 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 197. Amend § 4903, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 198. Amend Subsection (h), § 7404, Title 16 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 199. Amend § 9002, Title 16 of the Delaware Code by deleting Paragraph (7) thereof in its entirety.

Section 200. Amend § 9003, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 201. Amend § 9004, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the word "Department" in lieu thereof.

Section 202. Amend Subsection (a), § 9005, Title 16 of the Delaware Code by striking the word "Board" as it appears in that subsection and inserting the word "Department" in lieu thereof.

Section 203. Amend Paragraph (5), Subsection (e), § 3336, Title 18 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 204. Amend Paragraph (5), Subsection (e), § 3553, Title 18 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 206. Amend Subsection (b), § 2724, Title 21 of the Delaware Code by striking the phrase "Executive Secretary of the State Board of Health" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 207. Amend Subsection (c), § 2724, Title 21 of the Delaware Code by striking the phrase "Executive Secretary" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 208. Amend Paragraph (1), § 1121, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 209. Amend § 1503, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 210. Amend § 1624, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 211. Amend Subsection (c), § 1790, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 212. Amend Subparagraph (h), Paragraph (7), Subsection 2113, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subparagraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 213. Amend § 2533, Title 24 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 214. Amend Subsection (a), § 2535, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 215. Amend Subsection (a), § 2544, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 216. Amend Paragraph (1), Subsection (b), § 2553, Title 24 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 217. Amend Subsection (a), § 219, Title 26 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 218. Amend § 6436, Title 29 of the Delaware Code by striking the phrase "Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 220. Amend § 7903, Title 29 of the Delaware Code by adding thereto a new paragraph to read: "(14) 'The Secretary shall be the successor to the State Board of Health exercising the powers and duties granted the Board by Title 16 or §7904 or Title 29 of the Delaware Code, which are not inconsistent with the laws of this State.'"

Section 221. Amend § 2820, Title 31 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 222. Amend § 2821, Title 31 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that section and inserting the phrase "Department of Health and Social Services" in lieu thereof.

Section 223. Amend Paragraph (2), § 4, Chapter 463, Volume 64 of the Delaware Laws, by striking the phrase "State Board of Health" as it appears in that paragraph and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 224. Amend §7904(a), Title 29 of the Delaware Code by striking the phrase "State Board of Health" as it appears in that subsection and inserting the phrase "Secretary of the Department of Health and Social Services" in lieu thereof.

Section 225. Amend Chapter 1, Title 16 of the Delaware Code by deleting the title of said chapter and substituting in lieu thereof the words "Department of Health and Social Services."

Section 226. Amend subsection (d), §134, Title 16 of the Delaware Code by striking the word "Board" as it appears in that section and inserting the phrase "Department of Health and Social Services in connection with its duties hereunder."

Section 227. Repealing Clause - All prior laws and parts of prior laws in conflict herewith are hereby repealed to the extent of such conflict.

Section 228. 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 7, 1995

CHAPTER 150

FORMERLY

HOUSE BILL NO. 318

AN ACT TO AMEND TITLES 16 AND 29 OF THE DELAWARE CODE, TO PROVIDE THAT POWERS AND DUTIES VESTED IN THE DIVISION OF PHYSICAL HEALTH SHALL NOW BE VESTED IN THE DIVISION OF PUBLIC HEALTH, ITS DIRECTOR OR DESIGNEE UNDER THE DIRECTION AND CONTROL OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

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

Section 1. Amend § 122, Title 16 of the Delaware Code by deleting the phrase "Physical Health" wherever such phrase appears therein and substituting in lieu thereof the phrase "Public Health".

Section 2. Amend § 124, Title 16 of the Delaware Code by deleting the phrase "Physical Health" as it appears in the first sentence thereof and substituting in lieu thereof the phrase "Public Health".

Section 3. Amend § 152, Title 16 of the Delaware Code by deleting the phrase "Physical Health" as it appears in the first sentence thereof and substituting in lieu thereof the phrase "Public Health".

Section 4. Amend § 154, Title 16 of the Delaware Code by deleting the phrase "Physical Health" as it appears in the first sentence thereof and substituting in lieu thereof the phrase "Public Health".

Section 5. Amend § 1802, Title 16 of the Delaware Code by deleting the phrase "Physical Health" wherever such phrase appears therein and substituting in lieu thereof the phrase "Public Health".

Section 6. Amend § 1804, Title 16 of the Delaware Code by deleting the phrase "Physical Health" as it appears in the first sentence thereof and substituting in lieu thereof the phrase "Public Health".

Section 7. Amend § 7922(2), Title 29 of the Delaware Code by deleting the phrase "Physical Health" and substituting in lieu thereof the words "Public Health".

Approved July 7, 1995

CHAPTER 151

FORMERLY

SENATE BILL NO. 151

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE TO PROVIDE FOR
VOLUNTARY ALTERNATIVE DISPUTE RESOLUTION.

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

Section 1. Title 6 of the Delaware Code is amended by adding thereto a new Chapter 77 to
read as follows:

"CHAPTER 77: VOLUNTARY ALTERNATIVE DISPUTE RESOLUTION

§7701. Short Title; Purpose.

(a) This chapter shall be known and may be cited as the 'Delaware Voluntary
Alternative Dispute Resolution Act.'

(b) The purposes of the Delaware Voluntary Alternative Dispute Resolution Act are
to provide a means to resolve business disputes without litigation and to permit parties to
agree, prior to any disputes arising between them, to utilize alternative dispute resolution
techniques if a dispute occurs. An interpretation of the provisions of this chapter shall seek
to achieve these purposes.

§7702. Definitions.

As used in this chapter, unless the context other-wise requires:

(a) 'ADR' means the alternative dispute resolution method provided for by this
chapter unless the parties to a dispute adopt by written agreement some other method of
ADR in which event 'ADR' shall refer to the method they adopt.

(b) A 'dispute subject to ADR' means any dispute that (1) involves at least \$100,000
in contention, and (2) is not a summary proceeding under 8 Del.C. Section 211, 215, 220 or
225.

(c) 'ADR Specialist' means an individual who has the qualifications provided for in
Section 7708 of this chapter to conduct an ADR proceeding.

(d) 'Person' means any individual, corporation, association, partnership,
business trust, limited liability company or other entity whether or not organized for profit.

§7703. How ADR is Selected.

(a) Any person, by filing the certificate provided for in Section 7704, shall be
deemed to have agreed to submit all disputes subject to ADR to the ADR provided for by
this chapter. Upon the filing of such certificate, the filer shall be bound by the provisions of
this chapter until a certificate of revocation has become effective under Section 7707.

(b) In addition to persons covered by subparagraph (a), any person who enter
into a written agreement with a person who has filed the certificate provided for in Section
7704 when such agreement incorporates (by reference or otherwise) the ADR requirements
of this chapter will be bound by the ADR requirements of this chapter with regard to
disputes arising out of the subject matter of such written agreement. For purposes of

compliance with this provision, it shall be sufficient for such writing to state: 'The undersigned hereby agree to be bound by the provisions of the Delaware Voluntary Alternative Dispute Resolution Act with respect to any dispute which arises out of the subject matter of this agreement.'

§7704. Contents of Certificate.

(a) The certificate of agreement to submit to ADR shall set forth (1) the name of the person filing the certificate, (2) the address of such person (which shall include the street, number, city and state) at which it shall be given notice of any dispute, and (3) the agreement of such person that by filing the certificate that person is bound to follow the provisions of this chapter and submits to the power of any court with jurisdiction over it to require it to participate in ADR with any other person who invokes the provisions of this chapter for any dispute subject to ADR.

(b) Any provision in a certificate that purports to limit the disputes that are subject to ADR shall be of no force or effect.

§7705. Place of Filing.

(a) The certificate accepting ADR shall be filed with the Secretary of State of the State of Delaware and shall be executed and acknowledged by the chairman or vice-chairman of the board of directors or by the president or vice-president of any corporation, by a general partner of any partnership, or by a person with equivalent authority in any other entity.

(b) The Secretary of State shall keep such records as are required to determine who has filed a certificate accepting ADR or revoking such a certificate, together with the date of any such filing.

§7706. Filing Fee.

No certificate accepting ADR or revoking ADR shall be filed unless it shall be accompanied by the payment of \$1,000.00 to the State of Delaware, except that the filing fee shall be \$100.00 for every corporation, limited partnership, business trust, limited liability company or other entity organized under the laws of the State of Delaware.

§7707. Revocation of ADR.

A certificate accepting ADR may be revoked by the filing of a certificate stating that it revokes a previously filed certificate. A certificate of revocation shall be executed and acknowledged in the same manner as a certificate accepting ADR. A certificate of revocation shall be effective upon filing and payment of the filing fee, except with respect to disputes arising under contracts requiring ADR and which were entered into prior to the filing of the certificate of revocation.

§7708. Qualifications of ADR Specialist.

The ADR proceedings shall be conducted by any individual meeting one of the following criteria:

(a) successful completion of 25 hours of training in resolving civil disputes in a course approved by the department or division of the government authority charged with responsibility over adult education in the jurisdiction where that individual resides, or

(b) admission to the bar of the jurisdiction in which that individual resides, together with a minimum of 5 years' experience as a practicing attorney.

§7709. Selection of ADR Specialist.

(a) In the case of ADR proceedings that are to be held in the State of Delaware, the party who initiates the proceedings shall select a panel of three ADR Specialists in

Delaware to be considered by the parties. Unless the parties otherwise agree in writing, the ADR Specialist shall thereafter be chosen in accordance with the procedures set forth in subparagraphs (c) - (f) below.

(b) In all disputes not to be submitted to ADR in the State of Delaware and unless the parties otherwise agree in writing, the ADR Specialist shall be selected by the following procedure:

(A) When there are 2 parties to the dispute, the party who initiates the ADR proceedings shall choose a panel of three ADR Specialists from those qualified persons who reside or have an office in either (i) the state of incorporation or domicile of the other party to the dispute, or (ii) the jurisdiction where the other party to the dispute resides as determined from the address stated on the ADR certificate on file with the Secretary of State.

(B) When there are more than 2 parties to the dispute, the party who initiates the ADR proceedings shall choose a panel of three ADR Specialists from those qualified persons who reside or have an office in the jurisdiction where the greatest number of the other parties to the ADR proceeding (i) are incorporated or domiciled, or (ii) reside as determined from the address stated on any ADR certificate on file with the Secretary of State. If no jurisdiction has the greatest number of parties then the person initiating ADR shall choose panelists from any of the states of incorporation, domicile or residence of the other parties.

(c) The identity of the panel of the ADR Specialists shall be included in the ADR notice provided for in §7710 of this Chapter.

(d) Within 14 days of receiving the ADR notice provided for in §7710 of this Chapter a person receiving such notice shall:

(i) select one of the members of the panel of ADR Specialists contained in the notice by advising the person initiating the ADR in writing of the selection; or

(ii) advise the party initiating the ADR that none of the members of the panel are acceptable.

When more than two persons are involved in the ADR proceedings, the ADR Specialist shall be the person chosen by the greatest number of parties and in the case of a tie in a vote, the person initiating the ADR proceedings shall choose the ADR Specialist from the ADR Specialists who received the same number of votes.

(e) Upon receiving the selection of the ADR Specialist by the other person or persons to the dispute, the person initiating the ADR proceedings shall promptly notify the ADR Specialist of his or her selection and send copies of such notice to the other parties. If a party receiving an ADR notice provided for in §7710 of the Chapter does not select an ADR Specialist in a timely manner, or advise that none of the members of the panel are acceptable, the person sending the ADR notice (1) may select the ADR Specialist, or (2) in the case of more than two parties to a dispute, may cast a vote for the ADR Specialist on behalf of the party who failed to respond to the ADR notice.

(f) If none of the ADR Specialists selected by the party initiating the ADR proceedings are acceptable to the other parties to the dispute, in the ADR proceedings that are to be held in Delaware the ADR Specialist shall be selected in accordance with the rules of the Superior Court of the State of Delaware as may be adopted by that Court and approved by the Delaware Supreme Court. In ADR proceedings to be conducted outside of Delaware, in the case of a failure of the parties to agree on the ADR Specialist the Specialist shall be selected in accordance with such rules as may apply in the jurisdiction where the ADR proceedings are to be conducted or, if no such rules have been adopted, then by the American Arbitration Association.

§7710. Initiation of ADR Proceeding.

ADR proceedings are initiated by written notice to the other parties to a dispute who have filed an ADR certificate in accordance with Section 7704 or who have agreed to be bound by the ADR requirements of this chapter. The notice shall state in summary form: (1) the dispute is subject to the provisions of this Act, (2) the nature of the dispute to be submitted to ADR and (3) the identities of the members of the panel of ADR Specialists chosen pursuant to Section 7709. A failure to send such a notice to a person who has an interest in the dispute shall not prevent the ADR proceedings from going forward between or among parties who did receive such notice.

§7711. Participation By Other Parties.

When not all the parties to a dispute have filed an ADR certificate or have agreed to be bound by the Delaware Voluntary Dispute Resolution Act, such other parties may be given the opportunity to participate in the ADR proceedings by delivering to them the notice provided for in Section 7710. Parties to the dispute who are not bound to participate in the ADR proceedings may elect to participate in the ADR by selecting an ADR Specialist in accordance with Section 7709 of this chapter. Such selection shall constitute the agreement of the party to be subject to the provisions of this Chapter for purposes of the dispute in which the election to participate is made. After the passage of the time for selection of the ADR Specialist, the ADR shall proceed without further notice to or involvement by those parties to the dispute who have not elected ADR.

§7712. Scheduling of ADR Proceedings.

Promptly after notification of appointment, the ADR Specialist shall: (a) advise if he or she is willing to serve as the ADR Specialist for this dispute, (b) notify the parties of his or her expected rate of compensation, and (c) set the time and date of the ADR proceedings which shall be within 60 days of notice of appointment unless the parties and the ADR Specialist agree to another date. Unless otherwise agreed, the ADR proceedings shall be held in the offices of the ADR Specialist.

§7713. Compensation of ADR Specialist.

(a) The ADR Specialist shall be reimbursed for all reasonable out-of-pocket expenses. The ADR Specialist shall be compensated on the basis of the Specialist's regular hourly fees for professional services for time spent during the day of the actual ADR proceeding and for any subsequent continuation of the proceedings agreed to by parties. In addition to this compensation for the actual ADR proceeding, the ADR Specialist may charge for up to 10 hours spent in preparing for the ADR proceeding, unless the parties agree to additional preparation time.

(b) The ADR Specialist may require the parties, on a pro rata basis, to advance his or her fees for preparation and the actual proceeding within 10 days of the notice of the scheduling of the ADR proceedings.

(c) Unless otherwise agreed, the fees and expenses of the ADR Specialist shall be divided among the parties to the proceedings on a pro rata basis.

(d) The parties and the ADR Specialist may agree on any method or rate of compensation other than as set forth in this section, provided that such agreement is in a writing sign by the parties to the agreement.

§7714. Conduct of the ADR Proceedings.

Subject to any agreement of the parties to adopt different rules of proceeding and the power of the ADR Specialist to modify these procedures in appropriate instances, the ADR shall be conducted as follows:

(a) No later than 7 days prior to the commencement of the ADR, each party shall submit to the ADR Specialist and the other parties a statement of its position in the dispute and such supporting documents as it deems appropriate, provided that such statement of position shall not exceed 25 pages in length.

(b) Upon the commencement of the ADR, each party shall have no more than 1 hour to present its position to the ADR Specialist in the presence of the other parties. This presentation may be made by counsel, by examining witnesses or by any other means that is reasonable under the circumstances. Upon conclusion of any party's presentation, the ADR Specialist may permit the other parties to have up to 1 hour to ask questions of the presenting party, with such hour to be divided among the other parties as determined by the ADR Specialist.

(c) Upon conclusion of the initial presentations of positions by all the parties and such questioning of the parties as thereafter occurs pursuant to subsection (b), the ADR Specialist as soon as possible shall attempt to resolve the dispute by meeting with the parties, either separately or as a group as the Specialist determines is appropriate. Such meetings shall conclude when the dispute is resolved or at the regular close of business on the day the ADR commenced, whichever first occurs.

(d) If the parties thereafter agree, the ADR Specialist may continue to discuss the resolution of the dispute with them, either separately or together, until any party notifies the ADR Specialist that such discussions are at an impasse.

§7715. Conclusion of ADR.

Any settlement of the dispute submitted to ADR shall be reduced to writing as soon as soon as possible after the settlement is reached, with such writing to be prepared by the ADR Specialist (unless the parties otherwise agree as part of their settlement that they will prepare the writing) and shall be signed by the parties to be valid and binding upon them. If no settlement is reached at the close of business on the day the ADR is commenced or after further mediation at the parties' request until an impasse is declared, the ADR Specialist shall declare the ADR has concluded by advising the parties in writing.

§7716. Confidentiality.

All ADR proceedings shall be confidential and any memoranda submitted to the ADR Specialist, any statements made during the ADR and any notes or other materials made by the ADR Specialist or any party in connection with the ADR shall not be subject to discovery or introduced into evidence in any proceeding and shall not be construed to be a waiver of any otherwise applicable privilege. Nothing in this section shall limit the discovery or use as evidence of documents that would have otherwise been discoverable or admissible as evidence but for the use of such documents in the ADR proceeding.

§7717. Immunity.

The ADR Specialist shall have such immunity as if he or she were a judge acting in a court with jurisdiction over the subject matter and the parties involved in the dispute that led to ADR.

§7718. Attendance at ADR.

A person may be represented by counsel in all stages of the ADR proceeding. In addition to its counsel, each party must attend the initial ADR proceeding in which the parties make their presentations and submit to questioning and meet with the ADR Specialist. A person may attend through its chief executive officer (or person holding an equivalent position in such entity) or through any other person authorized in writing by the entity's governing body to so attend, provided such authorized person files his or her written authorization to attend with the ADR Specialist. The authorization shall state that the representative has the authority to settle the dispute (subject to any limits that are deemed appropriate by the governing body and which limits need not be revealed) and such person is charged with the responsibility of reporting to the party's governing body on what occurred during the ADR proceedings. Any such report shall be confidential in accordance with Section 7716 of this Chapter.

§7719. Enforcement of ADR Rights.

(a) The right to ADR provided for under this chapter may be enforced by any court with jurisdiction over the parties. Any person who files a certificate under Section 7704 of this Chapter thereby consents to the jurisdiction of the Court of Chancery of the State of Delaware for the purpose of enforcing in a summary proceeding the rights provided for by this chapter.

(b) In addition to the right to compel ADR provided by subsection (a), any party to an ADR proceeding to be conducted pursuant to this chapter shall be entitled to reasonable attorneys' fees incurred in compelling ADR.

(c) Any party failing to pay the reasonable fees and expenses of an ADR Specialist shall be subject to suit by the ADR Specialist for three times the amount of such fees and expenses, together with the attorneys' fees and other costs incurred in such litigation.

§7720. Tolling of Limitations.

The initiation of ADR under Section 7710 of this Chapter shall suspend the running of the statute of limitations applicable to the dispute that is the subject of the ADR until 14 days after the ADR is concluded in accordance with Section 7715 of this Chapter.

§7721. Effect of Commencing Litigation.

Other than a proceeding to require ADR under Section 7719 of this Chapter, this statute and the procedures provided for herein shall cease to have any force or effect upon the commencement of litigation concerning the dispute that is the subject of the ADR proceedings. The parties to any such litigation shall be exclusively subject to the rules of the tribunal in which such litigation has been commenced and nothing in this statute shall be construed to infringe upon or otherwise affect the jurisdiction of the courts over such disputes."

Section 2. This legislation shall become effective 90 days after its enactment into law.

Approved July 7, 1995

CHAPTER 152

FORMERLY

SENATE BILL NO. 184

AN ACT TO PAY CERTAIN FUNDS TO FRANK J. CARELLO, JR. FOR HIS SERVICES AS A MEMBER OF THE UNEMPLOYMENT COMPENSATION COMMISSION.

AN ACT TO PAY CERTAIN FUNDS TO FRANK J. CARELLO, JR. FOR HIS SERVICES AS A MEMBER OF THE UNEMPLOYMENT COMPENSATION COMMISSION.

WHEREAS, Frank J. Carello, Jr. was appointed a member of the Unemployment Compensation Commission in May, 1961 and served as Chairman of the Unemployment Appeals Board until January 30, 1992, retiring due to health reasons; and

WHEREAS, Mr. Carello's combined service on the Unemployment Compensation Commission and the Unemployment Appeals Board amounts to more than thirty years; and

WHEREAS, in May 1963 the General Assembly increased the annual salary of the members of the Unemployment Compensation Commission from five thousand dollars (\$5,000) to six thousand dollars (\$6,000) annually; and

WHEREAS, the increase was not paid to members of the Unemployment Compensation Commission until July 3, 1986, a period of twenty-three years during which the members were underpaid; and

WHEREAS, any funds paid to Frank J. Carello, Jr. under this Act should be paid from the Unemployment Compensation Administration Fund, as set forth in §3105, Title 19 of the Delaware Code, and not from the General fund; and

WHEREAS, the sum of one thousand dollars (\$1,000), each year for a period of twenty-three years, at the rate of five percent (5%) compounded daily (or 5.127% yearly) amounts to \$42,093.18; and

WHEREAS, Mr. Carello should be paid the amount of money fairly owed to him.

THEREFORE:

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

Section 1. The Unemployment Compensation Administration Fund is hereby authorized and directed to pay to Frank J. Carello, Jr. the sum of \$42,093.18, either as a lump sum or in such monthly payments as the Fund and Mr. Carello shall agree.

Approved July 7, 1995

CHAPTER 153

FORMERLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 4

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SUBCHAPTER IV, CHAPTER 80, TITLE 15, DELAWARE CODE
RELATING TO REPORTS OF POLITICAL COMMITTEES.

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

Section 1. Amend § 8030 (c), Title 15, Delaware Code by striking the subsection in its
entirety and by substituting in lieu thereof, the following:

"(c) (1) Each report required by (b) (1) of this section shall either be:

(A) Filed by the political committee and received by the Commissioner by 4:30
p.m. of the 20th day after the end of the reporting period which is not a state holiday
under Chapter 5 of Title 1; or

(B) Mailed to the Commissioner and postmarked by the political committee by
the end of the 20th day after the end of the reporting period which is not a state holiday
under Chapter 5 of Title 1.

(2) Each report required by (b) (2) of this section shall either be:

(A) Filed by the political committee and received by the Commissioner by 4:30
p.m. of the 2nd day after the end of the reporting period which is not a state holiday under
Chapter 5 of Title 1; or

(B) Mailed to the Commissioner and postmarked by the political committee by
the end of the 2nd day after the end of the reporting period which is not a state holiday
under Chapter 5 of Title 1.

(3) Each report required by (b)(3) of this section shall be filed by the political committee
and received by the Commissioner by 4:30 p.m. of the 2nd day after the end of the
reporting period which is not a State holiday under Chapter 5 of Title 1."

Approved July 7, 1995

CHAPTER 154

FORMERLY

SENATE BILL NO. 140

AN ACT TO AMEND CHAPTER 50A, TITLE 15, OF THE DELAWARE CODE RELATING TO ELECTRONIC VOTING SYSTEMS.

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

Section 1. Amend §5001A(4), Title 15 of the Delaware Code by inserting "or any voting device" between the words "ballot card" and the word "if".

Section 2. Amend §5001A(a)(10), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following

"(10) if individual paper ballots are used, the paper ballot shall include a serialized stub number for each ballot issued to a voter to be retained by the poll worker which will show at all times during any election a total number of persons who have voted."

Section 3. Amend §5001A(a)(11), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(11) It shall be so equipped that it shall prevent the voter from voting for all the candidates of one party by the use of a single mark, punch or other action; however, it shall be provided with a device or method for each party, for voting for all presidential electors of that party by one mark, punch or other action."

Section 4. Amend §5001A(c), Title 15, by striking said subsection in its entirety.

Section 5. Amend §5002A, Title 15, of the Delaware Code by striking "Department of Elections" wherever it appears and substituting in lieu thereof "Commissioner of Elections".

Section 6. Amend §5004A(a), Title 15 of the Delaware Code by inserting ", special," after the word "general" and before the word "or".

Section 7. Amend §5004A(b), Title 15 of the Delaware Code by striking said subsection in its entirety.

Section 8. Amend §5005A(a), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(a) All ballots, ballot labels and ballot cards, as required, shall be printed in black ink on clear, white material of such size as will fit the ballot frame used for all elections. All ballot labels shall be secured in the ballot frame to make tampering or removal difficult."

Section 9. Amend §5005A(b), Title 15 of the Delaware Code by striking the second sentence of said subsection in its entirety and substituting in lieu thereof the following:

"The titles of offices are to be arranged to the left of the candidate names and, if appropriate placed in booklet form."

Section 10. Amend §5005A(c), Title 15 of the Delaware Code by striking said subsection in its entirety.

Section 11. Amend §5005A(d), Title 15 of the Delaware Code by striking the words "official Ballot labels and cards" as they appear therein and substituting in lieu thereof the words "official ballots, ballot labels and/or cards".

Section 12. Amend §5006A, Title 15 of the Delaware Code by striking the word "The" at the beginning of said section and substituting in lieu thereof the phrase "If required by the voting system, the".

Section 13. Amend §5008A(a), title 15 of the Delaware Code by striking the second sentence of said subsection in its entirety and substituting in lieu thereof the following:

"The Department shall certify that each device to be used in an election has been properly prepared and inspected."

Section 14. Amend §5008A(b), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) The Department shall mail written notices to the State Chairman of each party with candidates listed on the ballot, stating the time and place at which the voting device will be inspected. The State Chairman of each such political party may designate one representative to be present during the inspection."

Section 15. Amend §5008A(c)(2), Title 15 of the Delaware Code by striking said paragraph (2) in its entirety and substituting in lieu thereof the following:

"(2) To examine and/or test each voting position for proper registration;"

Section 16. Amend §5008A(d), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(d) The Department shall cause all ballot cards, if used by the voting system, to be sealed in a metal transfer carrier and the seal number recorded. Two representatives of the Board of Elections, of opposite political affiliation, shall examine each voting device and insure that each voting device is sealed with the numbered seal as required. They shall:

- (1) certify the numbers on the voting devices and the election districts for which they are designated;
- (2) certify that all voting devices are in proper working condition;
- (3) certify that the voting devices are properly sealed; and
- (4) certify that the correct ballot has been properly secured in the voting device."

Section 17. Amend §5008A(e), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(e) The Department shall have the automatic tabulating equipment used in mark sense or punch mark tabulation tested to ascertain that it will accurately count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be published and a test conducted within five days of the election. The tabulating equipment shall pass the same test at the conclusion of the count before the election returns are approved. Two representatives of the Board of Elections, of opposite political affiliation, shall certify that this has been done."

Section 18. Amend §5009A, Title 15 of the Delaware Code by striking said section in its entirety.

Approved July 7, 1995

CHAPTER 155

FORMERLY

SENATE BILL NO. 186

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 27, TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE CONTRACTS TO REQUIRE THE FILING OF FORMS BY OUT OF STATE INSURERS DOING BUSINESS IN DELAWARE.

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

Section 1. Amend Chapter 27, §2712, Title 18, Delaware Code by striking subsection (a) in its entirety and substituting in lieu thereof:

"(a) No basic insurance policy or annuity contract, form, or application form where written application is required and is to be made a part of the policy or contract or printed rider or endorsement form or form of renewal certificate shall be delivered or issued for delivery in this State, unless the form has been filed with the Commissioner. This provision shall not apply to surety bonds or to specially rated inland marine risks nor to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. With respect to group and blanket health insurance policies issued and delivered to a trust or to an association outside of this State and covering persons resident in this State, the group certificates to be delivered or issued for delivery in this State shall be filed with the Commissioner pursuant to this section provided, however, that this requirement shall not apply to an association group having received a waiver from the Commissioner upon a finding that the association group meets the qualifications set forth in Section 3506 of this title. In the case of forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages, the filing required by this subsection may be made by rating organizations on behalf of their members and subscribers, but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf."

Section 2. This bill shall become effective sixty (60) days after its enactment.

Approved July 7, 1995

CHAPTER 156

FORMERLY

SENATE BILL NO. 194

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

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

Section 1. Amend §3401(f), Title 18 of the Delaware Code by striking everything following the phrase "pursuant to a contract under §1876" as it appears therein and by substituting in lieu thereof the following:

"of the Federal Social Security Act (42 U.S.C. §1395 et. seq.), or an issued policy under a demonstration project specified in the 42 U.S.C. §1395(g)(1), which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare."

Section 2. Amend §3402(a), Title 18 of the Delaware Code by striking therefrom §3404 of".

Section 3. Amend §3402(c), Title 18 of the Delaware Code by striking the word "The" as it appears in the beginning thereof and by substituting in lieu thereof the phrase "Except as otherwise provided in §3405(d), the".

Section 4. Amend §3405(d), Title 18 of the Delaware Code by striking therefrom the phrase "by reason of age" and subparagraphs (3) and (4) as they appear therein.

Approved July 7, 1995

CHAPTER 157

FORMERLY

SENATE BILL NO. 205

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO
VOLUNTARY ASSESSMENTS.

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

Section 1. Amend § 709 (i), Title 21 of the Delaware Code by adding to the first sentence thereof, between the words "form," and "give", the following new language:

"verify the contents of the uniform traffic citation under penalty of perjury,".

Section 2. Amend § 709 (l) (1), Title 21 of the Delaware Code by eliminating in its entirety the second sentence of said subsection.

Approved July 7, 1995

CHAPTER 158

FORMERLY

SENATE BILL NO. 214

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO MOTOR VEHICLE REGISTRATIONS.

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

Section 1. Amend subsection 2140(g), Title 21 of the Delaware Code by creating a new subsection to be designated as subsection (5), to read as follows:

"(5) Members of The Order of Eastern Star, provided that at least 100 applications for special plates must be received from members before the Division of Motor Vehicles will approve the issuance of the special plate."

Approved July 7, 1995

CHAPTER 159

FORMERLY

SENATE BILL NO. 224

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE CRIME OF MENACING.

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

Section 1. Amend §602, Title 11 of the Delaware Code by redesignating the existing language thereof as subsection (a).

Section 2. Amend §602, Title 11 of the Delaware Code by adding thereto a new subsection, said subsection to be denominated as subsection (b), which shall read as follows:

"(b) A person is guilty of aggravated menacing when by displaying what appears to be a deadly weapon he or she intentionally places another person in fear of imminent physical injury. Aggravated Menacing is a Class E felony."

Approved July 7, 1995

CHAPTER 160

FORMERLY

SENATE BILL NO. 226

AN ACT TO AMEND TO WAIVE THE STATUTORY PROVISIONS OF CHAPTER 1, TITLE 13 OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF KELLE ALEXIS DOHERTY AND CHRISTOPHER GEORGE SANCHEZ.

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

Section 1. Section 1. Kelle Alexis Doherty and Christopher George Sanchez 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 Rosalie Rutkowski Justice of the Peace of the Justice of the Peace Courts of the State of Delaware is hereby authorized to solemnize the marriage between Kelle Alexis Doherty and Christopher George Sanchez. The Clerk of the Peace for New Castle County shall issue to Kelle Alexis Doherty and Christopher George Sanchez one official marriage license pursuant to this Act, the provisions of 13 Del. C. Chapter 1 to the contrary notwithstanding.

Approved July 7, 1995

CHAPTER 161

FORMERLY

SENATE BILL NO. 227

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO
SCHOLARSHIPS FOR HIGHER EDUCATION.

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

Section 1. Amend Chapter 34 of Title 14 of the Delaware Code by deleting the title of Subchapter I and by substituting in lieu thereof the title "Scholarship Incentive Program" and further amend Title 14 of the Delaware Code by designating existing subsection (2) of §3401 as new subsection (3) and by adding a new subsection (2) as follows:

"Provide a financial incentive for higher academic achievement for students who qualify to receive such scholarships; and"

Section 2. Amend § 3402, Title 14 of the Delaware Code by deleting subsections (a) and (d) and by substituting in lieu thereof the following:

"(a) This subchapter shall be administered by the Delaware Higher Education Commission, hereinafter referred to as the 'Commission'".

(d) The Commission may apply for and receive such funds as may be available to the State from any agency of the federal government as grants for student financial assistance programs at the postsecondary level."

Section 3. Amend § 3403, Title 14 of the Delaware Code by deleting said section in its entirety and by substituting in lieu thereof the following:

"3403. Scholarship Incentive Program.

The General Assembly shall each year in the budget act appropriate a sum to be known as the Scholarship Incentive Program for the purpose of carrying out this subchapter."

Section 4. Amend § 3404, Title 14 of the Delaware Code by deleting said section in its entirety and by substituting in lieu thereof the following:

"3404. Scholarships.

The Commission is hereby authorized to award scholarships from the Scholarship Incentive Program subject to the limits of its appropriations and the following limitations:

(a) No student shall be eligible for such scholarship who was not a resident of the State for at least twelve (12) consecutive months immediately prior to the application deadline for the scholarship. The place of residence of a student who is dependent on parental financial support shall be deemed to be the legal residence of the student's parent or guardian. The place of residence of an independent student shall be deemed to be the legal residence of the student. Whether a student is considered to be independent shall be determined on the basis of the federal government's financial aid independent student definition. No student shall be deemed to satisfy for the first time the residence requirement of this program while the student's principal occupation is that of student in a postsecondary program. Evidence of legal residence in Delaware which is deemed satisfactory to the Commission must be provided. Such evidence may include: voter registration in

Delaware, a valid Delaware driver's license, or other evidence of bona fide residence in Delaware. Delaware residence shall be considered terminated 12 months after a move from the State of Delaware.

(b) Scholarships shall be awarded only to persons who will become enrolled as full-time students in a degree program at a college or university which is accredited by one of the regional accrediting associations. No student may receive scholarships for either undergraduate or graduate study for more than five (5) years. Under exceptional circumstances in the case of a person who will attend a program of graduate study, the Commission may, in its discretion, grant a temporary waiver to the requirement of accreditation by one of the regional accrediting associations where the institution is in the process of becoming accredited or where other comparable evidence of academic quality is provided.

(c) Scholarships shall be used only at educational institutions:

(1) in Delaware for undergraduate study;

(2) in States which have established scholarship reciprocity agreements with the State and the Commission for undergraduate study; or

(3) For undergraduate or graduate study in degree programs which are not offered by a publicly assisted institution in Delaware.

(d) Scholarships shall be awarded on the basis of financial need and academic merit. Financial need shall be determined by a federally-approved need analysis system. The financial need calculation shall consider the student's expected family contribution, the expense of attending the institution selected, the student's eligibility for Pell grants and the availability of State funding for out-of-state graduate programs. For students attending institutions in states other than Delaware, the maximum tuition cost used in determining financial need shall be the highest tuition rate charged to non-residents of Delaware who attend a Delaware publicly-assisted institution.

(e) No scholarship shall exceed a student's direct educational expenses. For students attending a college or university under the terms of a reciprocity agreement, the Scholarship shall not exceed the amount allowable for out-of-state grants under the grant program of that state.

(f) By applying to this scholarship program, applicants agree to release of their academic records to the Commission.

(g) The Commission shall publish annually in two newspapers of general circulation within the state an announcement of the application deadline for the scholarship. The Commission shall inform college financial aid officers and high school guidance counselors within the State of application procedures and deadline.

(h) Payment of funds shall be made on a semester or quarter basis to institutions only, not to individual scholarship recipients, upon receipt of verification from the institution that the student is enrolled full-time in a degree program and meets the satisfactory academic progress standards of the institution. The Commission shall establish a refund policy which will specify conditions under which students may retain all or a portion of their scholarship if they withdraw from an institution or otherwise become ineligible to receive a full scholarship.

(i) Scholarships are renewable upon reapplication provided that the applicant continues to meet the qualifications required by this subchapter."

Section 5. Amend § 3405, Title 14 of the Delaware Code by deleting said section in its entirety.

Approved July 7, 1995

CHAPTER 162

FORMERLY

SENATE BILL NO. 230

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE OPENING OF BIDS FOR PUBLIC WORKS CONTRACTS.

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

Section 1. Amend Chapter 69, Title 29 of the Delaware Code by inserting in the first sentence of §6907 thereof, following the phrase "The bids shall be publicly opened" and before the phrase "at the time and place specified", the phrase "and read aloud".

Approved July 7, 1995

CHAPTER 163

FORMERLY

HOUSE BILL NO. 119

AN ACT TO AMEND SECTION 1602 OF TITLE 19 OF THE DELAWARE CODE RELATING TO THE POLICE OFFICERS AND FIREFIGHTERS EMPLOYMENT RELATIONS ACT.

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

Section 1. Amend Chapter 16, Section 1602(1), Title 19 of the Delaware Code, by striking said Section and substituting therefor a new Section (1), as follows:

"(1) 'Public employer' or 'employer' means the State or political subdivisions of the State or any agency thereof, any county, or any agency thereof, or any municipal corporation or municipality, city or town located within the State or any agency thereof, which (1) upon the affirmative legislative act of its common council or other governing body has elected to come within Chapter 13 of this Title, (2) hereafter elects to come within this Chapter, or (3) employs 25 or more full-time employees."

Approved July 7, 1995

CHAPTER 164

FORMERLY

HOUSE BILL NO. 245

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 25, DELAWARE CODE, RELATING TO THE
RULE AGAINST PERPETUITIES.BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend § 503(a), Chapter 5, Title 25, Delaware Code, by adding before the period (".") at the end of said subsection and adding in lieu thereof the following language:

" , and no interest created in personal property held in trust shall be void by reason of the rule against perpetuities established in subsection (b) of this section".

Section 2. Amend the first sentence of § 503(b), Chapter 5, Title 25, Delaware Code, by adding the word "real" following the word "for" and before the word "property" therein.

Section 3. Amend the first sentence of § 503(c), Chapter 5, Title 25, Delaware Code, by adding the phrase "as to its real estate assets" following the word "trust" where it first appears therein and before the word "as" and by adding the phrase "consisting of real property" following the word "assets" and before the word "shall"; amend the second sentence of § 503(c), Chapter 5, Title 25, Delaware Code, by adding the phrase "then distributable" following the word "assets" and before the word "shall" and by deleting the phrase "or personal" following the word "real" and before the word "property"; and amend §503(c), Chapter 5, Title 25, Delaware Code, by adding a new sentence at the end thereof as follows:

"The termination of a trust pursuant to subsection (b) of this section as to its assets consisting of real property shall not result in the termination of the trust as to any personal property then held in trust"

Section 4. This Act shall apply to trust instruments becoming irrevocable on or after enactment of this Act.

Approved July 7, 1995

CHAPTER 165

FORMERLY

HOUSE BILL NO. 264

AN ACT TO AMEND CHAPTER 61, TITLE 12, DELAWARE CODE, RELATING TO THE ALLOCATION OF TRUST INCOME AND PRINCIPAL.

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

Section 1. Amend Chapter 61, Title 12, Delaware Code, by adding thereto a new Section 6112 as follows:

"§ 6112. Certain Charitable Remainder Unitrusts.

(a) Notwithstanding any contrary provision of this chapter, if the trust instrument adopts the provisions of this section by reference, an increase in the value of the following obligations owned by a charitable remainder unitrust, of the type authorized in § 664(d)(3) of the Internal Revenue Code or any successor provision thereof, is distributable as income when it becomes available for distribution:

- (1) a zero coupon bond;
- (2) an annuity contract before annuitization;
- (3) a life insurance contract before the death of the insured;
- (4) an interest in a common trust fund (as defined in § 584 of the Internal Revenue Code or any successor provision thereof);
- (5) an interest in a partnership (as defined in § 7701 of the Internal Revenue Code or any successor provision thereof); or
- (6) any other obligation for the payment of money that is payable at a future time in accordance with a fixed, variable or discretionary schedule of appreciation in excess of the price at which it was issued.

(b) The increase in value of the obligations described in subsection (a) of this section is distributable to the beneficiary who was the income beneficiary at the time of the increase.

(c) For purposes of this section, the increase in value of an obligation described in subsection (a) is available for distribution only when the trustee receives cash on account of the obligation."

Section 2. This Act shall apply to trust instruments becoming irrevocable on or after the date of enactment of this Act.

Approved July 7, 1995

CHAPTER 166

FORMERLY

HOUSE BILL NO. 271

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE DISPOSITION OF STATE-OWNED PROPERTY.

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

Amend § 137, Title 17, Delaware Code, by adding a new subsection thereto as follows:

"(d) The Department may convey property by direct sale if such property was acquired by it for the purpose of a specific project and it is desirable to convey such property as consideration for the acquisition of other property or property rights for the same project. When the Department conveys such property by direct sale, it shall do so through a dollar-for-dollar exchange based on the approved appraised value of the respective properties or property rights."

Approved July 7, 1995

CHAPTER 167

FORMERLY

SENATE BILL NO. 153

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE POWERS OF THE LOTTERY DIRECTOR.

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

Section 1. Amend §4805(b), Title 29 of the Delaware Code by adding thereto a new paragraph (15) which provides as follows:

"(15) Subpoena witnesses and compel the production of books, papers and documents of a licensee in connection with any hearings of the Director and may administer oaths or affirmations to the witnesses whenever, in the judgment of the Director, it may be necessary for the effectual discharge of his or her duties.

If any person refuses to obey any subpoena or to testify or to produce any books, papers or documents, then the Director may apply to the Superior Court of the county in which the Director may be sitting and, thereupon, the Court shall issue its subpoena requiring the person to appear and testify or to produce the books, papers and documents before the Director. Whoever fails to obey or refuses to obey a subpoena of the Superior Court shall be guilty of contempt of court and shall be punished accordingly. False swearing on the part of any witness shall be deemed perjury and shall be punished as such."

Section 2. Amend Chapter 48, Title 29 of the Delaware Code by adding thereto a new §4807A to read as follows:

"§4807A. Fingerprinting procedure required.

(a) Any person seeking a license from the State Lottery Office shall be required to submit his or her fingerprints and other necessary information in order to obtain the following:

(1) A report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no such information relating to that person; and

(2) A report of the individual's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544. The State Bureau of Identification shall be the intermediary for the purposes of this section and the State Lottery Office shall be the screening point for the receipt of said federal criminal history records.

(b) All information obtained pursuant to subsection (a) of this section shall be forwarded to the State Lottery Office, which shall access the information and make a determination of suitability for licensure. The person seeking licensure shall be provided with a copy of all information forwarded to the State Lottery Office pursuant to this subsection. Information obtained under this subsection is confidential and may only be disclosed to the Director and Deputy Director of the State Lottery Office. The State Bureau of Identification may release any subsequent criminal history to the State Lottery Office.

(c) Costs associated with obtaining criminal history information shall be paid by the person seeking licensure.

(d) A person seeking licensure shall have an opportunity to respond to the State Lottery Office regarding any information obtained pursuant to subsection (b) of this section prior to a determination of suitability for licensure. The grounds upon which a person seeking licensure may be denied consideration for a license include, but are not limited to:

- (1) A conviction of a felony in this State or any other jurisdiction; or
 - (2) A conviction of any crime involving gambling or a crime of moral turpitude within ten (10) years prior to applying for a license or at any time subsequent to the granting of a license.
- (e) Upon making its determination of suitability for licensure, the State Lottery Office shall forward the determination to the person seeking a license.
- (f) Any person seeking a license with the State Lottery Office who has submitted to a criminal background check in this or any other state within the previous twelve (12) months shall not be required to submit to another criminal background check; provided, however, that the person submits (1) the results of such previous criminal background check, including any previous federal criminal background check, and (2) a reference from his or her most recent employer, if any, covering the previous twelve (12) months.
- (g) The State Lottery Office shall, in the manner provided by law, promulgate regulations necessary to implement this subchapter. These regulations shall include, but are not limited to:
- (1) Establishment, in conjunction with the State Bureau of Identification, of a procedure for fingerprinting persons seeking licensure with the State Lottery Office and providing the reports obtained pursuant to subsection (a) of this section;
 - (2) Establishment of a procedure to provide confidentiality of information obtained pursuant to subsection (a) of this section and of the determination of suitability for licensure."

Approved July 7, 1995

CHAPTER 168

FORMERLY

SENATE BILL NO. 209

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO PAROLE.

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

Section 1. Amend §4350, Title 11, Delaware Code by striking the existing subsections (a) and (b) in their entirety, by redesignating subsection (c) thereof as (e), and by inserting the following:

"(a) The Board shall adopt rules for hearing oral statements or arguments by persons not connected with the Department of Correction when hearing applications for parole. In developing those rules, the Board shall reserve for itself the right to:

(1) limit the length of each statement;

(2) restrict the number of individuals allowed to attend parole hearings in accordance with physical limitations or security requirements of the hearing facilities; and

(3) deny admission or continued attendance to individuals who threaten or present a danger to the attendees or participants or who disrupt the hearing.

The Board shall also accept written statements.

(b) The Board may take formal action to close their proceedings upon a majority vote of members present for the following reasons:

(1) to protect ongoing law enforcement investigations, upon written request of the attorney general or law enforcement agency;

(2) to deliberate upon oral or written arguments received;

(3) to provide opportunity for applicants to challenge confidential information which they believe is detrimental to their applications; or

(4) at the request of the victim or, in the case of first-degree murder, the immediate family of the victim.

(c) The Department of Correction may appear personally before the Board to advise and be heard by the Board with respect to any application for parole being considered.

(d) When the Board is hearing an application for parole made by an offender, the victim or immediate family of the victim of such crime or their duly appointed representatives may make oral statements or arguments before the Board with respect to the application for parole being considered. Victims or their representatives shall have priority in making statements before the Board."

Section 2. Amend §4347, Title 11, Delaware Code by adding new subsections as follows:

"(k) Notification of Parole Eligibility.

(1) At least 30 days prior to a scheduled parole hearing for an inmate convicted of a felony offense, the Board shall notify the victim or the immediate family of the victim of the date, time, and place of the scheduled hearing. A copy of any rules developed pursuant to §4350(a) of this Chapter shall be included with the notice. However, at any time, the victim or the victim's immediate family can request that no notification be sent.

(2) At least 30 days prior to a scheduled parole hearing for an inmate convicted of a felony offense, the Board shall send a notice of the date, time and place of the scheduled hearing to the attorney general.

(3) At least 30 days prior to a scheduled parole hearing for an inmate convicted of a felony offense, the Board shall cause notice of the date, time and place of the scheduled hearing to be published in a newspaper with an average daily statewide circulation of at least 15,000 copies, of which at least 5,000 copies shall be in the county in which the offense occurred.

(l) Notification of Parole Decision.

(1) At the same time as the Board sends notice of its decision to the inmate, the Board shall send notice of its decision to those who received notice under paragraphs (k)(1) and/or (2) of this section.

(2) No later than 10 days after a parole hearing resulting in parole of an applicant, the Board shall cause notice of its decision to be published in the same newspaper in which the notice of the hearing was published.

(m) Prior to a parole hearing, a party to whom the Board failed to notify as required in paragraphs (k)(1) or (2) of this section may request that the Board postpone the scheduled hearing in order to provide a reasonable opportunity for the party to attend the hearing, and/or submit a written statement. However, in no event shall the hearing be postponed more than 45 days from the original scheduled date.

(n) Any notice required to be provided to the victim or to the victim's immediate family shall be mailed to the last known address of the victim or family member. It is the responsibility of the victim or the victim's immediate family to provide the Board with a *current mailing address*."

Approved July 7, 1995

CHAPTER 169
FORMERLY

HOUSE BILL NO. 198

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO SIZE AND WEIGHT OF VEHICLES AND LOADS.

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

Section 1. Amend Subsection 4503(b)(1), Chapter 45, Title 21 of the Delaware Code by inserting "6 inches" after "width of 8 feet" and before the period [.] as they appear therein.

Section 2. Amend subsection 4503, Title 21 of the Delaware Code by adding a new paragraph thereto as follows:

"(d) The Secretary of the Delaware Department of Transportation may, on the basis of engineering and/or traffic investigations, determine that any road, street, or highway under the jurisdiction of the Department of Transportation is not of sufficient width to accommodate vehicles otherwise permitted by this section and may thereafter prohibit vehicles of an otherwise permissible width from operation on such road, street or highway."

Section 3. Amend subsection 4504(c)(2)e., Title 21 of the Delaware Code by striking it in its entirety.

Section 4. Amend subsection 4504(c)(2)f., Title 21 of the Delaware Code by striking the words "or e." in the first sentence of said subsection.

Section 5. Amend subsection 4504(c)(2)g., Title 21 of the Delaware Code by striking the reference to "a., b., c., d. or e." and inserting in lieu thereof, "a., b., c. or d.".

Section 6. Amend subsections 4504(c)(2)f. and 4504(e)(2)g. by redesignating them as subsections 4504(c)(2)e. and 4504(c)(2)f. respectively.

Approved July 7, 1995

CHAPTER 170

FORMERLY

SENATE BILL NO. 77

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMINAL
BACKGROUND CHECKS.

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

Section 1. Amend §8570(3), Subchapter VI, Title 11 of the Delaware Code by adding the following:

"a. The phrase 'any person who for any reason has regular direct access to children' in subsection (3) above applies only to persons who are employed, either directly or through a contract, to work at any facility referred to in subsection (4) of this section, except that it shall apply to any person who fills an Extra Pay for Extra Responsibility ("EPER") or extra duty position, whether the person receives compensation or not.

b. This definition shall not apply to substitute food service workers, directly supervised professional artists sponsored by the Division of the Arts, Arts in Education Program; Very Special Arts; and/or the Delaware Institute for the Arts in Education, instructors in prison programs, Apprenticeship/Trade Extension programs or avocational general interest Adult Education programs or instructors in Adult Basic Education or GED programs who do not serve students under age 18."

Section 2. Further Amend §8570, Title 11 of the Delaware Code by adding to the end of subsection (4) the following: "For the purposes of Subchapter VI only, the phrase, 'Person seeking employment with a public school' shall include employees of the Department of Public Instruction."

Section 3. Amend §8571(b), Title 11 of the Delaware Code, by inserting at the end of the third sentence before the "." the following: ", and one person in each public school, as defined in §8570(4), who shall be designated to assist in the processing of criminal background checks, receive training in confidentiality and be required to sign an agreement to keep such information confidential".

Section 4. Amend §8571(c), Title 11 of the Delaware Code by adding the following after the last sentence: "Notwithstanding the foregoing, public schools may use funds other than state funds to pay for criminal background check costs and may enter into consortia of school districts to pay such costs for persons covered by this act who work in more than one school district during the course of a year."

Section 5. Amend §8571, Title 11 of the Delaware Code by re-lettering subsection (h) as subsection (i) and by adding a new subsection (h) as follows:

"(h) Notwithstanding the exemption under §8570(3) from a criminal background check for those 'continuously employed' in the 'same' district, a person may be exempt upon transfer between Delaware public school districts if the person has (1) had a criminal background check within the past five years, (2) had no break in service since the date of the check, and (3) requests that the records of that check are forwarded from the previous district to the new district prior to entering into a contract of employment."

Section 6. Severability. It is declared to be the legislative intent that if any section, subsection, sentence, clause or provision of Subchapter VI, Chapter 85, Title 11 of the Delaware Code as amended is held invalid, the remainder of the Subchapter shall not be affected.

Approved July 7, 1995

CHAPTER 171

FORMERLY

SENATE BILL NO. 126

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO WATER
WELL PERMITS.

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

Section 1. Amend § 6077 (b) of Title 7 of the Delaware Code by adding the word
"potable" in front of the words "water well" as found in two places in the subsection.

Section 2. Add a new subsection (c) to §6077 of Title 7 of the Delaware Code which
shall read as follows:

"(c) This section and any rule of the Department to the contrary notwithstanding,
no permit for a non-potable water well may be issued by the Department to an applicant
in a municipality serving public water unless the municipality, through its governing
body, consents in writing to the issuance of the permit."

Section 2. Amend §6077 by adding thereto a new subsection (c) to read as follows:

"(c) Following the issuance of a non-potable water well permit in an area for
which a certificate has been issued pursuant to subsection (a) above, the Secretary shall
send a copy of the permit with conditions to the water utility providing water to that area.
All non-potable water well permits issued in such an area shall include the following
conditions:

- (1) Water taken from the well is not be used for human consumption; and
- (2) the well shall not, at anytime, be interconnected with any portion of
any building's plumbing and/or any water utility's service connection; and
- (3) representatives of the Secretary and the water utility that serves the
certificated area may inspect the well at any reasonable time to insure that there
are no interconnections; and
- (4) that the permit is subject to revocation upon any violation of its permit
conditions; upon revocation, the well will be ordered to be abandoned by the
Secretary.

Penalties shall be administered pursuant to §§6005 and 6013 of this chapter."

Approved July 7, 1995

CHAPTER 172

FORMERLY

SENATE BILL NO. 164

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 AND TITLE 19 OF THE DELAWARE CODE RELATING TO MAKING SAID TITLES GENDER NEUTRAL.

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

Section 1. Amend Chapter 21, Title 19 of the Delaware Code by deleting the word "workmen's" wherever it shall appear therein, including in captions, and by substituting in lieu thereof the word "workers".

Section 2. Further amend Chapter 21, Title 19 of the Delaware Code by deleting the word "his" wherever it shall appear therein and by substituting in lieu thereof "his/her", and by deleting the word "he" wherever it shall appear therein and by substituting in lieu thereof "s/he", and by deleting the word "Chairman" wherever it shall appear therein and by substituting in lieu thereof the word "Chairperson".

Section 3. Amend Chapter 23, Title 19 of the Delaware Code by deleting the word "workmen's" wherever it shall appear therein, including in captions, and by substituting in lieu thereof the word "workers", and by deleting the word "workman" or "workman's" wherever they shall appear therein and by substituting in lieu thereof the word "worker" or "workers", respectively.

Section 4. Further Amend Chapter 23, Title 19 of the Delaware Code by deleting the word "his" wherever it shall appear therein and by substituting in lieu thereof "his/her", and by deleting the word "he" wherever it shall appear therein and by substituting in lieu thereof "s/he", and by deleting the word "him" wherever it shall appear therein and by substituting in lieu thereof "him/her", and by deleting the word "himself" wherever it shall appear therein and by substituting in lieu thereof "himself/herself".

Section 5. Further amend Chapter 23, Title 19 of the Delaware Code by deleting the word "wife" in §2301(9) and by substituting in lieu thereof the word "spouse", and by deleting the word "his" in §2303(c)(3)a. and by substituting in lieu thereof the word "its".

Section 6. Further amend Chapter 23, Title 19 of the Delaware Code in §2312 by deleting the word "firemen" and by substituting in lieu thereof the word "firefighters", and by deleting the word "Ladies".

Section 7. Further amend Chapter 23, Title 19 of the Delaware Code by deleting the words "his weekly" in §2326(f) and (g).

Section 8. Further amend Chapter 23, Title 19 of the Delaware Code by inserting the phrase "widowers" in §2333(a) immediately after the word "widows".

Section 9. Further amend Chapter 23, Title 19 of the Delaware Code by deleting the word "his" from §2374(a).

Section 10. Amend Chapter 26, Title 18 of the Delaware Code by deleting the word "workmen's" wherever it shall appear therein, including in the Chapter title, and by substituting in lieu thereof the word "workers", and by deleting the word "him" wherever it shall appear therein and by substituting in lieu thereof "him/her".

Approved July 7, 1995

CHAPTER 173

FORMERLY

SENATE BILL NO. 189

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NOS. 1 AND 2AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO
ARBITRATION OF HOMEOWNERS' INSURANCE CLAIMS.

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

Section 1. Amend Chapter 3, Title 18 of the Delaware Code by adding thereto a new section to read as follows:

"§335. Arbitration of disputes involving homeowners' insurance coverage.

(a) Every insurer providing insurance coverage for homeowners' risks shall be required to submit to arbitration, in the manner set forth in this section, any dispute relating to the amounts owed under any claim for losses or damages by an insured claiming to have suffered losses or damages under the contract. Disputes relating to whether coverage exists and under what terms and conditions the coverage exists shall not be subject to the arbitration process established in this section. Notwithstanding the foregoing, where the insurance policy provides an arbitration or appraisal provision in a form approved by the Insurance Department, the arbitration mandated by this subsection shall not apply.

(b) All arbitration shall be administered by the Insurance Commissioner or his/her nominee.

(c) The Insurance Commissioner or his/her nominee shall establish panels of arbitrators in accordance with the rules and regulations which shall be promulgated pursuant to this section. No cause of action shall arise nor any liability imposed against any individual appointed to the panel for any conduct performed in good faith while carrying out the provisions of this section.

(d) Any request by an insured for arbitration shall be in writing and mailed to the Insurance Commissioner within 90 days from the date an offer of settlement or denial of coverage or liability has been made by an insurer. Neither party shall be held to have waived any of its rights by an act relating to arbitration and either party shall have a right to trial de novo to the Superior Court so long as notice of appeal is filed with that Court in the manner set forth by its rules within ninety (90) days of the date of the arbitration decision being rendered.

(e) The Insurance Commissioner shall establish a schedule of fees for arbitration which shall not exceed \$75.

(f) The fee for arbitration shall be payable to the Department of Insurance at the time of the filing of the request for arbitration and shall be maintained in a special fund identified as the 'Arbitration Fund', which shall remain separate and segregated from the General Fund. The compensation paid to the arbitration panel shall be payable from this fund."

Section 2. This Act shall become effective on January 1, 1996.

Approved July 7, 1995

CHAPTER 174

FORMERLY

SENATE BILL NO. 220

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 197, VOLUME 54 LAWS OF DELAWARE, THE CHARTER OF THE CITY OF REHOBOTH BEACH, AS AMENDED, WITH REGARD TO THE PROCEDURES AND LIMITS FOR AUTHORIZING GENERAL OBLIGATION BONDS.

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

Section 1. Amend Section 40 of Chapter 197, Volume 54, Laws of Delaware, the Charter of the City of Rehoboth Beach, as amended, to add after paragraph "r", the following new paragraph "s":

"s. Notwithstanding the foregoing provisions of this Section, the Commissioners may authorize the issuance of bonds or other obligations under this Section in an aggregate amount of up to \$2,000,000 outstanding at any time, without regard to the requirements set forth in paragraphs d. through m. of this Section 40, if: (1) the Commissioners, by Resolution (adopted by at least a majority of all of the Commissioners) approves of the issuance of bonds or other obligations pursuant hereto for a proper municipal purpose with such Resolution stating the amount of such issuance, the purpose of such issuance, the manner of securing the same, that the amount of such other bonds and obligations issued pursuant to this paragraph s. does not exceed \$2,000,000 and any other facts relating to the issuance which are deemed pertinent by the Commissioners of Rehoboth Beach and in their possession at that time. Such Resolution (or a subsequent Resolution adopted by at least a majority of a quorum as established pursuant to Section 10 hereof) shall establish the form of the bonds or certificates of indebtedness, the time or times of payments, the interest rate or rates, the classes, the series, the maturity or maturities, the registration, any callable or redeemable features, the denominations and the name or names thereof and any other relative or appurtenant matter pertaining thereto. Except for the provisions of paragraphs d. through m. of this Section 40, all other provisions of this Section 40 shall be applicable to bonds and other obligations issued pursuant to the this paragraph s."

Approved July 7, 1995

CHAPTER 175

FORMERLY

SENATE BILL NO. 252

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO LAW-ENFORCEMENT OFFICERS' BILL OF RIGHTS.

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

Section 1. Amend §9200 (c), Title 11 of the Delaware Code by adding thereto a new paragraph designated as (c) (12) to read as follows:

"(12) All records compiled as a result of any investigation subject to the provisions of this Chapter and/or a contractual disciplinary grievance procedure shall be and remain confidential and shall not be released to the public."

Approved July 7, 1995

CHAPTER 176

FORMERLY

HOUSE BILL NO. 38

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE
AND CREATING THE HIV TESTING FOR INSURANCE ACT.

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 73. The HIV Testing for Insurance Act

§ 7301. Title. This Chapter may be cited as the 'HIV Testing For Insurance Act.'

§ 7302. Definitions. For the purpose of this Chapter, the following definitions apply:

(1) 'Applicant' means the individual proposed for insurance coverage.

(2) 'HIV' means the human immunodeficiency virus or any other identified causative agent of acquired immune deficiency syndrome (AIDS).

(3) 'HIV test' means an enzyme-linked immunosorbent assay (ELISA) to determine the presence of antibodies to the human immunodeficiency virus (HIV) or such other test as may be approved by the Department of Health and Social Services; in the event of a positive or indeterminate result, the Western Blot Assay or an equivalent or more reliable confirmatory test shall also be administered prior to notification of the test result.

(4) 'Insurer' means any individual, corporation, association, partnership, fraternal benefit society, or any other entity engaged in the insurance underwriting business, except insurance agents and brokers. This term shall also include medical service plans and hospital plans and health

maintenance organizations and health service corporations which shall be designated as engaged in the business of insurance for the purpose of this Chapter.

(5) 'Informed consent' means a voluntary agreement of consent of HIV testing executed by the subject of the test or the subject's legal guardian. Information provided prior to consent shall be provided in such a manner as to be understood by the subject of the test, and shall fully describe:

(a) the test procedures generally;

(b) the implications of the test results;

(c) how the test results will be used;

(d) with whom the test results shall be shared;

(e) the methods of transmission and methods of prevention of HIV infection;

(f) the medically accepted degree of reliability of the testing procedures;

- (g) the opportunity of medical treatment for HIV infection and any related infections if diagnosed;
- (h) the presumption that a person who is infected with HIV is infected for life; and
- (i) the responsibility of an infected person not to knowingly infect others.

§ 7303. Insurer requirements; informed consent; use of results; information.

(a) No insurer shall request or require that an applicant submit to an HIV test unless the insurer first:

(1) Obtains the applicant's prior written informed consent;

(2) Reveals to the applicant the use to which the HIV test results may be put and entities to whom test results may be disclosed pursuant to Sections 7304 and 7405 of this Chapter; and

(3) Provides the applicant with written information approved by the Department of Health and Social Services, such as the brochure "HIV and AIDS" published by the American Red Cross, or its successor, or a similar brochure.

(b) An applicant may ask the person conducting the medical examination and testing on behalf of the insurer any questions the applicant may have regarding the HIV test and the informed consent. Such person shall either answer the questions to the extent of the person's knowledge or inform the applicant that prior to undergoing medical examination and testing, the applicant may wish to consult a physician or other knowledgeable health care professional, at the applicant's expense, if any.

(c) No positive ELISA test result may be used for any purpose unless it has been confirmed by a Western Blot Assay or an equivalent or more accurate confirmatory test.

§ 7304. Disclosure Limitations.

(a) In addition to the disclosure provided for in Section 7305 of this Chapter, or Subsection (b) of this Section, on the basis of the applicant's written informed consent as specified in Section 7303 of this Chapter, an insurer may also disclose an applicant's HIV test result to its reinsurers or to those contractually retained medical personnel and insurance affiliates, excluding agents and brokers, which are involved in underwriting or claims decisions regarding the individual's application, provided disclosure is necessary to make underwriting or claims decisions regarding such application.

(b) An insurer may report a confirmed positive HIV test result to a medical information exchange agency, such as the Medical Information Bureau, provided that:

(1) the informed consent form clearly explains that such disclosure may be made; and

(2)(i) the results are reported in a manner that only identifies that the applicant has had an abnormal blood test result; or

(ii) the results are reported in a manner that utilizes a neutral identifier to keep the identity of the individual confidential and anonymous to such agency.

(c) Insurers shall maintain strict confidentiality regarding HIV test results. Information regarding HIV test results may not be disclosed outside the insurer except as provided for in this Section and in Section 7305 of this Chapter.

§ 7305. Notification.

An insurer who fails to issue a policy an applicant due to the results of HIV testing shall notify the applicant in writing of an adverse underwriting decision based upon the results of such applicant's medical examination and testing but shall not disclose the specific results of such

medical examination and testing to the applicant. The insurer shall also inform the applicant that the results of the medical examination and testing will be sent to the physician designated by the applicant at the time of application and that such physician should be contacted for information regarding the applicant's medical examination and testing. If a physician was not designated at the time of application, the insurer shall request that the applicant name a physician to whom a copy of the results of the medical examination and testing may be sent. In the event that an applicant fails to identify a physician despite the efforts of the insurer to have the applicant do so, the insurer shall convey to the Department of Health and Social Services information in the insurer's possession which may be necessary to locate and inform the applicant of the applicant's positive HIV test result. If a physician is named by the applicant, the insurer shall, at the time notification is made to the physician, inform the physician that if the applicant fails to contact the physician within 30 days of the notice, the physician shall convey to the Department of Health and Social Services information in the physician's possession which may be necessary to locate and inform the applicant of the applicant's positive HIV test result. The physician shall make such notification to the Department of Health and Social Services if the applicant fails to contact the physician within 30 days of the insurer's notice. All reports made pursuant to this Chapter are confidential and protected from release and shall be used for the sole purpose of locating and informing the applicant of the applicant's positive HIV test result."

Section 2. Exclusivity Provision. It is the purpose and intent of this Chapter that it shall serve as the sole and exclusive standard by which insurers shall be permitted to test for HIV, and any other provisions of the Delaware Code presently imposing other or different duties on insurers in connection with testing for HIV are superseded by this Chapter.

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 4. This Act shall take effect 90 days after its enactment.

Approved July 7, 1995

CHAPTER 177

FORMERLY

HOUSE BILL NO. 268

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 40, TITLE 7 OF THE DELAWARE CODE RELATING TO STORM WATER PLAN APPROVALS FOR WORK ON OR ADJACENT TO A STATE RIGHT-OF-WAY.

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 § 4005(b), Title 7, Delaware Code, by adding the following after the last sentence thereof:

"In addition, the Department of Transportation is authorized to act as the designated plan approval agency in those situations where a public utility engages in land-disturbing activity for which a permit is required because of a project initiated by the Department of Transportation, subject to the following provisions:

(1) If the land-disturbing activity takes place on an 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 per acre, with a \$250 minimum.

(2) If the land-disturbing activity takes place adjacent to but not upon an existing right-of-way of the Department of Transportation, the fee contemplated by paragraph (1) above is waived."

Approved July 7, 1995

CHAPTER 178

FORMERLY

HOUSE BILL NO. 274

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO UNIT PROPERTIES AND RESTRICTIONS OF THE DISPLAY OF FLAGS.

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

Section 1. Amend Title 25, Chapter 22, Subchapter VIII, by adding thereto a new section to read:

"§ 2242. Display of flags.

Any unit owner shall have the right to display the flag of the United States of America, measuring up to three feet by five feet, on a pole attached to the exterior wall of the unit or the common elements proximate to the unit. This right may not be impaired by any state or private regulation or by any agreement, covenant, or restriction whatsoever, including removal of property from the provisions of this chapter under subchapter VI of this chapter.

Unit owners may effect regulations consistent with this section."

Approved July 9, 1995

CHAPTER 179
FORMERLY
SUBSTITUTE NO. 1
TO
SENATE BILL NO. 200
AS AMENDED BY
SENATE AMENDMENT NOS. 1, 5 AND 6

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO CHARTER SCHOOLS.

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

Section 1. This Act may be referred to as the "Charter School Act of 1995."

Section 2. Amend Title 14, Delaware Code by adding a new Chapter 5 thereto to read as follows:

"Chapter 5. Charter Schools.

§ 501. Legislative intent.

The purpose of this chapter is to create an alternative to traditional public schools operated by school districts and improve public education overall by establishing a system of independent "charter" schools throughout the State.

To that end, this chapter offers members of the community a charter to organize and run independent public schools, free of most state and school district rules and regulations governing public education, as long as they meet the requirements of this chapter, and particularly the obligation to meet measurable standards of student performance. Schools established under this chapter shall be known as "charter schools".

This chapter is intended to improve student learning; encourage the use of different and innovative or proven school environments and teaching and learning methods; provide parents and students with improved measures of school performance and greater opportunities in choosing public schools within and outside their school districts; and to provide for a well-educated community.

There shall be no limit to the number of charter schools that may be established in the State; provided, however, that no more than five such schools may be established to operate in the 1996-1997 school year, and that no more than five additional charter schools may be established to operate in the 1997-1998 school year, and that no more than five additional charter schools may be established to operate in the 1998-1999 school years. If for any school year more charters are awarded than are permitted to operate by this section, the State Board shall hold a lottery to decide which charters are permitted to operate in such school year and charter applicants who lose such lottery shall be given a right of refusal for a charter for the subsequent school year.

§ 502. Potential Charter Organizers.

This legislation is intended to encourage any person, university, college, or non-religious, non-home-based, nonsectarian entity that can meet the requirements of this chapter to form a charter school. No private or religiously affiliated school may apply to become a charter school.

§ 503. Legal status.

A charter school is a public school including two or more of grade kindergarten through 12 and having at least 200 students (provided, however, that a charter school may enroll fewer than 200 but no less than 100 students in its first two years of operation or for a charter school serving at-risk or special education students), managed by a board of directors, which operates independently of any school board, under a charter granted for an initial period of three school years of operation and renewable every five school years thereafter by a public school district or the State Board of Education (hereinafter in this chapter, "State Board"), pursuant to this chapter. For purposes of this chapter as it relates to the management of a charter school, the board of directors of a charter school shall have the same standing and authority as a Reorganized School District Board of Education, except the power to tax. The State Board of Education may also approve a charter school which plans to enroll fewer than 200 students in special circumstances, such as an on-site charter school proposed by a business as an extension of an on-site early learning or day care center.

§ 504. Corporate status.

(a) A charter school shall be organized and managed under the Delaware General Corporation Law.

(b) The board of directors of a charter school shall be deemed public agents authorized by a public school district or the State Board to control the charter school.

(c) A charter school shall be considered a public school for all purposes.

(d) A charter school may sue or be sued to the same extent and on the same conditions as a public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of public school districts and other public schools. The approving authority of a charter school shall have no liability for the actions or inaction of a charter school.

§ 504A. Powers.

Consistent with its charter and the provisions of its certificate of incorporation, bylaws or membership agreements, a charter school shall have the power to:

(a) manage the implementation of its approved education program;

(b) determine its own budget and operating procedures;

(c) acquire and convey interests in real property, subject to rules and regulations established by the State Board with respect to real property acquired by charter schools using state funds;

(d) incur debt;

(e) accept gifts;

(f) contract with any school district, or any other public school or private nonsectarian, non-religious entity also empowered to enter into contracts, for any and all real property, equipment, goods, supplies and services, except that a school district must make unused buildings or space (defined as space no longer needed, permanently or temporarily, for non-charter school purposes) buildings or space in buildings available to a charter school, and shall bargain in good faith over the cost of rent, services and maintenance related to such space. A charter school's continued use of school district space shall be subject to review at least on a five-year basis, and may be terminated by the district with one year's notice, if the district's non-charter school capacity requirements warrant. Charter schools shall have preference over state agencies for purposes of § 1057(b) of this Title except that nothing in this section shall require the displacement of any tenant either during the term of its current lease or any renewal thereof.

(g) hire, manage, and terminate any school employee in accordance with the terms of its personnel policies or any collective bargaining agreement it negotiates with its employees;

(h) establish reasonable academic and disciplinary standards specifically related to the missions, goals and educational objectives for the charter school as set forth in its charter for students to continue enrollment in the charter school, provided, however, that an expulsion from a charter school shall have the same effect for the purposes of §4130 of this Title as expulsion from a school district; and

(i) establish an application and admissions process which shall enable the charter school to provide the local districts in which its students reside with a preliminary roster of its students for the subsequent school year on or before May 1 of each year. To the extent practicable, each charter school shall make the timetable for its application and admissions process identical to any such timetable set forth by this Code for the operation of a public school choice program.

§ 505. Exemption.

A charter school is exempt from all provisions of this title and all school district regulations, except as specified in this chapter, although it may elect to comply with one or more provisions.

§ 506. Restrictions.

A charter school shall not:

(a) charge tuition, except in accordance with Chapter 6 of this title, or collect fees not permitted to be assessed by other school districts;

(b) be home-based nor engage in any sectarian or religious practices in its educational program, admissions policies, employment policies or operations;

(c) restrict student admissions, except by age and grade, or by lottery in the case of over-enrollment, and except that students attending an existing public school converted to charter status and the siblings of such students shall be given preference and the students and the parents of students at a school converted to charter school status shall be provided by the local district with its plan for addressing the educational needs of any such students who will not be attending the charter school, and that students residing within a five-mile radius of the school, students residing within the school district in which the charter school is located, students who have a specific interest in the school's teaching methods, learning philosophy or subject matter focus (e.g., mathematics, science, or performing arts), and students who are at risk of academic failure may be given preference;

(d) discriminate against any student in the admissions process because of race, creed, color, sex, handicap, or national origin, or because the student's school district of residence has a per student local expenditure lower than another student seeking admission; or

(e) be formed to circumvent a court-ordered desegregation plan.

§ 507. Labor relations.

(a) A public school may only be converted to a charter school by approval of the board of the school district in which it is located and that the charter application received the approval of over 50% of the teachers and over 50% of the parents residing in the attendance area of the school with a child(ren) under the age of 18 years, who, after 30 days prior written notice to all teachers and parents eligible to vote, attend a public meeting held for the specific purpose of voting on the proposed conversion, provided, however, that such approval shall not be required where a district school board converts a choice school or program with a specific career or academic subject matter focus already approved as of the effective date of this chapter to a charter school with the same focus. The employees of a school converted to a charter school who are not employed by the charter school shall be accorded the rights available to them under the provisions of their collective bargaining agreement and shall, to the extent permissible under

their collective bargaining agreement, be given preference in filling positions in the school district.

(b) The employees of a school converted to charter status and who are employed by the charter school shall not be part of any bargaining unit which represented employees of the school while it was still part of the school district. Employees of charter schools shall have the same right to organize and bargain collectively as employees of other public schools. A bargaining unit shall not be deemed inappropriate under Title 14, Chapter 40 simply because said unit is comprised of professional and non-professional positions within a charter school. A teacher may be a member of a bargaining unit and serve as a director of a charter school provided, however, that any teacher who is a director of a charter school shall recuse himself or herself from any board meeting, discussion or decision relating to the bargaining unit of which such teacher is a member.

(c) Labor relations between the charter school and its employees shall be governed by chapter 40 of this title, and a charter school and its employees may agree through the collective bargaining process to abide by other provision of this title or Code. The board of directors of a charter school shall hire certified teachers, or teachers who obtain an applicable limited term certification from the State or through an exception to certification regulations obtained by the charter school on the same basis as is available to school districts, to instruct students at the school.

Notwithstanding the foregoing, for any school year with respect to which there is no 'qualified alternative certification' as defined hereinafter in effect, a charter school may, where it deems it beneficial to the success of its educational program, hire non-certified teachers so long as such teachers comprise no more than thirty-five percent of the teachers at the school.

For purposes of this section, a 'qualified alternative certification program' shall be one which:

- (i) Establishes alternative routes of certification available for candidates at all grade levels 7-12 inclusive, and in all disciplines (except special education);
- (ii) Allows a candidate, under the supervision of a mentor teacher, to commence employment as a teacher holding a limited standard certificate with:
 - (A) a bachelor's degree from an accredited college or university appropriate to the instructional field;
 - (B) completion of a full-time seminar/practicum of no less than 20 days duration which takes place prior to the time the candidate takes full responsibility for a classroom; and
 - (C) a passing score on the prescribed State certification exam applicable for the candidate seeking to teach in the field and at the grade level sought by the candidate;
- (iii) Requires that the candidate participate in a period of intensive, on-the-job supervision -- requiring that the candidate be visited and critiqued no less than one time every two weeks by a certified teacher -- beginning the first day on which the candidate assumes full responsibility for a classroom and continuing for a period of at least 10 weeks;
- (iv) Requires that the candidate participate in a period of continued supervision and evaluation of no less than 20 weeks duration -- requiring that the candidate be visited and critiqued at least four times;
- (v) Requires of the candidate satisfactory completion of at least 200 hours of formal instruction in the areas of curriculum, student development and learning, and classroom management; and
- (vi) Allows for the candidate to become fully certified upon:

(A) successful completion of one year of employment as a teacher holding a limited standard certificate; and

(B) receipt of a satisfactory performance evaluation from a review committee consisting of teachers and administrators within the school where such provisional teaching employment has occurred."

(d) At their request, teachers employed by any school district in the State, but not teachers employed by another charter school, shall be granted a three-year leave of absence to teach in a charter school or such leave as is provided in the collective bargaining agreement of the school district. At the end of that period, they shall be allowed to return to the school district with the same level of seniority as when they left to take the leave of absence, provided that they have not been terminated for cause while at the charter school, that they have given the school district notice of their intent to return on or before the April 15 preceding the school year in which they intend to return, and according to the provisions of their collective bargaining agreement in effect in the school district. This level of seniority shall also be used for determination of their tenure in accordance with Chapter 14 of this Title.

(e) Charter school employees shall remain in or be covered by the state retirement system established by Chapter 55, Title 29 of this Code; provided, however, that a charter school may offer each of its employees an option to choose another retirement system in lieu of the state retirement system.

§ 508. Responsibility for student transportation.

The charter school may request to have the school district where the charter school is located transport students residing in that district to and from the charter school on the same basis offered to other students attending schools operated by the district, or to receive from the district a payment equal to the average cost per student (regular or special education as the case may be) of transportation within that district and become responsible for the transportation of those students to and from the charter school. In the case of students not residing in the district where the charter school is located, the parents of such students shall be responsible for transporting the child without reimbursement to and from a point on a regular bus route of the charter school, provided, however, that the school district where the student attending the charter school resides shall pay to the charter school an amount equal to that district's average cost per student (regular or special education as the case may be) of transportation in the district, which shall be used by the charter school for the purpose of assisting such students with transportation. Notwithstanding the foregoing, a student at a charter school shall receive such transportation assistance as is made available to students pursuant to a public school choice program established by this Code provided that such student otherwise meets the eligibility requirements for such assistance. In the event a charter school chooses to transport students itself, it shall do so in accordance with all public school transportation safety regulations. Local school districts and charter schools shall cooperate to ensure that the implementation of this chapter does not result in inefficient use of state appropriations for public school transportation and the State Board shall exercise its authority to approve bus routes so as to avoid such waste.

§ 509. School financing.

(a) Charter schools shall be eligible for public funds under procedures established by this section. Notwithstanding that this Code may establish procedures for the funding of a public school choice program and that such program may include charter schools among those schools which students may choose, funding for charter schools shall be as provided in this section.

(b) A charter school shall receive a payment with respect to each of its students equal to:

(i) From the State on or before November 30, the funding equivalent to the Division I staffing including fractional funding of partial units, excluding funding for a Superintendent, Division II -- All Other Costs and Energy funding, minor capital improvements and school building maintenance funded generated by the annual student unit count conducted on September 30th of each year in accordance with State board of Education regulations. In the case of Division III - equalization, a charter school shall receive from the State an amount that is

determined by weighting the Division III per unit values that would have been generated by its students had they been counted in their district of residence. In addition, a charter school shall receive a pro-rated portion of any other funds appropriated to the State Board of Education that are intended to be allocated on a student, employee or school state share. For the purposes of calculating such funding, each charter school student shall be counted in a separately reported unit count of the charter school, and not counted for any purposes in his district of residence. For any partially funded unit generated at a charter school, the charter school is free to negotiate the use of such unit with the chartering district, and other public school districts, in order to purchase central custodial, administrative, clerical, direct teaching or educationally related services. If such an agreement is not negotiated, a payment based on the average State cost per unit shall be payable to both the charter school and the district issuing the charter, provided that the sum of both fractions justifies an additional unit. The State shall advance 75% of the anticipated funding pursuant to this subsection at the beginning of each fiscal year, provided that the charter school has provided the Department of Public Instruction with a preliminary roster of its students on or before May 1 of such year. A final roster shall be due September 30.

(ii) From the school districts in which its students reside on or before November 30 of each year, the local cost per student (regular or special education, as the case may be), net of transportation expenses provided for pursuant to § 508 of this chapter. The school districts in which its students reside shall advance at least 35% of the anticipated funding pursuant to this subsection at the beginning of each fiscal year provided that the charter school has provided the school districts of residence with a preliminary roster of its students on or before May 1 of such year. This advance may be paid from Division III-Equalization funds if the district's prior fiscal year current expense local funds balance was 20% or less pursuant to § 1509 of this title. A final roster shall be due September 30.

(c) If a parent or legal guardian of a student enrolled outside the district pursuant to this chapter moves during the school year to a district different from the district in which his or her child resided at the time of the annual unit count, the child's first district of residence shall continue to be responsible for payments to the charter school for the balance of the school year pursuant to subsection (b)(ii) of this section. The child's new district of residence shall be responsible for all such payments during succeeding years.

(d) The Department of Public Instruction shall annually calculate the local cost per student expended by each school district for each type of student for the year immediately preceding based on the formula set forth in subsection (e) of this section, adjusted by a factor necessary to fund the charter school on a basis reasonably equivalent to the current year local cost per student, which factor shall be established in the annual appropriations act. The State Board shall annually certify each local district's local cost per student expenditure by September 1st of each year.

(e) Local cost per student as used in this section shall be calculated as follows:

Total Local Operating Expenditure in Preceding Fiscal Year

Total Division I Units minus Spec School Units minus Voc

Deduct plus Vocational Units

Number of Pupils or Pupil Minutes per Unit

Where:

Total Local Operating	=	Sum of all expenditures
Expenditure in		from local sources minus
Preceding FY		local expenditures for tuition minus local expenditures for debt

		service minus local expenditures for Minor Capital Improvement
Division I Units	=	Division I Units certified by
For each District		the State Board of Education
or Special School		as of September 30th of each year
Pupils or Pupil Minutes	=	Number of Pupils or Pupil
per Unit		Minutes required for particular unit of funding as specified in § 1703 of this title.

(f) For any student, who because of educational need requires services that are appropriately financed pursuant to the provisions of Chapter 6 of this title, either at the outset or subsequent to a decision to enroll in a charter school, the student's district of residence shall remain financially responsible for such student and the charter school shall receive from such district a payment determined in accordance with the provisions of Chapter 6 of this title.

(g) Any payment received by a charter school pursuant to this section may be used for current operations, minor capital improvements, debt service payments or tuition payments.

(h) The Department of Public Instruction, in consultation with the Department of Administrative Services, shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by this State or by school districts in this State and that may be suitable for the operation of a charter school. The Department of Public Instruction, in consultation with the Department of Administrative Services, shall make the list available to applicants for charter schools and to existing charter schools. The list shall include the address of each building, a short description of the building and the name of the owner of the building.

§ 510. State assistance.

(a) The Department of Public Instruction shall distribute information announcing the availability of the charter school program, explaining the powers and responsibilities of a charter school contained in this chapter, and describing the application process to each school district and public post-secondary educational institution, and through press releases to each major newspaper in the State.

(b) The Department of Public Instruction shall provide technical assistance to potential charter school applicants upon request.

(c) The Department of Public Instruction shall provide technical and other forms of assistance to charter schools on the same basis as to school districts.

(d) The Department of Public Instruction shall, in concert with the approving authority and the applicant, apply for available federal or foundation grants providing funding for the planning and start-up of charter schools and the Department of Public Instruction shall administer such funds as may be appropriated by the General Assembly for the purpose of assisting in the planning and start-up of charter schools.

§ 511. Approval procedure.

(a) An approved charter school application shall constitute a charter granted to the charter school by the approving authority pursuant to this chapter and shall be governed by the terms of this chapter.

(b) Charters shall be modified by the same procedure and based on the same criteria as they are approved.

(c) Charter school applications shall be submitted to a local school board or the State Board for approval as an approving authority. The approving authority shall be responsible for approval of the charter school pursuant to this section and for continuing oversight of each charter school it approves.

(d) Potential charter school applicants may engage in discussions with a potential approving authority before submitting an application for approval to establish a charter school.

(e) Charter school applications shall be submitted by December 31 for schools to be established and prepared to admit students on or before the second September thereafter, provided, however, that an application for a charter school to open in September 1996 may be submitted to an approving authority on or before October 30, 1995.

(f) Any local school board or the State Board may limit the number of applications it will consider in any year or the number of charters it will grant, but within 20 days after receiving an application must hold a public meeting to decide whether or not to consider it. Any local school board may also decide that it will not accept any applications under this chapter provided that it does so annually upon affirmative vote of its board at a public meeting on or before October 1.

(g) Within 90 days of receiving an application an approving authority has decided to consider, such approving authority must rule on whether to approve the application at a public meeting.

(h) Within 5 days of deciding to consider an application, the approving authority shall form an accountability committee to review the charter school application. The accountability committee's report to the local school board shall address the approval criteria set forth in § 512 of this chapter. The committee shall meet with the applicant in the course of its investigation and provide the applicant the opportunity to review and comment on the committee's report 15 days before it is issued to the approving authority. The committee's final report shall be provided to the applicant and be made available to the public.

(i) After giving 15 days public notice, the approving authority shall hold public hearings to assist in its decision whether to approve a charter application.

(j) Subject to any limitations imposed by the approving authority pursuant to subsection (f) of this section, if the application is found by the approving authority to meet the criteria set forth in § 512 of this chapter, it shall approve the application.

(k) If an application is made to the State Board or a local board as an approving authority and the charter application is not approved, such decision shall be final and not subject to judicial review.

§ 512. Approval Criteria.

Charter school applications shall be in the form of a proposed charter and shall be approved if, after the exercise of due diligence and good faith, the approving authority finds that the proposed charter demonstrates that:

(a) The individuals and entities submitting the application are qualified to operate a charter school and implement the proposed educational program and the proposed board of directors includes representation from teachers and parents of students at the school and that certified teachers, parents, and community members were involved in the development of the proposed charter;

(b) The chosen form of organization, identified in the articles of incorporation and by-laws, or the membership agreement, conforms with the Delaware General Corporation Law;

(c) The mission statement, goals, and educational objectives are consistent with the description of legislative intent set forth in § 501 of this chapter and the restrictions on charter school operations set forth in § 506 in this chapter;

(d) The school has set goals for student performance and will utilize satisfactory indicators to determine whether its students meet or exceed such goals and the academic standards set by the State Board of Education. The indicators shall include the assessments required for students in other public schools, although the charter school may adopt additional performance standards or assessment requirements, and shall include timelines for the achievement of student performance goals and the assessment of such performance;

(e) The school proposes a satisfactory plan for evaluating student performance and procedures for taking corrective action in the event that student performance at the charter school falls below such standards which are reasonably likely to succeed;

(f) The school's educational program, including curriculum and instructional strategies, has the potential to improve student performance;

(g) The school's educational program sets forth strategies to be employed as it deems necessary to accommodate the needs of at-risk students and those needing special education services;

(h) The plan for the school is economically viable, based on a review of the school's proposed budget of projected revenues and expenditures for the first three years, the plan for starting the school, and the major contracts planned for equipment and services, leases, improvements, purchases of real property, and insurance;

(i) The school's financial and administrative operations meet or exceed the same standards, procedures, and requirements as a school district. If a charter school proposes to operate outside of the State's accounting, payroll, purchasing, compensation, pension and/or benefits systems, a specific memorandum of understanding shall be developed and executed by the charter school, the approving authority, the Budget Director and the Controller General to assure that the State's fiduciary duties and interests in the proper use of appropriated funds and as a benefits and pension trustee are fulfilled and protected, the State's financial reporting requirements are satisfied, and the interests of charter school employees are protected;

(j) The assessment of the school's potential legal liability, and the types and limits of insurance coverage the school plans to obtain, are adequate;

(k) The procedures the school plans to follow to discipline students and ensure its students' adherence to school attendance requirements comply with state and federal law; and

(l) The procedures the school plans to follow to assure the health and safety of students, employees and guests of the school while they are on school property are adequate and that the charter school will comply with applicable provisions of Chapter 85 of Title 11 of this Code.

§ 513. Reporting and oversight.

(a) On or before November 1, each charter school shall produce an annual report for the school year ending the previous June, which shall discuss the school's progress in meeting overall student performance goals and standards and contain a financial statement setting forth by appropriate categories the school's revenues and expenditures and assets and liabilities. To ensure that such reports provide parents and approving authorities with clear and comparable information about the performance of charter schools, the Department of Public Instruction shall prescribe a uniform format for such reports, which may be supplemented by requirements set by the approving authority for schools it has chartered.

(b) The annual report shall be submitted to the approving authority and the State Board. Employees of the school and parents of students attending the school shall receive a copy free of charge, upon request. The reports shall be public records pursuant to Chapter 100, Title 29 of this Code.

(c) The Department of Public Instruction, the State Board, and the approving authority may conduct financial, programmatic, or compliance audits of a charter school. In cooperation with the State Board, the approving authority shall conduct such audits no less often than every three years. The State Auditor shall conduct an audit of all charter school funds annually on the same basis as applied to regular school districts.

§ 514. State reports on the charter school program.

Annually, the State Board shall prepare a report for the Governor and the General Assembly on the success or failure of charter schools and propose changes in state law necessary to improve or change the charter school program. Such report shall contain a section comparing the per student expenditures of charter schools, considering all sources of such expenditures, with those of other public schools.

§ 515. Oversight and revocation process.

(a) The approving authority shall be responsible for oversight of the charter schools it approves.

(b) Three years after a charter school has commenced its instructional program pursuant to this chapter and not later than every five years thereafter, the approving authority shall, upon notice to the charter school, review the performance of the charter school to determine its compliance with its charter and its satisfaction of the criteria set forth in § 512 of this chapter.

(c) In addition to the review required by subsection (b) of this section, the approving authority may notify a charter school of potential violations of its charter and submit the charter to formal review to determine whether the charter school is violating the terms of its charter and whether to order remedial measures pursuant to subsection (g) of this section.

(d) The approving authority shall issue its decision within 90 days of giving the charter school notice pursuant to subsections (b) or (c). An accountability committee appointed by the approving authority shall conduct the initial review pursuant to subsections (b) or (c). The accountability committee's report to the approving authority shall address the relevant criteria set forth in § 512 and § 516 of this chapter. The committee shall meet with the applicant in the course of its investigation and provide the applicant the opportunity to review and comment on the committee's report 15 days before it is issued to the approving authority. The committee's final report shall be provided to the applicant and made available to the public.

(e) If the accountability committee reports probable grounds for remedial measures pursuant to subsection (g) of this section, the approving authority shall hold public hearings to assist in its decision whether the criteria set forth for remedial action in § 516 of this chapter have been satisfied, after giving the charter school 30 days notice. The school shall be given the opportunity to respond to the accountability committee's report at the meeting. Members of the public shall be given the opportunity to comment at the meeting.

(f) If the accountability committee reports that the school has complied with its charter and the criteria set forth in § 512 of this chapter, the approving authority shall approve or disapprove its report at a public meeting after giving the charter school 30 days notice. If the approving authority disapproves the report, it shall identify the reasons for that decision with particularity. Thereafter, the approving authority shall hold a hearing, within 30 days, to decide the appropriate remedy pursuant to subsection (g) of this section.

(g) If the approving authority determines that the criteria for remedial action set forth in § 516 of this chapter have been satisfied, it may revoke the charter and manage the school directly until alternative arrangements can be made for students at the school or place the school on a probationary status subject to terms determined by the approving authority which are directly relevant to the violation(s). Charters shall be revoked only where probationary actions are unlikely to succeed.

(h) If a local school district which is an approving authority decides to revoke the school's charter or place the school on probationary status, the applicant may file for arbitration

in writing with the American Arbitration Association in Philadelphia within 20 days of the local board's decision stating the reasons why it believes the local board decision was in error. A copy of said filing shall be provided simultaneously with the approving authority. The parties shall select an Arbitrator in accordance with the American Arbitration Association's procedure for voluntary labor disputes, provided, however, that such arbitration shall occur in this State. The Arbitrator's fees and costs shall be borne equally by the parties. The Arbitrator shall convene a hearing and determine whether the local board's decision was in error. The arbitrator shall have thirty days to render his or her decision following the close of the hearing. The Arbitrator's decision shall be final and binding upon the parties.

(i) If the approving authority is the State Board and it decides to revoke the school's charter or place the school on probationary status, its decision shall be final and not subject to arbitration or judicial review.

§ 516. Revocation criteria.

Approved charters shall be subject to revocation or probation, after the exercise of due diligence and good faith, only for the following reasons:

(a) The school, or its representatives, has committed a material fraud on the approving authority or misappropriated federal, state or local funds; or

(b) The school fails to comply with its charter or to satisfy, in its operation of the school, the criteria set forth in § 512 of this chapter."

Approved July 10, 1995

CHAPTER 180
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 144
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO CHOICE IN
PUBLIC EDUCATION.

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

Section 1. Amend §202, Title 14, Delaware Code by deleting subsection (c) thereof in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) Persons attending the public schools of this State shall attend the public schools in the school district within which they reside, except as provided in Chapters 4 and 6 of this Title and in Chapter 92, Volume 23, Laws of Delaware, as amended by Chapter 172, Volume 55, Laws of Delaware."

Section 2. Amend Chapter 6, Title 14, Delaware code by adding a new §607 to read as follows:

"§607. Applicability of chapter.

The provisions of this chapter shall not apply to any transfers, re-assignments, or enrollment changes made with respect to any student under the provisions of Chapter 4 of this Title, nor to any transfers, re-assignments, or enrollment changes made with respect to any vocational-technical centers or schools established pursuant to §205 of Title 14."

Section 3. Amend Title 14, Delaware Code by adding a new Chapter 4 to read as follows:

"Chapter 4. School District Enrollment Choice Program.

§401. Establishment; statement of purpose.

(a) There is hereby established an enrollment choice program within the public school system of this State.

(b) In establishing this program, it is the goal of the General Assembly to increase access to educational opportunity for all children throughout the State regardless of where they may live. It is therefore the intent of the General Assembly that this chapter be construed broadly to maximize parental choice in obtaining access to educational opportunities for their children.

(c) For the school year commencing July 1, 1996, and each succeeding school year, a Parent residing within this State may enroll his or

her child in a public school in any school district in the manner provided in this chapter.

§402. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(a) 'District of Residence' shall mean any reorganized school district in which the Parent of a student resides.

(b) 'Parent' shall mean parent or legal guardian of the person of the child.

(c) 'Receiving District' shall mean any reorganized school district other than the District of Residence in which a student seeks to enroll. Where the District of Residence includes more than one school or more than one program within any school providing instruction at a given grade level, and a Parent of a child entering such grade level applies to enroll his or her child in a public school program within the District of Residence other than the program in which the child would normally be enrolled based on his or her place of residence, the District of Residence shall also be considered to be the Receiving District for all purposes of this chapter, except for the purposes of §408 of this Chapter.

(d) 'Good Cause' shall mean a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's Parent's marital status, a change caused by a guardianship proceeding, placement of a child in foster care, adoption, participation by a child in a foreign exchange program, or participation by a child in a substance abuse or mental health treatment program, or a similar set of circumstances consistent with this definition of 'Good Cause'.

(E) 'Working days' shall mean working days as determined by a school district's administrative calendar.

§403. Pupil application; withdrawal.

(a) Any Parent of a school age child may apply to enroll his or her child in a school or program in a Receiving District by submitting a written application, on a form provided by the State Board of Education, to the Receiving District and to the District of Residence no later than January 1 for enrollment during the following school year in a program in grades 1 through 12, or May 1, for enrollment during the following school year in a kindergarten program.

(b) If a Parent of a school age child fails to file an application by the deadline established in subsection (a) of this section, and Good Cause exists for the failure to meet the deadline, or if the application is to enroll a child in a kindergarten program, the Receiving District and the District of Residence shall accept and consider the application in the same manner as if the deadline had been met.

(c) The Parent of a school age child may withdraw the application at any time prior to action on the application by the board of the Receiving District by giving written notice to the boards of the Receiving District and the District of Residence..

§404. Receiving District procedures.

(a) Within ten working days of receiving an application, the Receiving District shall transmit a notice to the District of Residence that it has received the application.

(b) The board of the Receiving District shall take action no later than February 15 of the school year preceding enrollment to approve or disapprove an application for admission to a program in grades 1 through 12, and no later than June 15 of the school year preceding enrollment to approve or disapprove an application for admission to a kindergarten program.

(c) With respect to any application filed in accordance with the provisions of §403 (b) of this Chapter, the board of the Receiving District shall take action to approve or disapprove the application no later than 45 days after receipt thereof.

(d) The board of the Receiving District shall transmit a notice of the board's action to the Parent of the child, and to the board of the District of Residence within five working days after board action.

§405. Criteria for approval or disapproval.

(a) Each Receiving District shall adopt and make available upon request a policy regarding the order in which applications for enrollment pursuant to this chapter shall be considered.

(b) Each Receiving District shall adopt and make available upon request a policy establishing criteria for acceptance or rejection of applications and setting priorities for acceptances. Such criteria shall be reasonably related to the nature of the program or school for which the application is submitted. Such criteria shall include the authority of the Receiving District to reject an application based upon the requirements of any applicable existing Individualized Education Plan relating to an applicant who has special needs. The policies adopted by each district shall, at a minimum, give priority to the following categories of students in the order listed:

(1) first, to returning students who continue to meet the requirements for the program or school, including students graduating from one school to another within a single program;

(2) second, to students who meet the requirements for the program or school and who seek to attend based upon the residence of his or her Parent within the designated feeder pattern, if any, for the school; and

(3) third, to the siblings of students already enrolled in the school, provided that any siblings seeking priority under this paragraph meet the requirements for the program or school.

(c) A Receiving District may disapprove an application because of lack of capacity in the district. It may also disapprove an application for a particular program or school because of lack of capacity in the program or school. For purposes of this subsection, 'capacity' shall include but not be limited to such considerations as space, class size, and enrollment restrictions reasonably related to the nature of the program or school for which the application is submitted.

(d) A district which is subject to a court-ordered desegregation plan may approve and disapprove applications in accordance with §406(a) of this chapter.

§406. Racial balance.

(a) If approval of all of the applications for transfer into or out of a district would result in the district being out of compliance with any applicable court-ordered desegregation plan, the district shall establish the number of majority and minority group pupils who may transfer into or out of the district.

(b) Any action by the board of the District of Residence to disapprove the application pursuant to this section shall be taken no later than March 15 of the school year preceding enrollment.

(c) The board of the District of Residence shall transmit a notice of the board's action pursuant to this section to the Parent within five working days after board action.

§407. Duration of enrollment in Receiving District.

(a)(1) A pupil accepted for enrollment in a school or program pursuant to this chapter shall be entitled to remain enrolled therein until graduation from the school or completion of the program provided that the pupil continues to meet the requirements for such school or program.

(2) A pupil accepted for enrollment in a school or program pursuant to this chapter shall remain enrolled therein for a minimum of two years unless, during that two year period, the pupil graduates from the school or completes the program, the pupil's Parent(s) cease to be residents of the pupil's original District of Residence, or at the conclusion of any academic year during such two year period, the pupil ceases to meet the academic requirements for such school or program.

(b) Notwithstanding the provisions of subsection (a) of this section, a Parent may apply to terminate his or her child's enrollment in the Receiving District prior to the expiration of the minimum period established in subsection (a) of this section by submitting a written application, on a form provided by the State Board of Education, to the child's then-existing district of enrollment no later than December 1 for enrollment during the following school year.

(c) If a Parent of a child fails to file an application by the deadline of December 1 and Good Cause exists for the failure to meet the deadline, the child's then-existing district of enrollment shall accept and consider the application in the same manner as if the deadline had been met.

(d) The Parent of a child may withdraw the application at any time prior to action on the application by the board of the child's then-existing district of enrollment.

(e) Within ten working days of receiving an application to withdraw, the child's then-existing district of enrollment shall transmit a notice to the District of Residence that it has received the application.

(f) The board of the child's then-existing district of enrollment shall take action to approve or disapprove the application no later than December 15 of the school year preceding enrollment.

(g) The board of the Receiving District shall transmit a notice of the board's action to the Parent of the child and to the board of the District of Residence within five working days after board action.

(h) The action of a board in a child's then-existing District of enrollment to accept an application to terminate enrollment pursuant to this section shall be final; however, nothing in this subsection shall prohibit a board in its sole discretion from conditioning its approval of termination

pursuant to this section upon acceptance of the child into another district or program pursuant to an application submitted in accordance with this chapter.

(i) Unless accepted for enrollment in a school or program in another district pursuant to this chapter, a child whose enrollment in a Receiving District concludes or terminates pursuant to this section shall automatically be re-enrolled in his or her District of Residence for the ensuing school year. Any such student shall be enrolled by the District of Residence according to the feeder pattern in which his or her Parent resides unless, pursuant the provisions of §405(b) of this chapter, all available space has been filled by returning students, in which case the student shall apply and be considered for enrollment in any other school in the District of Residence in which there is space available in accordance with the provisions of this chapter.

§408. State and local education funding.

(a) A pupil enrolled in a Receiving District pursuant to this chapter shall be included in the unit count of the Receiving District for all purposes relating to the allocation of all State and Federal education funding and shall not be included in the unit count of the District of Residence for any such purposes.

(b) If a parent of a pupil enrolled outside the District of Residence pursuant to this Chapter moves during the school year to a district different from either the District of Residence or the Receiving District, the child's first District of Residence shall continue to be responsible for payments to the Receiving District for the balance of the school year pursuant to subsection (e) of this section. The child's new District of Residence shall be responsible for all such payments during succeeding years, and such payments shall be calculated as the lower Local Cost Per Pupil, as defined in subsection (d) of this section, of the new District of Residence and the Receiving District.

(c) The Department of Public Instruction shall annually calculate the Local Cost Per Pupil expended by each school district for each type of pupil for the school year immediately preceding. The State Board of Education shall annually certify each district's Local Cost Per Pupil expenditure by September 1 of each year.

(d) Local Cost Per Pupil as used in this Section shall be calculated as follows:

Total Local Operating Expenditure in Preceding Fiscal Year

Total Division I Units minus Special School Units minus Vocational Deduct plus Vocational Units

Number of Pupils or Pupil Minutes per Unit

Where:

Total local Operating	=	Sum of all expenditures
Expenditure in		from local sources minus
Preceding FY		local expenditures for
		tuition minus local expend-
		itures for debt service minus

		local expenditures for Minor
		Capital Improvement
Division I Units for each	=	Division I Units certified by
District or Special School		the State Board of Education
		as of September 30 of each
		year
Pupils or Pupil Minutes	=	Number of Pupils or Pupil
per Unit		Minutes required for one
		particular unit of funding as
		specified in §1703 of this
		Title

(e) The District of Residence shall, except as provided for in subsection (h) of this section, pay to the Receiving District the lower Local Cost Per Pupil expenditure of the two districts, adjusted by an inflation factor specified annually in the annual appropriations act, such payment to be made by November 30 of each year. In the case of a District of Residence that has a higher Local Cost Per Pupil than the Receiving District, the District of Residence shall pay in to a special fund to be known as the 'School Choice Fund,' the difference per pupil between their Local Cost Per Pupil expenditure and that of the Receiving District. The Department of Public Instruction shall establish and administer the School Choice Fund as an appropriated special fund account. Deposits by Districts of Residence to this account shall also be completed by November 30 of each school year.

(f) Once all payments have been made pursuant to subsections (b) and (e) of this section, the full amount in the 'School Choice Fund' account shall be allocated to all Receiving Districts that had a Local Cost Per Pupil, as defined in subsection (d) of this section, that was higher than the District of Residence for pupils choosing to attend schools in districts other than their District of Residence. These funds shall be provided in a pro-rata fashion so that the gap that exists in a Receiving District between the Local Per Pupil Cost in the Receiving District and the amount paid by the District of Residence is closed by an equal percentage in each Receiving District.

(g) Once all payments have been made pursuant to subsection (b), (e) and (f) of this subsection, the State of Delaware, from the Annual Appropriations made for Division III Equalization and/or that portion of the Growth and Upgrade Contingency that represents actual Division III Equalization unit growth, will provide funding to all Receiving Districts that had a Local Cost Per Pupil, as defined in subsection (d) of this section, that was higher than the District of Residence of pupils who choose to attend school in said Receiving Districts. This funding will be provided to each such Receiving District so that the gap that exists in such Receiving District between the Local Per Pupil Expenditures in the Receiving District and the amount paid by the District of Residence is closed by an equal percentage in each Receiving District to the extent that the actual appropriations allow.

(h) Any pupil, who because of educational need, requires services that are appropriately financed pursuant to the provisions of Chapter 6 of this Title, either at the outset or subsequent to a decision to enroll in a public school other than a school in his or her District of Residence, shall remain the

financial responsibility of the District of Residence. The amount of the financial obligation shall be determined in accordance with the provisions of Chapter 6 of this Title.

(i) Any payment received by a local school district pursuant to this section may be used for current operations, local share of minor capital improvements, local debt service payments or to make tuition payments.

§409. Transportation.

(a) The Parent of any child enrolled in a district other than the District of Residence, or enrolled in a school within the District of Residence other than the school in which he or she would normally be enrolled based upon the residence of his or her Parent(s), shall be responsible for transporting the child without reimbursement to and from a point on a regular bus route of the Receiving District; provided, however, that nothing in this section shall prevent the Receiving District, after notice to the District of Residence, from establishing and operating bus routes in the District of Residence for the purpose of transporting students enrolled in the Receiving District.

(b) Notwithstanding the provisions of subsection (a) of this section, any student who is:

(1) attending a school in a district other than the District of Residence; and

(2) not disqualified from receiving transportation services by virtue of his or her proximity to the school of enrollment; and

(3) eligible for participation in the Federal Free Lunch Program administered by the Department of Public Instruction

shall be entitled to receive from the State of Delaware a payment equal to the average cost per student (regular or special education as the case may be) of transportation within the District of Residence, provided, however that if such student is receiving transportation services within the District of Residence provided by either the District of Residence or the Receiving District, the payment provided for in this subsection shall be paid directly to the District providing such services.

(c) In lieu of the payment provided for in subsection (b) of this section; the State may elect to provide any eligible student enrolled in grades 9 through 12 with passes entitling the student to free DART transportation on regular DART bus routes on school days between the student's home and a point on a regular bus route of the Receiving District.

§410. Interscholastic sports.

A student enrolled in grades ten through twelve, inclusive, in a Receiving District shall not be eligible to participate in interscholastic athletic contests or competitions during the first year of enrollment in any Receiving District if the student was enrolled in a different Receiving District during the preceding school year unless the interscholastic sport in which the student wishes to participate is not offered in the Receiving District in which the student was enrolled in the previous school year.

§411. Pupils suspended or expelled in District of Residence.

If a child for whom an application has been submitted pursuant to this chapter has been suspended or expelled in the District of Residence, the board of the Receiving District may, in its sole discretion, refuse to consider the application or refuse to approve the application, or refuse to enroll the child in the Receiving District until the child has been reinstated in the District of Residence, provided, however that nothing in this Section shall be construed to enlarge upon the authority of any district to accept for re-enrollment any student who has been expelled from a school district in this State, as such authority is limited by the provisions of §4130 of this Title.

§412. Credits; graduation.

A pupil who has been enrolled in a Receiving District and who has met that district's graduation requirements shall be granted a diploma by that district. That district shall accept credits toward graduation requirements that were awarded by another district.

§413. Discipline not affected.

Nothing in this chapter shall be deemed to affect or alter district policies with regard to disciplining students, including suspensions or expulsions.

§414. Intra-District Choice.

Where the District of Residence includes more than one school or more than one program within any school providing instruction at a given grade level, a Parent of a child entering such grade level may apply to enroll his or her child in any public school program within the District of Residence other than the program in which the child would normally be enrolled based on his or her place of residence in the manner provided in this Chapter, and in such cases, the District of Residence shall also be considered to be the Receiving District for all purposes of this Chapter, except that the provisions of §408 of this Chapter shall not apply to any such applications or changes in enrollment."

Section 4. The provisions of this Bill are severable. The invalidity or unenforceability of any provision shall not affect the validity or enforceability of the remaining provisions of this Act.

Approved July 10, 1995

CHAPTER 181

FORMERLY

HOUSE BILL NO. 227

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE
DEPARTMENT OF CORRECTION.

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

Section 1. Amend § 6533(d), Chapter 65, Title 11, Delaware Code, by striking
said subsection in its entirety and substituting in lieu thereof the following:

“(d) Notwithstanding any other provision of this section or title to the
contrary, no person shall be permitted work release under this section, until such
person is within 6 months from the date of his release from custody, as
determined by the Department, if the person is:

(1) Serving a sentence imposed for a class A felony; or

(2) Serving a sentence imposed pursuant to Section 4214 of this
Title; or

(3) Has previously been convicted of two or more of the following
crimes set forth in this Title under sections:

513	Conspiracy first degree;
531	Any attempt to commit any crime listed in this paragraph;
604	Reckless endangering first degree;
612	Assault second degree;
613	Assault first degree;
629	Vehicular assault first degree;
630	Vehicular homicide second degree;
630A	Vehicular homicide first degree;
631	Criminally negligent homicide;
632	Manslaughter;
635	Murder second degree;
768	Unlawful sexual contact second degree;
769	Unlawful sexual contact first degree;
770	Unlawful sexual penetration third degree;

771	Unlawful sexual penetration second degree;
772	Unlawful sexual penetration first degree;
773	Unlawful sexual intercourse third degree;
774	Unlawful sexual intercourse second degree;
778	Continuous sexual abuse of a child;
782	Unlawful imprisonment first degree;
783	Kidnapping second degree;
783A	Kidnapping first degree;
801	Arson third degree;
802	Arson second degree;
803	Arson first degree;
831	Robbery second degree;
832	Robbery first degree;
1108	Sexual exploitation of a child;
1254	Assault in a detention facility;
1302	Riot;
1312A	Stalking;
1338	Bombs, incendiary devices, Molotov cocktails and explosive devices;
1447	Possession of a deadly weapon during the commission of a felony;
1447A	Possession of a firearm during the commission of a felony;
1448	Possession of a deadly weapon by a person prohibited; or
3533	Aggravated Act of Intimidation."

Section 2. Amend § 6533, Chapter 65, Title 11, Delaware Code, by adding a new subsection (f) to read as follows:

"(f) Notwithstanding any other provision of this section or title to the contrary, no person who has previously been convicted under sections 1252 or 1253 of this Title or any attempt to commit such crimes under Section 531 of this Title shall be permitted outside employment or work release under this section."

Approved July 10, 1995

CHAPTER 182

FORMERLY

HOUSE BILL NO. 290

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SENTENCES.

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

Section 1. Amend § 4209(f), Title 11 of the Delaware Code, by inserting, after the first sentence ending in "court" and before the second sentence beginning with "Punishment," new text, to read:

"The trial court shall permit one adult member of the immediate family of the victim, as defined in § 4350(c) of this Title, or his or her designee, to witness the execution of a sentence of death pursuant to the rules of the court, if the family provides reasonable notice of its desire to be so represented."

Section 2. This Act shall be effective ninety days after enactment.

Approved July 10, 1995

CHAPTER 183

FORMERLY

SENATE BILL NO. 68

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

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

Section 1. Amend Title 29, §8831 of the Delaware Code striking the words "Office of Handicapped Services" as they appear in subsections 8831(c) and 8831(g) and substituting in lieu thereof the words "Office of Disability Affairs".

Approved July 10, 1995

CHAPTER 184

FORMERLY

SENATE BILL NO. 148

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION SCIENCE VANS.

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

Section 1. Amend Chapter 1, Title 14 of the Delaware Code by adding a new §132 as follows:

"§132(a) This section authorizes the creation of a special fund within the State Treasurer's office, designated the Education Science in Motion Fund, hereinafter referred to as the Fund. The State Superintendent of Education shall authorize the expenditure of monies within the Fund, upon approval of the State Board of Education.

(b) The Fund shall be expended for two vans equipped with science equipment, one for New Castle County and one for Kent and Sussex Counties, as well as for supplies, operating expenses and personnel.

(c) Receipts to the Fund shall include, but are not limited to:

- (1) appropriations made at the discretion of the General Assembly;
- (2) grant funds;
- (3) donations and contributions;
- (4) federal funds; and
- (5) appropriations made by local governments.

(d) The Department of Public Instruction shall solicit matching funds from organizations including, but not limited to, private foundations or alliances, public or nonpublic agencies, institutions, organizations or businesses.

(e) The State Board of Education may adopt rules and regulations necessary for the implementation of this act.

Section 2. This act shall become effective July 1, 1995.

Approved July 10, 1995

CHAPTER 185

FORMERLY

SENATE BILL NO. 181

AS AMENDED BY

SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 3, TITLE 18, DELAWARE CODE, RELATING TO THE OFFICE OF THE INSURANCE COMMISSIONER.

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

Section 1. Amend Chapter 3, Title 18, Delaware Code, by striking said Chapter in its entirety and by substituting in lieu thereof the following:

*CHAPTER 3. THE INSURANCE COMMISSIONER

§302. Commissioner; election; term.

(a) The Insurance Commissioner shall be the chief officer of the Insurance Department.

(b) The Commissioner shall be elected by the qualified electors of the State at a general election for a term of 4 years and shall be commissioned by the Governor.

(c) Subject to prior qualification by the oath required by §303 of this Chapter, the Commissioner shall assume office on the first Tuesday of January after election. The Commissioner shall hold office for the term for which elected and thereafter as provided by Article XV, §5, of the Constitution.

§303. Oath.

Before entering upon the duties of his or her office the Commissioner shall take and subscribe the oath or affirmation prescribed by Article XIV of the Constitution.

§304. Removal; vacancy.

(a) The Commissioner may be removed from office for reasonable cause, as provided by Article III, §13, of the Constitution.

(b) A vacancy in the office of Commissioner shall be filled by appointment by the Governor, as provided in Article III, §9, of the Constitution.

§305. Seal.

The Commissioner shall have a seal of office of a suitable design and bearing the words 'Insurance Commissioner of the State of Delaware.'

§306. Office; Insurance Commissioner Regulatory Revolving Fund.

(a) The Department may operate 2 offices, the principal office in Dover and a branch office in Wilmington.

(b) There is hereby created within the office of the Insurance Commissioner a special fund to be designated as the Insurance Commissioner Regulatory Revolving Fund which shall be used in the operation of the office of the State Insurance Commissioner in the performance of the various functions and duties required of the office by law.

(c) All supervisory assessments, examination fees and any rate filing or form filing fees paid by insurers and collected by the Commissioner pursuant to this Title shall be deposited in the State Treasury to the credit of said Insurance Commissioner Regulatory Revolving Fund to be used in the operation of the office as authorized by the General Assembly in its annual operating budget. All other fees and/or taxes collected by the Commissioner shall not be deposited in said Fund but shall be deposited in the General Fund of the State.

(d) Funds in the Insurance Commissioner Regulatory Revolving Fund shall be used by the Commissioner in the performance of his or her various functions and duties involved in the oversight of insurance companies as provided by law, subject to annual appropriations by the General Assembly for salaries and other operating expenses of the office.

(e) The maximum unencumbered balance which shall remain in the Insurance Commissioner Regulatory Revolving Fund at the end of any fiscal year shall be \$150,000; and any amount in excess thereof shall cause the Insurance Commissioner to reduce assessments or fees collected in the next fiscal year by an amount sufficient to reduce the Regulatory Revolving Fund fiscal year-end balance back to or below \$150,000.

§307. Deputy Commissioner.

(a) The Commissioner may appoint and may remove a Deputy. Before entering upon his or her duties the Deputy shall take and file the Constitutional oath of office.

(b) The Deputy may exercise such powers and discharge such duties as the Commissioner may authorize.

(c) The Deputy shall devote his or her full time to the Department, shall not engage in any other insurance-related activity for fee or compensation, and the State shall pay his or her salary at the rate provided by law in full compensation for all of his or her services.

§308. Staff.

(a) The Commissioner may appoint and fix the compensation of such examiners, clerks, technical and professional personnel, and other necessary assistants as conduct of his or her office may require and may revoke such appointments.

(b) The Commissioner may from time to time contract for and procure such additional and independent actuarial, rating, legal and other technical and professional services as he or she may require for discharge of his or her duties.

§309. Prohibited interest; rewards.

(a) The Commissioner, his or her Deputy, or any examiner, assistant, or employee of the Department, shall not be connected with the management of, nor have a material financial interest in, directly or indirectly, any insurer, insurance agency, or broker or insurance transaction, except as policy holder or claimant under a policy; except that as to matters wherein a conflict of interest does not exist on the part of any such individual, the Commissioner may employ or retain from time to time Insurance actuaries, examiners, accountants, attorneys or other technicians, who are independently practicing their profession even though from time to time they are similarly employed or retained by insurers or others.

(b) The Commissioner, his or her Deputy, or any examiner, assistant, employee or technician retained by the Department, shall not be given nor receive, directly or indirectly, any fee, compensation, loan, gift or other thing of value, in addition to the compensation and expense allowance provided by or pursuant to the law of this State, or by contract with the Commissioner, for any service rendered or to be rendered as

such Commissioner, Deputy, examiner, assistant, employee, or technician, or in connection therewith.

(c) Subsection (a) above shall not be deemed to prohibit receipt by any such person of fully vested commissions or fully vested retirement benefits to which entitled by reason of services performed prior to becoming Commissioner or prior to employment by the Commissioner.

(d) This Section shall not be deemed to prohibit appointment and functioning of the Commissioner as process agent of insurers or of nonresident licensees as provided for in this Title.

§310. Delegation of powers: duties.

(a) The Commissioner may delegate to his or her Deputy, examiner or an employee of the Department, the exercise or discharge in the Commissioner's name of any power, duty or function, whether ministerial, discretionary or of whatever character vested in or imposed upon the Commissioner under this Title.

(b) The official act of any such person acting in the Commissioner's name and by his or her authority shall be deemed an official act of the Commissioner.

§311. General powers: duties.

(a) The Commissioner shall enforce and execute the duties imposed by this Title.

(b) The Commissioner shall have the powers and authority expressly vested by or reasonably implied from this Title.

(c) With respect to enforcement of the payment of fees, charges and taxes, all the provisions of law conferring powers and duties upon the State Treasurer shall also apply to the Commissioner.

(d) The Commissioner shall have such additional rights, powers and duties as may be provided by other laws of this State.

§312. Rules and regulations: promulgation: violation

(a) The Commissioner may make reasonable rules and regulations necessary for, or as an aid to, the administration or effectuation of any provision of this Title. No such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof.

(b) The Commissioner shall adopt and promulgate rules and regulations in accordance with the procedures set forth in the State Administrative Procedures Act, Chapter 101, Title 29, Delaware Code.

(c) Willful violation of any such rule or regulation shall subject the violator to such suspension or revocation of certificate of authority or license, or to such administrative fine in lieu thereof, as may be applicable under this Title, for violation of the provision to which such rule or regulation relates; but, no penalty shall apply to any act done or omitted in good faith in conformity with any such rule or regulation, notwithstanding that such rule or regulation, after such act or omission, may be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

§313. Orders, notices in general.

(a) Orders and notices of the Commissioner shall be effective only when in writing signed by him or her or by his or her authority.

(b) Except as otherwise expressly provided by law as to particular orders, every order of the Commissioner shall state its effective date and shall concisely state:

(1) Its intent or purpose;

(2) The grounds on which based;

(3) The provisions of this Title pursuant to which action is taken or proposed to be taken; but, failure to so designate a particular provision shall not deprive the Commissioner of the right to rely thereon except where expressly provided to the contrary.

(c) Except as may be provided as to particular procedures, an order or notice may be given by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to such person at his or her principal place of business or residence as last of record in the Department. The order or notice shall be deemed to have been given when deposited in a mail depository of the United States Post Office.

§314. Enforcement through Attorney General.

(a) The Commissioner, through the Attorney General of this State, may invoke the aid of the Superior Court, through proceedings instituted in any county of this State, to enforce any lawful order made or action taken by him or her. In such proceedings the Superior Court may make such orders, either preliminary or final, as it deems proper under the facts established before it.

(b) If the Commissioner has reason to believe that any person has violated this Title or any other law applicable to insurance operations, for which criminal prosecution is provided, and, in his or her opinion, would be in order, he or she shall give the information relative thereto to the Attorney General. The Attorney General shall promptly institute such action or proceedings against such person as in his or her opinion the information may require or justify.

(c) The Attorney General upon request of the Commissioner is authorized to proceed in the courts of any other state or in any federal court or agency to enforce an order or decision of any court proceeding or in any administrative proceeding before the Commissioner.

§315. Records: inspection: destruction.

(a) The Commissioner shall carefully preserve in the Department and in permanent form all papers and records relating to the business of the Department and shall hand the same over to his or her successor in office.

(b) Except where he or she deems the same to be prejudicial to the public interest, the Commissioner shall permit inspection of the papers, records and filings in the Department by persons found by him or her to have an identified and proper interest therein.

(c) The Commissioner may destroy unneeded or obsolete records and filings in the Department in accordance with provisions and procedures applicable to administrative agencies of this State in general.

(d) Nothing in this Title shall prohibit the storage of documents and records by use of electronic means or media.

§316. Official documents. certified copies: use as evidence.

Any instrument duly executed by the Commissioner, and authenticated by his or her seal of office, shall be received in evidence in the courts of this State, and copies of papers and records in the Department so authenticated shall be received as evidence with the same effect as the originals.

§317. Interstate cooperation.

(a) The Commissioner shall communicate, on request of the insurance supervisory official of any state, province or country, any information which it is his or her duty by law to ascertain respecting authorized insurers.

(b) The Commissioner may be a member of the National Association of Insurance Commissioners or any successor organization and may participate in and support other cooperative activities of public officials having supervision of the business of insurance.

§318. Investigations authorized.

In addition to examinations and investigations expressly authorized, the Commissioner may conduct such investigations of insurance matters as he or she may deem proper, upon reasonable cause, to determine whether any person has violated this Title or to secure information useful in the lawful administration of any such provision. Except as otherwise provided in this Title, the cost of such investigations shall be borne by the State.

§319. Examination of insurers.

(a) The Commissioner or any of his or her examiners may conduct an examination under this section of any company as often as the Commissioner in his or her sole discretion deems appropriate, but shall at a minimum, conduct an examination of every insurer licensed in this state but not less frequently than every 5 years. In scheduling and determining the nature, scope, and frequency of the examinations, the Commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports or independent certified public accountants and other criteria as set forth in the Examiner's Handbook adopted by the National Association of Insurance Commissioners and in effect when the Commissioner exercises discretion under this section. Examination of an alien insurer shall be limited to its insurance transactions, assets, trust deposits, and affairs in the United States except as otherwise required by the Commissioner.

(b) The Commissioner shall examine, in like manner, each insurer applying for an initial certificate of authority to transact insurance in this State.

(c) In lieu of making his or her own examination, the Commissioner may accept, in his or her discretion, a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of another state.

(d) As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officials of other states in which the insurer transacts business.

(e) In lieu of an examination under this Section of any foreign or alien insurer licensed in this State, the Commissioner may accept an examination report on such company as prepared by the insurance department for the company's state of domicile or port-of-entry state, so long as:

(1) The insurance department, at the time of the examination, was accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or

(2) The examination is performed under the supervision of an accredited insurance department, or with the participation of 1 or more examiners, who are employed by such an accredited state insurance department, and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

§320. Examination of agents, promoters and others.

For the purpose of ascertaining compliance with law or relationships and transactions between any such person and any insurer or proposed insurer, the Commissioner may examine, as often as he or she deems advisable, the accounts, records, documents and transactions pertaining to or affecting insurance affairs or proposed insurance affairs of:

(1) Any insurance agent, solicitor, broker, general agent, adjuster, insurer representative or person holding himself or herself out as any of the foregoing;

(2) Any person having a contract under which he or she enjoys in fact the exclusive or dominant right to manage or control an insurer;

(3) Any person holding the shares of voting stock or the policyholder proxies of a domestic insurer for the purpose of controlling the management thereof, as voting trustee or otherwise;

(4) Any person in this State, who is engaged in, or proposing to be engaged in, holding himself or herself out as engaging, proposing, or assisting in the promotion, formation, or financing of an insurer, insurance holding corporation, corporation, or other group, to finance an insurer or the production of its business.

§321. Conduct of examination: access to records: correction.

(a) The Commissioner shall conduct each examination in an expeditious, fair, and impartial manner. Upon determining that an examination should be conducted, the Commissioner or his or her designee shall issue an examination warrant appointing 1 or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the Examiner's Handbook adopted by the National Association of Insurance Commissioners. The Commissioner may also employ such other guidelines or procedures as the Commissioner may deem appropriate.

(b) Upon any such examination the Commissioner or examiner may examine, under oath, any officer, agent or other individual believed to have material information regarding the affairs under examination.

(c) Every person being examined, his or her officers, attorneys, employees, agents and representatives, shall make freely available to the Commissioner, or his or her examiners, the accounts, records, documents, files, information, assets and matters of such person, in his or her possession or control, relating to the subject of the examination and shall facilitate the examination.

(d) If the Commissioner or examiner finds any accounts or records to be inadequate or inadequately kept or posted, he or she may employ experts to reconstruct, rewrite, post or balance them at the expense of the person being examined if such person has failed to maintain, complete, or correct, such records or accounting, after the Commissioner or examiner has given him or her written notice and a reasonable opportunity to do so.

(e) Neither the Commissioner, nor any examiner, shall remove any record, account, document, file or other property of the person being examined from the offices or place of such person, except with the written consent of such person in advance of such removal or pursuant to an order of court duly obtained. This provision shall not be deemed to affect the making and removal of copies or abstracts of any such record, account, document or file.

§322. Examination report.

(a) The Commissioner or his or her examiner shall make a full and true written report of every such examination made by him or her and shall therein certify under oath the report and findings.

(b) The report shall contain only information appearing upon the books, records, documents and papers of, or relating to, the person or affairs being examined or ascertained from testimony of individuals under oath concerning the affairs of such person, together with such conclusions and recommendations as may reasonably be warranted by such information.

(c) No later than 60 days following the completion of the examination, the examiner in charge shall file with the Department a verified written report of examination under oath. Upon receipt of the verified report, the Department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respects to any matters contained in the examination report. If the company so requests in writing within such 30-day period, the Commissioner shall grant a hearing as to the report and shall not file the report until after the hearing and after such modifications have been made therein as the Commissioner deems proper.

(d) The Commissioner shall furnish a copy of the report to the person examined not less than 20 days prior to filing the same in the Department and may, in his or her discretion, also furnish a copy of the report to each member of the examinee's board of directors if the person examined is a corporation. If such person so requests in writing within such 20 day period, the Commissioner shall grant a hearing as to the report and shall not so file the report until after the hearing and after such modifications have been made therein as the Commissioner deems proper.

(e) The report when so filed shall be admissible in any action or proceeding brought by the Commissioner against the person examined or against its officers, employees, or agents. In any such action or proceeding, the Commissioner or his or her examiners may, however, at any time testify and offer proper evidence as to information secured or matters discovered during the course of the examination, whether or not a written report of the examination has been either made, furnished, or filed with the Department.

(f) The Commissioner may withhold from public inspection any examination or investigation report for so long as he or she deems such withholding to be necessary for the protection of the person examined against unwarranted injury or to be in the public interest.

(g) All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the Commissioner or any other person in the course of an examination made under this chapter shall be given confidential treatment and are not subject to subpoena and may not be made public by the Commissioner or any other person except to insurance departments of any state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as such agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this section, unless the prior written consent of the company to which it pertains has been obtained.

§323. Examination expense.

(a) The expense of examination of an insurer or of any person referred to in §320(2) of this Title (management or control of an insurer under contract) or §320(4) of this Title (promoters, etc.) shall be borne by the person examined. Such expense shall include only the reasonable and proper expenses of the Commissioner, and his or her examiners and assistants, including expert assistance, and a reasonable per diem as to such examiners and assistants as necessarily incurred in the examination.

(b) Such person examined shall promptly pay the examination expense upon presentation by the Commissioner, or his or her examiner, of a reasonably detailed written account thereof.

§324. Administrative procedures: hearings in general.

(a) The Commissioner may hold a hearing without request by others for any purpose within the scope of this Title.

(b) The Commissioner shall hold a hearing:

(1) If required by any other provision of this Title; or

(2) Upon written application for a hearing by a person aggrieved by any act, threatened act, or failure of the Commissioner to act, or by any report, rule, regulation or order of the Commissioner (other than an order for the holding of a hearing, or order on a hearing, or pursuant to such order, of which hearing such person had notice). Any such application must be filed in the Department within 90 days after such person knew or reasonably should have known of such act, threatened act, failure, report, rule, regulation or order, unless a different period is provided for by other laws applicable to the particular matter and, in which case, such other law shall govern.

(c) Any such application for a hearing shall briefly state the respects in which the applicant is so aggrieved, together with the grounds to be relied upon as a basis for the relief to be sought at the hearing.

(d) If the Commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his or her grounds are established, and that such grounds otherwise justify the hearing, the Commissioner shall hold the hearing within 30 days after filing of the application unless postponed by mutual consent. Failure to hold the hearing upon application of a person entitled, as hereinabove provided, shall constitute a denial of the relief sought and shall be the equivalent of a final order of the Commissioner on hearing for the purpose of an appeal under §329 of this Title.

(e) Pending the hearing and decision, the Commissioner may suspend or postpone the effective date of his or her previous action.

(f) To the extent that it does not conflict with the provisions of this Chapter, the Administrative Procedures Act, Chapter 101, Title 29, Delaware Code, shall govern all aspects of the Department's administrative proceedings, including, but not limited to the following:

- (1) Notice of hearing;
- (2) Conduct of hearing;
- (3) Ex parte consultations;
- (4) Proposed Order;
- (5) Record retention; and
- (6) Decision and final order.

§325. Notice of hearing.

(a) Except where a longer period is expressly provided in this Title, the Commissioner shall give written notice of the hearing to all parties not less than 20 days in advance.

(b) If any such hearing is to be held for consideration of rules and regulations of the Commissioner or of other matters which, under subsection (a) above, would otherwise require separate notices to more than 30 persons, in lieu of other notice the Commissioner may give notice of the hearing by publication in a newspaper of general circulation in this State, at least once each week during the 4 weeks immediately preceding the week in which the hearing is to be held; except that, the Commissioner

shall mail such notice to all persons who have requested the same in writing in advance and have paid to the Commissioner the reasonable amount fixed by him or her to cover the cost thereof.

§326. Conduct of hearing.

(a) The Commissioner may hold a hearing in Dover or any other place of convenience to parties and witnesses as the Commissioner determines. The Commissioner, or his or her designee, shall preside at the hearing and shall expedite the hearing and all procedures involved therein.

§327. Witnesses and documentary evidence.

(a) As to the subject of any examination, investigation or hearing being conducted by him or her, the Commissioner may subpoena witnesses and administer oaths or affirmations, and examine any individual under oath, or take depositions, and by subpoena *duces tecum* may require the production of documentary and other evidence. Any delegation by the Commissioner of power of subpoena shall be in writing.

(b) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a Superior Court. Witness fees, mileage and the actual expense necessarily incurred in securing attendance of witnesses and their testimony shall be itemized and shall be a part of the examination expense to be paid by the person being examined, where payment of examination expense by such person is otherwise provided for in this Title, or paid by the person as to whom such proceedings, other than as part of an examination, are held if, in such proceedings, such person is found to have been in violation of the law, or by the person, if other than the Commissioner, at whose request the hearing is held.

(c) Subpoenas of witnesses shall be served in the same manner and at the same cost as if issued by a Superior Court. If any individual fails to obey a subpoena issued and served hereunder with respect to any matter or evidence concerning which he or she may be lawfully interrogated or required to produce for examination, upon application of the Commissioner, the Superior Court, in any county in which is pending the proceeding at which such individual is so required to appear, or the Superior Court in the county in which such individual resides, may issue an order requiring the individual to comply with the subpoena and to appear and testify or produce the evidence subpoenaed; and, any failure to obey such order of the Court may be punished by the Court as a contempt thereof.

(d) Any person knowingly giving false testimony under oath or making a false affirmation as to any matter material to any such examination, investigation or hearing, upon conviction thereof, shall be guilty of perjury.

§328. Testimony compelled; immunity.

(a) If any individual asks to be excused from attending or testifying or from producing any books, papers, records, contracts, correspondence or other documents in connection with any examination, hearing or investigation being conducted by the Commissioner, or his or her examiner, on the ground that the testimony or evidence required of him or her may tend to incriminate him or her, or subject him or her to a penalty or forfeiture, and shall be directed, by the Attorney General, to give such testimony or produce such evidence, he or she must nonetheless comply with such direction; but, he or she shall not thereafter be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he or she may have so testified or produced evidence; and, no testimony so given or evidence produced shall be received against him or her upon any criminal action, investigation or proceeding; except, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him or her in such testimony; and, the testimony or evidence so given or produced shall be

admissible against him or her upon any criminal action, investigation or proceeding concerning such perjury, nor shall such individual be exempt from the refusal, suspension or revocation of any license, permission or authority conferred, or to be conferred, pursuant to this Title.

(b) Any such individual may execute, acknowledge and file in the office of the Commissioner and of the Attorney General a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement; and, thereupon, the testimony of such individual or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise; and, if so received or produced, such individual shall not be entitled to any immunity or privileges on account of any testimony he or she may so give or evidence so produced.

§329. Appeal from the Commissioner.

(a) Except as to matters arising under Chapter 25 of this Title (Rates and Rating Organizations), an appeal from the Commissioner shall be taken only from an order on hearing or as to a matter on which the Commissioner has refused or failed to hold a hearing after application therefor, or issue an order on hearing as required by §324 of this Title.

(b) Any person, who was a party to such hearing or whose pecuniary interests are directly and immediately affected by any such refusal or failure, and who is aggrieved by such order, refusal or failure, may appeal from such order or as to any such matter within 60 days after:

(1) The order on hearing has been mailed or delivered to the persons entitled to receive the same or given by last publication thereof where delivery by publication is permitted; or

(2) The Commissioner has refused or failed to make his or her order on hearing as required under §324 of this Title; or

(3) The Commissioner has refused or failed to grant or hold a hearing as required under §324 of this Title.

(c) The appeal shall be granted as a matter of right and shall be taken to the Superior Court in any county in this State.

(d) The appeal shall be taken by filing in the Court a verified petition stating the grounds upon which the review is sought, together with a bond with good and sufficient sureties to be approved by the Court, conditioned to pay all costs which may be assessed against the appellant or petitioner in such proceedings, and by serving a copy of the petition upon the Commissioner. If the appeal is from the Commissioner's order on hearing, the petitioner shall also deliver to the Commissioner a sufficient number of copies of the petition and the Commissioner shall mail or otherwise furnish a copy thereof to the other parties to the hearing to the same extent as a copy of the Commissioner's order is required to be furnished to the hearing parties under §324 of this Title.

(e) Upon receiving the petition for review, the Commissioner shall cause to be prepared an official record certified by him or her which shall contain a copy of all proceedings and orders of the Commissioner appealed from and the transcript of testimony and evidence or summary record thereof. Within 30 days after the petition is served upon him or her, the Commissioner shall file such official record with the Court in which the appeal is pending.

(f) Upon filing of the petition for review, the Court shall have full jurisdiction of the proceeding. Such filing shall not stay the enforcement of the Commissioner's order or action appealed from unless so stayed by order of the Court.

(g) If the appeal is from the Commissioner's order on hearing, the review of the Court shall be limited to matters shown by the Commissioner's official record; otherwise, the review shall be *de novo*. The Court shall have the power, by preliminary order, to settle questions concerning the completeness and accuracy of the Commissioner's official record.

(h) In its discretion the Court may remand the case to the Commissioner for further proceedings in accordance with the Court's directions; or, in advance of judgment and upon a sufficient showing, the Court may remand the case to the Commissioner for the purpose of taking additional testimony or other proceedings.

(i) From the judgment of the Superior Court, either the Commissioner or other party to the appeal may appeal directly to the Supreme Court of the State in the same manner as is provided in civil cases.

§330. Administrative penalty.

(a) Notwithstanding any other provisions of this Title or any regulation implementing said Title, the Commissioner, upon a finding after notice and hearing conducted in accordance with the provisions of this Chapter, that any person, insurer or insurance holding company has violated any provision of this Title or any regulation implementing said Title, may impose or order an administrative penalty in an amount of money that is reasonable and appropriate in view of the facts and circumstances surrounding the violation. In determining what the amount of penalty shall be, the Commissioner may take into consideration such matters as the nature of the violation, the amount of loss resulting from the violator's conduct, the intent of the violator, the damages caused by the violation, any efforts made by the violator to correct the violation and prevent a reoccurrence, and the recommendations of any hearing officer. In no event shall the administrative penalty per violation exceed \$15,000 for those licensed under Chapter 17 of this Title, and \$50,000 per violation for insurance companies, insurance holding companies, and all other persons licensed under this Title.

(b) Any administrative penalty imposed pursuant to this Section may be in addition to any penalty, fine or sentence ordered by a court in any civil or criminal proceeding.

(c) Any penalty that may be imposed or ordered by the Commissioner after the hearing shall be paid to the State Treasurer for deposit in the General Fund."

§331. Immunity from Liability.

(a) No cause of action shall arise nor shall any liability be imposed against the Commissioner, the Commissioner's authorized representatives, or any examiner appointed by the Commissioner for any statements made or conduct performed in good faith while carrying out the provisions of this chapter.

(b) No cause of action shall arise nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the Commissioner or the Commissioner's authorized representative or examiner pursuant to an examination made under this chapter, if such an act of communication or delivery was performed in good faith and without fraudulent intent or intent to deceive.

(c) This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in subsection (a) of this section.

(d) A person identified in subsection (a) of this section shall be entitled to an award of attorney's fees and costs if they are the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of their activities in carrying out the provisions of this chapter and the party bringing the action was not substantially

justified in doing so. For purposes of this section a proceeding is 'substantially justified' if it had a reasonable basis in law or in fact at the time that it was initiated."

Approved July 10, 1995

CHAPTER 186

FORMERLY

SENATE BILL NO. 221

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 1 OF THE DELAWARE CODE RELATING TO THE DUTIES
AND POWERS OF THE CODE REVISORS.

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

Section 1. Amend §211, Title 1, Delaware Code by inserting at the end thereof the following:

"(c) The Revisors shall gender neutralize or otherwise insure that a solely masculine or feminine designation never occurs unless it could only apply to one gender."

Section 2. The provisions of this Act shall encompass all legislation enacted on or after January 10, 1995.

Approved July 10, 1995

CHAPTER 187

FORMERLY

SENATE BILL NO. 239

AS AMENDED BY

SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE
EMPLOYEES' PENSION PLAN.

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

Section 1. Amend §5501(b), Title 29 of the Delaware Code by adding a new
subsection (17) to read as follows:

"(17) Service commencing July 1, 1995 with the Office of Disciplinary Counsel, which
office is established by rule of the".

Section 2. This Act shall take effect on July 1, 1995.

Approved July 10, 1995

CHAPTER 188

FORMERLY

SENATE BILL NO. 244

AS AMENDED BY

SENATE AMENDMENT NOS. 1, 2 AND 3

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

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

Section 1. Amend §1101, Title 15 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§1101. Permanent Registration System.

(a) Persons who have registered to vote in accordance with the provisions of this title shall not be removed from the voting rolls so long as their permanent place of residence is within this state, they have not been disenfranchised for any cause prescribed in the laws of this state, or their registration has not been canceled as provided elsewhere in this title.

(b) Registered voters who change their permanent place of residence within this state or legally change their name should reregister as elsewhere provided in this title. Those registered voters who have changed their permanent place of residence within this state or have legally changed their names without reregistering shall be permitted to vote at the polling place for their permanent place of residence on the day of any election covered by this title."

Section 2. Amend §1102, Title 15 of the Delaware Code by striking said section in its entirety.

Section 3. Amend §1302(a) (1), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(1) The registration serial number of the application and the permanent registration number (social security number or assigned number);"

Section 4. Amend §1302(a) (6), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(6) Birthdate;"

Section 5. Amend §1302(a) (8), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(8) The name of the agency representative or person assisting the applicant;"

Section 6. Amend §1302(a) (9), Title 15 of the Delaware Code by striking said subsection in its entirety.

Section 7. Amend §1306, Title 15 of the Delaware Code by striking said section in its entirety.

Section 8. Amend §1307, Title 15 of the Delaware Code by striking said section in its entirety.

Section 9. Amend Title 15 of the Delaware Code by inserting §1704 as follows:

"§1704. Identification of persons who are no longer eligible to vote, establishment of an 'inactive status,' cancellation of registration, and provision for reregistration.

(a) The Commissioner of Elections on or before April 1 of each year shall compile a list of registered voters who no longer reside at the address at which they are registered to vote. The Commissioner shall accomplish this by:

(1) Contracting with a U.S. Postal Service licensed vendor to compare the list of registered voters against the list of persons who have filed a permanent change of address with the U.S. Postal Service and obtain from the vendor a list of registered voters who have changed their address both within and without this State.

(2) EFFECTIVE January 1, 1997. Obtaining from the Division of Motor Vehicles a list of all persons who have surrendered their Delaware driver's license while obtaining a driver's license from another state. The Commissioner shall compare this list against the list of registered voters and compile a list of registered voters who have surrendered their Delaware driver's license.

(b) EFFECTIVE January 1, 1997. The Commissioner of Elections or his designated representative shall merge the two lists compiled in accordance with subsection (a) above and remove duplicate names.

(c) The Commissioner of Elections or his designated agent shall then send an address verification request via forwardable first class mail to each person on the list. He shall mail the request to the address at which the person is registered to vote unless the U.S. Postal Service vendor provides an updated address. The request shall ask the person to sign the return card and:

(1) Authorize cancellation of their Delaware voter registration because they are no longer permanent residents of the state of Delaware;

(2) Provide the address of their permanent place of residence if they still reside within Delaware;

(3) Or, certify that the address at which they are currently registered to vote is their correct address and place of permanent residence.

(d) The address verification request shall include a postage-paid return card or envelope preaddressed to the Department of Elections in the county in which the person is registered to vote.

(e) The respective Department of Elections, upon receipt of the return card in accordance with the response shall:

(1) Upon authorization by the Board of Elections at a meeting of the Board of Elections of the county, remove the voter from the records of the Commissioner of Elections and the county Department of Elections;

(2) Update the person's voter registration record with the new address if it is within the department's jurisdiction;

(3) Send the returned card and the person's voter registration record to the Department of Elections that has jurisdiction over the new address;

(4) Or, update the person's voter registration record showing that the person has certified that the address on the permanent voter registration record is their permanent place of residence.

(f) On June 1 of each year following an address verification mailing in accordance with this section, the Commissioner of Elections shall place all person's who

did not reply to the address verification request mailed in accordance with this section into 'inactive status.'

(g) A person shall be returned to active status if he/she subsequently returns the return card with a new Delaware address or certification that he/she has not changed their address, by completing any other voter registration transaction permitted by this title, or by voting in any election conducted in accordance with this title.

(h) On or before June 1 of each year following a General Election, the Commissioner of Elections shall remove from the voting rolls any person who has been in 'inactive status' for two (2) consecutive general elections.

(i) Persons classified as 'inactive' shall remain eligible to vote in any election conducted in accordance with this title. Upon presenting themselves at their polling place they shall affirm in writing under penalty of perjury on the form promulgated by the Commissioner of Elections the address of their permanent place of residence. If the person's permanent place of residence is different than the permanent place of residence shown on the person's permanent voter registration record, the person shall be permitted to vote in accordance with §2047 of this title. The Commissioner of Elections shall print separate poll lists of voters in each election district in 'inactive status' for use in the election district.

(j) A person properly removed from the voting rolls in accordance with this chapter must reregister in order to vote in any election conducted in accordance with this title. A person removed in error through the process described in this chapter, however, may be restored to the voting rolls upon the concurrence of the respective Department of Elections Administrative Director and Deputy Administrative Director."

Section 10. Amend §1712, Title 15 of the Delaware Code by striking said section in its entirety.

Section 11. Amend §1906, Title 15 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§1906. Absentee registration; procedure.

(a) Any person meeting the tests laid down in §1901 (b) of this title may register to vote by submitting a properly completed and signed Federal Post Card Application or Federal Mail Registration Application to the State Election Commissioner or to a county Department of Elections. Applications received fewer than 10 days prior to any election covered by this title shall be held and processed after that election.

(b) The Commissioner of Elections and the county Departments of Elections shall accept the Federal Post Card Application via facsimile transmission from persons meeting any of the requirements stated in §1901 (b) of this title. Applications received fewer than 10 days prior to any election covered by this title shall be held and processed after that election."

Section 12. Amend §1907 Title 15 of the Delaware Code by striking said section in its entirety.

Section 13. Amend §2011 (a) Title 15 of the Delaware Code by striking the second sentence of said section in its entirety and substituting in lieu thereof the following:

"(a) All recording shall be done by computer, typewriting, or by printing in longhand in black or blue ink."

Section 14. Amend Chapter 20, Subchapter I, Title 15 of the Delaware Code by adding the following section:

"§2014. Notification of disposition of a person's voter registration application and procedure for handling returned mail.

(a) Each county Department of Elections following receipt of a voter registration application shall conduct the necessary verification and inquiry and then shall mail to each applicant to whom the department has determined to be qualified to register to vote a notice by nonforwardable first class mail.

(b) Each county Department of Elections shall promptly notify in writing each person whose voter registration application has been rejected and shall state in such notice the specific reason(s) for such rejection.

(c) If the notice sent in accordance with subsection (a) above or any other correspondence mailed by the Commissioner of Elections or a county department of elections to a registered voter is returned as undeliverable, the department shall send an address verification request to the person at the address on their permanent registration record or to the address indicated by the U.S. Postal Service on the returned undeliverable notice or correspondence. The address verification request shall include a postage-paid preaddressed return card. The person shall be asked to sign the return card and:

(1) Authorize cancellation of their Delaware voter registration because they are no longer permanent residents of the state of Delaware;

(2) Provide the address of their permanent place of residence if they still reside within Delaware;

(3) Or, certify that the address at which they are currently registered to vote is their correct address and place of permanent residence.

(d) The respective Department of Elections, upon receipt of the return card in accordance with the response shall:

(1) Upon authorization by the Board of Elections at a meeting of the Board of Elections of the county, remove the voter from the records of the Commissioner of Elections and the county Department of Elections;

(2) Update the person's voter registration record with the new address if it is within the Department's jurisdiction;

(3) Send the returned card and the person's voter registration record to the Department of Elections that has jurisdiction over the new address;

(4) Or, update the person's voter registration record showing that the person has certified that the address on the permanent voter registration record is their permanent place of residence.

(e) If the person does not return the return card within 60 days of mailing or if the address verification request is returned as undeliverable, the person shall be transferred to 'inactive status.'

(f) Persons classified as 'inactive' shall remain eligible to vote in any election conducted in accordance with this title. Upon presenting themselves at their polling place they shall affirm in writing under penalty of perjury on the form promulgated by the Commissioner of Elections the address of their permanent place of residence. If the person's permanent place of residence is different than the permanent place of residence shown on the voter's permanent record, the person shall be permitted to vote in accordance with §2047 of this title. The Commissioner of Elections shall print a separate poll list of the voters in 'inactive status' for each election district.

(g) A person properly removed from the voting rolls in accordance with this chapter must reregister in order to vote in any election conducted in accordance with this title. A person removed in error through the process described in this chapter, however, may be restored to the voting rolls upon the concurrence of the respective Department of Elections Administrative Director and Deputy Administrative Director.

(h) On or before June 1 of each year following a General Election, the Commissioner of Elections shall remove from the voting rolls any person who has been in 'inactive status' for two (2) consecutive general elections."

Section 15. Amend §2031 (a), Title 15 of the Delaware Code by striking the third sentence in said subsection in its entirety and substituting in lieu thereof the following:

"In the year of the general election, voter registration applications postmarked less than 20 days prior to the day of the general election shall be date-stamped upon receipt and held and processed after the General Election."

Section 16. Amend §2031, Title 15 of the Delaware Code by adding subsection (d) thereto.

"(d) The Departments of Elections shall accept the Federal Post Card Application and the Federal Mail Registration Application as applications to register to vote in all elections covered by this title. The departments shall process these applications as they would any other application submitted in accordance with this title."

Section 17. Amend §2033, Title 15 of the Delaware Code by striking said section in its entirety.

Section 18. Amend §2034, Title 15 of the Delaware Code by striking said section in its entirety.

Section 19. Amend §2041 (3), Title 15 of the Delaware Code by striking said subsection in its entirety.

Section 20. Amend §2047, Title 15 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§2047. Change of address within the state.

Change of address or residence within Delaware shall not disqualify any person as a voter. A person who has changed their permanent place of residence within Delaware but who has not transferred their voter registration shall be permitted to vote at the polling place for their place of permanent residence on the day of the election.

(1) If the person who has changed their permanent place of residence appears at the polling place for their previous permanent place of residence, the election officers at that polling place shall complete the eligibility affidavit promulgated by the Commissioner of Elections and obtain the location of the person's correct polling place from the Department of Elections. The election officer shall place the completed eligibility affidavit in an envelope annotated with the location and address of the correct polling place, give the envelope to the person, direct the person to go to the polling place for their new permanent place of residence, and annotate the poll list to show that the person has been sent to another polling place.

(2) A person appearing at the correct polling place with an eligibility affidavit shall be permitted to vote upon showing proof of identify and address to the election officers and signing a blank signature card. The election officer shall complete the appropriate section of the eligibility affidavit, and place the eligibility affidavit in the special envelope provided by the Department of Elections. If the person has also legally changed his/her name, the election officer shall also place a properly completed voter registration application for the person in the special envelope.

(3) A person registered to vote at another location within Delaware who appears at the polling place for their new permanent place of residence without having gone to the polling place of their former place of permanent residence shall affirm in writing the new address by completing and signing the eligibility affidavit promulgated by the Commissioner of Elections. The election officers

shall obtain authorization for the person to vote from the Department of Elections, complete the election officer section of the eligibility affidavit, and place the eligibility affidavit in the special envelope provided by the Department of Elections. If the person has also legally changed his/her name, the election officer shall also place a properly completed voter registration application for the person in the special envelope.

(4) Election officers shall enter the name, address, and voter registration number for persons authorized to vote under the provisions of this section on the poll list after the last name listed and on a blank signature card. The person shall sign the signature card and be permitted to vote. A person who has legally changed their name as well as their permanent place of residence shall sign both their old and new names.

(5) The Department of Elections upon receipt of the eligibility affidavit and the voter registration application following an election shall transfer the person's address in accordance with the transfer procedures elsewhere within this chapter."

Section 21. Amend §2048, Title 15 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§2048. Change of name, new registration required.

(a) Any registered voter who legally changes his or her name by marriage or other legal means, shall be required to change their registration to their new name and authorize the transfer of the previous registration information, including their voting record to the new name. If the person has not changed their registration prior to an election covered by this title, they shall be permitted to vote provided:

(1) They present proof of their identity to the election officers at their polling place;

(2) Complete a voter registration application for their new name;

(3) And, sign the preprinted signature card with both their old and new names.

(b) Persons who are registered to vote and have legally changed their name as well as their permanent place of residence shall be permitted to vote in accordance with §2047 above after completing a voter registration application for their new name and permanent place of residence and by signing a blank signature card with both their old and new names."

Section 22. Amend Chapter 20, Title 15 of the Delaware Code by adding subchapter VIII as follows:

"Subchapter VIII. Registration by governmental and private entities.

§2060. Application.

Governmental and private entities may apply to the Commissioner of Elections to register people to vote on a continuing basis or during an organized voter registration drive. Such entities must apply at least 30 days prior to the start of the voter registration activity or the drive. Voter registration under the provision of this subchapter may not be conducted during the period that voter registration is closed prior to a general election. The Commissioner of Elections shall promulgate the application form that such entities shall use in applying for permission to register voters on a continuing basis or to conduct an organized voter registration drive. The application shall include as a minimum:

(1) Name and address of the governmental or private entity. In the case of a continuing activity the location(s) where the voter registration activity will take place.

(2) The name, address and telephone number of the chief official of the entity.

(3) The date that the voter registration activity shall commence and, in the case of an organized voter registration drive, the inclusive dates of the proposed drive.

(4) The target audience and/or scope of the drive or continuing voter registration activity.

(5) The name, address and telephone number of the person responsible for the voter registration activity or drive.

(6) The names of the individuals who shall serve as temporary registrars at the voter registration activity or during the voter registration drive.

(7) Attestations by the chief official of the entity that it has authorized the voter registration activity or drive, assumes responsibility for the voter registration activity or drive, shall insure that only individuals trained as prescribed by the Commissioner of Elections shall serve as temporary registrars, and shall insure that all individuals involved in planning, organizing and conducting the voter registration drive shall adhere to the Delaware Code, Title 15 and such regulations promulgated by the Commissioner of Elections.

(8) The number of applications requested.

(9) The date for training -- must be the first Thursday of a month or as otherwise arranged with the Commissioner of Elections.

§2061. Training.

(a) The Commissioner of Elections shall develop a program for training individuals as temporary registrars as well as those persons responsible for planning, organizing and operating a voter registration activity or drive. Training shall be conducted by personnel from the office of the Commissioner of Elections. Individuals who complete the training required by the Commissioner of Elections. Individuals who complete the training required by the Commissioner shall be certified as a temporary registrar for a period of one (1) year or for the duration of the proposed voter registration drive whichever is shorter. Training shall be offered the first Thursday of each month.

(b) The Commissioner of Elections shall develop a program of continuing education and periodic recertification for those persons involved in a continuing voter registration activity.

§2062. Approval.

The Commissioner shall approve all applications, under §2060, provided:

(a) The application is received more than 30 days prior to the start of the voter registration activity or proposed voter registration drive.

(b) The requested training date is prior to the start of the proposed voter registration activity or drive.

(c) The applying entity has not violated the provisions of this subchapter, title or regulations promulgated by the Commissioner of Elections for conducting voter registration on a continuing basis or during a previous organized voter registration drive.

§2063. Pickup and Return of Materials.

(a) The entity shall pick-up the voter registration applications, forms and other required materials as directed by the Commissioner of Elections.

(b) An entity conducting a voter registration drive shall deliver all completed applications, unused applications, voided or damaged applications, completed forms, and all excess materials to the location directed by the Commissioner of Elections within 5 days of the completion of the drive except as required elsewhere in this section.

(c) An entity operating a continuing voter registration activity shall deliver all completed applications and any voided or damaged applications at least once every five (5) working days to the location directed by the Commissioner of Elections except as required elsewhere in this section.

(d) The entity shall return any application completed prior to the close of eligibility for a primary election or prior to the close of voter registration before a general election no later than 4:30 p.m. on those respective days to the location(s) directed by the Commissioner of Elections.

(e) The Commissioner may fine any entity that fails to comply with the requirements of this section up to \$1,000 and deny them permission to conduct an organized voter registration drive or otherwise be involved in the voter registration process for a period of up to 5 years.

§2064. Procedures.

(a) Entities conducting voter registration shall account for the disposition of every application provided by the respective Department of Elections or the office of the Commissioner of Elections by application number. The Commissioner of Elections shall promulgate procedures that entities shall use to document the disposition of voter registration applications.

(b) The temporary registrar shall sign each application he/she completes in the "agency representative" block.

(c) Application date shall be left blank. The application date shall be the date the applications are received in the respective Department of Elections or the office of the Commissioner of Elections as required in this chapter.

(d) All applications completed or issued by the organization shall be annotated by the temporary registrar with the code provided by the Commissioner of Elections.

(e) All applications shall be completed in block letters in blue or black ink.

(f) Unsigned applications shall be rejected as incomplete.

(g) The person applying to register to vote shall show the temporary registrar proof of address and identity as required by the Commissioner of Elections.

(h) An entity, temporary registrar or other person involved in a voter registration activity or drive shall not:

(1) Seek to influence an applicant's political preference or party registration;

(2) Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote;

(3) Offer, promise, or pay any money or other valuable thing as compensation, inducement or reward to anyone eligible to register to vote for registering or abstaining from registering to vote;

(4) Deny anyone who is eligible to register to vote but refuses to register to vote any services available through the entity.

(i) The entity conducting the voter registration activity or drive must inform each person who applies to register to vote through their activity or drive that they are not registered to vote until the respective Department of Elections has verified and accepted the application.

§2065. Application date.

Upon receipt of the applications at a county Department of Elections or at the office of the Commissioner of Elections, the applications shall be stamped by the agency's time stamp. The date the applications are received in the office of the Commissioner of Elections or at a county Department of Elections is the date of the application."

Section 23. Amend §3122, Title 15 of the Delaware Code by striking the words "Department of Registration" as they appear therein and substituting in lieu thereof the words "Department of Elections".

Section 24. Amend §3125 (1), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(1) A flag or poster of suitable size for lettering thereon in at least 3 inch letters with the words POLLING PLACE on both sides;"

Section 25. Amend §4911 (a), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(a) During the hours that a primary, general or special election is open, there shall be displayed at or near the entrance of each polling place so as to be readily visible a flag or poster bearing the words POLLING PLACE. The flag or poster shall be provided by the appropriate Department of Elections."

Section 26. Amend §4941 (2), Title 15 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(2) A person registered to vote in the state of Delaware who has moved from an address or residence located within one election district within the state of Delaware to another address or residence within another elections district with the state of Delaware shall be permitted to vote at the polling place for their new residence or address in accordance with the procedures contained in §2047 of this title."

Section 27. Amend §5506, Title 15 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§5506. Affidavit of eligibility on voucher envelope.

The Department of Elections shall place a white label containing the absentee voter's county of residence, name, address, election district and representative district in the upper left corner of the voucher envelope. There shall be printed on the face of each voucher envelope a self-administered affidavit in substantially the following form:

I do, solemnly swear (affirm) that I am a resident of the state of Delaware and that my voting address as it appears on the label on this envelope. I also do solemnly swear (affirm) under penalty of perjury that I have not received or accepted, or offered to receive or accept any money or other item of value as compensation,

inducement or reward for the giving or withholding of a vote at this election, nor that I am acting under duress or threat of duress or harm.

Date

Signature

Section 28. Amend §5523, Title 15 of the Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§5523. One absentee request to cover all election for members of the armed forces and certain other electors, acceptance of the Federal Post Card Application, acceptance of facsimile transmissions of the Federal Post Card Application.

(a) Any qualified elector who has applied for an absentee ballot because he/she qualifies under any of the reasons set forth in §5502(1) or §5502(2) of this title shall qualify for an absentee ballot in any election conducted under the provisions of this title during the calendar year in which he has qualified for an absentee ballot in any election.

(b) The receipt of a Federal Post Card Application (FPCA) from any person eligible to use the FPCA for an absentee ballot who is not registered to vote in Delaware but is eligible to register to vote in Delaware shall serve as an application to register to vote as well as an application for an absentee ballot.

(c) The county department of elections may accept a facsimile transmission of the Federal Post Card Application as an application for an absentee ballot and/or an application to register to vote."

Section 29. Effective Date.

This act shall be effective October 1, 1995, unless otherwise stated herein.

Approved July 10, 1995

CHAPTER 189

FORMERLY

SENATE BILL NO. 248

AN ACT TO WAIVE CERTAIN STATUTORY PROVISIONS OF TITLE 13 OF THE DELAWARE CODE RELATING TO THE SOLEMNIZATION OF CERTAIN MARRIAGES.

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

Section 1. Wendy K. Chung and Michael E. Rossiter and Elizabeth A. Peyton and Jeffrey E. Hunter 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 Richard S. Gebelein of the Delaware Superior Court is hereby authorized to solemnize the marriages between Wendy K. Chung and Michael E. Rossiter and between Elizabeth A. Peyton and Jeffrey E. Hunter. The Clerk of the Peace for New Castle County shall issue to Wendy K. Chung and Michael E. Rossiter and to Elizabeth A. Peyton and Jeffrey E. Hunter one official marriage license per couple pursuant to this Act, the provisions of 13 Del. C. Chapter 1 to the contrary notwithstanding.

Approved July 10, 1995

CHAPTER 190

FORMERLY

HOUSE BILL NO. 215

AN ACT TO AMEND CHAPTER 32, VOLUME 47, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF FREDERICA", RELATING TO ELIGIBILITY REQUIREMENTS FOR ELECTED OFFICE, VOTER QUALIFICATIONS, ELECTIONS, DUTIES AND TERM OF THE MAYOR, AND JURISDICTION IN THE JUSTICES OF THE PEACE COURT.

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

Section 1. Amend Section 4 of Chapter 32, Volume 47, Laws of Delaware, as amended, by deleting Section 4 in its entirety and substituting in lieu thereof the following:

"Section 4. Each of the members of Town Council shall be residents of said Town for at least six consecutive months prior to the date of election, shall be registered to vote as provided herein, shall be at least eighteen years of age, shall be citizens of the United States, and shall not be delinquent in the payment of any taxes or other assessments levied by the Town. The members of Town Council shall serve after their election and qualification as provided herein.

There shall be an election held at the Town Hall in said Town on the first Saturday of March, A.D. 1996, from the hour of twelve o'clock P.M. until the hour of five o'clock P.M. for the election of five members of the Council, three of said members to serve for a term of one year and two of said members to serve for a term of two years and to constitute the Town Council of the Town of Frederica. Subsequently and on the first Saturday in March, A.D. 1997, and on the first Saturday in March in every second year thereafter during the hours aforesaid and at the place aforesaid, three members shall be elected to the Town Council for the full term of two years, and subsequently and on the first Saturday in March, A.D. 1998, and on the first Saturday in March in every second year thereafter during the hours aforesaid and at the place aforesaid, two members shall be elected to the Town Council for the full term of two years. Thereafter, the term of office of a member of the Council shall be for two years, or until his successor has been duly elected and qualified. In the event that the Town Hall is not available for the holding of Town elections during any year, then Council shall designate a place within said Town for the holding of said annual election by giving at least ten days notice of such place of election posted in at least five of the most public places in said Town.

At any annual or special election within said Town, every person resident in said Town who is at least eighteen years of age, who is a citizen of the United States, who shall not be delinquent in the payment of any taxes or other assessments levied by the Town, who has resided in the said Town for at least six consecutive months prior to the date of election, and who has registered to vote with the Secretary of the Town Council at least thirty days prior to the date of election, shall be entitled to vote.

The Town Council may, by ordinance, establish a procedure for absentee voting, consistent with the provisions of Title 15, Chapter 55 of the Delaware Code.

All elections under the provisions of this charter shall be held by two persons designated by the Council of the Town of Frederica for such purpose, and it shall be the duty of such persons so designated to hold such election on the day and between the hours designated and to keep an accurate record of the vote cast and report and certify the same to the Council at its next meeting.

In the event that the first Saturday in March in any year shall fall on a holiday, then such election shall be held on the Saturday next following. Any vacancy in the Election Board shall

be filled by the remaining members of said Board. In the event of a tie vote for any office, the Election Board shall determine the tie by lot. All persons desiring to be candidates at any municipal election shall file with the Secretary of the Council a written statement of their candidacy at least ten days previous to said election, and a vote cast for any person whose candidacy has not been so filed shall not be counted.

The members of the Town Council of the Town of Frederica as now constituted shall continue in office until the first Monday of March, A.D. 1996. On the first Monday of March, A.D. 1996, and on the next Monday following the first Saturday of March of each year thereafter, the members who shall have been elected to the Town Council of the said Town of Frederica, as well as the holdover members of said Town Council, shall meet in the Town Hall, or such other place as shall be designated, for the purpose of organizing by the election of officers and such other business as may come before such meeting. Such meeting shall be known as the "Annual Meeting" of the Town Council..

In the case of any vacancy created by death, resignation, or otherwise, in the office either of Mayor or Councilman, the Council shall fill such vacancy, for the balance of the term, by appointment.

The Mayor shall preside at all meetings of Council; shall serve as the head of the town government for all ceremonial purposes and for purposes of military law; shall appoint all committees, subject to Council confirmation; and shall have general superintendent of all municipal affairs. The Mayor shall receive complaints of nuisances and all complaints of violations of laws or ordinances and present the same to Council at its first meeting thereafter for action of Council.

The Mayor shall sign all warrants on the Treasurer for the payment of any Town money and shall perform such other duties as may be prescribed by resolution or ordinance of Council.

The Mayor shall have the same right as other officers and Council members to vote on all matters and may, at any time, appoint another officer or Council member to preside if he desires to make a motion, move the adoption of a resolution, second either, or debate any question from the floor and may, thereafter, immediately resume his duties as presiding officer. For purposes of establishing a majority vote, the Mayor shall be counted as a member of Council.

The Mayor shall serve a term of two years."

Section 2. Amend Section 9 of Chapter 32, Volume 47, Laws of Delaware, as amended, by deleting Section 9 in its entirety and substituting in lieu thereof the following:

"Section 9. The Justices of the Peace Court shall have jurisdiction and cognizance of all breaches of the peace and other offenses committed in the Town so far as to arrest and hold for bail, or fine and imprison offenders; and also of all fines, penalties and forfeitures prescribed by this charter or any law of the State or by any ordinance of the Council and also of all neglects, omissions or defaults of any member of the Town police force or other Town officer or employee, provided that in case of violation of an ordinance, no fine or penalty shall be imposed in excess of that fixed by the ordinance and no person shall be committed to prison for a longer term than thirty days in default of the payment of a fine imposed pursuant to an ordinance. The jail of Kent County may be used for imprisonment under the provisions of this Act provided that the Council shall pay for the board of persons committed for breaches of ordinances that do not constitute breaches of the general law.

Any action, suit or proceeding authorized under any of the provisions of this charter or under any ordinance of the said Town may be instituted in the name of 'The Town of Frederica.'"

Section 3. Amend Chapter 32, Volume 47, Laws of Delaware, as amended, by striking each reference to the office of Alderman.

Section 4. This Act shall become effective upon its enactment into law. SYNOPSIS

This Bill amends the Town Charter for the Town of Frederica as follows:

1. Voter qualifications and eligibility requirements for elected office are amended to include U.S. citizenship, a six-month residency requirement, a thirty-day voter registration requirement, an age requirement (at least 18 years old), and a requirement that no taxes or other assessments levied by the Town be delinquent.

2. Beginning in 1996, the date of the Town's annual election is moved from the first Monday of March to the first Saturday of March, and the hours of the election are changed from 5:00 P.M.-8:00 P.M. to 12:00 P.M. -5:00 P.M., in order to accommodate the majority of the Town's voters who work during the week. The Town is also given the authority to adopt, by ordinance, an absentee voting procedure consistent with Title 15, Chapter 55 of the Delaware Code.

3. The position of Alderman is removed, and jurisdiction which formerly resided in the Alderman is formally transferred to the Justices of the Peace Court.

The duties of the Mayor remain unchanged and are merely restated.

Approved July 10, 1995

CHAPTER 191

FORMERLY

HOUSE BILL NO. 256

AN ACT TO AMEND CHAPTER 59, VOLUME 63, LAWS OF DELAWARE, AS AMENDED, BEING THE CHARTER OF THE TOWN OF DEWEY BEACH.

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

Section 1. Amend Section 15, Chapter 59, Volume 63, Laws of Delaware, as amended, by striking said section in its entirety and by substituting in lieu thereof the following:

"Section 15. Town Manager.

(a) The Mayor of the Town of Dewey Beach, with the concurrence of a majority of all the elected Commissioners of the Town, may appoint a Town Manager who shall be the Chief Administrative Officer of the Town and who shall be the Secretary of the Commission of the Town and the Treasurer of the Town.

(b) The Commissioners of the Town of Dewey Beach shall impose such qualifications for Town Manager as may be deemed necessary; provided, however, that no person holding the office of Mayor or Commissioners shall be chosen to be Town Manager during his term of office as Mayor or Commissioner.

(c) The Town Manager shall hold office for an indefinite term and may be removed for just cause by a majority vote of the Commissioners of the Town of Dewey Beach. At least thirty (30) days before such removal shall become effective, the Commission shall, by a majority vote of all the elected Commissioners thereof, adopt a preliminary resolution stating the reasons for his removal. The Manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Commission, by a majority vote of all the elected Commissioners thereof, may adopt a final resolution of removal. By the preliminary resolution, the Commission may suspend the Town Manager from duty but shall in any case cause to be paid him forthwith any unpaid balance of his salary for the next three (3) calendar months following the adoption of the preliminary resolution.

(d) In case of the absence or disability of the Town Manager, the Commission may designate some qualified person who may be an elected or appointed official of the Town of Dewey Beach to perform the duties of such office during his absence or disability. The compensation which the Town Manager shall receive for the performance of his duties shall be fixed by the Commission of the Town of Dewey Beach."

Section 2. Amend Section 16, Chapter 59, Volume 63, Laws of Delaware, as amended, by striking said section in its entirety, and by inserting in lieu thereof the following:

"Section 16. Responsibilities of the Town Manager.

(a) The Town Manager shall be responsible to the Commissioners of the Town of Dewey Beach for the proper administration of the affairs of the Town placed in his charge and to that end, he shall have the power to make such appointments and to hire such employees at such compensations as the Commissioners, by resolution, shall determine, subject to such rules and regulations as may be adopted by the Commissioners. All employees shall be hired for an indefinite term and may be removed by the Town Manager at any time for just cause unless otherwise provided by resolution of the Commissioners. He shall exercise his sole discretion in the appointment or hiring of any such employees. The Town Manager shall be the sole judge of the competence or incompetence of any such person so appointed or hired by him.

The Commissioners of the Town of Dewey Beach shall sit as a Board of Appeal for the protection of Town employees at those times when the majority of all the Commissioners are agreed that a review of the action of the Town Manager would be in the best interest of the Town of Dewey Beach. The decision of the Commissioners in such case shall be final and conclusive.

(b) It is the intention of this Charter that, in the performance of his duties, and in the exercise of his powers, the Town Manager shall not be influenced by any matters whatsoever of a political or fractional nature. It is the intention of this Charter that the Town Manager shall be guided solely by the matters of expediency and efficiency in the administration of the affairs of the Town placed in his charge. Except for purposes of injury, the Commissioners shall deal with that portion of the administrative service for which the Town Manager is responsible solely through the Town Manager.

(c) It shall be the duty of the Town Manager to supervise the administration of the affairs of the Town under his charge and to make such reports to the Commissioners as are required by the Commission. He shall make such recommendations to the Commission concerning the affairs of the Town as may seem to him desirable. He shall keep the Commission advised of the financial condition and future needs of the Town. He shall prepare and submit to the Commission the annual budget estimate. He shall render to the Commission at the regular monthly meeting of each and every month a true, accurate and detailed account of all the monies collected or received by him in the performance of his duties and shall promptly turn the same over to the Commission.

(d) In conjunction with the Mayor of the Town of Dewey Beach, he shall sign warrants pursuant to appropriations or resolutions theretofore made for the Commission. He shall prepare and submit to the Commission such reports as may be required by the Commission, he shall perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Commission.

(e) The Town Manager and such other officers of the Town as may be designated by vote of the Commission shall be entitled to seats in the meetings of the Commission but shall not vote therein.

(f) The Town Manager shall have charge and supervision of the sewer system, water system, street lighting, streets, gutters, curbs, sidewalks, boardwalks, jetties, piers, parks, and other administrative affairs of the Town and all work relating thereto. He shall have charge of and shall collect all taxes, assessments, rentals, franchise fees, license fees, or other charges due the Town. He shall have charge of the administration of all provisions of this Charter and ordinances and resolutions of the Commission relating to the affairs of the Town when not otherwise provided for by this Charter or by any ordinance or resolution of the Commission.

(g) He shall keep a full and strict account of all monies received and all disbursements made by him and such accounts shall, at all times, be open to inspection by the Commission.

(h) He shall give to The Town of Dewey Beach a bond, if required by the Commission, in such sum and in form with security satisfactory to the Commission for the faithful performance of the duties of his office and the restoration to The Town of Dewey Beach, in case of his death, resignation, or removal from office of all books, papers, vouchers, money and other property of whatever kind in his possession belonging to the Town.

(i) In the event of a vacancy in the Office of the Town Manager for any reason or reasons whatsoever, the duly appointed and qualified successor to that office shall succeed to all the rights, privileges, and powers theretofore reposed in his predecessor or predecessors in office in the same manner as though all acts, deeds and steps theretofore taken by any such predecessor or predecessors with respect to any matter or thing pertaining to said office had been taken or performed by the successor to such office.

(j) Upon the death, resignation, or removal from the office of the Town Manager, the Mayor, with the approval of a majority of all elected members of the Commission, shall appoint some suitable person, who may be an elected or appointed official of the Town of Dewey Beach,

to perform the duties of Town Manager; provided, however, such person shall not serve for a period exceeding ninety (90) days from the date of his appointment.

Section 3. Amend Section 19(a), Chapter 59, Volume 63, Laws of Delaware, as amended, by striking the last sentence thereof and by substituting in lieu thereof the following: "The police force shall be subject to the direction of the Town Manager acting on behalf of the Town Commissioners."

Section 4. Amend Section 21(b), Chapter 59, Volume 63, Laws of Delaware, as amended, by deleting the words "Town Clerk" appearing in said section and by substituting in lieu thereof the words "Town Manager".

Section 5. Amend Section 24, Chapter 59, Volume 63, Laws of Delaware, as amended, by deleting the words "Town Clerk" wherever such words may appear in said section, and by substituting in lieu thereof the words "Town Manager".

Section 6. Amend Section 25, Chapter 59, Volume 63, Laws of Delaware, as amended, by deleting the words "Town Clerk" wherever such words may appear in said section, and by substituting in lieu thereof the words "Town Manager".

Approved July 10, 1995

CHAPTER 192

FORMERLY

HOUSE BILL NO. 277

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 97 AND 98, TITLE 16, DELAWARE CODE RELATING TO EMERGENCY MEDICAL SERVICES AND PARAMEDIC SERVICES.

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

Section 1. Amend §9702, Title 16, Delaware Code by redesignating subsection "(6)" as subsection "(17)" and substituting in lieu thereof a new subsection "(6)" to read as follows:

"(6) 'Director' shall mean the program chief of the Office of Emergency Medical Services responsible for the duties of the office as set forth in Chapter 97 of this Title."

Section 2. Amend §9702, Title 16 of the Delaware Code by redesignating existing subsection "(17)" as subsection "(18)".

Section 3. Amend §9802(12), Title 16, Delaware Code by inserting immediately before the words "Division of Public Health" the following: "Office of Emergency Medical Services, of the".

Section 4. Amend §9803(b), Title 16, Delaware Code by striking the comma "," immediately following the word "Office" appearing in the first sentence and inserting the following: "of Emergency Medical Services, of the".

Section 5. Amend §9805, Title 16, Delaware Code by striking the words "Division of Public Health" as the same appears in the first sentence and substituting in lieu thereof the following: "Office of Emergency Medical Services."

Section 6. Amend §9805(9), Title 16, Delaware Code by striking said subsection "(9)" in its entirety and substituting a new subsection "(9)" to read as follows:

"(9) Providing reports of activities as required by the Director of the Office of Emergency Medical Services; and"

Section 7. Amend §9801(a), Title 16 of the Delaware Code by deleting the words "Office of Paramedic Administration" and by substituting in lieu thereof the words "Office of Emergency Medical Services".

Section 8. Amend §9802(17), Title 16 of the Delaware Code by deleting the words "Director of Public Health" and by substituting in lieu thereof the words "Director of the Office of Emergency Medical Services".

Section 9. Amend §9806(d), Title 16 of the Delaware Code by deleting the words "Public Health" and by substituting in lieu thereof the words "the Office of Emergency Medical Services".

Section 10. Amend §9814(d), Title 16 of the Delaware Code by deleting the words "Paramedic Administration" and by substituting in lieu thereof the words "Emergency Medical Services".

Approved July 10, 1995

CHAPTER 193

FORMERLY

HOUSE BILL NO. 308

AN ACT TO AMEND CHAPTER 137, VOLUME 61, LAWS OF DELAWARE, AS AMENDED, BEING THE CHARTER OF THE TOWN OF DELMAR.

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

Section 1. Amend Section 30, Chapter 137, Volume 61, Laws of Delaware, as amended, by adding a new subsection "(i)" to read as follows:

"(i) Furthermore, should the Town Manager alternatively elect, he or she 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 lands for the collection of taxes on the part of the individuals charged with the responsibility for the collection of taxes for Sussex County, and all such procedures and methods available for the sale of lands, as aforesaid, including the redemption periods, 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 9 Del. C. § 8721 et seq., and as the same may hereafter be amended from time to time, substituting the Town of Delmar for the Department of Finance of Sussex County and/or Sussex County."

Approved July 10, 1995

CHAPTER 194

FORMERLY

HOUSE BILL NO. 310

AN ACT TO AMEND CHAPTER 3, TITLE 18 OF THE DELAWARE INSURANCE CODE, RELATING TO THE REVIEW AND ARBITRATION OF DISPUTES INVOLVING HEALTH INSURANCE COVERAGE.

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

Section 1. Amend Chapter 3, Title 18, Delaware Code, by adding thereto a new section to read as follows:

“§ 335. Arbitration of Disputes Involving Health Insurance Coverage.

(a) The following definitions shall apply with respect to this Section:

(1) ‘Administrative Procedures Act’ means Title 29, Chapter 101, Delaware Code.

(2) ‘Adverse Determination’ means either a Claim Denial or a Denial of Certification or both.

(3) ‘Claim Denial’ means the denial of payment or reimbursement for health care services rendered or health care supplies provided to any resident of this State.

(4) ‘Court’ means the Superior Court of the State of Delaware.

(5) ‘Denial of Certification’ means a determination that an admission or continued stay, or course of treatment, or other covered health care service with respect to any resident of the State, does not satisfy the health plan’s clinical requirements for appropriateness, necessity, health care setting, and/or level of care.

(6) ‘Internal Review Process’ means the internal review of an Adverse Determination pursuant to subsection (b) of this Section.

(b) Every insurer providing health insurance coverage and every health plan, health services corporation, and health maintenance organization may maintain, for residents of this State, a procedure for the internal review of an Adverse Determination or shall be subject to the provisions of subsection (c) hereof. The Insurance Commissioner is hereby authorized to approve or disapprove the internal review procedure of any above-described entity based on an application of the standards set forth herein. Such internal review procedure shall be approved, provided that it meets the minimum following criteria:

(1) An internal review of the Adverse Determination by an individual other than the person who made the initial Adverse Determination, provided a request for internal review is filed by a claimant within 60 days;

(2) In the case of an Adverse Determination on the basis that the service or supply was not medically necessary under the terms of the policy or plan, a review of the Adverse Determination by a licensed health care professional;

(3) In the case of the Adverse Determination being upheld upon internal review, a written statement containing:

(i) Reference to the language of the policy or plan which provides the basis for the Adverse Determination;

(ii) A summary of the facts providing the basis for the Adverse Determination;

(iii) Identification of the documents, if any, other than the policy or plan, considered in arriving at the Adverse Determination.

(c) Every insurer and every health plan, health services corporation, and every health maintenance organization that has an approved internal review process shall submit a report on its internal review process on an annual basis to the Insurance Commissioner in accordance with regulations established by the Department.

(d) Any resident of the State whose health coverage is provided by an entity described in subsection (b) hereof that lacks an approved Internal Review Process shall have the right to an arbitration hearing as follows:

(1) All arbitration hearings authorized pursuant to this Section shall be administered by the Insurance Commissioner or his/her nominee.

(2) Requests for arbitration shall be in writing and mailed to the Insurance Commissioner within 90 days from the date of receipt of the written statement issued in accordance with subsection (1)(b)(3) above. Neither party shall be held to have waived any of its rights by an act relating to arbitration and either party shall have a right to appeal *de novo* to the Superior Court so long as notice of appeal is filed with the Court in the manner set forth by its rules within 90 days of the date of the arbitration decision being rendered.

(3) The Insurance Commissioner shall establish a schedule of fees for arbitration which shall not exceed \$75.

(4) The fee for arbitration shall be payable to the Department of Insurance at the time of the filing of the request for arbitration and shall be maintained in a special fund identified as the 'arbitration fund' which shall remain separate and segregated from the General Fund. The compensation paid to the arbitration panel shall be payable from this fund.

(5) The Insurance Commissioner shall make reasonable rules and regulations necessary to the administration or effectuation of this Section. Such rules and regulations shall provide, *inter alia*, for the establishment by the Commissioner or his/her nominee of panels of arbitrators.

(e) Nothing in this section shall be construed to apply to policies or contracts exempt from State regulation under federal law or regulation."

Section 2. The provisions of this Act shall become effective on January 1, 1996.

Approved July 10, 1995

CHAPTER 195

FORMERLY

HOUSE BILL NO. 324

AN ACT TO AMEND TITLE 18 RELATING TO THE REHABILITATION AND LIQUIDATION OF INSURERS.

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

Section 1. Amend Title 18 Del.C. Chapter 59, Section 5911, subsection (b) by striking subsection (b) in its entirety and substituting the following in lieu thereof:

"(b) The Commissioner may apply for and secure an order dissolving the corporate existence of a domestic insurer or the United States branch of an alien insurer domiciled in this State upon his application for an order of liquidation of such insurer or at any time after such order has been granted. The court may order dissolution of the corporation upon petition by the Commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, it shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent. However, dissolution may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason. Notwithstanding the above, upon application by the Commissioner and following notice as prescribed by the court and a hearing, the court may sell the corporation as an entity, together with any of its licenses to do business, despite the entry of an order of liquidation. The sale may be made on terms and conditions the court deems appropriate. the court may permit the sale of such corporate existence upon or after the granting of a liquidation order. The proceeds from the sale of the corporation shall become a part of the general assets of the estate in liquidation, and the corporate entity and its licenses shall thereafter be free and clear from the claims or interest of all claimants, creditors, policyholders, and stockholders of the corporation under liquidation. If permission to sell the corporation is not granted prior to discharge of the liquidator, the court shall order dissolution of the corporation if the insurer is insolvent, and the court may order dissolution of the corporation if the insurer is under a liquidation order for some other reason."

Approved July 10, 1995

CHAPTER 196

FORMERLY

HOUSE BILL 168

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO INVESTIGATIONS BY THE DIVISION OF PROFESSIONAL REGULATION.

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

Section 1. Amend § 8810(i), Chapter 88, Title 29 of the Delaware Code by deleting said subsection in its entirety and by substituting in lieu thereof the following:

"(i) The following procedure shall be followed for the investigation of complaints against licensees of boards, agencies, and commissions listed in § 8810(a) of this Chapter and otherwise regulated by the Division of Professional Regulation:

1. Any person who desires to file a complaint against any licensee regulated by a board, commission, or agency covered pursuant to this Chapter must do so in writing.

2. The complaint shall state the name of the licensee and sufficient facts as determined by the Division which allegedly constitute the basis for the written complaint. If any of these elements are missing in the written complaint, the Division of Professional Regulation may, in its discretion, *sua sponte* dismiss the complaint.

3. The complaint shall be filed with the Director of the Division. The Director shall, within fifteen days of the receipt of the complaint, fill out a complaint card, assign a complaint number, and log the complaint in the Division of Professional Regulation's records. A record of the complaint shall be kept with the Division for a period of five (5) years. The Division shall also assign an investigator employed by the Division to investigate the complaint after this procedure is complied with.

4. The Division of Professional Regulation shall thereafter mail a copy of the complaint to the licensee named in the complaint at his or her address of record in the Division's files. The named licensee, if he or she chooses, may file an answer to the complaint within twenty calendar days with the Division.

5. The Division shall, thereafter, provide a copy of the complaint to the board, commission, or agency which regulates the named licensee in the complaint. The board, agency, commission shall maintain a record of the same.

6. At the board, agency, or commission's next regularly scheduled meeting, it may assign a board member to assist the Division with the investigation of the complaint. This board member shall maintain strict confidentiality of the facts of the investigation and shall not discuss any issue of fact or law of the investigation with any other board member or the public. In addition, if a hearing is held, the investigating board member shall excuse himself or herself as a board member but may otherwise assist in the presentation of the complaint before the board.

7. The investigator assigned by the Division of Professional Regulation shall direct the investigation of the complaint but shall maintain contact with the investigating board member regarding the investigation. The investigator shall issue a final report at the conclusion of his or her investigation. The report shall list the evidence reviewed, the witnesses interviewed and cite the law or regulation alleged to have been violated and the facts to support such finding.

The report shall contain a written recommendation to either prosecute or dismiss the complaint approved by the Director of the Division of Professional Regulation.

8. The investigator may forward the complaint and written report to the Department of Justice for review by a Deputy Attorney General. If deemed warranted, the Deputy Attorney General may file a formal written complaint against the named licensee with the board, commission or agency which regulates the licensee and request a hearing before the board, commission or agency. If the Deputy Attorney General assigned to the case recommends not to prosecute or otherwise not file a formal complaint, he or she shall notify the Director of Professional Regulation in writing.

9. If the Deputy Attorney General assigned to the case recommends dismissal or no prosecution, the Division shall, thereafter, dismiss the complaint which shall constitute a final order. The Division shall, thereafter, file a copy of the Attorney General's recommendation and an investigator's report with the board, commission, or agency which regulates the licensee for informational purposes only.

10. The Division Director or his or her designee is empowered to issue subpoenas for named respondents, witnesses, documents, physical evidence or any other source of evidence needed during the investigation of the complaint and/or for a public hearing on the complaint. If the party or person subpoenaed fails to comply, the Division may compel compliance with said subpoena by filing a motion to compel in the Superior Court which shall have jurisdiction. The Superior Court may order costs, attorney's fees and/or a civil fine not to exceed \$1,000.00 if the motion to compel is granted."

Approved July 10, 1995

CHAPTER 197

FORMERLY

HOUSE BILL NO. 315

AN ACT TO AMEND CHAPTER 27, TITLE 29, DELAWARE CODE, RELATING TO THE STATE TREASURER.

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

Section 1. Amend § 2701, Chapter 27, Title 29, Delaware Code, by striking the contents of this section in its entirety.

Section 2. Amend § 2702, Chapter 27, Title 29, Delaware Code, by striking the contents and substituting in lieu thereof the following: "The State Treasurer shall occupy the office and space provided by the State and shall keep therein all books of all account records, vouchers, papers, magnetic data and things pertaining to the conduct of the office and shall take proper means to safeguard and preserve the same."

Section 3. Amend § 2703, Chapter 27, Title 29, Delaware Code, by striking the contents and substituting in lieu thereof the following: "The annual salary of the State Treasurer shall be set through the recommendation of the Delaware Compensation Commission (Chapter 33, Title 29, Delaware Code) and the line item appropriations of the Delaware General Assembly."

Section 4. Amend § 2706, Chapter 27, Title 29, Delaware Code, by striking the remaining language after the words "signature or by" in subsection (a) and substituting in lieu thereof the following: "a facsimile signature of a process approved by the State Treasurer." Further amend subsection (b) by striking the words "2 years" and substituting in lieu thereof the following: "180 days".

Section 5. Amend § 2711, Chapter 27, Delaware Code, by striking subsection (a) and substituting in lieu thereof the following:

"(a) All federal financial assistance program money received by the State, whether directly or indirectly, in the form of cash, check or via an electronic funds transfer method, shall be reported to the Office of the State Treasurer by the receiving agency through the processing of the proper cash receipt transaction in the State's financial management system. The amount received shall be credited to a special fund federal fund grant appropriation line. Such money is appropriated to the grant designated agency for the specific purposes for which the money was granted and shall be paid out of the special fund by the State Treasurer upon payment voucher executed by the designated agency."

Further amend § 2711, Chapter 27, Title 29, Delaware Code, by striking subsection (b) in its entirety and redesignating subsection (c) as (b).

Section 6. Amend § 2712, Chapter 27, Title 29, Delaware Code, by striking subsections (a)(1) and (2) and by redesignating subsection (b) as subsection (a).

Section 7. Amend § 2717, Chapter 27, Title 29, Delaware Code, by striking this section in its entirety.

Approved July 10, 1995

CHAPTER 198

FORMERLY

SENATE BILL NO. 210

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO FAMILY PRESERVATION SERVICES.

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

Section 1. Amend §9003(3), Title 29 of the Delaware Code by designating the existing language thereof as subparagraph "a" and by adding the following:

"b. The Division of Family Services will provide family preservation services to those families whose children are at imminent risk of out-of-home placement when it has determined that out-of-home placement can be avoided; provided, however, that nothing herein will prevent the Division from removing a child from his or her home when it has determined that the child's safety and well-being may be jeopardized by remaining in the family home."

Approved July 10, 1995

CHAPTER 199

FORMERLY

HOUSE BILL NO. 249

AN ACT TO AMEND CHAPTER 41, TITLE 14 OF THE DELAWARE CODE RELATING TO GENERAL REGULATORY PROVISIONS.

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

Section 1. Amend §4112(b), Chapter 41, Title 14 of the Delaware Code by inserting the words "to the Youth Division of the Delaware State Police" after the words "reporting requirements" in the last sentence of said subsection; and by deleting the word "section" appearing in the last sentence thereof, and by inserting in its place the word "subsection".

Approved July 10, 1995

CHAPTER 200

FORMERLY

HOUSE BILL NO. 187

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NOS. 1 AND 2AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING
TO THE REGISTRATION OF MOTOR VEHICLES.

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

Section 1. Amend Chapter 21, Title 21 of the Delaware Code by adding thereto a new section which shall read as follows:

"Section 2139D. Special License Plates for Retired Military Personnel of the United States Armed Forces.

(a) (1) The owner of any vehicle described in subsection (b) of this section may apply to the Department for assignment to that vehicle of a special Retired Military registration number; provided, however, that the owner of the vehicle must possess official documentation which indicates that the owner has retired from the United States Armed Forces.

(2) Special registration may be issued by the Department under this section if the United States Department of Defense certifies that the applicant has been honorably discharged from the United States Armed Forces after having served an aggregate minimum of twenty years in one or more of the branches of the United States Armed Services.

(b) This section applies only to:

a. A private passenger vehicle; or

b. A truck with a three-quarter ton or less manufacturers' rated capacity.

(c) No fee in addition to the annual registration fee otherwise required by this title is required for registration under this section; provided, however, that an original application under this section shall be subject to a \$10.00 administrative fee which shall be deposited into a special fund and used by the Division of Motor Vehicles with the purpose of administering this section and to fund Department projects notwithstanding the provisions of Chapter 13 and 14 of Title 2, Delaware Code, to the contrary.

(d) The Department shall reserve sufficient special license plates numbered consecutively beginning with the numeral (1) as are necessary to implement this section. In addition, any special license plate issued pursuant to this section shall include the insignia of the seal of the branch of the armed services from which the applicant retired directly above the word "retired".

(e) Upon receipt by the Department of information that the individual to whom the special plate has been issued has died, the Department shall write to the representative of that person's estate, requesting that such plate be returned to the Department within ninety (90) days."

Section 2. Amend §2140(g), Title 21, Delaware Code, by adding thereto a new subsection (5) to read as follows:

"(5) Members of the Order of Eastern Star, the Telephone Pioneers of America, Lions Club International and the Senior Olympics, provided that at least 100 applications for special plates must be received from members of any of the said organizations before the Director of Motor Vehicles will approve the issuance of a special plate for that organization."

Approved July 10, 1995

CHAPTER 201

FORMERLY

SENATE BILL NO. 168

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO WORKERS' COMPENSATION BENEFITS.

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

Section 1. Amend §2334, Title 19 of the Delaware Code by deleting the date "September 1, 1970" wherever it shall appear therein and by substituting in lieu thereof the date "July 1, 1975".

Section 2. Further amend §2334, Title 19 of the Delaware Code by deleting the date "September 1, 1971" wherever it shall appear therein and by substituting in lieu thereof the date "July 1, 1975".

Approved July 10, 1995

CHAPTER 202

FORMERLY

HOUSE BILL NO. 294

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING TO TRIP PERMIT REGISTRATIONS AND THE INTERNATIONAL REGISTRATION PLAN.

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

Section 1. Amend § 2103, Title 21, Delaware Code, by adding a new subsection (6) thereto, to read as follows:

"(6) Trip permit registrations pursuant to the International Registration Plan, as authorized in Chapter 4 of this title, may be issued 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 (3) days, including the day issued, for which a fee of \$15 shall be charged."

Section 2. Amend § 2115, Title 21, Delaware Code, by redesignating existing subsection (7) thereof as subsection (8), and by creating a new subsection (7), to read as follows:

"(7) Own or operate any qualified motor vehicle as defined under the International Registration Plan, as authorized in Chapter 4 of this title, not properly displaying an apportioned plate with required registration credentials, or operate a qualified motor vehicle without having in his/her possession a trip permit registration as authorized in § 2103(6) of this chapter. 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 the time of the offense or at the maximum legal limit, whichever is less, which fine shall be suspended if, within 5 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 3. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which 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 10, 1995

CHAPTER 203

FORMERLY

SENATE BILL NO. 176

AS AMENDED BY

SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 24, CHAPTER 17 OF THE DELAWARE CODE RELATING TO THE BOARD OF MEDICAL PRACTICE.

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

Section 1. Amend Chapter 17, Title 24 of the Delaware Code by adding a new Section to be designated as §1780, which new Section shall read as follows:

"§1780. Respiratory Care Practitioners (RCPs).

(a) As used in this Section:

(1) A 'Respiratory care practitioner (RCP)' is an individual who practices respiratory care.

(2) 'Respiratory Care' means the allied health profession responsible for the direct and indirect services in the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under the direction of a physician. Respiratory care includes inhalation therapy and respiratory therapy.

(b) Respiratory care practitioners shall work under the general supervision of physicians, whether by direct observation and monitoring, protocols approved by physicians, or orders written or verbally given by physicians. Practitioners may evaluate patients and make decisions within parameters defined by physicians or the Board of Medical Practice. Some examples of the types of work performed by respiratory care practitioners include, but are not limited to:

(1) Collection of samples of blood, secretions, gases and body fluids in respiratory evaluations;

(2) Measurements of cardiorespiratory volumes, flows and pressure;

(3) Administration of pharmacological agents/aerosols/medical gases via the respiratory route;

(4) Maintenance and insertion of airways, natural or artificial, for the flow of respiratory gases;

(5) Environmental control and ventilatory support systems (hyperbaric chambers, ventilators, etc.);

(6) Resuscitation of persons with cardiorespiratory failure;

(7) Maintenance of bronchopulmonary hygiene;

(8) Research (protocols) in respiratory disorders;

(9) Pulmonary function studies.

(c) Nothing in this Section is intended to limit, preclude or otherwise interfere with the practice of other individuals and health care providers formally trained and licensed by the State of Delaware.

(d) Individuals who have passed an examination that includes content in one or more of the functions included in this Act shall not be prohibited from performing such procedures for which he or she has been tested provided that the testing body offering the examination is approved by the Board of Medical Practice.

(e) A Respiratory Care Practice Advisory Council (Council) is created.

(1) The Council shall consist of seven persons, one of whom is a physician member of the Board of Medical Practice. The remaining members shall be individuals fully trained in respiratory care, who have been employed primarily in the practice of respiratory care for at least two of the last three years immediately prior to their appointment.

(2) Members shall be selected by the Board of Medical Practice and shall serve a three-year term. The initial Council shall have one member selected for a one-year term, two members for a two-year term, and three members for a three-year term.

(3) Terms and limitations of service on the Council shall be the same as for the Board of Medical Practice.

(4) The Council shall promulgate rules and regulations governing the practice of respiratory care, after public hearing, and subject to the approval of the Board of Medical Practice, which must undertake formal action on any such proposed rules or regulations submitted to it by the Council within 60 days, or the proposed rules or regulations shall be deemed in full force and effect as if they had been approved by the Board.

(5) The Council may meet quarterly, or at such times as applications are pending for permits or licensing. The Council shall present to the Board the names of those individuals qualified to be licensed, to receive temporary permits, and recommend disciplinary action, and changes in operation or regulation.

(6) The requirements for licensure are:

i. Completion of a course of study in Respiratory Care recognized or approved by the Board of Medical Practice.

ii. Successful completion of a national qualifying examination with a passing grade that leads to a credential conferred by the National Board for Respiratory Care, Inc. (NBRC), or its successor organization, as a Certified Respiratory Therapy Technician (CRTT), and/or as a Registered Respiratory Therapist (RRT).

iii. Current licensing in a state with requirements which equal or exceed those of this Section, and no outstanding or unresolved complaints pending against the applicant.

(7) Exceptions to licensure; temporary permits.

i. The Board of Medical Practice shall grant a permit to perform respiratory care to those applicants, who, at the effective date of this Act, demonstrate through written evidence, and verification by oath, that they are presently functioning in the capacity of a respiratory care practitioner as defined by this Act. Said applicants must have been working in the capacity of a respiratory care practitioner in this state for an uninterrupted period of 12 months prior to the effective date of this Act. This temporary permit will be valid for a 12-month period and may be renewed for an additional 12-month period upon documentation that the applicant is and has been working actively toward meeting the criteria for license as defined in this Act. Applicants granted a permit must pass the Entry Level CRTT exam, administered by

the National Board for Respiratory Care during this 24-month period, in order to be issued a license to practice respiratory care. This subparagraph of the Act will expire 24 months after the date the Act becomes effective.

ii. The practice of respiratory care is an integral part of the program of study by students enrolled in an accredited respiratory care education program, recognized and approved by the Board. Students enrolled in respiratory therapy programs shall be identified as 'Student-RCP' and shall provide respiratory care only under direct clinical supervision of a licensed respiratory care practitioner or a licensed physician. Students may practice respiratory care under a temporary permit when not on their clinical rotation from an accredited educational program. The scope of practice of this temporary student permit shall be established by the Board of Medical Practice.

iii. The Board of Medical Practice may grant a temporary permit to those persons, recommended by the Council, who have completed a Board-recognized or approved course of study in respiratory care and who are waiting to take the licensing examination. Such temporary permit will expire 90 days after the examination or whenever the examination results are available.

(8) Discipline. The Advisory Council, after appropriate notice and hearing, may recommend to the Board of Medical Practice to revoke, suspend, or refuse to renew a license, or place the licensee on probation, or otherwise reprimand a licensee, found guilty of unprofessional conduct, which shall include: fraud, deceit, incompetence, negligence, dishonesty or behavior in his or her professional activity which is likely to endanger the public health, safety or welfare, or the inability to render respiratory care services with reasonable skill or safety to patients because of mental illness or mental incompetence, physical illness or excessive use of drugs, including alcohol. Any disciplinary action undertaken against a respiratory care practitioner shall be in accordance with those procedures applicable to disciplinary actions against physicians, as set forth in Subchapter V of this Chapter. An appeal of disciplinary action imposed by the Board shall be undertaken in accordance with Subchapter V of this Chapter.

(9) Licensure. Pursuant to §8810, Title 29 of the Delaware Code, the Division of Professional Regulation shall establish reasonable fees for licensing respiratory care practitioners and renewing the licenses of respiratory care practitioners, on a biennial basis. The licensee, when renewing his or her license, shall provide documentation of continuing education related to respiratory care. The Board of Medical Practice, in collaboration with the Advisory Council, shall establish the level of continuing education that will be required for license renewal.

(10) No person shall practice respiratory care, or represent himself or herself to be a respiratory care practitioner, unless he or she is licensed under the Respiratory Care Practice Act, except as otherwise provided by the Act.

(11) Penalties.

i. Whoever practices or attempts to practice respiratory care within the State contrary to this Chapter shall be fined not less than \$500.00 nor more than \$2,000.00, or imprisoned not more than 1 year.

ii The Attorney General of this State or his or her deputies shall be charged with the responsibility for the enforcement of this Chapter."

Approved July 10, 1995

CHAPTER 204

FORMERLY

HOUSE BILL NO. 156

AN ACT TO AMEND CHAPTER 18, TITLE 7, DELAWARE CODE, RELATING TO EEL FISHING.

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

Section 1. Amend Chapter 18, Title 7, Delaware Code, by adding thereto a new section to read as follows:

“§ 1809. Minimum Size Limit.

It shall be unlawful for any person to take from the tidal waters of this State and reduce to possession any eel that measures less than six (6) inches in total length.”

Section 2. This Act shall become effective on the date signed by the Governor and shall cease to be effective at such a time as a fisheries management plan for eels is approved by the Atlantic States Marine Fisheries Commission.

Approved July 10, 1995

CHAPTER 205

FORMERLY

HOUSE BILL NO. 201

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND § 2321, TITLE 19 OF THE DELAWARE CODE RELATING TO WORKER'S COMPENSATION.

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

Section 1. Amend Title 19 of the Delaware Code by striking §2321 thereof, and by inserting in its place a new section to read:

“§2321. Minimum duration of incapacity.

Surgical, medical and hospital services, medicines and supplies, and funeral benefits shall be paid from the first day of injury. Beginning with the fourth day of incapacity, all compensation otherwise provided by law shall be paid. If the incapacity extends to seven days or more, including the day of injury, the employee shall receive all compensation otherwise provided by law from the first day of injury.”

Approved July 10, 1995

CHAPTER 206

FORMERLY

HOUSE BILL NO. 323

AN ACT TO AMEND CHAPTER 189, VOLUME 43 OF THE LAWS OF DELAWARE, AS AMENDED, RELATING TO THE TOWN OF WYOMING.

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

Section 1. Amend paragraph 13, Section 15, Chapter 189, Volume 43 of the Laws of Delaware, as amended, by striking the figure "\$125,000" as said figure appears therein and substituting in lieu thereof the figure "\$250,000".

Section 2. Amend Section 16, Chapter 189, Volume 43 of the Laws of Delaware, as amended, by adding the following paragraph at the end of said section:

"In the event that the Town Solicitor is employed to bring any legal action in any court of law or equity on behalf of the Town for the collection of any taxes due to the Town, and if the Town in said action shall recover judgment in any sum, then the Town shall also recover in said action its reasonable attorneys' fees incurred, not to exceed fifty dollars (\$50.00) or twenty percent (20%) of the said taxes due, whichever sum is greater. Said reasonable attorneys' fees incurred shall be entered, allowed and paid as a part of the decree of judgment in said action, and shall constitute a lien upon all the real estate of the taxable situate in the Town of Wyoming, becoming a part of, relating back to and having the same preference and priority as the lien of said taxes due."

Section 3. If any provision of this Act or the application thereof to any situation or circumstance shall be held invalid, such invalidity shall not affect any of the other provisions of this Act or the application thereof which may be given force and effect, and to this end, the provisions of this Act are hereby declared to be severable.

Section 4. This Act shall become effective upon its enactment into law.

Approved July 10, 1995

CHAPTER 207

FORMERLY

SENATE BILL NO. 245

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 34, VOLUME 58, LAWS OF DELAWARE, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF BLADES", GRANTING THE TOWN COUNCIL OF THE TOWN OF BLADES THE POWER AND THE AUTHORITY TO ANTICIPATE REVENUE BY BORROWING UPON THE FULL FAITH AND CREDIT OF THE TOWN OF BLADES THE SUM OR SUMS NOT TO EXCEED \$150,000 WHEN IN THE OPINION OF THE MAJORITY OF THE SAID TOWN COUNCIL, THE NEEDS OF THE TOWN OF BLADES DEMAND IT.

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

Section 1. Amend §30, Chapter 34, Volume 58 of the Laws of Delaware, as amended by striking in its entirety and substituting in lieu thereof the following:

"Power to borrow against anticipated revenues.

§30. The Town Council of the town of Blades shall have full power and authority to anticipate revenue by borrowing upon the faith and credit of the town of Blades, the sum or sums of an aggregate amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000), when, in the opinion of the majority of the said Town, Council, the needs of the town of Blades demand it. The Town Council may secure said sum or sums of money so borrowed by promissory notes of the town of Blades, duly authorized by resolution of the Town Council, and signed by the Mayor and attested by the Secretary, either with or without the corporate seal of the town of Blades affixed as is requested by the bank or person advancing the money on said notes, and no officer nor Councilman shall be personally liable for the payment of such notes because it is signed by them as Officers of the town of Blades, and is authorized by the resolution of the Town Council: provided, however, any sum of money borrowed on the faith and credit of the Town of Blades, as aforesaid, in any fiscal year, shall be paid out of the general funds of the town, in principal payments of at least ten percent (10%) of the principal borrowed per fiscal year and shall be completely paid at the end of ten (10) fiscal years following the first fiscal year which said money was borrowed with interest thereon, and no part of the principal of nor the interest on any borrowing authorized by this section shall be taxable by the state of Delaware nor any political subdivision thereof."

Approved July 10, 1995

CHAPTER 208

FORMERLY

HOUSE BILL NO. 172

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 41, TITLE 21 OF THE DELAWARE CODE RELATING TO MOPEDS AND TRIPEDS.

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 41, Title 21 of the Delaware Code, by adding a new Section to read:

"§ 4198J. Mopeds and Tripeds.

(a) Mopeds and tripeds shall not be operated upon interstate and limited access highways, even to cross such highways, nor shall they be operated on the right-of-way of an operating railroad, except to cross such railroad, nor shall they be operated on any path set aside for the exclusive use of bicycles unless the helper motor has been turned off.

(b) No person shall drive a moped or triped without having been licensed as an operator of a motor vehicle under this Title. The licensee shall have such license in his immediate possession at all times when operating a moped or triped.

(c) Regulations applicable to bicycles shall apply whenever a moped or triped is operated upon any public road or upon any path set aside for the exclusive use of bicycles.

(d) Mopeds or tripeds shall be registered under regulations which shall be adopted by the Division of Motor Vehicles. The registration and re-registration fee for mopeds or tripeds shall be \$5.00 for a 3-year registration period. Upon registration of a moped or triped, the Division of Motor Vehicles shall issue a decal or a distinctive number plate to be affixed to the moped or triped as indication of registration."

Approved July 10, 1995

CHAPTER 209

FORMERLY

HOUSE BILL NO. 87

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11, DELAWARE CODE RELATING TO ENHANCED
PENALTIES FOR OFFENSES OF THEFT COMMITTED AGAINST SENIOR
CITIZENS.

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

Section 1. Amend Section 841, Title 11 Delaware Code, by rewording the third
paragraph thereof to read as follows:

"Except where a victim is 60 years of age or older, theft is a Class A misdemeanor
unless the value of the property received, retained or disposed of is \$500 or greater, in
which case it is a Class G felony.

Where a victim is 60 years of age or older, theft is a Class G felony unless the
value of the property received, retained or disposed of is \$500 or greater, in which case it
is a Class F felony."

Approved July 11, 1995

CHAPTER 210

FORMERLY

SENATE BILL NO. 260

June 30, 1995

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 1996; DEAUTHORIZING STATE GUARANTEED BOND AUTHORIZATIONS AND AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE; AUTHORIZING THE ISSUANCE OF REVENUE BONDS OF THE DELAWARE TRANSPORTATION AUTHORITY; 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; APPROPRIATING GENERAL FUNDS AND SPECIAL FUNDS OF THE STATE; APPROPRIATING MONIES FROM THE TWENTY-FIRST CENTURY FUND; 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 1996 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 and as described in the Fiscal Year 1996 Governor's Recommended Capital Budget and Project Information document. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, 1996, shall be subject to reversion or deauthorization.

SECTION 1 ADDENDUM
FISCAL YEAR 1998 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHORIZATIONS	DEAUTHORIZATION OF STATE GUARANTEED BONDS	NON-TRANS REVERSION & REPROGRAMMING	STRIPPER WELL	TRANS TRUST FUND REAUTHORIZATION	TRANS TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUND	TOTAL
OFFICE OF THE BUDGET											
800 MHz Statewide Backbone Radio System	10-02-01	90002UGC	\$0	\$0	\$0	\$0	\$0	\$0	\$5,950,000	\$0	\$5,950,000
800 MHz Statewide Portable/Mobile Radios	10-02-01	96001UGE	0	0	0	0	0	0	2,000,000	0	2,000,000
NCCo Vol. Firemen Portable/Mobile Radios	10-02-01	95001UGE	0	0	0	0	0	0	700,000	0	700,000
Electronic Voting Machines	10-02-01	96002UGE	0	0	0	0	0	0	488,300	0	488,300
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$9,118,300	\$0	\$9,118,300
DELAWARE ECONOMIC DEVELOPMENT OFFICE											
Delaware Strategic Fund	10-03-03	94001UGD	\$0	\$0	\$0	\$0	\$0	\$0	\$10,000,000	\$0	\$10,000,000
Laurel Rivers Project	10-03-03	96003UGD	0	0	0	0	0	0	500,000	0	500,000
Brandywine/Christina Rivers Improvement Project	10-03-03	96004UGD	0	0	0	0	0	0	4,500,000	0	4,500,000
Seaford Industrial Park Land Acquisition	10-03-03	96005UGL	0	0	0	0	0	0	500,000	0	500,000
Smyrna Industrial Park Land Acquisition	10-03-03	96006UGL	0	0	0	0	0	0	1,000,000	0	1,000,000
Frawley Stadium Land	10-03-03	94006UGL	0	0	0	0	0	0	500,000	0	500,000
Agricultural Biotechnology Facility	10-03-03	94009UGC	0	0	0	0	0	0	325,000	0	325,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$17,425,000	\$0	\$17,425,000
STATE											
NCCo. Northern Regional Library	20-08-01	93003UBC	\$939,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$939,000
Rehoboth Beach Public Library	20-08-01	94014UBC	290,000	0	0	0	0	0	0	0	290,000
Millsboro Public Library	20-08-01	93005UBC	100,000	0	0	0	0	0	0	0	100,000
Greenwood Public Library	20-08-01	96007UBR	50,000 *	0	0	0	0	0	0	0	50,000
North Wilmington Library - 1st Senate District	20-08-01	95007UBC	300,000	0	0	0	0	0	0	0	300,000
Abbott's Mill Expansion	20-08-04	96008UBC	150,000	0	0	0	0	0	0	0	150,000
NCCo. Claymont Community Center Library	20-08-01	96009UBR	100,000 *	0	0	0	0	0	0	0	100,000
Subtotal:			\$1,929,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,929,000

FISCAL YEAR 1998 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHORIZATIONS	DEAUTHORIZATION OF STATE GUARANTEED BONDS	NON-TRANS REVERSION & REPROGRAMMING	STRIPPER WELL	TRANS TRUST FUND REAUTHORIZATION	TRANS TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUND	TOTAL
ADMINISTRATIVE SERVICES											
Architectural Barrier Removal	30-05-10	91016UBM	\$210,000 *	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$210,000
Sussex County Courthouse Acquisition	30-05-10	94010UBC	467,000	1,133,000	0	0	0	0	0	0	1,600,000
Sussex County Courthouse Renovations	30-05-10	96010UBR	250,000 *	0	0	0	0	0	0	0	250,000
Energy Efficiency Program	30-05-10	95014USM	0	0	0	200,000	0	0	0	0	200,000
Motor Vehicle Inspection Lanes-MCI & Equipment	30-05-10	95015UBM	400,000 *	0	0	0	0	0	0	0	400,000
Canal Building Roof	30-05-10	96011UBR	1,000,000	0	0	0	0	0	0	0	1,000,000
Legislative Hall Renovations	30-05-10	90020UBR 90020URR	1,252,000	0	1,648,000	0	0	0	0	0	2,899,000
Judicial Projects											
Facility Renovations and Equipment	30-05-10	96012UBR	250,000 *	0	0	0	0	0	0	0	250,000
JP Court 7/15 Planning/Design	30-05-10	96013UBP	230,000 *	0	0	0	0	0	0	0	230,000
JP Court 15 Planning	30-05-10	96014UBP	20,000 *	0	0	0	0	0	0	0	20,000
Department of State Projects:											
Veterans Cemetery Enh. & Vault Expansion	30-05-10	94013UBC	1,000,000	0	0	0	0	0	0	0	1,000,000
Archives/Record Center	30-05-10	96015UBC	1,500,000	0	0	0	0	0	0	0	1,500,000
Department of Health & Social Services Projects											
Campus Renewal	30-05-10	87036UBR	1,950,000 *	0	0	0	0	0	0	0	1,950,000
Forensic Mental Health Fac. - Conesgys Replacement	30-05-10	95017UBC	4,500,000	0	0	0	0	0	0	0	4,500,000
Appoquinimink Resource Center & Community Library	30-05-10	95018UGC	0	0	0	0	0	0	1,800,000	0	1,800,000
Stockley Pool Covered Walk	30-05-10	94020UBC 94020UGC	108,000 *	0	0	0	0	0	42,000	0	150,000
Dept. Children, Youth & Their Families Projects											
Secure Care Continuum Improvement Plan	30-05-10	91022UBC	5,810,100	0	0	0	0	0	0	0	5,810,100
NCCDC Expansion 16 Bed Pod	30-05-10	91024UBC	2,203,800	0	0	0	0	0	0	0	2,203,800
Woodshaven Kruse - Secure Property	30-05-10	96018UGL	0	0	0	0	0	0	100,000	0	100,000
Department of Correction Projects:											
Correctional Facilities Expansion/Construction	30-05-10	96019UBC	23,400,000	0	0	0	0	0	0	0	23,400,000
DCC-Central Tower Phase II	30-05-10	95022UBC	350,000 *	0	0	0	0	0	0	0	350,000
Prison Authority-Construct 2 Chicken Houses	30-05-10	96017UGP	0	0	0	0	0	0	250,000	0	250,000
Gender Hill Security	30-05-10	96018UBM	500,000 *	0	0	0	0	0	0	0	500,000
Department of Public Safety Projects:											
DEMA Emergency Center/OIS Backup Facility	30-05-10	94018UBC	1,250,000	0	0	0	0	0	0	0	1,250,000
BSI Vault Expansion/Renovations	30-05-10	96019UBR	215,000 *	0	0	0	0	0	0	0	215,000
Agriculture Projects:											
MCU/Redden State Forest	30-05-10	94017UBR	300,000 *	0	0	0	0	0	0	0	300,000
National Guard											
Lone Little Roof Completion	30-05-10	96025UBR	30,000 *	0	0	0	0	0	0	0	30,000
Fire Prevention Commission Project:											
NCCo. Regional Fire Marshal Office - Planning	30-05-10	96020UBP	120,000 *	0	0	0	0	0	0	0	120,000
Subtotal:			\$47,315,900	\$1,133,000	\$1,648,000	\$200,000	\$0	\$0	\$1,992,000	\$0	\$52,258,900

SECTION 1 ADDENDUM
FISCAL YEAR 1998 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO	BOND AUTHORIZATIONS	DEAUTHORIZATION OF STATE GUARANTEED BONDS	NON-TRANS REVERSION A REPRO-GRAMMING	STRIPPER WELL	TRANS TRUST FUND REAUTHORIZATION	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUND	TOTAL
DEPARTMENT OF HEALTH AND SOCIAL SERVICES											
Van. Drug Surveillance/Transport, Office of Narcotics and Dangerous Drugs	35-05-20	96021UGE	\$0	\$0	\$0	\$0	\$0	\$0	\$20,000	\$0	\$20,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$20,000	\$0	\$20,000
NATURAL RESOURCES & ENVIRONMENTAL CONTROL											
Conservation Cost Sharing Prog	40-07-04	85033UGO	\$0	\$0	\$0	\$0	\$0	\$0	\$420,000	\$0	\$420,000
Kilens Pond Pool Completion	40-06-02	94022UBC	1,550,000	0	0	0	0	0	0	0	1,550,000
Dowse Site Acquisition	40-07-01	96022UGL	0	0	0	0	0	0	500,000	0	500,000
Delaware Aquatic Center	40-06-02	80026UBC	1,500,000	0	0	0	0	0	0	0	1,500,000
Park Rehabilitation	40-06-02	81031UG	0	0	0	0	0	0	1,250,000	0	1,250,000
Beach Preservation	40-07-03	78032UGO	0	0	0	0	0	0	1,000,000	0	1,000,000
Taxi/Public Ditches	40-07-02	78031UGC	0	0	0	0	0	0	600,000	0	600,000
Cape Henlopen Pier Reconstruction Completion	40-07-02	94023UBR	200,000	0	0	0	0	0	0	0	200,000
Nanticoke River Project	40-06-02	95029UGP	0	0	0	0	0	0	600,000	0	600,000
Subtotal:			\$3,250,000	\$0	\$0	\$0	\$0	\$0	\$4,370,000	\$0	\$7,620,000
DEPARTMENT OF PUBLIC SAFETY											
Helicopter Replacement	45-01-01	96023UGE	\$0	\$0	\$0	\$0	\$0	\$0	\$460,000	\$0	\$460,000
Delaware State Police-Replace 50 Shotguns	45-01-01	96024UGE	\$0	\$0	\$0	\$0	\$0	\$0	\$20,000	\$0	\$20,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$480,000	\$0	\$480,000
TRANSPORTATION											
Program Development (74/00)	55-05-00	95033UTT	\$0	\$0	\$0	\$0	\$0	\$2,090,000	\$0	\$0	\$2,090,000
System Preservation (75/00)	55-05-00	95034UTT	0	0	0	0	0	25,906,000	0	0	25,906,000
System Management (76/00)	55-05-00	95035UTT	0	0	0	0	0	5,712,000	0	0	5,712,000
System Expansion (77/00)	55-05-00	95036UTT	0	0	0	0	0	41,478,000	0	0	41,478,000
Engineering and Contingencies (57/00)	55-05-00	78043UTT	0	0	0	0	0	16,000,000	0	0	16,000,000
Suburban Streets/Misc. Drainage (50/00)	55-05-00	78043UTT	0	0	0	0	1,550,000	15,150,000	0	0	16,700,000
Municipal Street Aid (71/00)	55-05-00	89034UTT	0	0	0	0	0	3,000,000	0	0	3,000,000
Reserve Account	55-05-00	90N461TT	0	0	0	0	0	566,000	0	0	566,000
Subtotal:			\$0	\$0	\$0	\$0	\$1,550,000	\$109,920,000	\$0	\$0	\$111,470,000
FIRE PREVENTION COMMISSION											
Hydraulic Rescue Tools	75-02-01	92017UGE	\$0	\$0	\$0	\$0	\$0	\$0	\$127,500	\$0	\$127,500
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$127,500	\$0	\$127,500

AGENCY/PROJECT	BUDGET UNIT	DFMS NO	BOND AUTHORIZATIONS	DEAUTHORIZATION OF STATE GUARANTEED BONDS	NON-TRANS REVERSION A REPRO-GRAMMING	STRIPPER WELL	TRANS TRUST FUND REAUTHORIZATION	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUND	TOTAL
UNIVERSITY OF DELAWARE											
Add /Renovate Colburn Laboratory	90-01-01	94029UBC	\$4,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$4,000,000
Add /Renovate Punell Hall	90-01-01	95037UBC	3,000,000	0	0	0	0	0	0	0	3,000,000
Georgetown Research & Ed. Ctr. Renovations	90-01-01	96025UGR	0	0	0	0	0	0	50,000	0	50,000
Athletic Facility Improvements	90-01-01	95038UBR	125,000 *	0	0	0	0	0	0	0	125,000
Subtotal:			\$7,125,000	\$0	\$0	\$0	\$0	\$0	\$50,000	\$0	\$7,175,000
DELAWARE STATE UNIVERSITY											
Economic/Business Administration Bldg	90-03-01	95039UBC	\$1,300,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,300,000
Loop Road/Grounds Improvements	90-03-01	95040UBC	3,000,000	0	0	0	0	0	0	0	3,000,000
Women's Locker Room/Treatment Facility	90-03-01	96026UGC	0	0	0	0	0	0	710,000	0	710,000
Electrical Distribution Upgrade	90-03-01	96027UBR	782,000 *	0	0	0	0	0	0	0	782,000
Subtotal:			\$5,082,000	\$0	\$0	\$0	\$0	\$0	\$710,000	\$0	\$5,792,000
DELAWARE TECHNICAL & COMMUNITY COLLEGE											
Major Renovations-Jason Bldg., Southern	90-04-02	95041UBR	\$1,000,000 *	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,000,000
Wilmington Campus Expansion	90-04-04	95042UGC	0	0	0	0	0	0	7,000,000	0	7,000,000
HVAC Renovations - Terry	90-04-06	96028UGR	0	0	0	0	0	0	335,100	0	335,100
Child Care Center - Southern Campus	90-04-02	96029UBC	1,500,000	0	0	0	0	0	0	0	1,500,000
Subtotal:			\$2,500,000	\$0	\$0	\$0	\$0	\$0	\$7,335,100	\$0	\$9,835,100

SECTION 1 ADDENDUM
FISCAL YEAR 1994 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHOR- IZATIONS	DEAUTHOR- IZATION OF STATE QUAR- ANTERED BONDS	NON-TRANS. REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTHORIZATION	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUND	TOTAL
STATE BOARD OF EDUCATION											
Appoquinimink, New High School (87/33)	95-29-00	94035UGC	\$0	\$0	\$0	\$0	\$0	\$0	\$2,101,800	\$0	\$2,101,800
Architectural Barrier Removal (80/40)	95-01-01	91074UR	0	0	180,000	0	0	0	0	0	180,000
Catskill Rodney, New Elementary School (80/20)	95-10-00	95044UBC	1,563,500	0	0	0	0	0	0	0	1,563,500
Brandywine, Mod./Rehabilit. Pleasant High (80/40)	95-31-00	95048UBC	8,719,900	0	0	0	0	0	0	0	8,719,900
Brandywine, Modernize Darley Road Elem. (80/40)	95-31-00	95048UBC	2,405,800	0	0	0	0	0	0	0	2,405,800
Brandywine, Modernize Brandywine High (80/40)	95-31-00	98030UGP	0	0	0	0	0	0	8,951,300	0	8,951,300
Brandywine, Modernize Maple Lane Elem. (80/40)	95-31-00	98031UGP	0	0	0	0	0	0	2,858,900	0	2,858,900
NCCo. Vo-Tech-Repair Paving, Rear-Hodgeson (80/40)	95-38-00	98053UBR	338,300	0	0	0	0	0	0	0	338,300
Christine, Autistic School Supplement (100%)	95-33-00	94031UBR	127,300	0	0	0	0	0	0	0	127,300
Appoquinimink, Planning - Existing High School (88/31)	95-29-00	98032UBC	34,500	0	0	0	0	0	0	0	34,500
Brandywine, Replace Roof, Forwood Elem. (80/40)	95-31-00	98033UBC	204,000	0	0	0	0	0	0	0	204,000
Brandywine, Replace Roof, Brandywood Elem. (80/40)	95-31-00	98034UBC	158,000	0	0	0	0	0	0	0	158,000
Brandywine, Replace Roof, Springer Middle (80/40)	95-31-00	98035UBC	120,000	0	0	0	0	0	0	0	120,000
Brandywine, Replace Roof, Claymont Ed. Campus (80/40)	95-31-00	98036UBC	120,000	0	0	0	0	0	0	0	120,000
POLYTECH North Campus - Replacement Plan (100%)	95-38-00	98037UGC	0	0	0	0	0	0	6,500,000	0	6,500,000
Christine, Renovate Bancroft Elementary (80/40)	95-33-00	98038UGR	0	0	0	0	0	0	4,165,800	0	4,165,800
Christine, Renovate Newark High (80/40)	95-33-00	98038UGR	0	0	0	0	0	0	6,082,000	0	6,082,000
Christine, Renovate Cobleskill Middle (80/40)	95-33-00	98040UGR	0	0	0	0	0	0	2,417,400	0	2,417,400
Christine, Replace Lessons Elementary (80/40)	95-33-00	98041UGR	0	0	0	0	0	0	2,188,500	0	2,188,500
Christine, Land Acq., New Elem., Glasgow Area (80/40)	95-33-00	98042UGR	0	0	0	0	0	0	432,000	0	432,000
Christine, Renovate Glasgow High (80/40)	95-33-00	98043UGR	0	0	0	0	0	0	4,312,300	0	4,312,300
Christine, Renovate Shrewsbury Middle (80/40)	95-33-00	98044UGR	0	0	0	0	0	0	1,997,100	0	1,997,100
Milford Land Acquisition (80/20)	95-18-00	9743UGL	0	0	0	0	0	0	240,000	0	240,000
State Consortium on Tech Prep Programs (100%)	95-01-01	9813UGR	0	0	0	0	0	0	215,000	0	215,000
NCCo. Vo Tech Hadgeson Bldg. Improvements (100%)	95-38-00	98047UGR	0	0	0	0	0	0	300,000	0	300,000
NCCo. Vo Tech Howard Bldg. Improvements (100%)	95-38-00	98048UGR	0	0	0	0	0	0	300,000	0	300,000
NCCo. Vo Tech DE Skills Ctr. Improvements (100%)	95-38-00	98049UGR	0	0	0	0	0	0	350,000	0	350,000
Subtotal:			\$13,908,100	\$0	\$180,000	\$0	\$0	\$0	\$43,372,100	\$0	\$67,440,200

SECTION 1 ADDENDUM
FISCAL YEAR 1994 CAPITAL IMPROVEMENTS PROJECT SCHEDULE

AGENCY/PROJECT	BUDGET UNIT	DFMS NO.	BOND AUTHOR- IZATIONS	DEAUTHOR- IZATION OF STATE QUAR- ANTERED BONDS	NON-TRANS. REVERSION & REPRO- GRAMMING	STRIPPER WELL	TRANS. TRUST FUND REAUTHORIZATION	TRANS. TRUST FUNDS	GENERAL FUNDS	21st CENTURY FUND	TOTAL
TWENTY-FIRST CENTURY FUND											
Open Space	25-01-01	96050UCL	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$12,000,000	\$12,000,000
Farm/land Preservation	25-01-01	96051UCL	0	0	0	0	0	0	0	12,000,000	12,000,000
Pyria Endowment	25-01-01	96052UCC	0	0	0	0	0	0	0	9,000,000	9,000,000
Neighborhood Housing Revitalization	25-01-01	96053UCC	0	0	0	0	0	0	0	5,000,000	5,000,000
Water and Wastewater Infrastructure	25-01-01	96054UCC	0	0	0	0	0	0	0	15,000,000	15,000,000
Community Redevelopment Projects	25-01-01	96055UCC	0	0	0	0	0	0	0	8,000,000	8,000,000
Educational Technology	25-01-01	96056UCC	0	0	0	0	0	0	0	10,000,000	10,000,000
Advanced Technology Centers	25-01-01	96057UCC	0	0	0	0	0	0	0	3,000,000	3,000,000
Diamond State Port Corporation	25-01-01	96058UCC	0	0	0	0	0	0	0	29,500,000	29,500,000
Resource, Conservation and Development Projects	25-01-01	96059UCC	0	0	0	0	0	0	0	5,200,000	5,200,000
Subtotal:			\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$108,700,000	\$108,700,000
GRAND TOTAL			\$81,110,000	\$1,133,000	\$1,808,000	\$200,000	\$1,550,000	\$108,920,000	\$85,000,000	\$108,700,000	\$388,421,000

Section 2. Deauthorization of State Guaranteed Bonds.

(a) Amend Section 5054(d)(2) of Title 29 of the Delaware Code, as amended, by striking the number "\$10,259,015" wherever it appears in said Section and inserting in lieu thereof the number "\$9,128,015."

(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 Seventy-Three Million Nine Hundred Forty-Nine Thousand Nine Hundred Dollars (\$73,940,900) and in the amount of Seven Million Eight Hundred Seventy Thousand Eight Hundred Dollars (\$7,870,800) 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>
Department of State	\$ 1,779,000
Department of Administrative Services	43,515,900
Department of Natural Resources and Environmental Control	3,050,000
University of Delaware	7,000,000
Delaware State University	4,300,000
Delaware Technical and Community College	1,500,000
State Board of Education	<u>12,798,000</u>

<u>Purpose</u>	<u>Maximum State Share</u>	<u>Local Share</u>	<u>Total Cost</u>
Caesar Rodney, New Elem. School (80/20)	\$ 1,583,500	\$ 395,800	\$ 1,979,300
Brandywine Modernize/Rehab			
Mt. Pleasant High (60/40)	8,716,900	5,811,300	14,528,200
Brandywine, Modernize/Darley Rd Elem (60/40)	<u>2,485,600</u>	<u>1,683,700</u>	<u>4,169,300</u>
Subtotals	<u>\$12,798,000</u>	<u>\$7,870,800</u>	<u>\$20,668,800</u>
Total			<u>\$73,940,900</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 Eight Million Three Hundred Two Thousand One Hundred Dollars (\$8,302,100) and in the amount of One Million Six Hundred Forty-Nine Thousand Dollars (\$649,000) 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	\$ 150,000

Department of Administrative Services	4,933,000
Department of Natural Resources and Environmental Control	200,000
University of Delaware	125,000
Delaware State University	782,000
Delaware Technical and Community College	1,000,000
State Board of Education	<u>1,112,100</u>

Purpose	Maximum State Share	Local Share	Total Cost
NCCo. Vo-Tech, Rear Paving, Hodgson (80/40)	338,300	225,500	563,800
Appoquinimink, Planning, Existing High School (89/31)	34,500	15,500	50,000
Brandywine, Roof, Forwood Elem. (80/40)	204,000	136,000	340,000
Brandywine, Roof, Brandywood Elem. (80/40)	168,000	112,000	280,000
Brandywine, Roof, Springer Middle (80/40)	120,000	80,000	200,000
Brandywine, Roof, Claymont Ed. Campus (80/40)	120,000	80,000	200,000
Christina, Autistic School Supplement (100%)	127,300	0	127,300
Subtotals	\$1,112,100	\$649,000	\$1,761,100
Total			\$8,302,100

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).

Project	Authorized Vol & Ch Laws of DE	Project Appropriation Code	Amount
Composites	68/405	10-03-03-6312	\$ 4,108.18
Bridgeville Library	67/285	20-08-01-6114	6,525.51
South Coastal Library	68/156	20-08-01-6213	89,549.09
Minor Capital Improvements and Equipment	68/156	30-05-10-6213	357.70
Asbestos	68/156	30-05-10-6230	745.25
DCC Sewer	67/285	30-05-10-6101	40,899.10
DCC Plumbing	67/285	30-05-10-6116	145,357.66
Marine Bay Program	67/285	30-05-10-6121	66,705.00
Sussex Courthouse	69/77	30-05-10-6415	14,000.00
Women's Correction Facility	69/77	30-05-10-6426	28,066.66
DCC Boiler	69/77	30-05-10-6427	106,328.60

	Authorized Vol & Ch Laws of DE	Project Appropriation Code	Amount
Minor Capital Improvements and Equipment	67/285	35-01-20-6112	147.00
Minor Capital Improvements and Equipment	67/285	35-01-20-6212	3,231.64
Health Lab	67/285	35-05-20-6112	153.16
Sewer	67/285	38-04-03-6112	41.84
Minor Capital Improvements and Equipment	67/285	45-01-01-6113	65.32
TOTAL			<u>\$506,081.71</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 Five Hundred Twenty-Three Thousand Two Hundred Dollars (\$523,200) from the State Treasurer's Bond Reversion Account (94-12-05-03-8101) to the following departments in the following amounts for the purposes set forth in the Section 1 Addendum of this Act.

Department, Agency, or Instrumentality	Amount
Department of Administrative Services	<u>\$523,200</u>
TOTAL	<u>\$523,200</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 (94-12-05-03-8102).

Project	Authorized Vol & Ch Laws of DE	Project Appropriation Code	Amount
State Board of Education/MCI	67/280	95-01-01-6182	\$1,465.00
State Board of Education/Bldg. Maint.	68/405	95-01-01-6392	50.00
State Board of Education/FY 1992 MCI	68/405	95-01-01-6383	69,017.51
State Board of Education/MCI	68/405	95-01-01-6382	29,373.09
State Board of Education/Arch. Barrier	68/405	95-01-01-6301	99,357.63
Caesar Rodney/MCI	67/285	95-10-00-6182	569.09
Caesar Rodney/MCI	68/156	95-10-00-6282	404.34
Brandywine/Elementary Renovations	68/46	95-31-00-6012	3,284.99
Red Clay/FY 1992 Arch. Barrier	68/156	95-32-00-6293	11,460.00
Christina/New Elementary	67/285	95-33-00-6113	22,256.18
Colonial/Architectural Barrier	68/156	95-34-00-6293	581.83
New Castle County Vo-Tech/MCI Vo Ed	68/156	95-38-00-6284	29.00
TOTAL			<u>\$237,851.66</u>

Section 8. Transfers from the School Bond Reversion Account. Notwithstanding the provisions of any other State law, the State Treasurer shall transfer, as funds become available, the sum of Two Hundred Forty-One Thousand Seven Hundred Dollars (\$241,700) on deposit in the School Bond Reversion Account (94-12-05-03-8102) for the following purposes in the following amounts as set forth in the Section 1 Addendum of this Act.

Department, Agency, or Instrumentality	Amount
Department of Administrative Services	\$ 81,700
State Board of Education	<u>\$160,000</u>
TOTAL	<u>\$241,700</u>

Purpose	Maximum State Share	Authorization Local Share	Total Cost
Architectural Barrier Removal (60/40)	<u>\$160,000</u>	<u>\$108,700</u>	<u>\$268,700</u>
TOTAL	<u>\$160,000</u>	<u>\$108,700</u>	<u>\$268,700</u>

Section 9. Appropriation of General Funds. It is the intent of the General Assembly that Eighty-Five Million Dollars (\$85,000,000) 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, 1998, shall revert to the General Fund of the State of Delaware.

Department, Agency, or Instrumentality	Amount
Office of the Budget	\$9,118,300
Delaware Economic Development Office	17,425,000
Department of Administrative Services	1,992,000
Department of Health and Social Services	20,000
Department of Natural Resources & Environmental Control	4,370,000
Department of Public Safety	480,000
Fire Prevention Commission	127,500
University of Delaware	50,000
Delaware State University	710,000
Delaware Technical and Community College	7,335,100
State Board of Education	<u>43,372,100</u>

Purpose	Maximum State Share	Authorization Local Share	Total Cost
Appoquinimink High School (87/33)	\$2,101,800	\$1,035,200	\$3,137,000
Brandywine High School (80/40)	8,951,300	5,967,543	14,918,843
Brandywine Maple Lane (80/40)	2,858,900	1,905,921	4,764,821
Polytech North Campus (100%)	6,500,000	0	6,500,000
Christina, Renovate Bancroft (80/40)	4,165,800	2,777,181	6,942,981
Christina, Renovate Newark High (80/40)	6,062,000	4,041,363	10,103,363
Christina, Renovate Cobbs/Geuger (80/40)	2,417,400	1,611,566	4,028,966
Christina, Leasure Elem (80/40)	2,168,500	6,212,889	8,381,389
Christina, Land Acq. New Elem (80/40)	432,000	288,000	720,000
Christina, Renovate Glasgow High (80/40)	4,312,300	2,874,866	7,187,166
Christina, Renovate Shue/Medill Mid (80/40)	1,997,100	1,331,400	3,328,500
Milford Land Acquisition (80/20)	240,000	60,000	300,000
State Consort. Tech Prep Programs (100%)	215,000	0	215,000
NCCo. Vo-Tech Hodgson Bldg. (100%)	300,000	0	300,000
NCCo. Vo-Tech Howard Bldg (100%)	300,000	0	300,000
NCCo. Vo-Tech DE Skills Center (100%)	350,000	0	350,000
Subtotal	43,372,100	28,105,929	71,478,029
TOTAL			<u>\$85,000,000</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, 1995, the following amounts shall remain as continuing appropriations and shall be transferred in accordance with Section (b) of this Section and shall not be subject to reversion until June 30, 1996.

Project	Authorized Vol & Ch Laws of DE	Project Appropriation Code	Amount
Department of State/Dover Library	405/68	10-03-03-6312	\$ 12,182.96
TOTAL			<u>\$ 12,182.96</u>

(b) The State Treasurer shall transfer the remaining appropriation balances listed in Section (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.

Department, Agency, or Instrumentality	Amount
Department of Administrative Services	\$12,100
TOTAL	<u>\$12,100</u>

Section 11. Appropriation of First State Improvement Fund. The State hereby authorizes the appropriation of Forty-Five Thousand Seven Hundred Dollars (\$45,700) from the First State Improvement Fund (86-12-05-03-9600) for a portion of the purposes set forth in the Section 1 Addendum of this Act.

Department, Agency, or Instrumentality	Amount
Department of Administrative Services	<u>\$45,700</u>
TOTAL	<u>\$45,700</u>

Section 12. 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-One Thousand Six Hundred Dollars (\$161,600) from the Health Facilities Subsidy Fund held by the State Treasurer (95-12-05-03-9400) 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, 1986, shall revert to the Health Facilities Subsidy Fund.

Department, Agency, or Instrumentality	Amount
Department of Administrative Services	<u>\$161,600</u>
TOTAL	<u>\$161,600</u>

Section 13. Appropriation of Special Funds. There is hereby appropriated the sum of Eight Hundred Thirty-Five Thousand Eight Hundred Dollars (\$835,800) from the Bond Sale 174 account, held by the State Treasurer (94-12-05-03-8585), to the following department in the following amount for the purpose set forth in the Section 1 Addendum of this Act. Any funds remaining unexpended or unencumbered by June 30, 1996, shall revert to the General Fund of the State of Delaware. Any remaining balance shall be used to reduce debt service.

Department, Agency, or Instrumentality	Amount
Department of Administrative Services	<u>\$835,800</u>
TOTAL	<u>\$835,800</u>

Section 14. Allocation of Stripper Well Funds. The State hereby authorizes the Department of Administrative Services to allocate Two Hundred Thousand Dollars (\$200,000) 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 15. Continuing Appropriations. For the fiscal year ending June 30, 1995, any sums in the following accounts shall remain as continuing appropriations and shall not be subject to a reversion until June 30, 1996.

Fiscal Year Appropriation	Account Codes	Remarks
1992	10-03-03-0180	Dover Civic Center
1989	10-03-03-0184	Dover Civic Center
1990	10-03-03-0180	Sussex Airport
1991	10-03-03-8112	Dover Civic Center
1992	10-03-03-8215	First State Center
1993	10-03-03-8313	First State Center
1990	10-03-03-8643	Dover Civic Center
1993	10-03-04-8312	FAF Reserve
1991	20-08-01-8116	Redding House
1994	20-08-01-8423	Rahoboth Library
1991	30-05-10-8115	Sinks, Etc.
1992	30-05-10-8201	Architectural Barrier
1992	30-05-10-8202	Correction MCI
1992	30-05-10-8212	Archives/Record Center
1992	30-05-10-8216	New Castle Co. Detention Facility
1993	30-05-10-8302	Gander Hill
1993	30-05-10-8303	Fire Training Center
1993	30-05-10-8304	Delaware National Guard MCI
1992	35-04-01-8002	Medical Examiners Lab
1991	40-06-04-8212	Aquatic Center
1992	40-06-04-8212	Aquatic Center
1991	40-07-02-8113	Resource, Conservation & Development
1992	40-07-02-8214	Little Mill Flood Abatement
1993	40-07-02-8313	Resource Conservation & Development
1993	40-08-01-0182	Cockeysville Formation
1993	40-08-04-0181	Water Fund
1992	40-08-04-0182	Water Fund
1990	40-08-04-0183	Rev. Loan Fund
1993	40-08-04-8313	Wastewater SRF
1993	40-08-04-8888	Wastewater SRF
1992	76-01-01-8213	MCI/EQ
1993	90-04-02-0187	Land-Southern Campus
1993	90-04-04-0186	MCI

1993	90-04-04-0187	Land-Wilmington Campus
1992	90-04-05-6212	Stanton Education & Development
1993	90-04-05-6312	Stanton Building
1993	95-15-00-6302	Architectural Barrier Removal
1992	95-18-00-6212	Morris Renovations
1992	95-18-00-6213	Ross Renovations
1993	95-18-00-6312	Lakeview Middle
1993	95-18-00-6313	HVAC Banneker
1993	95-24-00-6315	Smyrna Kindergarten
1993	95-29-00-6312	Townsend Elementary
1991	95-33-00-6113	Barrett Run
1993	95-33-00-6301	Architectural Barrier Removal
1993	95-36-00-0199	Selbyville Middle School
1993	95-38-00-6312	Howard Center
1993	95-38-00-6313	Wilmington Skills Center
1993	95-38-00-6382	MCI

Section 16. 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.

TWENTY-FIRST CENTURY FUND

Section 17.

WHEREAS, the 137th General Assembly approved Senate Bill No. 288 to create the Twenty-First Century Fund to deposit monies resulting from the Supreme Court's decision in the *Delaware v. New York* abandoned property case; and

WHEREAS, the General Assembly recognizes that the State prevailed in preventing Congressional legislation reversing the *Delaware v. New York* Supreme Court decision by reaching a settlement with forty-nine other states protecting an annual General Fund revenue stream of at least \$35 million and one-time payments of \$220 million; and

WHEREAS, the General Assembly recognizes that the \$220 million is one-time in nature and should be used to make long-term investments over the next ten years to meet the economic challenges of the next century and preserve the quality of life Delawareans have come to know and enjoy; and

WHEREAS, the General Assembly recognizes that these one-time monies present an opportunity to challenge the private and non-profit sectors to participate in the future of Delaware and leverage additional monies from foundations, federal and local government sources, and the non-profit and private sectors; and

WHEREAS, the General Assembly recognizes that the strategies to expend Twenty-First Century Fund monies must be linked to the overall growth management objectives developed by the Cabinet Committee on State Planning Issues to promote the prudent use of these resources and the enhancement of the quality of life in Delaware; and

WHEREAS, the General Assembly recognizes that a sound investment strategy for the next century should preserve Delaware's environment, revitalize its communities and improve the State's educational and economic competitiveness.

Section 18. All state agencies receiving appropriations from the Twenty-First Century Fund shall be required to submit a detailed report to the Joint Legislative Committee on Capital Improvement Programs, the Controller General, the Secretary of Finance and the Budget Director detailing monies expended, program performance, and future plans for their respective programs by April 1 of each year.

Section 19. Any deauthorization to Twenty-First Century Fund projects shall only be made through the annual Bond and Capital Improvements Act and all deauthorized funds shall revert to the Twenty-First Century Fund.

Section 20. Amend Chapter 61, Title 29, *Delaware Code*, by creating a new section 6102A to read as follows:

***Section 6102A. Twenty-First Century Fund Investments.**

(a) This section shall be referred to as the Twenty-First Century Fund Investments Act of 1995, hereinafter referred to as 'the Act.'

Section 21. Amend Section 6102(p), Title 29, *Delaware Code*, by redesignating said subsection as subsection 6102A(b) of Title 29, *Delaware Code*.

Section 22. Amend Section 6102A(b) by adding a new subsection (8) to read as follows:

(8) The transfer of funds appropriated from the Twenty-First Century Fund shall be approved and administered by the Secretary of Finance. Such expenditures shall be made only upon the satisfaction of the specific requirements established by law to govern expenditures for these purposes. Unexpended cash

balances in the Twenty-First Century Fund Account and Project Accounts shall be interest-earning and such interest shall be credited to the Fund Account, except as provided for in subsection (e)(1) of this Section and in Section 5423, Title 30, Delaware Code."

Section 23. Twenty-First Century Fund Appropriations.

The General Assembly hereby authorizes the amount of \$108,700,000 to be paid out of the Twenty-First Century Fund from funds deposited in accordance with Section 6102A(b)(1), Title 29, Delaware Code. It is the intent that the appropriation account shall be administered through the Department of Finance and shall be subject to allocation and conditions as set forth in this section. No funds shall be used for agency overhead or personnel-related costs. Any unused authorization in the Project Accounts by June 30, 2005 shall revert to the Twenty-First Century Fund Account in the Department of Finance.

PURPOSE	AMOUNT
Open Space	\$ 12,000,000
Farmland Preservation	12,000,000
Parks Endowment	9,000,000
Neighborhood Housing Revitalization	5,000,000
Water and Wastewater Infrastructure	15,000,000
Resource Conservation and Development	5,200,000
Community Redevelopment	8,000,000
Educational Technology	10,000,000
Advanced Technology Centers	3,000,000
Diamond State Port Corporation	29,500,000
TOTAL	\$ 108,700,000

Section 24. Amend Section 6102A, Title 29, Delaware Code, by adding new subsections to read as follows:

"(c) Open Space.

(1) The sum of \$6 million shall be transferred from the appropriations of the Twenty-First Century Fund for Open Space to the Land and Water Conservation Trust Fund Endowment Account to generate funds for the Earnings Account for local projects and Greenways projects. Fifty percent of the funds generated from the Earnings Account shall be used to fund local projects administered under the provisions of Section 5423, Title 30, Delaware Code and Section 7506(1), Title 7, Delaware Code and fifty percent of the funds generated from the Earnings Account shall be used to fund Greenways projects administered under the provisions of Section 8017A, Title 29, Delaware Code.

(2) The Secretary of Natural Resources and Environmental Control is authorized to expend the remaining amount from funds appropriated from the Twenty-First Century Fund for Open Space for the purchase of land and conservation easements to preserve the environment and provide open space for future generations subject to the following conditions and terms. Funds shall be transferred from the Twenty-First Century Fund to the Project Account of the Land and Water Trust Fund upon the transmittal of a letter of certification from the Secretary of Natural Resources and Environmental Control to the Secretary of Finance which states that the funds are for a project approved by the Open Space Council pursuant to Section 7506, Title 7, Delaware Code, and demonstrates matching contributions of at least a total of 1 (non-State) to 2 (State) ratio per fiscal year. Matching contributions in excess of this ratio may be applied to match State funding in any succeeding fiscal year until such excess contributions are exhausted. Matching contributions shall be defined as irrevocable donations of land, cash, conservation easements, or acquisitions by and to qualified non-profit conservation organizations and the State. The value of the land shall be approved by the Open Space Council for matching purposes. Only contributions received subsequent to the date of enactment of this Act shall qualify as matching contributions. No land or easements counted as match for this purpose may subsequently be purchased by the State without a replacement provided.

(3) In the event that funds authorized under subparagraph (2) of this subsection are not sufficient to meet the State's anticipated land protection needs, the Secretary of Natural Resources and Environmental Control may request the General Assembly to accelerate funds appropriated from the Twenty-First Century Fund for Open Space into the Project Account, provided that qualifying matching contributions have been secured.

(d) Farmland Preservation.

(1) A special fund appropriation account is hereby created in the Department of Agriculture to be known as the "Farmland Preservation Account". The sum appropriated from the Twenty-First Century Fund for Farmland Preservation shall be used to support purchase of development rights in accordance with the provisions of Sections 913 - 918, Title 3, Delaware Code to preserve quality farmland and ensure the continued viability of Delaware's agricultural industry.

(2) The Secretary of Agriculture is authorized to expend funds appropriated from the Twenty-First Century Fund for Farmland Preservation under the following conditions and terms:

(A) Funds of up to \$2 million shall be transferred to the Farmland Preservation Account upon the request of the Secretary of Agriculture for expenditures sufficient to purchase development rights as approved by the Aglands Preservation Foundation.

(B) Additional amounts appropriated from the Twenty-First Century Fund for Farmland Preservation shall be transferred to the Farmland Preservation Account upon the transmittal of a letter of certification from the Secretary of Agriculture and the Chair of the Aglands Preservation Foundation to the Secretary of Finance demonstrating matching contributions of a total of at least a 1 (non-State) to 4 (State) ratio per fiscal year. Matching contributions in excess of this ratio may be applied to match State funding in any succeeding fiscal year until such excess contributions are exhausted. Matching contributions shall be defined as donations of cash,

land, development rights to land, and/or discounted land values, referred to as donations on bargain sales. Only contributions received subsequent to the date of enactment of this Act shall qualify as matching contributions.

(e) Parks Endowment.

(1) A special fund appropriation account is hereby created in the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, to be known as the 'Parks Endowment Account'. It is the intent of the General Assembly that the sum appropriated from the Twenty-First Century Fund for the Parks Endowment Account shall be known as the 'Principal' and shall remain intact. The Department of Natural Resources and Environmental Control may expend only the interest earned and/or the investment yield from the Principal for capital-related purposes, including minor capital improvements, to preserve the quality of the State's parks system and enhance recreational opportunities.

(2) Funds appropriated from the Twenty-First Century Fund for Parks Endowment shall be transferred to the Parks Endowment Account upon the enactment of this Act. The Secretary of Natural Resources and Environmental Control shall not be authorized to expend the interest earned or the investment yield from the Principal until a letter of certification has been received by the Secretary of Finance which demonstrates a matching contribution of at least a 1 (non-State) to 3 (State) ratio of the Principal, or fractional amount thereof. The unmatched interest shall accumulate until the full match has been achieved. Matching contributions shall be defined as monetary, including monies set aside as endowment. Only contributions received subsequent to the date of enactment of this Act shall qualify as matching contributions.

(3) The Department of Natural Resources and Environmental Control shall include a list of proposed projects to be funded by the interest earned or investment yield of this Account in its annual Capital Improvements request for approval by the Joint Legislative Committee on Capital Improvement Programs.

(f) Neighborhood Revitalization.

(1) A special fund appropriation account is hereby created in the Delaware Economic Development Office, State Housing Authority to be known as the 'Neighborhood Revitalization Account'. The sum appropriated from the Twenty-First Century Fund for Neighborhood Housing Revitalization shall be used to create a loan program to be administered according to guidelines and procedures developed by the Council on Housing and the State Housing Director to expend affordable housing opportunities for families and improve entire communities through the rehabilitation of existing housing. The Account shall serve as a revolving loan account and shall be eligible to receive loan repayments.

(2) The Council on Housing and the State Housing Director shall develop a competitive process to approve loan applications for the rehabilitation of housing in existing neighborhoods and, in connection therewith, shall develop criteria to assess the relative housing needs of such neighborhoods. The State Housing Director shall review and recommend loan applications for the approval of the Council on Housing. Special consideration shall be given in the application approval process for communities which demonstrate a comprehensive approach to revitalization. Loan application guidelines for investment property owners shall be more stringent than guidelines for owner occupants, and shall include both rent and tenant income restrictions for the life of the loan.

(3) The Council on Housing and the State Housing Director shall coordinate its program and procedures with the planning objectives of the Cabinet Committee on State Planning Issues.

(4) The Council on Housing and the State Housing Director shall be required to submit a strategic plan containing the guidelines and procedures for the administration of the program to the Joint Legislative Committee on Capital Improvement Programs by October 1, 1995. No funds shall be expended from the Neighborhood Revitalization Account until the Joint Legislative Committee on Capital Improvement Programs has reviewed and approved the plan.

(5) Upon the request of the State Housing Director subsequent to approval of an application in accordance with this subsection, funds appropriated from the Twenty-First Century Fund for Neighborhood Revitalization shall be transferred to the Neighborhood Revitalization Account for expenditures sufficient to make such loans.

(g) Water and Wastewater Infrastructure.

(1) To ensure that Delaware has the water and wastewater treatment infrastructure necessary to preserve its environment, provide its citizens with clean drinking and recreational waters and permit economic growth, funds appropriated from the Twenty-First Century Fund shall be expended to improve the State's water and wastewater infrastructure.

(2) A special fund appropriation account is hereby created in the Department of Natural Resources and Environmental Control, Division of Water Resources to be known as the 'Infrastructure Planning Account'. The Planning Account shall be dedicated to the development of comprehensive municipal and county plans. Such plans shall include municipalities and counties' needs for water facilities under the direction of the Cabinet Committee on State Planning Issues and for wastewater facilities under the direction of the Wastewater Facilities Advisory Council. Grants from the Planning Account shall be issued pursuant to guidelines and procedures developed by the Cabinet Committee on State Planning Issues, which guidelines and procedures shall give preference to applicants which intend to develop comprehensive municipal plans and to coordinate such plans with their counties' plan and State development policies. To be eligible for funding, a municipality or county seeking such grant must commit to provide a 50 percent matching contribution. Upon request from the Secretary of Natural Resources and Environmental Control, subsequent to the approval of a project in accordance with this subsection, funds of up to a total of \$2 million shall be transferred to the Account for expenditures sufficient to fund the State share of such project.

(3) A special fund appropriation account is hereby created in the Department of Natural Resources and Environmental Control, Division of Water Resources to be known as the 'Water and Wastewater Management Account'. The Management Account shall be expended to create a State revolving loan/grant management account to enhance and supplement public and private water and wastewater financing. The Wastewater Facilities Advisory Council shall set affordability standards for wastewater projects under the direction of the Secretary of Natural Resources and Environmental Control for the use of these monies and establish an appropriate review and approval process. The Cabinet Committee on State Planning Issues shall set affordability standards for water projects for the use of these monies and establish an appropriate review and approval process. The Cabinet Committee on State Planning Issues shall only approve water projects for funding where private sector alternatives have been explored and it is both economical and in the public interest to do so. Upon the request of the Secretary of Natural Resources and Environmental Control subsequent to approval of a project in accordance with this subsection, funds shall be transferred to the Account for expenditures sufficient to fund the State share of such project. The Secretary of Natural Resources and Environmental Control is authorized to expend funds appropriated from the Twenty-First Century for Water and Wastewater Infrastructure from the Management Account.

(4) (A) There shall be transferred to the Delaware Water Pollution Control Revolving Fund an amount to be determined in accordance with this sub-paragraph upon both: (i) A determination by the Secretary of Finance and the Secretary of Natural Resources and Environmental Control that there has been enacted a Federal Clean Water Reauthorization Act or the federal Fiscal Year 1995 grant of the Federal Clean Water Act has been awarded to the State; and (ii) A request for transfer of funds from the Secretary of Natural Resources and Environmental Control of an amount sufficient to serve as the required State match for the federal/state program.

(B) There shall be transferred to a special fund account established by the Budget Director an amount to be determined in accordance with this sub-paragraph upon both: (i) A determination by the Secretary of Finance and Secretary of Natural Resources and Environmental Control that there has been enacted amendments to the Federal Safe Drinking Water Act to provide federal funding for water infrastructure projects; and (ii) A request for transfer of funds from the Secretary of Natural Resources and Environmental Control of an amount sufficient to serve as the required State match for the federal/state program. Upon such federal approval, the Department of Natural Resources and Environmental Control shall have the authority to administer the State revolving loan fund pursuant to Section 8003, Title 29, Delaware Code, so as to comply with the requirements of the Federal Safe Drinking Water Act, 42 U.S.C. Section 300(f) as amended.

(h) Resource Conservation and Development.

(1) A special fund appropriation account is hereby created in the Department of Natural Resources and Environmental Control, Division of Soil and Water Conservation to be known as the 'Resource Conservation Account'. Funds appropriated from the Twenty-First Century Fund for Resource Conservation and Development shall be dedicated to improve the health of communities by addressing a variety of State-wide watershed and drainage issues consistent with the policies of the Cabinet Committee on State Planning Issues.

(2) On or before April 1 of each year, the Department of Natural Resources and Environmental Control, Division of Soil and Water Conservation in concurrence with local conservation districts shall establish an application process which includes a definition of eligible match; and shall prioritize and recommend a list of projects to the Joint Legislative Committee on Capital Improvement Programs.

(3) A funding match shall be required of at least 25 percent to fund the non-State share of resource and conservation projects approved by the Joint Legislative Committee on Capital Improvement Programs.

(4) Upon the approval of a list of projects by the Joint Legislative Committee on Capital Improvement Programs and upon the request of the Secretary of the Department of Natural Resources and Environmental Control, funds appropriated from the Twenty-First Century Fund for Resource Conservation and Development shall be transferred to the Resource Conservation Account for expenditures sufficient to fund the State share of such projects.

(5) The Department of Natural Resources and Environmental Control shall submit a quarterly report detailing program activity.

(i) Community Redevelopment.

(1) A special fund appropriation account is hereby created in the Office of the Budget to be known as the 'Community Redevelopment Account'. Funds appropriated from the Twenty-First Century Fund for Community Redevelopment shall be used for community redevelopment, revitalization and investment capital projects which will improve the economic, cultural, historical and recreational health of Delaware communities.

(2) The Joint Legislative Committee on Capital Improvement Programs ("the Committee") shall adopt policies and procedures to implement this subsection following the receipt of recommendations by the Office of the Budget to be provided no later than October 1, 1995, including the establishment of an application process, and rules for project administration and project eligibility. Upon the receipt and review of applications by the Office of the Budget, the Joint Legislative Committee on Capital Improvement Programs shall select from among the applicants for the award of funds from the Community Redevelopment Account.

(3) Funds shall only be expended from the Community Redevelopment Account to match funds provided by county and local governments, community-based non-profit organizations or private sector contributions for such capital projects. Not more than 60 percent of the Account funds shall be awarded to community-based non-profit applicants and no more than 40 percent of the Account funds shall be awarded to county and local governments.

Funds from the Account shall only be expended to provide a State match of not more than 40 percent of project costs. For purposes of this subsection, State match shall mean that maximum sum of money which may be paid from State sources and non-State match shall mean a sum of money from sources other than State funds. Non-profit organizations shall have to have been operating for a minimum of two years to be considered for Account funds.

(4) No State agency or institution of higher education shall be eligible for funds from the Community Redevelopment Account.

(5) Upon the request of the Chair of the Committee and the State Budget Director, funds appropriated from the Twenty-First Century Fund for Community Redevelopment shall be transferred to the Community Redevelopment Account to fund projects in accordance with the provisions of this subsection.

(6) The Committee and the Cabinet Committee on State Planning issues shall receive a list of projects funded and their status on a quarterly basis from the Office of the Budget.

(j) Educational Technology.

(1) A special fund appropriation account is hereby created in the Delaware Center for Educational Technology to be known as the 'Educational Technology Account'. Funds appropriated from the Twenty-First Century Fund for Educational Technology shall provide computer and telecommunications technology to Delaware's classrooms by wiring schools and funding other one-time capital-related projects. The Educational Technology Account shall support the goal of providing schoolchildren with the skills necessary to meet the State's academic achievement standards and to succeed in the workforce of the Twenty-First Century.

(2) The Delaware Center for Educational Technology shall be authorized to expend funds appropriated from the Twenty-First Century Fund for Educational Technology upon the following conditions and terms. Funds shall be transferred to the Educational Technology Account upon the written request of the Chair of the Delaware Center for Educational Technology for capital-related expenses incurred to provide technology to Delaware's classrooms. The Chair of the Delaware Center for Educational Technology shall transfer an amount not to exceed \$900.0 thousand from funds appropriated from the Twenty-First Century Fund for Educational Technology to the State Board of Education for contractual services and the design and development of educational software resources for the network to meet the instructional and informational needs of educators and students.

(3) It is the intent of the General Assembly that in subsequent years a funding match of at least a 1 (non-State) to 2 (State) ratio shall be required to receive funds appropriated from the Twenty-First Century Fund for Educational Technology.

(4) Except for \$500.0 thousand for engineering studies, consulting and planning activities and an amount not to exceed \$900.0 thousand for contractual services and the design of software resources for the network in the first fiscal year of the enactment of this Act, no funds shall be expended pursuant to this subsection unless the Delaware Center for Educational Technology Board has provided a strategic plan, which shall include an expenditure plan for such funds, to the Governor, General Assembly and the State Board of Education no later than six months after the establishment of the Center. The Joint Legislative Committee on Capital Improvement Programs shall review and approve such plan. Subsequent to the year of enactment of this Act, the Board shall be required to provide an updated strategic plan for the Center's activities to the Governor, General Assembly and the State Board of Education on or before September 1 of each year.

(5) The fund is directed to reimburse the Self-Insurance fund for the cost of wiring the Dickinson High School.

(k) Advanced Technology.

(1) A special fund appropriation account is hereby created in the Delaware Economic Development Office to be known as the 'Advanced Technology Center Account'. The sum appropriated from the Twenty-First Century Fund for Advanced Technology Centers shall be used to foster public-private partnerships to diversify the State's economic base, and support the basic and applied research and development and technology application needs of the State's technology-intensive industries.

(2) A Council on Science and Technology shall be established under the direction of the Delaware Economic Development Office to develop a competitive funding process to review and approve projects. The Council shall be composed of ten members from the private sector who possess technical and/or financial expertise in technology-intensive sectors important to Delaware's economy, including, but not limited to, advanced materials, agribusiness, biotechnology, pharmaceuticals and information technology. Eight members shall be appointed by the Governor; one member shall be appointed by the Senate President Pro Tempore; and one member shall be appointed by the Speaker of the House of Representatives. The terms of the Council members shall be for five years except that the initial term of each may be for a lesser period. A member of the Council shall be eligible for reappointment. The Governor shall designate one member of the Council to be Chair who shall serve at the pleasure of the Governor.

(3) The Council on Science and Technology shall be required to submit a strategic plan containing guidelines and procedures for the administration of the program, including the grant application process, a definition of eligible match and the allocation of intellectual property, to the Joint Legislative Committee on Capital Improvement Programs by January 1, 1998. No funds shall be expended from the Advanced Technology Center Account until the Joint Legislative Committee has reviewed and approved such plan.

(4) To be eligible for project funding from the Advanced Technology Center Account: (1) a match from non-State monies must be demonstrated to the Council at the time of application of at least a 1 (non-State) to 1 (State) ratio, which may include in-kind contributions, the criteria for which may be determined by the Council; (2) and the Council shall recommend the project for funding with the approval of the Director of the Delaware Economic Development Office. The match requirements for basic research projects shall be of at least a 2 (non-State) to 1 (State) ratio. Matching contributions in excess of this ratio may be applied to match State funding in any succeeding fiscal year until such excess contributions are exhausted. The Account shall be either a grant and/or revolving loan fund.

(5) Upon request from the Director of the Delaware Economic Development Office subsequent to approval of a project in accordance with this subsection, funds appropriated from the Twenty-First Century Fund for Advanced Technology Centers shall be transferred to the Account for expenditures sufficient to fund the State share of such project.

(I) Diamond State Port Corporation.

(1) A special fund appropriation account is hereby created in the Department of State to be known as the "Port Account".

(2) The Corporation as defined in Subchapter II of Chapter 87, Title 29, Delaware Code shall be authorized to expend funds appropriated from the Twenty-First Century Fund for Port of Wilmington-related projects and facilities only upon the following conditions and terms:

(A) The Corporation has been established and its directors nominated and confirmed; and

(B) The Secretary of State, Secretary of Finance and State Budget Director have approved a lease or lease/purchase or purchase agreement between the Corporation and the City of Wilmington; and

(C) Funds which in any fiscal year in the aggregate do not exceed \$2 million shall be transferred from the Twenty-First Century Fund to the Port Account upon the written request of the Chair of the Corporation. For funds to be transferred from the Twenty-First Century Fund to the Port Account which in any fiscal year in the aggregate exceed \$2 million, a request by resolution shall be passed by seven of nine of the directors of the Corporation, which resolution certifies that the request is in compliance with the Corporation's legislative purpose and function, and shall be transmitted by the Chair of the Corporation to the Secretary of Finance.

Section 25. Amend Chapter 87, Title 29, Delaware Code by designating Sections 8701 - 8733 as Subchapter I and by adding new Sections 8734 through 8744 as Subchapter II thereof which shall read in its entirety as follows:

Section 8734. Diamond State Port Corporation - Policy and Purpose.

The General Assembly declares the following to be the policy and purpose for creation of the Diamond State Port Corporation:

(1) That the continued economic viability of the Port of Wilmington and its related facilities, and improvements to these facilities and to the commerce involving these facilities, benefits the entire State;

(2) That it is in the best interest of the State to create a corporate entity which shall assume, by agreement, operation of the Port of Wilmington and its related facilities and to assume certain obligations of the City of Wilmington;

(3) That, in that regard, the General Assembly shall, in its discretion, appropriate an amount to fund the initial capital and operating responsibilities of such corporation and shall consider future appropriations as appropriate;

(4) That this Corporation is intended to have all power and authority necessary to be exercised in accordance with the form of governance expressed herein, to operate the Port of Wilmington and related facilities so as to maintain and expand the business of these facilities.

Section 8735. Creation of Diamond State Port Corporation.

(a) There shall be established within the Department of State a body corporate and politic, with corporate succession, constituting a public instrumentality of the State, and created for the purpose of exercising essential governmental functions which is to be known as the "Diamond State Port Corporation." This Corporation shall exercise all such functions necessary in connection with the assumption, establishment, acquisition, construction, rehabilitation, improvement, operation and maintenance of the Port of Wilmington and related facilities, including without limitation marine terminal facilities, which shall be deemed and held to be essential governmental functions of this State. The Corporation shall be a membership corporation with the Department of State as sole member and shall have a certificate of incorporation and by-laws consistent with Subchapter II of Chapter 87. The certificate of incorporation of the Corporation shall provide for approval of the Delaware General Assembly in order to amend the certificate of incorporation, to effect a merger or dissolution of the Corporation or to effect a sale of all or substantially all of the assets of the Corporation.

(b) The Corporation shall be governed by a board of directors consisting of nine members, all of whom shall be residents of this State. Three of these directors shall be (i) the Secretary of State, (ii) the Secretary of Transportation and (iii) the Director of the Delaware Economic Development Office. The Governor shall appoint the Chair from among the three cabinet directors and the Chair shall serve at the pleasure of the Governor. The Chair shall be subject to the advice and consent of the Senate, however, such consent shall be limited to the additional duties of the Chair of this Corporation and not impact the prior confirmation as Cabinet Secretary. The

remaining six directors shall be appointed by the Governor with the advice and consent of the Senate. These six directors shall consist of individuals from the private or public business sectors and organized labor familiar with port and economic development issues. There shall be at least one director from each of the three Counties of the State, at least one director from the City of Wilmington and two directors who shall fill at-large positions on the Board. Of these six directors no more than three shall be registered in the same major political party. The terms of the original of these six such directors shall be as follows: two directors to serve for one year; two directors to serve for two years; and two directors to serve for three years. Upon expiration of the terms of the original directors, the term of each director appointed thereafter shall be three years.

(c) As to the six non-cabinet directors, in the event of the death of a director, permanent disability of a director, resignation of a director or failure of a director to perform their duties, the Governor shall appoint an interim director to serve for a period not to exceed six months, unless such interim director shall be confirmed by the Senate, in which case the interim director shall complete the term of the replaced director.

(d) For purposes of conducting business of the Corporation, five directors shall constitute a quorum, except as otherwise provided. A vote of five members shall be required for action on any matter before the Corporation, except as otherwise provided herein.

(e) The Corporation shall have an advisory board consisting of twelve members, all of whom shall be residents of this State. The members shall be individuals representing Port businesses, and individuals representing labor organizations, and individuals with expertise in business, trade, or economic development. The Governor, the President Pro Tempore of Senate and the Speaker of the House shall each appoint four members. The terms of each member shall be two years. The Chair of the advisory board shall be selected from among the advisory board members by a majority vote. The purpose of the advisory board shall be to advise the board of directors on strategic planning, capital investment, business development and budgetary matters. The advisory board shall meet at least quarterly and make semi-annual recommendations to the board of directors. Section 8736. Definitions.

The following terms and phrases as used in this subchapter shall have the following meanings:

- (1) 'Corporation' means the Diamond State Port Corporation.
- (2) 'Facilities' means all works, buildings, structures, appliances and appurtenances necessary and convenient for the proper construction, equipment, operation and maintenance of such facility or facilities or any one or more of them.
- (3) 'Port of Wilmington' means all wharves, piers, slips, ferries, anchorages, docks, dry-docks, bulkheads, dock-walls, basins, car-floats, float-bridges, grain or other storage elevators, warehouses, cold or heated storage, tracks, yards, sheds, switches or other buildings, structures or facilities or improvements or appurtenances operated as of the date of creation of the Corporation by the Wilmington Department of Commerce as the Port of Wilmington and Wilmington Marine Terminal Wharf and such other facilities, structures, improvements or appurtenances as may be developed, constructed or operated on land contiguous to, adjacent to or proximate to the Port of Wilmington as may be acquired by the Corporation or the City of Wilmington for the purpose of port development.
- (4) 'Person' means any individual, partnership, corporation, association, institution, cooperative enterprise, municipality, commission, political subdivision or other duly established legal entity.
- (5) 'Marine terminal facility' means wharves, piers, slips, ferries, anchorages, docks, dry-docks, bulkheads, dock-walls, basins, car-floats, float-bridges, grain or other storage elevators, warehouses, cold or heated storage, tracks, yards, sheds, switches or other buildings, structures or facilities or improvements or appurtenances necessary or convenient to the accommodation of ships or vessels or their cargoes or passengers. Section 8737. Appointment of Executive Director.

The Chair of the Corporation shall, subject to the approval of the Governor, appoint an Executive Director of the Corporation. The Executive Director shall be experienced in port or transportation-related management and shall be the principal executive officer of the Corporation. Section 8738. General Powers.

The Corporation shall have upon enactment of this chapter and upon its creation as provided for herein the powers listed in this subsection. The Corporation shall be empowered, without limitation and notwithstanding any other laws:

- (1) To adopt by-laws to govern the conduct of its affairs and to carry out and discharge its powers, duties and functions and to adopt rules and regulations as appropriate to carry out and discharge its powers, duties and functions and to sue and be sued, to enter into contracts and agreements and to plan, finance, develop, construct, purchase, lease, maintain, improve, own, operate or control facilities and such real and personal property as it may deem necessary, convenient or desirable.
- (2) To employ such personnel and provide such benefits as necessary to carry out its functions and to retain, by contract, engineers, advisors, legal counsel, and other providers of advice, counsel and services which it deems advisable or necessary in the exercise of its purposes and powers and upon such terms as it deems appropriate.
- (3) To exercise all of the power and authority with respect to operation and development of the Port of Wilmington granted to the City of Wilmington by statute enacted by the General Assembly including, without limitation, 22 Laws of Delaware, c. 118, Section 1, 50 Laws of Delaware, c. 457, Section 3, and 50 Laws of

Delaware, c. 4, Section 2, but shall not have the power to tax, to issue bonds or to exercise the power of eminent domain.

(4) To have and exercise any and all powers available to a corporation organized pursuant to Chapter 1 of Title 8, the Delaware General Corporation Law.

(5) To do all acts and things necessary or convenient to carry out its function of operating and developing the Port of Wilmington and related marine terminal facilities.
Section 8739. No Pledge of State Credit; No Assumption of Liability by State.

The Corporation shall have no power, except where expressly granted by separate act of the General Assembly, to pledge the credit or to create any debt or liability of the State or of any other agency or of any political subdivision of the State, and the State shall not assume or be deemed to have assumed any debt or liability of the Corporation as the result of any exercise of power by the Corporation.
Section 8740. Reports and Audits.

The Corporation shall make annual reports to the Governor and the General Assembly setting forth in detail its operations and transactions, which shall include annual audits of the books and accounts of the Corporation made by a firm of independent Certified Public Accountants (CPA's) mutually agreed to by the Auditor of Accounts and the Secretary of State, and may make such additional reports from time to time as it desires.
Section 8741. Tax Status.

The powers and functions exercised by the Corporation are, and will be in all respects for the benefit of the people of the State, and to this end, the Corporation will be exercising essential governmental functions. To this end, the Corporation shall not be required to pay any taxes or assessments or charges of any character, including, without limitation, real property taxes or head taxes levied upon employers, upon any of the property used by it or leased to third parties in connection with the exercise of its powers, or any income or revenue therefrom, including, without limitation, any profit from any sale or exchange.
Section 8742. Appropriated Funds.

(a) If the Corporation's final budget for any fiscal year includes a proposal for an appropriation from the General Assembly for operating or capital funds, the budget shall be approved by the Chair of the Corporation before its submission to the General Assembly as part of the Governor's proposed capital or operating budget. Any such appropriation shall be designated for and allocated to the Port Account.

(b) Any capital expenditures of any such further appropriated monies or of monies derived from any other source, but not including Twenty-First Century Fund monies, which expenditures within any one fiscal year in the aggregate exceed \$2 million, shall be made pursuant to a request by a resolution passed by seven of nine directors of the Corporation and delivered to the State Budget Director which resolution certifies that the request is in compliance with the Corporation's legislative purpose and function.
Section 8743. Employees of the Corporation.

(a) All employees of the Corporation shall be exempt from the provisions of Chapter 59, Title 29, Delaware Code, 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 same group medical risk pool and the same deferred compensation plans available to State employees, although the terms of the group medical insurance, including benefits and coverage options provided to such employees, shall be determined by the Corporation and need not be the same as the terms available to State employees. The Corporation shall remit the full cost of such insurance to the State no later than the first day of each calendar month for which such insurance is being provided. The cost of such insurance shall be re-determined annually. The terms of medical insurance and deferred compensation programs available through the State shall not be a subject of collective bargaining. The Corporation may elect to participate in the County and Municipal Pension Plan set forth in Chapter 55A, Title 29, Delaware Code. The Corporation may elect to establish a separate pension plan for the Corporation's employees upon such terms and conditions as the Corporation deems advisable, which pension plan shall be administered by the Board of Pension Trustees established by Section 8303, Title 29, Delaware Code.

(b) The Corporation shall be a public employer, as provided in Section 1302(n), Title 19 Delaware Code, and the Corporation shall be subject to the Public Employment Relations Act, Chapter 13, Title 19, Delaware Code.

Section 26. Amend Chapter 83, Title 29, Delaware Code to add a new Section 8308(c)(10) to read as follows: "(10) to administer any pension plan established by the Diamond State Port Corporation, upon such terms as negotiated with the Diamond State Port Corporation."

Section 27. The Diamond State Port Corporation ("Diamond State"), as defined in Subchapter II of Chapter 87, Title 29, Delaware Code, shall be authorized to expend funds appropriated from the Twenty-First Century Fund for Port of Wilmington-related projects and facilities upon the approval of a purchase agreement by the Secretary of State, Secretary of Finance and State Budget Director between Diamond State and the City of Wilmington (the "City") which shall include the following:

(1) Acquisition Transaction.

Diamond State will purchase from the City all real property constituting the Port and the City will transfer to Diamond State ownership of all Port Assets related to or used in connection with the Port (including City's interests under contracts, leases with tenants and operating agreements).

(2) Payment Term

30 Years.

(3) Purchase Price

Payments to include amounts calculated to cover the City's Port-related debt service. Diamond State will not assume debt; the City remains fully obligated. Flexibility for refundings, prepayments, etc., with appropriate reduction in payments related to debt service. Payments also include annual payments in the following amounts:

Year	Basic Payment	Maximum Earn Out	Maximum Payment
1	\$4.5 million	NA	\$4.5 million
2	1.8 million	\$0.6 million	2.4 million
3	1.7 million	0.6 million	2.3 million
4	1.5 million	0.6 million	2.1 million
5	1.5 million	0.6 million	2.1 million
6-20	0.6 million	0.5 million	1.1 million
21-30	0.6 million	0.4 million	1.0 million

The payment related to Port debt service due July 1996 will be reduced by an amount equal to net revenues (computed net of pro-rated debt service) of the Port for July and August 1995.

The basic payment for the second year will be paid in semi-annual installments in arrears. Basic payment for the third through the thirtieth year will be paid in quarterly installments in arrears.

The earnout payment will be equal to 100 percent of the first \$0.6 million of net Port revenues in the second through the fifth year; 50 percent of the first \$1.0 million of such revenues in the sixth through the twentieth year; and 50 percent of the first \$0.8 million of such revenues in the twenty-first through the thirtieth year. Shortfalls shall be carried forward to succeeding years and made whole at the end of the sixth year and every fifth year thereafter.

Payments shall be secured by a first lien on the Port.

(4) Investment by Diamond State.

Diamond State is committed to dedicating at least \$25.0 million to the Port from monies available to it from the Twenty-First Century Fund, on basis of priorities and on a schedule to be determined by Diamond State acting in its sole discretion.

(5) Environmental.

City will be responsible for all liabilities under state or federal environmental laws that arise out of, or result from, any condition or activity created or conducted on or before Closing Date, including without limitation costs and expenses of preparation and implementation of storm water management plan, costs and expenses of economically feasible and cost effective compliance with air pollution regulation requirements for bulk materials handling (coke, cement, salt, coal and bauxite), and cost and expenses of hazardous substance clean up. City and Diamond State will cooperate in the development and implementation of required environmental responses, and Diamond State will make reasonable efforts to pursue statutory claims against potentially responsible third parties. The agreement will provide for indemnification and set-off of costs incurred against purchase payments other than those relating to debt service, provided that (A) set-offs shall be spread over ten year periods (but not to exceed the remaining term of the transaction) commencing on the later of (i) the date the cost or expense is incurred and (ii) the sixth anniversary of the Closing, and (B) set-offs will be net of payments, if any, received from potentially responsible third parties. Diamond State will make reasonable efforts to secure cost contributions from third party operators and users of improvements required to comply with air pollution regulations.

(6) Taxes.

Diamond State is not required to pay any taxes or assessments or charges of any character, including, without limitation, real property taxes or head taxes levied upon employees, upon any of the property used by it or leased to third parties in connection with the exercise of its powers or any income or revenue therefrom, including, without limitation, any profit from any sale or exchange. Nothing contained herein shall exempt Diamond State employees or any other employees from any otherwise applicable City wage tax or shall exempt any employer other than Diamond State from the payment of any otherwise applicable City head taxes. Diamond State will pay for water and sewer services.

(7) Personnel Matters.

- (a) All employees effectively have the option to become Diamond State employees.
- (b) Union Employees - Diamond State assumes union agreements for covered employees who become Diamond State employees. Accordingly benefits and related matters are not affected.
- (c) Diamond State will create a pension plan that permits each Diamond State employee to continue earning retirement benefits identical to present benefits. City will transfer to Diamond State plan the present value of accrued benefits for transferred active employees (estimated to be \$2.5 million but to be determined based on actual employee census as of the date of closing).
- (d) Non-union employees receive health care and other benefits substantially similar to current benefits through 1996.
- (e) Accrued vacation days for union and non-union employees will be transferred to Diamond State. City will make payment to Diamond State for the full costs of all transferred accrued vacation days, anticipated to be approximately \$270.0 thousand.

- (f) City will pay Diamond State for the full cost of all accrued sick leave for union employees transferred to Diamond State, anticipated to be approximately \$9.0 thousand.
 - (g) City will compensate non-union employees for all accrued sick leave. Diamond State will have no obligation or liability for any such sick leave used by non-union employees.
 - (h) Continued employment for non-union employees through 1996 unless Diamond State experiences significant adverse economic conditions.
 - (i) Payment from City to Diamond State as reimbursement for certain employment-related expenses.
- (8) Existing City Obligations.
The City will complete the following projects:
- (a) Upgrade of data processing system
 - (b) EDA Rail Improvement Project
- (9) Services to be Provided by City.
- (a) Police and fire protection.
 - (b) Payroll processing (one year).
 - (c) Use of radio communications system and centrex telephone system.
 - (d) Cooperation as to zoning, subdivision and building code changes to accommodate Port activities and development
10. Assumption of Liabilities.
Diamond State will assume only those liabilities expressly listed in the agreement, and all other City liabilities will remain with the City. Provisions are included to effect orderly transition with collection of accounts receivable and payment of accounts payable and an accounting to the City for 90 days following Closing.
11. Port Expansion.
The agreement will contain various representations, warranties and covenants designed to give Diamond State assurances as to future expansion and development of Port activities. The agreement will include the option to acquire Pigeon Point property for no additional consideration.

Section 28. Amend Section 8017A, Title 29, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof a new section to read as follows:

***Section 8017A. Delaware Greenway and Trails Council.**

(a) There is hereby established the Delaware Greenway and Trails Council (successor to the Delaware Coastal Heritage Greenways Council) created for the following purposes:

(1) Evaluate the natural, coastal, cultural, historical and recreational resources of Delaware and determine which of these resources should be components of a Delaware Greenway network;

(2) Promote and encourage public agencies, non-profit organizations, private organizations and individuals to create, where appropriate, physical linkages between components of Greenways. Such linkages may involve the acquisition or other methods that provide for the permanent protection of open space within Greenways and establishment of trails, walkways, bicycle routes and/or scenic highways throughout Greenways.

(b) The Delaware Greenway and Trails Council shall serve in an advisory capacity to the Secretary of the Department. Duties of the Council shall include, but not be limited to, the following:

(1) Adopt criteria for the establishment and maintenance of Greenway links to serve the long-term needs of Delaware's environment and the recreational needs of the citizens of this State;

(2) Establish a program of cooperation and coordination with the governing bodies of the governmental planning departments, counties, municipalities and other units of general government below the State level and with private non-profit or public organizations to assist in the creation and preservation of natural, coastal, cultural, historical and recreational resources as Greenways throughout this State;

(3) Review and approve applications for the establishment of Greenway acquisition and development projects consistent with the provisions of this section. Said projects may be funded from the Earnings Account of the Delaware Land and Water Conservation Trust Fund as described in Section 5423(d), Title 30, Delaware Code;

(4) Enhance education and promotion of Delaware Greenways;

(5) Establish internal committees and/or encourage and promote establishment of new organizations, the purpose of which will be to develop and, where appropriate, implement strategies for a comprehensive greenway system.

(c) The Council shall be composed of 19 members. The Governor shall designate one member to serve as Chairperson. Members of the Council shall be:

(1) The Secretary of the Department of Natural Resources and Environmental Control or authorized designee;

(2) The Secretary of the Department of Transportation or authorized designee;

- (3) The Secretary of the Department of Agriculture or authorized designee;
- (4) The Director of the Division of Historical and Cultural Affairs;
- (5) The Director of the Delaware Tourism Office;
- (6) Eight members of the private or non-profit sectors as shall be appointed by the Governor, provided, however, that any member of the former Delaware Coastal Heritage Greenway Council shall be permitted to complete any unexpired term;
- (7) One member from the minority party and two members from the majority party of the Delaware House of Representatives appointed by the Speaker of the House.
- (8) One member from the minority party and two members from the majority party of the Delaware State Senate appointed by the President Pro Tempore.
- (d) Upon the expiration of the terms of the original members having designated terms, the terms of such members' positions thereafter shall be three years. For the members appointed to the positions indicated in subsection (c)(7) of this section, members registered in either major political party shall not exceed the other major political party by more than one.

(e) The Secretary shall determine which applications eligible for funding under Section 5423, Title 30, Delaware Code, shall be subject to review by this Council. Applications reviewed and approved by the Council in subsection (b)(3) of this section shall not be subject to the provisions of Section 7506(11), Title 7, Delaware Code. Greenways projects shall qualify as projects under the provisions of Section 5423, Title 30, Delaware Code.

Section 28. Amend Section 5423(d)(1), Title 30, Delaware Code by adding the following sentence at the end of said paragraph to read as follows:

"Funds in the Earnings Account shall be eligible to fund Greenways Projects in accordance with the provisions of Section 6102A(c)(1), Title 29, Delaware Code and the provisions of Section 8017A, Title 29, Delaware Code."

Section 30.

(a) Notwithstanding Section 24 of this Act, the following projects shall be funded from the Community Redevelopment Account:

PURPOSE	AMOUNT
Stabilization Endowment for the Arts	\$ 1,000,000
Delaware Historical Society	400,000
Kalmar Nyckle Foundation	300,000
Greenbank Mill Restoration	225,000
Delaware Agricultural Museum and Village Restorations	1,000,000
NCCo. Kimberton Police Sub-station	250,000
Town of Lewes, Expand Police Facility	250,000
City of Dover, Expand Police Facility	500,000
Connections, Inc.	120,000
Claymont Community Center	355,000
Delaware State Fair/Horse Arena	112,000
Arbour Park Bridge	<u>4,762,000</u>
TOTAL	

(b) Except as herein provided, all projects in this section shall be required to provide a non-State match in accordance with the provisions of Title 29, Delaware Code, Section 6102A(b)(3).

(c) The sum appropriated for Kimberton Police Substation shall be transferred to the New Castle County Office of Finance to be used for the purpose of establishing a New Castle County Police Substation. No matching funds are required for the expenditure of such funds. The Police Substation shall be located on .856 acres of land donated by and located in the community of Kimberton (tax parcel no. 0802140163).

(d) No matching funds shall be required for Town of Lewes Police Facility or the City of Dover Police Facility.

(e) 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.

(f) 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, change orders, invoices, and applications associated with the Arena. The Department shall also approve and process all expenditure documents of funds authorized.

Section 31. Projects eligible for consideration for funds from the Twenty-First Century Fund for Resource Conservation and Development shall be from a list submitted by the Soil and Water Conservation Districts dated June 30, 1995.

Section 32. The Secretary of Finance shall be authorized to make payments to intervenors pursuant to the settlement agreement in the *Delaware v. New York* Supreme Court decision in the amount of \$3.3 million due January 31, 2003 and in the amount of \$17.7 million due January 31, 2004.

Section 33. Port of Wilmington. If the Diamond State Port Corporation is created and the Governor and the Delaware Economic Development Office request that the Delaware River and Bay Authority undertake the funding for the replacement of a Port warehouse in the amount of seven million dollars (\$7,000,000) pursuant to the Compact (17 Del. Code Sec. 1701) and applicable statutory requirements and if this project is undertaken and funded by the Delaware River and Bay Authority in the amount of seven million dollars (\$7,000,000) then said project is hereby authorized and approved by this Act.

Section 34. Except for the Department of Transportation, any State agency intending to acquire real estate, rights of way or easements must have a boundary survey completed by a Delaware Registered Professional Land Surveyor. Said survey shall locate, relocate, establish, re-establish or retrace any property line or boundary of any parcel of land, right of way, easement or alignment of those lines or boundaries. The boundary survey, all maps, plats, reports, descriptions or other documents prepared in connection with said survey must conform to the minimum standards as set forth by the Board of Land Surveyors for the performance of a boundary survey and be recorded in the plat records of the Office of the Recorder of Deeds for the county in which it is situated and reference is to be made as to where same is recorded on any documents of conveyance.

OFFICE OF THE BUDGET

Section 35. 800 MHz Digital Radio System. It is the intent of the General Assembly that funds 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 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 36. The Section 1 Addendum of this Act makes an appropriation to the Budget Office for 800 MHz radios. These funds shall be used for the purchase of 800 MHz end user equipment for State agencies. 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 37. The provisions of any other law notwithstanding, the funds appropriated to the Budget Office Contingency and One-Time Items (10-02-04) within Volume 69, Chapter 291 of the *Laws of Delaware*, in the proposed Fiscal Year 1996 Appropriations Act for 800 MHz End User Equipment or other contingencies in (10-02-04), and the funds appropriated in the Section 1 Addendum of this Act for 800 MHz State-wide Portable/Mobile Radios 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.

Section 38. New Castle County Volunteer Firemen's Radios. Funds authorized in the Section 1 Addendum of this Act and funds authorized in volume 69, Chapter 386 of the *Laws of Delaware* for New Castle County Volunteer Firemen 800 MHz Portable/Mobile Radio Equipment must be matched by New Castle County.

DELAWARE ECONOMIC DEVELOPMENT OFFICE

Section 39. City of Wilmington-Small Boat. The City of Wilmington will acquire a small boat as authorized in the Section 1 Addendum of Volume 69, Chapter 386 of the *Laws of Delaware*. Any remaining funds may be used for repairs to the City's fire boat.

Section 40. Composites Research. The Delaware Economic 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 41. Brandywine-Christina River Improvement Project. (a) The General Assembly hereby authorizes the Governor to incorporate along with the County Executive of New Castle County and the Mayor of the City of Wilmington a Riverfront Development Corporation ("Corporation") to promote the common good of the citizens of Delaware through the planning, development and management of programs and projects intended to foster, encourage and promote recreational, residential, commercial and industrial development and redevelopment along or in proximity to the Brandywine and Christina Rivers as recommended in the report of the Governor's Task Force on the Future of the Brandywine and Christina Rivers, *A Vision For the Rivers* (1994). The Corporation shall be governed by a thirteen member Board of Directors who shall include the Governor, the Senate President Pro Tempore, Speaker of the House, Co-Chairs of the Joint Legislative Committee on Capital Improvement Programs, the County Executive of New Castle County, the Mayor of the City of Wilmington and six additional members with economic development expertise who shall be appointed by the Governor. In addition, the President Pro Tem shall appoint a member from the private sector and the Speaker of the House shall appoint a member from the private sector. The Governor shall appoint a board member representing the private sector to serve as Chair of the Board of Directors who shall serve at the Governor's pleasure. The Corporation shall: 1) provide financial incentives, including loans and grants, to stimulate significant private investments; 2) assist and cooperate in capital development and public works programs funded in conjunction with other governmental agencies; 3) acquire and maintain land and open space; 4) acquire, erect, improve and maintain buildings, structures or other public works; and 5) act generally in a planning and development capacity. The Corporation shall be authorized to accept private donations, contributions and loan repayments and to keep such monies in the Corporation's own accounts.

(b) It is the intent of the General Assembly that Four Million Five Hundred Thousand Dollars (\$4,500,000) appropriated in the Section 1 Addendum of this Act for the Brandywine-Christina River Improvement Project shall be provided to enable the Corporation to provide financial support for the public or private development of projects including, but not limited to: an urban wildlife refuge; river walks; a convention or exposition center; a civic arena; cultural, historical and recreational projects; and land acquisition and general infrastructure

Improvements that support the development of such projects or lead to the orderly development of areas identified in A Vision for the Rivers (1994). Such funds cannot be encumbered or expended until the Corporation provides proper documentation and written certification that the use of such funds has been duly authorized and the Budget Director and the Controller General certify that the use of such funds meets the purposes set forth herein. Not more than \$500,000 of such appropriation shall be used for general planning and consulting purposes. Activities to be undertaken with planning funds shall include, but not be limited to: identification of the State's approach to environmental issues, identification of land assembly and business relocation costs and preparation of a detailed implementation plan that makes use of a variety of State funding sources to leverage additional monies from the private and non-profit sectors, foundations and federal and local government sources. The remainder of such funds may be used for capital-related costs incurred in the development of publicly-owned projects and for capital-related infrastructure costs incurred to support the development of privately-owned projects. Funds cannot be encumbered or expended until the Corporation provides proper documentation and written certification that the use of such funds has been duly authorized and the Budget Director and the Controller General certify that the use of such funds meets the purposes set forth herein. It is the intent of the General Assembly that the following projects shall receive priority funding and that any changes to such priorities shall be approved by at least eight members of the Riverfront Development Corporation Board of Directors:

General Planning and Project Consulting	\$ 500,000
Riverwalks/Riverbank Stabilization/Bulkheading	3,100,000
Wildlife Refuge (feasibility, remediation, development)	700,000
Swedish Historical Site Improvements	200,000
TOTAL	\$4,500,000

Section 42. First State Center. Amend Section 14 of Chapter 156 of Volume 68 (Fiscal Year 1992), Section 19 of Chapter 405 of Volume 68 (Fiscal Year 1993), and Section 20 of Chapter 77 of Volume 69 (Fiscal Year 1994) of the Laws of Delaware by deleting said sections in their entirety and substituting in lieu thereof the following: "Upon the incorporation of the Riverfront Development Corporation ("Corporation"), it is the intent of the General Assembly that such funds and prior authorizations for the First State Center shall be used by the Corporation to support: 1) the development and construction of a publicly-owned convention/exposition center, and/or 2) the development of infrastructure that is necessary for the eventual construction of a publicly- or privately-owned convention/exposition center. Any public or private entity or entities having an ownership interest in such convention/exposition center shall be approved by the Governor, the County Executive of New Castle County, and the Mayor of the City of Wilmington. It is further the intent of the General Assembly that none of the funds so authorized shall be used to acquire land that may have been previously acquired for the purpose of constructing a convention center. Such funds cannot be encumbered or expended until the Corporation provides proper documentation and written certification that the use of such funds has been duly authorized by its Board of Directors and the Budget Director and the Controller General certify that the use of such funds meets the purposes set forth herein."

Section 43. Dover Civic Center. Amend Section 20 of Chapter 285 of Volume 67 of the Laws of Delaware by deleting the second sentence in Section (d) in its entirety and substituting in lieu thereof the following new sentence: "The Corporation shall have nine directors. Of the nine directors five shall be appointed or elected by the Governor, one of which shall be President of the Corporation; two directors shall be appointed or elected by the Mayor of the City of Dover and two directors shall be appointed or elected by the President of Kent County Levy Court".

Section 44. Delaware Strategic Fund.

(a) Of the amount authorized in the Section 1 Addendum of this Act, up to \$500,000 may be utilized in order to provide financial assistance in the form of matching grants in an amount not greater than either \$25,000 or 50 percent of the total project costs for environmental assessments of sites associated with the "brownfield" initiative. A "brownfield" is defined as a vacant or unoccupied site with respect to any portion of which the taxpayer has reasonable cause to believe may, as a result of any prior commercial or industrial activity by any person, have been environmentally contaminated in a manner that would interfere with the taxpayer's intended use of such site.

(b) Of the funds authorized in the Section 1 Addendum of this Act, an appropriate amount shall be used as a match to local funds to acquire land in Smyrna and Seaford to develop or expand industrial parks.

Section 45. The Delaware Economic Development Office is hereby prohibited from locating any operation that involves the use of hazardous materials at the former Helix Synthesis Technologies site within the Delaware Industrial Park.

DEPARTMENT OF STATE

Section 46. Fenwick Lighthouse. Of the funds appropriated in the Fiscal Year 1996 Appropriations Act for Department of State Minor Capital Improvements and Equipment, not more than Fifty Thousand Dollars (\$50,000) shall be used to restore the Fenwick Lighthouse.

Section 47. North Wilmington Library. Funds authorized in the Section 1 Addendum of this Act and in the Section 1 Addendum of Volume 69, Chapter 386, Laws of Delaware, shall be used to plan and construct a library within the first Senate District.

DEPARTMENT OF FINANCE

Section 48. Bond Proceeds Reimbursement. Unless not permitted by the Internal Revenue Code of 1986, as amended, whenever the General Assembly authorizes the issuance of the State's general obligation bonds or the Delaware Transportation Authority's revenue bonds to finance the costs of specific capital projects, it is the intent of the General Assembly that the interest on such bonds shall not be included in gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations (the "Regulations") thereunder as they may be promulgated from time to time. Pursuant to the State's budget and financial policies, other than unexpected situations where surplus revenues render bond financing unnecessary or undesirable, 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 specific capital projects. Pursuant to the Authority's budget and financial policies, it is expected that approximately 50 percent of the costs of its capital projects

shall be funded on a long-term basis from the proceeds of such bonds. However, after the authorization of such bonds but prior to their issuance, non-bond funds from the State's General Fund or the Authority's Transportation Trust fund or other funds may be advanced on a temporary basis to pay a portion of the costs of such specific capital projects. In that event, it is expected that these non-bond funds will be reimbursed from the proceeds of such bonds when they are issued. This reimbursement may cause a portion of such bonds to become "reimbursement" bonds within the meaning of Section 1.150-2 of the Regulations. Under those Regulations, to preserve the exclusion of the interest on such bonds from gross income for federal income tax purposes, it may be necessary to make a declaration of official intent. The Secretary of Finance is hereby designated as the appropriate representative of the State and the Secretary of Transportation is hereby designated as the appropriate representative of the Authority, and each is authorized to declare official intent on behalf of the State or the Authority, as the case may be, within the meaning of Section 1.150-2 of the Regulations, whenever and to the extent that such declaration is required to preserve such tax treatment.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Section 49. 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 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 upon and awarded, approval of final architectural and engineering drawings for non-MCI projects, and approval of change orders greater than or equal to 2 percent 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, 1995. 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 percent 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 Section empower the Appeals Board to allow for the expenditure of funds for uses other than for the funds' authorized purpose(s).

(c) Use of Minor Capital Improvement and Equipment funds in order to ensure completion of a Major Capital Improvement project involving construction of a new facility is prohibited.

(d) The Department shall submit a quarterly status report to the Budget Director and Controller General on all incomplete projects.

Section 50. During Fiscal Year 1996, no construction manager contracts for public school projects may be signed unless approved by the Secretary of the Department of Administrative Services.

Section 51. Construction Quality Improvements. (a) Notwithstanding any other State law, any contract awarded in Fiscal Year 1996 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 percent 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, weather-stripping, 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 Fiscal Year 1996 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 52. Judicial-Facility Renovations and Equipment. The Secretary of the Department of Administrative Services shall work in concert with the Director, Administrative Office of the Courts to prioritize projects and ensure completion of necessary renovations and equipment acquisitions within the court system.

Section 53. Legislative Hall. Of the funds authorized in the Section 1 Addendum of this Act, not more than Two Hundred Seventy-Five Thousand Dollars (\$275,000) shall be expended on behalf of Legislative Council in order to acquire a Document Production System and replace existing printing equipment.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Section 54. Appoquinimink Resource Center and Community Library. Funds authorized in the Section 1 Addendum of this Act shall be used to complete construction of 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 collaborate and enter into 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.

Section 55. Drug Surveillance/Transport Van. Funds are authorized to acquire a van for purposes of drug surveillance and transport activities. The use of this van shall be under the sole direction of the Director of Narcotics and Dangerous Drugs.

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

Section 56. Secure Care Improvement Plan. Upon the completion of new residential units for adjudicated youth at the Delaware Youth and Family Campus, all vacated residential units remaining within the secure facility not demolished under the improvement plan shall no longer be utilized for the purpose of providing bed space for adjudicated youth.

DEPARTMENT OF CORRECTION

Section 57. Correction Facilities Privatization Task Force. The Section 1 Addendum of this Act authorizes funds for the planning, design and construction of a 600-cell maximum security prison. Except as provided below none of these funds shall be encumbered or expended until there shall have been a report, made by the Task Force described below, to the Governor and Central Assembly regarding the feasibility and advisability of providing the same new correction facility capacity by contract with a quasi-public or private provider or providers rather than the traditional construction, ownership and operation by the State.

(a) The Department of Administrative Services is authorized to expend up to \$250,000 to program this facility.

(b) There is hereby created a Corrections Facilities Privatization Task Force composed of the Chairpersons of the House and Senate Corrections Committees the Co-Chairs of the Joint Finance Committee; the Commissioner of the Department of Correction; the Legal Counsel to the Governor; the Budget Director; and the Secretary of Administrative Services. The Departments of Correction and Administrative Services shall provide such staff and technical assistance as the Task Force may require; provided that the Task Force may expend \$25,000 for professional assistance and may also solicit and rely upon information and assistance provided by other public or private sources having expertise and experience in the field of correction facility privatization without prejudice to the subsequent bidding rights of any such source.

(c) The Task Force shall be charged with: (1) examining the relative costs and benefits of contracting out the design, financing, construction and operation of the maximum security facility to one or more private or quasi-public entities; and (2) making a report of its findings and recommendations to the General Assembly and the Governor no later than December 15, 1995.

(d) Should the Task Force conclude and recommend that the design, financing, construction and operation of the maximum security facility be contracted out to a private or quasi-public entity, no amount of the appropriation shall be expended with respect to that facility for which such recommendation is made without further authorization and appropriation of the General Assembly; provided that with respect to such facility, the Department of Correction shall promptly commence planning for proposals consistent with the recommendations of the Task Force and Subchapter II of Chapter 69, Title 29, Delaware Code, pending such further authorization and appropriation by the General Assembly.

(e) Should the Task Force conclude and recommend that the facility be funded and operated exclusively by the Department of Correction, the funds appropriated for such facility may be encumbered or expended by the Department of Administrative Services forty-five (45) days after the report of the Task Force is delivered to the Senate, the House and the Governor.

Section 58. Correctional Facilities. The Section 1 Addendum of this Act provides first year funding in order to program, plan, site and construct an appropriate number of cells to ensure adequate secure capacity for pre-trial and adjudicated adults. The term adult shall also encompass those juveniles who have been committed through Superior Court and who shall be so treated as part of the adult population through the Department of Correction classification system. Of such funds authorized, the Secretary of the Department of Administrative Services, as provided through construction management services, shall consult with the Commissioner of Corrections to ensure expedient programming, planning and construction of authorized correctional facilities. The following projects and amounts shall apply:

(a) **Delaware Correctional Center Facility.** Up to Two Hundred Fifty Thousand Dollars (\$250,000) may be expended in order to determine maximum security programming needs for 600 adjudicated adults. In addition, up to Five Hundred Thousand Dollars (\$500,000) may be expended to plan on-site water/wastewater infrastructure. Until so advised by the Joint Advisory Committee on Prison Issues as created by this Act, and subsequently approved by the Budget Director and Controller General, no additional authorized funds may be expended to initiate planning and construction of maximum security cells at Delaware Correctional Facility. Should it be so determined that the State shall be responsible for the construction and operations of such maximum security cells on State lands currently dedicated to correctional uses and notwithstanding any other law or statute to the contrary, the Department of Correction is exempted from the requirements of 11 Delaware Code, Section 6590 et. seq. The Department shall, however, convene at least one public hearing for the purposes of addressing the concerns of the impacted community.

(b) **Sussex Correctional Institution Facility.** (i) Up to Ten Million Four Hundred Fifty Thousand Dollars (\$10,450,000) is authorized to program, plan and construct a 280-bed Pre-Trial Facility. (ii) Up to Three Million Seven Hundred Thousand Dollars (\$3,700,000) is authorized to program, plan and construct a 100-bed boot camp. Of this amount, One Hundred Thousand Dollars (\$100,000) shall be used to reimburse the Advanced Planning and Real Property Acquisition Fund. (iii) Up to Five Million Seven Hundred Dollars (\$5,700,000) is authorized to construct a Prison Industries Building to be initially utilized as a 200-bed dorm in order to alleviate current overcrowding. (iv) Up to Four Hundred Thousand Dollars (\$400,000) shall be expended to plan and construct an 80-bed dorm if deemed essential to provide housing for current overcrowding. The aforementioned

being so constructed on State land currently dedicated to correctional uses and notwithstanding any other law or statute to the contrary, the Department of Correction is exempted from the requirements of 11 Delaware Code, Section 6590 et. seq. The Department shall, however, convene at least one public hearing for the purposes of addressing the concerns of the impacted community.

(c) Multi-Purpose Criminal Justice Facility. Up to Three Hundred Fifty Thousand Dollars (\$350,000) is authorized to convert existing space in order for a 90-bed dorm to provide essential housing to alleviate current overcrowding.

(d) Kent County Treatment Center Facility. Up to One Hundred Thousand Dollars (\$100,000) is authorized to plan a 150-bed Level IV work release facility in Kent County, at a site determined by the Department of Correction.

(e) Use of any federal grant funds awarded and approved by the State Clearinghouse Committee for the purpose of constructing correctional facilities shall have the technical oversight of the Secretary of Administrative Services as defined in the appropriate Section of this Act pertaining to Construction Management to ensure proper use and timely completion of all such construction projects authorized herein.

(f) If the Department of Administrative Services and Department of Correction shows justification to exceed the dollar limits established for a specific facility as defined in paragraphs e, b, c, d and reductions of equal value can be shown within one or more facility outlined in paragraph a, b, c and d above, the Department of Administrative Services shall be permitted to make the adjustments, pending the Construction Appeals Board approval.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Section 59. 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 60. 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.

(b) The Department shall collaborate with local government and County Conservation districts to ensure appropriate phasing of all projects deemed necessary to address watershed issues state-wide. The Department shall negotiate local matching funds to the greatest extent possible.

Section 61. Delaware Water Pollution Control Revolving Fund. (a) Amend Section 45 of Chapter 386 of Volume 69 of the Laws of Delaware, by deleting the word "Waste" in the title sentence and substituting in lieu thereof the word "Water".

(b) Further amend Section 45 of Chapter 386 of Volume 69 of the Laws of Delaware by deleting Section (c) in its entirety and substituting in lieu thereof a new Section (c) to read as follows:

"(c) Fifty percent (50%) of the interest earned on Municipal loans from 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."

Section 62. Land shall not be purchased by the Department of Natural Resources and Environmental Control without prior approval of the Chair and Co-Chair of the Joint Legislative Committee on Capital Improvement Programs, provided, however, that the Department is not prohibited from conducting studies, surveys or other contractual arrangements that would normally precede land acquisition procedures.

Section 63. Cape Henlopen Pier Project. Funds authorized in the Section 1 Addendum of this Act shall be used to ensure completion of the Cape Henlopen Pier Project. Should any unencumbered funds remain, they may be used for any other park rehabilitation project at Cape Henlopen State Park.

Section 64. Section 1 Addendum of this Act provides funding for Park Rehabilitation. That appropriation includes resources for the following projects:

Lums Pond Infrastructure	\$65,000
Cape Henlopen Infrastructure	\$100,000
Indian River Inlet Infrastructure	\$175,000

DEPARTMENT OF PUBLIC SAFETY

Section 65. DEMA Emergency Center/QIS Backup Facility. The Section 1 Addendum of this Act authorizes funds for the construction of a new Emergency Operations Center. Of this amount, One Hundred Seven Thousand Three Hundred Sixty-Nine Dollars (\$107,369) shall be used to reimburse the Advanced Planning and Real Property Acquisition Fund.

DEPARTMENT OF TRANSPORTATION

Section 66. Transportation Trust Fund Authorizations. (e) There is hereby appropriated One Hundred Nine Million Nine Hundred Twenty Thousand Dollars (\$109,920,000) from the Transportation Trust Fund for transportation programs as set forth in the Section 1 Addendum to this Act.

(b) To fund a portion of the amount set forth in (e) above, the Delaware Transportation Authority is hereby authorized to issue bonds in an amount not to exceed Seven Million Dollars (\$7,000,000) pursuant to the provisions of Chapter 14, Title 2, Delaware Code, as amended, of which Six Million Four Hundred Fourteen Thousand Dollars (\$6,414,000) shall be used for purposes set forth in the Section 1 Addendum to this Act with the remainder of Five Hundred Eighty-Six Thousand Dollars (\$586,000) to be used to fund issuance costs and necessary reserves for the Reserve Account.

(c) As projects and programs are complete 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 Placement & Rehabilitation (65/00)
Safety & Intersection Improvements (63/00)
Traffic Control Devices (61/00)
Dirt & Surface Treatment Roads (62/00)
Public Transit Improvements (73/00)
Corridor & Non-Corridor Improvements (66/00)

"New" Program Categories

Program Development (74/00)
System Preservation (75/00)
System Management (76/00)
System Expansion (77/00)

(d) To deauthorize Suburban Street Fund balances and reauthorize such balances in accordance with the Section 1 Addendum of this Act:

Deauthorize	Amount	Reauthorize	Amount
Suburban Street Program (56/00)	(\$1,550,000)	Suburban Street Program	\$1,550,000

Section 67. 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 to 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 resurfacing and rehabilitation 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 Joint Legislative Committee on Capital Improvement Programs shall be delegated the responsibility of approving modifications to the list of paving and rehabilitation projects in the "System Preservation" portion of the "Supplemental Information for Transportation Projects" when the Department of Transportation needs 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 projects(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 having 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 Section, 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 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 68. Authorized but unspent funds exist in the Department of Transportation's system Management Program Account (55-05-00-76-00), derived from the Section 1 Addendum to Volume 68, Laws of Delaware, Chapter 386, and previously directed for expenditure in Section 56 thereof for the Small Retail Gasoline Station Assistance Program. It is the intent of the General Assembly that from this source Four Million Dollars (\$4,000,000) shall be reprogrammed for the uses outlined in the Section 1 Addendum attached hereto.

Section 69. It is the intent of the General Assembly that Five Hundred Thousand Dollars (\$500,000) previously authorized in the Fiscal Year 1990 Bond Act, 67 Laws of Delaware, Chapter 46, as a Corridor/Noncorridor Project (66/00) for the "12th Street, Wilmington," as shown on the Supplemental List of Transportation Projects attached to said Bond Act, shall be reprogrammed to the System Management Program Account (55-05-00-76) in accordance with the Section 1 Addendum of this Act, for use in the City of Wilmington Riverview Project, under the terms of the agreement between the Department of Transportation and the City of Wilmington.

Section 70. Amend Section 5204(e), Chapter 52, Title 30, Delaware Code by deleting the phrase "2 years" appearing therein and inserting in lieu thereof the phrase "1 year".

Section 71. The Department of Transportation 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 72. 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 73. Amend Section 61, Chapter 386, Volume 68, Laws of Delaware, by adding the following after the last sentence thereof: "As used in this section, the terms 'restrict' and 'restrictions' shall mean the limitation of commercial access to MacArthur Drive, south of Windsor Drive, solely from the property known as the Crowl Corporation property, and from no other commercial property."

Section 74. The Department of Transportation is directed to meet with the community of Cannonshire and to provide appropriate noise mitigation and community screening as part of the SR 896 project. Should the community association prefer all or a portion of the required noise mitigation to be in the form of an earthen berm the Department should provide it as part of the SR 896 project.

Section 75. The Department of Transportation will pursue vacation of the southernmost portions of Road 386 in New Castle County, at an appropriate location which will not eliminate reasonable access to the State system of roads. The act of vacating said portion of Road 386 shall be undertaken pursuant to the Department's Dirt Road Program. The department shall report to the General Assembly on the results of the vacation by January 15, 1996.

Section 76. It is the intent of the General Assembly that of the amount authorized in the Section 1 Addendum of this Act to the Engineering and Contingencies Account (55-05-00-57-00) Fifteen Million Dollars (\$15,000,000) shall be authorized for the implementation end/or project costs (including capital contributions) of the Public/Private Initiatives Program (reflected in House Bill No. 177 as amended), subject to the terms of that program, including but not limited to the requirement of legislative approval of projects. If no such project is approved by the General Assembly by July 15, 1997, unencumbered funds remaining from the Fifteen Million Dollars (\$15,000,000) shall be deauthorized from the amount appropriated to the Engineering and Contingency Account.

Section 77. 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 Capital Improvement Programs on effectiveness of the infrared patching system by May 15, 1996.

Section 78. Trip permit registration may be issued pursuant to the International Registration Plan for any vehicle or combination of vehicles which could lawfully operate in the 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 \$15.00 shall be charged.

Section 79. Section 4005, Title 7, Delaware Code notwithstanding, the Department of Transportation may also become the designated plan approval agency, in those situations where 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 and 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 80. The Section 1 Addendum of this Act makes an appropriation for Suburban Street Program. These funds shall be expended in accordance with the list compiled by the Office of the Controller General dated June 30, 1995.

STATE FIRE COMMISSION

Section 81. Hydraulic Rescue Tools. It is the intent of the General Assembly that the funds authorized in the Section 1 Addendum of this Act be used to acquire hydraulic rescue tools for the following fire companies: Laurel, Newark, Christians, Five Points, Goodwill, Wilmington Menor, Belvedere, Gumboro, Farmington, Lelsic, Little Creek, Magnolia, Merydel, Frankford, Greenwood, Memorial and Roxene.

DELAWARE NATIONAL GUARD

Section 82. Amend Section 66 of Chapter 156 of Volume 68 of the Laws of Delaware by inserting the words "and land acquired" after the word "completed" and before the word "sufficient".

Section 83. Funds authorized in Volume 9, Chapter 77 of the Laws of Delaware for a Reuse Study may be utilized to ensure completion of the Lora Little Roof Replacement.

STATE BOARD OF EDUCATION

Section 84. New Castle County Vocational Technical Projects. Funds remaining from projects authorized in the Section 1 Addendum of Volume 69, Chapter 77 or Volume 69, Chapter 386 of the Laws of Delaware for New Castle County Vocational Technical School District projects may be used for any minor capital improvements within the district.

Section 85. 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 86. POLYTECH North Campus - Replacement Plan. 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 POLYTECH School 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 POLYTECH's adult educational program. The transfer to Delaware Technical and Community College, Terry Campus of the land and improvements known as POLYTECH North Campus shall take effect upon completion and occupancy by POLYTECH School District of an appropriately sized replacement facility at its Woodside Campus. The size of such replacement facility shall be determined by the State Board of Education with the understanding that the purpose of this effort is to provide a facility at the Woodside Campus in order to continue adult education courses currently offered by the District at the North Campus. Said facility shall not be used to increase the student capacity beyond the current 1,000 pupils. It is anticipated that the State will pay 100 percent 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.

Section 87. Christina Land Acquisition. Funds remaining in appropriation 95-33-6113 shall only be utilized to acquire land north of Newark for a future elementary school.

Section 88. During the fiscal year ending June 30, 1995, the State Board of Education, acting through the Department of Public Instruction, convened a study group to review and update the School Construction Formula originally established in 1953 and amended in 1987. Proposed revisions to the formula were recently completed and forwarded to the State Board of Education for its consideration. Given the need to carefully evaluate the impact that the revisions would have on the State's Capital Improvements Program, the General Assembly hereby requests that the State Board of Education defer action on the proposed revision until July 1, 1998.

Section 89. Amend House Bill No. 350 of the 138th General Assembly by striking the number "84.2" as it appears on pages 73, line 35 of said Bill and inserting in lieu thereof the figure "70.0".

Section 90. Amend Section 1310(b) by striking said subsection in its entirety and substituting in lieu thereof:

"(b) A recognized school district may employ personnel to be paid for ten months per year from state funds pursuant to this section in a number equal to one for each 40 state units of pupils, except that in schools for the physically handicapped within the district the allocation shall be in accordance with the rules and regulations adopted by the State Board of Education; provided further that each reorganized school district shall insure that it has at least one school nurse per facility. To the extent that the finding formula outlined above does not provide for one school per facility, each reorganized school district shall meet this requirement out of funding provided under Sections 1707 or 1716 of this Title, or out of discretionary local current operating expense funds."

Section 91. 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 92. 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 93. 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 effect or impair the validity of the remainder of this Act or the application thereof.

Section 94. Effective Date. This Act shall take effect in accordance with the provisions of State law.

Approved July 11, 1995

SUPPLEMENTAL INFORMATION FOR TRANSPORTATION PROJECTS
Fiscal Year 1996

TITLE	ACTIVITY	TTF AUTH
I. PROGRAM DEVELOPMENT		
Project Development		
US 40 & SR 7	PE	
Water Front, I-95 Ramps	PE	
TTF Authorization Needed		\$2,090,000
II. SYSTEM PRESERVATION		
BR 8G on K 10 over Spring Cr N of Frederica	Construction	
BR 19A on K 19, N.E. of Milford	Construction	
BR 84A on K 84 over Snows Branch	Construction	
BR 135 on Barley Mill Rd over Red Clay Creek	Construction	
BR150N on SR 1 over Canal Sidewalk	Construction	
BR156C on Sealsbury Road, Dover	Construction	
BR164 on SR 38 over Cedar Creek, Slaughter Beach	Construction	
BR224 on Fox Den Road (N235) over Middle Run	Construction	
BR235 on Old Capitol Trail (N20) over Mill Creek	Construction	
BR257 on SR7 over Christina River	Construction	
BR257, Tull's Crossing, Seaford	Construction	
BR389A over Murderkill River	Construction	
BR491 on S394A over Perch Creek Ditch	Construction	
BR576, Weshington St Bridge in Wilmington over Brandywine	PE	
BR698, Van Buren St Br, Wilmington	Utilities	
Bridge Painting		
Bridge Painting Statewide	Construction	
BR Painting Interstate II (Partial)	Construction	
Lead Base		
BR Painting N.C. Non-Lead (BR118&440)	Construction	
Dirt Roads	Construction	
Major Equipment Replacement	Procurement	
Materials and Minor Contracts for Infrastructure Preservation	Construction	
New Pedestrian Bridge over Brandywine Creek	Construction	
Other Bridges	PE, R/W, Const.	
Rail Preservation	Contract	
Resurfacings	Construction	
Pavement Marking	Construction	
S331, Millsboro to S24	PE/Construction	
Sandtown Rd, Ironmine Rd to Willow Grove Rd	Construction	
Sussex County Airport Runway	Construction	
Transit Equipment Replace., Vehicle Lifts	Procurement	
Transit Facility Renovations	Construction	
Transit Vehicle Replacement and Refurbish		
Paratransit Buses	Procurement	
Transit Buses	Procurement	
DTC Support Vehicles	Procurement	
Buses (16B2)	Procurement	
Unity Bus Replacement	Procurement	
Fareboxes	Procurement	

TITLE	ACTIVITY	TTF AUTH
SYSTEM PRESERVATION (cont'd.)		
US 9, SR 20 to US113	Construction	
Other System Preservation Programs to be Identified	PE, R/W, Const.	
TTF Authorization Needed		\$ 25,806,000
 III. SYSTEM MANAGEMENT		
Adaptive Signal Control Systems	Construction	
Bus Smart Card System	Development	
Corridor Preservation	R/W	
Enhanced Vehicle Inspection		
Governor's Ave, Webbs Lane to US 13	Construction	
I-95 at Marsh Road	PE	
Intersection Improvements & Misc. & Transportation Enhancements	PE/Construct	
Kennett Pike, North of Buck to South of Brook Valley Rd	Construction	
Non-Motorized Transportation Projects	PE/Construction	
Porter Road, US 40 to SR 72	Prelim. Eng.	
Rail Crossing Safety	PE/Construction	
Riverview - Plaza	PE/RW/Const.	
Rockland Rd & Mt Lebanon Rd Int. Improv.	Construction	
S 84 & S349A Oceanview Int. Improv	Construction	
SR 54, S 58C to SR 1	Prelim. Eng.	
SR 72 Milford Crossroad	Construction	
Safety Improvements	Construction	
Salem Church Rd, US40/Muddy Run Br.	Construction	
Sussex County Airport - Taxiway Lights & Guidance Signs	Installation	
Terminal Ave, I-495 to Port of Wilmington	Construction	
Transit - Bus Stop Retrofit for ADA	PE/Construction	
Transit - Bus Shelters	Installation	
Transit - Bus Equipment	Procurement	
Water Front - Stadium Access	PE/RW/Const.	
White Oak Rd, US 13 to East of SR1	Construction	
Wilmington Signals & Bus Stop Retrofit	Installation	
Other System Management Projects to be Identified	PE, R/W, Const.	
TTF Authorization Needed		\$ 5,712,000

TITLE	ACTIVITY	TTF AUTH
IV. SYSTEM EXPANSION		
Ebenezer Church Rd (N324), New Linden		
Hill to Paper Mill Rd (SR72)	RAW	
Lancaster Pike, Centerville-Hercules	Prelim. Eng.	
Lancaster Pike, SR141 to 41, Landscaping	PE/Constr.	
Metroform Turnpike Capacity Improv.		
Churchman's Rd Bridge	RAW	
Churchman's & SR7 Intersection	RAW	
Naaman's Rd E of US202 to US13	RAW	
SR 1, DAFB to S of SR10 - Contract 2	PE/Construction	
SR 1, Design and Constr. Coordin	Engineering	
SR 1, N 37 to Scott Run Bridge	Construction	
SR 1, N485 (North of Smyrna) to Townsend	Prelim. Eng.	
SR 1, Park and Ride Lots	Prelim. Eng.	
SR 1, South of Dover to Tybouts Cr	Environmental	
SR 1, South of Dover to Tybouts Cr	RAW	
SR 1, Sycamore Farms to North		
of Appoquinimink	Construction	
SR 1, Wetlands Mitigations	Environmental	
SR 7 Inter (SR 72, Brackenville Rd, Valley Rd)	RW/Construction	
SR 7, Wetlands Mitigations	Environmental	
SR141, SR52 to US202		
Rockland to US202, Landscaping	Construction	
US202 to I-95	RAW	
SR273, Marrow's Rd to Amtrak	Construction	
SR896 & 40 Interchange Lighting	Construction	
Sussex Corridor Improvements SR404A	Construction	
Sussex County Airport		
Perimeter Access Rd	RAW	
Runway Widening	Construction	
Transit Facility Expansion		
DTC Transfer Center	PE/Construction	
Prof. Engineering Services	PE	
Sussex Oper/Maintenance Facility	PE/Construction	
Mid-County Operating Center	PE/Construction	
Transit Facility Intermodal Rail	Construction	
Transit Vehicle Procurement		
Vehicle Purch. of Paratransit Buses	Procurement	
Vehicle Purch. of Transit Buses	Procurement	
DART RTS Buses (54)	Procurement	
Wyoming Rd Extension, SR 72 to Marrow's Rd	Prelim. Eng.	
Other System Expansion Projects to be Identified	PE/Construction	
TTF Authorization Needed		\$ 41,476,000
ENGINEERING AND CONTINGENCIES		\$ 18,000,000
SUBURBAN ST., DRAINAGE & MISC.		\$ 18,700,000
MUNICIPAL ST. AID		\$ 3,000,000
TOTAL CAPITAL (TTF) AUTHORIZATION NEEDED		<u>\$110,884,000</u>

IV. Paving and Rehabilitation (100% State Funded) (\$4/00)

CQ ROADNO./NAME	FROM	TO
N RD. 4 NB CONCORD PIKE	RD 212 SILVERSIDE RD.	RD. 17 NAAMANS RD
N RD 4 SB CONCORD PIKE	RD 17 NAAMANS RD	RD 212 SILVERSIDE RD.
N RD. 209 HARVEY RD.	RD 23 MARSH RD	RD 59 I-95
N RD 237 WB SECOND ST	RD 24 WALNUT ST	RD 11 UNION ST
N RD 356 DEL 72	RD 67 DEL 1	RD 32 U S 40
N RD 366 EB DEL. 4	RD 387 DEL. 696	RD 18 DEL 273
N RD 366 WB DEL. 4	RD. 18 DEL 273	RD 356 DEL. 72
N RD. 5 DEL 7	0 15 S. of RD 32 U S 40	RD 32 U S 40
N RD 5 DEL. 7	RD 32 U S 40	RD. 68 NEWTOWNE RD.
N RD. 11 EB KIRKWOOD HWY	RD 330-A ALBERTSON BLVD	0.15 E of RD 330-A ALBERTSON BLVD
N RD 11 WB KIRKWOOD HWY	0.15 E. of RD 330-A ALBERTSON BLVD	RD 330-A ALBERTSON BLVD.
N RD 28 DLD BALTIMORE PIKE	RD 387 DEL 696	RD 406 DLD COOCHS BRDG RD
N RD 32 EB U S 40	0 11 W of RD 48 SALEM CHURCH RD	RD 346 WHITTEN RD.
N RD 32 WB U S. 40	RD. 346 WHITTEN RD	0 11 W of RD. 48 SALEM CHURCH RD
N RD 52 DUPONT RD	0 30S of RD 9	RD 9 KENNET PIKE
N RD 200 CARPENTER RD.	RD 207 DARLEY RD	RD 17 NAAMANS RD
N RD 206 BAYNARD BLVD	RD 214 SHIPLEY RD.	RD 23 MARSH RD.
N RD 214 SHIPLEY ROAD	RD 215 WELDON RD	RD 210 WILSON RD
N RD 237 LANCASTER PIKE	RAILROAD	RD 27 DUPONT RD
N RD. 237 LANCASTER PIKE	RD 21 NEWPORT GAP PIKE	RD 276 LOVEVILLE RD.
N RD 237-A MITCHELL ROAD	RD. 237 LANCASTER PIKE	RD. 275 OLD WILMINGTON RD.
N RD 352 RED MILL RD	PROJECT	RD 11 KIRKWOOD HWY.
N RD 23 MARSH RD	RD 220 EDGEWOOD RD	RD. 24 U S 13
N RD 203 FOULK RD	0 20 S of RD 209	0 20 N of RD 209
K RD 5 SB U S 13	RD 57 DEL. 12	RD. 288 REEVES CROSSING
K RD 7 NB & SB U.S. 113	N GATE DAFB	RD 347 LAFFERTY LANE
K RD 24 SB U.S. 13	RD 29 DEL 10	RD. 30 DEL. 10-A
K RD 72-A LEGISLATIVE AVE.	RD. 72 WATER ST.	RD. 67 WILLIAM PENN ST.
N RD 63 SUMMIT BRIDGE RD.	RD. 16 SUMMIT BRIDGE RD.	DEAD END
K RD 92 ROXANA RD.	RD. 152 LYNNBURY WOODS RD.	RD. 42 BRENFORD RD.
K RD 156 SAULSBURY RD.	RD 51 DEL. 8	RD. 70 WALKER RD.
K RD 285 HILLS MARKET RD.	RD. 78 LITTLE MASTENS CORNER RD.	RD. 284 LITTLE MASTEN RD.

CO ROAD NO./NAME	FROM	TO
N RD. 427 CEDAR LAKE RD.	RD. 39 BROAD ST.	RD. 429 MARL PIT RD.
K RD. 432 MESSICKS RD.	RD. 433 CORN CRIB RD.	RD. 429 HUNTING QUARTER RD.
K RD. 433 CORN CRIB RD.	RD. 434 GUN & ROD CLUB RD.	RD. 6 U.S. 13
N RD. 437 BUNKER HILL RD.	MD LINE	RD. 443 U.S. 301
N RD. 485 SMYRNA LANDING RD.	90 DEG CURVE	RD. 446 CRICKSTORE LANDING RD
K RD. 19 THOMPSONVILLE RD	RD. 421 LOG CABIN RD.	RD. 120 MILFORD NECK RD
K RD. 166 SHAW'S CORNER RD	RD. 168 SEENEY TOWN RD.	RD. 41 DEL. 300
K RD. 189 SHORTS CORNER RD.	RD. 46 DEL. 11	RD. 170 JUDITH RD.
K RD. 190 NEW BURTON RD.	0.10 S of RD. 192 WEBBS LANE	0.05 N of HOLLY DRIVE
N RD. 456 UNION CHURCH RD.	RD. 455 BLACKBIRD LANDING RD	RD. 446 FLEMING'S LANDING RD
K RD. 31 IRISH HILL RD.	RD. 33 MILFORD-CANTERBURY RD	RD. 377 SOPHERS ROW
K RD. 47 ARTHURSVILLE RD.	MD. LINE	RD. 49 MAIN ST (Hartly)
K RD. 138 ALLEY CORNER	RD. 41 SUDLERSVILLE RD	RD. 39 SMYRNA-CLAYTON RD
K RD. 190 NEW BURTON RD.	0.05 N of HOLLY DRIVE	RD. 190A OWEN ST.
K RD. 264 LITTLE MASTEN RD.	FELTON LIMITS	RD. 57 BURNITE MILL RD.
S RD. 1 NB U.S. 13	MD LINE	RD. 24 DEL. 24
S RD. 1 SB U.S. 13	RD. 24 DEL. 24	MD LINE
S RD. 2 NB U.S. 13	RD. 24 DEL. 24	RD. 28 GEORGETOWN RD
S RD. 2 SB U.S. 13	RD. 23 GEORGETOWN RD.	RD. 24 DEL. 24
S RD. 14 NB DEL. 1	BRIDGE 933-A	RD. 206
S RD. 74	RD. 82	RD. 434
S RD. 230	RD. 16 DEL. 16	RD. 212 MULGERRY ST. EKT
S RD. 285	RD. 48	RD. 261
S RD. 310	RD. 24	RD. 308
S RD. 14 SB DEL. 1	RD. 206	BRIDGE 933-A
S RD. 24 DEL. 24	RD. 499	RD. 1 U.S. 13
S RD. 333	RD. 334	RD. 331
S RD. 492	SCHOOL	RD. 24 WEST ST.

CO ROADNO/NAME	FROM	TO
K RD 19A BENNETTS PIER RD	RD 123 SCOTTS CORNER RD.	RD 122 BENNETTS PIER RD
K RD 34 DEL 12	RD 5 U S 13	FREDRICA LIMITS
K RD 111 BROWNSVILLE RD.	MO LINE	RD 59 WHITLEYSBURG RD.
K RD 123 SCOTTS CORNER RD.	RD 19-A BENNETTS PIER RD.	RD 19 THOMPSONVILLE RD
K RD 133 ALLEY MILL RD	RD 39 DEL. 6	RD 483 ALLEY MILL RD
K RD 185-A STAFFORD RD.	RD 185 TARAILA RD	MO LINE
K RD 222 SANDY BEND RD	RD 224 PARKERS CHAPEL RD	RD 50 DEL. 8
K RD 288 JARREL RD	RD 78 HOPKINS CEMETERY RD.	RD 284 LITTLE MASTEN CORNER RD
K RD 298 LAYTON CORNERS RD	RD 291 INGRAM BRANCH RD.	RD 296 DRAPERS CORNER RD
K RD 304 ANDREWSVILLE RD.	RD 114 TODDS CHURCH RD.	RD 307 GALLO RD.
K RD 321 LIGHTHOUSE RD.	RD 320 DEL. 9	DEAD END
K RD 336 SILVER LEAF RD.	RD 15 DEL. 9	RD 88 SAVANNAH RD.
K RD 378 LEXINGTON MILL RD.	RD 380 ANDREWS LAKE RD.	RD 371 BARRETTS CHAPEL RD
K RD 381 FOX CHASE RD.	RD 380 ANDREWS LAKE RD.	RD 31 IRISH HILL RD.
K RD 385 ANDRE VS LAKE RD.	RD 380 ANDREWS LAKE RD.	RD 5 U.S. 13
K RD 410 HERING RD.	RD 124 LONGFIELD DR	RD 124 LONGFIELD DR.
N RD 414 RATLEDGE RD	RD 15 MOUNT PLEASANT RD.	RD 412 LOREWOOD RD.
K RD 423-B OLD JENKINS RD.	RD 8 U S 113	RD 423 REYNOLDS RD.
K RD 425 BIG STONE BEACH RD	RD 423 REYNOLDS RD.	RD 124 LONGFIELD DR
K RD 429 JACKSON DITCH RD.	RD 430 JACKSON DITCH RD	RD 35 CARPENTER RIDGE RD
K RD 431 HOLLYWOOD LANE	RD 36 DEL. 14	RD 429 MESSICKS RD.
K RD 435 FOX HUNTER RD.	RD 40 DEL. 14	RD 59 WHITLEYSBURG RD.
N RD 458 GREEN GIANT RD.	RD 461 MD-DELAWARE LINE RD.	RD 459 GREARS CORNER RD.
N RD 461 MD-DELAWARE LINE RD	RD 25 CALDWELL RD.	RD 10 LEVELS RD.
N RD 462 EBENEZER SCHOOL RD.	RD 47 VANDYKE GREENSPRING RD.	RD 463 BLACKBIRD STATION RD.
N RD 463 BLACKBIRD STATION RD	RD 473 FLOYD GUESSFORD RD.	RD 25 CALDWELL RD.
N RD 465 EAGLES NEST LANDING RD	RD 1 NB U S 13	RD 30 FLEMINGS LANDING RD.
N RD 469 BLACK DIAMOND RD	RD. 1 NB U.S. 13	RD 30 FLEMINGS LANDING RD.
N RD 473 FLOYD GUESSFORD RD.	RD 47 VANDYKE GREENSPRING RD.	RD 463 BLACKBIRD STATION RD.
N RD 474 VANDYKE-MARYLAND RD.	MO LINE	RD 47 VANDYKE GREENSPRING RD.
N RD 476 S.A.MILL RD.	MO LINE	RD. 47 VANDYKE GREENSPRING RD.
S RD 12	RD 14 DEL 1	RD. 18
S RD 36 DEL 36	RD 613	RD 629
S RD. 47	RD 296	RD 22 DEL 5
S Rd. 58-E MADISON AVE.	RD 58	END

CO ROADNO/NAME**FROM****TO**

\$ RD. 215	RD. 212 DEL 30	RD. 221
\$ RD. 215-A	RD. 215	RD. 14 DEL 1
\$ RD. 221	RD. 222	RD. 220
\$ RD. 226	RD. 236	RD. 16
\$ RD. 244	RD. 246	RD. 319
\$ RD. 252	RD. 319	RD. 246
\$ RD. 256	RD. 22	RD. 88
\$ RD. 257	RD. 259	RD. 258
\$ RD. 258	RD. 14 DEL 1	DEAD END
\$ RD. 261	RD. 262	RD. 18 U.S. 9
\$ RD. 286	RD. 265	RD. 262
\$ RD. 290	RD. 262	RD. 18
\$ RD. 296-A	RD. 296	END
\$ RD. 306-A	RD. 307	RD. 22 DEL 5
\$ RD. 326-A	RD. 24 DEL 24	RD. 410
\$ RD. 333	RD. 331	END
\$ RD. 335	RD. 335-A	RD. 336
\$ RD. 346	RD. 348	RD. 347
\$ RD. 346	RD. 54	RD. 26 DEL 26
\$ RD. 349 OLD MILL RD.	RD. 348	RD. 347
\$ RD. 353	RD. 369	RD. 365
\$ RD. 354	RD. 54	RD. 382 DEL 20
\$ RD. 354-A	RD. 354	RD. 382
\$ RD. 355	RD. 340	RD. 382 DEL 20
\$ RD. 367-B	RD. 370	RD. 365
\$ RD. 372	RD. 382 DEL 20	RD. 369
\$ RD. 394	RD. 394-A	RD. 395
\$ RD. 402	RD. 406	RD. 402-B
\$ RD. 405	RD. 113 U.S. 113	RD. 82
\$ RD. 411	RD. 407	RD. 82
\$ RD. 447	RD. 62	RD. 74
\$ RD. 449-A	RD. 24 DEL 24	RD. 447
\$ RD. 451	RD. 13	RD. 1 U.S. 13
\$ RD. 451	RD. 1 U.S. 13	RD. 68
\$ RD. 451	RD. 68	RD. 70
\$ RD. 451	RD. 70	RD. 463
\$ RD. 457	RD. 454	RD. 64
\$ RD. 470	RD. 13	RD. 468
\$ RD. 472	RD. 432	RD. 24 DEL 24

<u>CG ROADNO./NAME</u>	<u>FROM</u>	<u>TO</u>
S RD. 480-A	RD. 479	RD. 474
S RD. 486	RD. 13	RD. 488 OCKELS RD.
S RD. 492	RD. 483	RD. 24
S RD. 493	RD. 24	RD. 486
S RD. 494	RD. 496	RD. 483
S RD. 501	RD. 515	RD. 13
S RD. 507	RD. 78 DEL. 54	RD. 78 DEL. 54
S RD. 507	MO LINE	RD. 78 DEL. 54
S RD. 510-A	RD. 24 DEL. 24	RD. 510
S RD. 547	RD. 553	RD. 30
S RD. 549	RD. 80	RD. 21 DEL. 20
S RD. 551	RD. 549	RD. 553
S RD. 553	RD. 554	RD. 553-A
S RD. 557 BRIAR HOOK RD.	RD. 554	RD. 30
S RD. 557-A	RD. 553	RD. 554
S RD. 558	RD. 553	RD. 18 DEL. 18
S RD. 565	RD. 600	RD. 40
S RD. 569	MO LINE	RD. 570
S RD. 572	RD. 569	MO LINE
S RD. 576	RD. 31	RD. 404 DEL. 404
S RD. 585	RD. 583	RD. 18 DEL. 18
S RD. 596	RD. 42	RD. 584
S RD. 607	RD. 606	RD. 113 U.S. 113
S RD. 613	RD. 36	KCLN
S RD. 620	RD. 36 DEL. 36	RD. 42
S RD. 620	KCLN	RD. 633
S RD. 630	RD. 18	RD. 44
S RD. 633	RD. 620	KCLN
S RD. 634	RD. 633	RD. 619 OLD SHAWNEE RD.

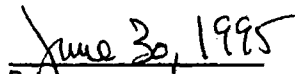
**Office of Secretary of Finance
Debt Limit Statement Dated June 30, 1995**

This Debt Limit Statement to be attached
as required by Section 7422, Title 29, Delaware Code.

- | | |
|---|----------------------|
| (1) Estimated Net General Fund revenue
for the fiscal year ending June 30, 1996
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 | \$1,622,200,000 |
| (2) Multiply by 5% | x _____ .05 |
| (3) Maximum aggregate principal amount
of tax-supported obligations which may be
authorized by the State in the fiscal year
ending June 30, 1996 | <u>\$ 81,110,000</u> |
| (4) Less: Aggregate principal amount of
previously authorized tax-supported
obligations subject to debt limit | <u>\$ _____ 0</u> |
| (5) AVAILABLE DEBT LIMIT prior to
appended legislation (3-4) | <u>\$ 81,110,000</u> |
| (6) Less: Aggregate principal amount
of new tax-supported obligations subject
to debt limit to be authorized pursuant
to appended legislation | <u>\$ 81,110,000</u> |
| (7) REMAINING DEBT LIMIT (5-6) | <u>\$ _____ 0</u> |



Secretary of Finance



Date

CHAPTER 211

FORMERLY

SENATE BILL NO. 92

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 DELAWARE CODE RELATING TO CLASSIFICATION OF
CRIMES INVOLVING PECUNIARY LOSS.

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 §811(b)(2), Title 11 of the Delaware Code by deleting "\$500" and
substituting in lieu thereof "\$1,000".

Section 2. Amend §840(d), Title 11 of the Delaware Code by deleting "\$500" as it
appears twice therein and substituting in lieu thereof "\$1,000".

Section 4. Amend §848, Title 11 of the Delaware Code by deleting "\$500" and
substituting in lieu thereof "\$1,000".

Section 5. Amend §849, Title 11 of the Delaware Code by deleting "\$500" and
substituting in lieu thereof "\$1,000".

Section 6. Amend, §851, Title 11 of the Delaware Code by deleting "\$500" and
substituting in lieu thereof "\$1,000".

Section 7. Amend, §900, Title 11 of the Delaware Code by deleting "\$500" and
substituting in lieu thereof "\$1,000".

Section 8. Amend §900A, Title 11 of the Delaware Code by deleting "\$500" and
substituting in lieu thereof "\$1,000".

Section 9. Amend §903, Title 11 of the Delaware Code by deleting "\$500" and
substituting in lieu thereof "\$1,000".

Section 10. This Amendment becomes effective the day after its enactment into law
and shall apply to offenses committed on or after that date.

Approved July 11, 1995

CHAPTER 212

FORMERLY

HOUSE BILL NO. 9

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NOS. 1 AND 2AN ACT TO AMEND TITLE 10, DELAWARE CODE RELATING TO CIVIL LIABILITY
AND EQUINE ACTIVITIES.

WHEREAS, the General Assembly recognizes that persons who participate in equine activities may incur injuries as a result of the risks inherent in such activities; and

WHEREAS, the General Assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activities; and

WHEREAS, it is the intent of the General Assembly to encourage equine activities by limiting the civil liability of those involved in such activities.

NOW THEREFORE:

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

Section 1. Amend Chapter 81, Title 10, Delaware Code by adding thereto a new Section 8140 to read as follows:

"8140.

(A) For purposes of this section, the following terms shall have the meaning ascribed herein:

(1)(a) 'Engages in an equine activity' means riding, training, assisting in medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted or any person assisting a participant or show management.

(b) 'Engages in an equine activity' does not include being a spectator at an equine activity, except in cases where the spectator places such spectator's person in an unauthorized area and in immediate proximity to the equine activity;

(2) 'Equine' means a horse, pony, mule, donkey, or hinny;

(3) 'Equine activity' means:

(a) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting;

(b) Equine training or teaching activities, or both;

(c) Boarding equines;

(d) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;

(e) Rides, trips, hunts, or other equine activities of any type, however informal or impromptu, that are sponsored by an equine activity sponsor; and

(f) Placing or replacing horseshoes on an equine;

(4) 'Equine activity sponsor' means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including, but not limited to, stables, clubhouses, ponyride strings, fairs, and arenas at which the activity is held;

(5) 'Equine professional' means a person engaged for compensation:

(a) In instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine; or

(b) In renting equipment or tack to a participant;

(6) 'Inherent risks of equine activities' means those dangers or conditions which are an integral part of equine activities, including, but not limited to:

(a) The propensity of an equine to behave in ways that may result in injury, harm, or death to persons on or around them;

(b) The unpredictability of an equine's reaction to such things as sounds, sudden movements, and unfamiliar objects, persons, or other animals;

(c) Certain hazards such as surface and subsurface conditions;

(d) Collisions with other equines or objects; and

(e) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within the participant's ability.

(7) 'Participant' means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

(B) Except as provided in §8140(C), an equine activity sponsor, an equine professional, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities. Except as provided in §8140(C), no participant or participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities.

(C) (1) This chapter shall not apply to the horse racing industry as regulated in Title 3.

(2) Nothing in §8140(B) shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person if the equine activity sponsor, equine professional, or person:

(a)(i) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; or

(ii) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage

safely in the equine activity and determine the ability of the participant to safely manage the particular equine based on the participant's representations of the participant's ability;

(b) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the equine activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted;

(c) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or

(d) Intentionally injures the participant.

(3) Nothing in §8140(B) shall prevent or limit the liability of an equine activity sponsor or an equine professional under either product liability or trespass claims.

(D)(1) Every equine professional shall post and maintain signs which contain the warning notice specified in subsection (2). Such signs shall be placed in clearly visible locations on or near stables, corrals, or arenas where the equine professional conducts equine activities if such stables, corrals, or arenas are owned, managed, or controlled by the equine professional. The warning notice specified in subsection (2) shall appear on the sign in red and white, with each letter to be a minimum of one inch (1") in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in subsection (2).

(2) The signs and contracts described in subsection (1) shall contain the following warning notice:

'WARNING

Under Delaware Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to 10 Delaware Code Section 8140.'

Approved July 11, 1995

CHAPTER 213

FORMERLY

HOUSE BILL NO. 171

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 11, DELAWARE CODE, RELATING TO CRIMES AND
CRIMINAL PROCEDURE.

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

Section 1. Amend Title 11, Chapter 5, Subchapter VII, Subpart E of the Delaware Code
by adding a new section, to read as follows:

"§ 1457. Possession of a Weapon in a Safe School and Recreation Zone: class D, E, or F
felony; class A or B misdemeanor.

(a) Any person who commits any of the offenses described in subsection (b) of
this Section and does so while in or on a 'Safe School and Recreation Zone' shall be
guilty of the crime of Possession of a Weapon in a Safe School and Recreation Zone.

(b) The underlying offenses in Title 11 of the Delaware Code shall be:

(A) Section 1442. Carrying a concealed deadly weapon; class G felony;
class E felony.

(B) Section 1444. Possessing a destructive weapon; class E felony.

(C) Section 1446. Unlawfully dealing with a switchblade knife;
unclassified misdemeanor.

(D) Section 1448. Possession and purchase of deadly weapons by persons
prohibited; class F felony.

(E) Section 1452. Unlawfully dealing with knuckles-combination knife;
class B misdemeanor.

(F) Section 1453. Unlawfully dealing with martial arts throwing star;
class B misdemeanor.

(c) For the purpose of this Section, 'Safe School and Recreation Zone' shall mean:

(1) any building, structure, athletic field, sports stadium, or real property
owned, operated, leased or rented by any public or private school including, but
not limited to, any kindergarten, elementary, secondary, or vocational-technical
school, or any college or university, within 1,000 feet thereof; or

(2) any motor vehicle owned, operated, leased or rented by any public or
private school including, but not limited to, any kindergarten, elementary,
secondary, or vocational-technical school or any college or university; or

(3) any building or structure owned, operated, leased or rented by any
county or municipality, or by the State of Delaware, or by any board, agency,
commission, department, corporation or other entity thereof, or by any private

organization, which is utilized as a recreation center, athletic field or sports stadium.

(d) Nothing in this section shall be construed to preclude or otherwise limit a prosecution of or conviction for a violation of this chapter or any other provision of law. A person may be convicted both of the crime of Possession of a Weapon in a Safe School and Recreation Zone and of the underlying offense as defined elsewhere by the laws of the State.

(e) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or in a Safe School and Recreation Zone.

(f) It shall be an affirmative defense to a prosecution for a violation of this section that the weapon was possessed pursuant to an authorized course of school instruction, or for the purpose of engaging in any legitimate sporting or recreational activity. The affirmative defense established in this section shall be proved by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for any offense defined in any other section of this chapter.

(g) 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 no person under the age of 18 was present in such private residence at any time during the commission of the offense. 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.

(h) This section shall not apply to any law enforcement or police officer, or to any security officer as defined in Chapter 13 of Title 24 of the Delaware Code.

(i) For purposes of this section only, 'deadly weapon' shall include any object described in Section 222(6) or Section 222(10) of this Title or BB guns.

(j) The penalty for Possession of a Weapon in a Safe School and Recreation Zone shall be:

(A) if the underlying offense is a class B misdemeanor, the crime shall be a class A misdemeanor;

(B) if the underlying offense is an unclassified misdemeanor, the crime shall be a class B misdemeanor;

(C) if the underlying offense is a class E, F, or G felony, the crime shall be one grade higher than the underlying offense.

(D) In the event that the underlying offense is committed by an elementary or secondary school student, in addition to any other penalties contained in this section, the student shall be expelled by the local School Board for a period of not less than One Hundred Eighty (180) days unless otherwise provided for in Federal or State Law."

Approved July 12, 1995

CHAPTER 214

FORMERLY

HOUSE BILL NO. 281

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2 AND
SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE
COMPREHENSIVE SCHOOL DISCIPLINE PROGRAM.

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

Section 1. Amend Section 1605, Title 14 of the Delaware Code, by deleting the second sentence as it appears and substituting in lieu thereof the following sentence:

"This component will serve students, in schools enrolling pupils in grades K through 12, who are causing repeated disruptions in the regular classes to which they are assigned."

Section 2. Amend Section 1605(3), Title 14 of the Delaware Code, by deleting the words "at least 2 of the grades 6 through 12" as they appear in the first sentence of said subsection and substituting in lieu thereof the words "at least 2 of the grades 3 through 12."

Section 3. Amend Section 1605(5), Title 14 of the Delaware Code, by deleting the existing language and inserting in lieu thereof the following:

"To achieve the most cost-effective impact from the incentive funds authorized by this section and to increase the coordination of services by schools and other governmental and non-governmental social service agencies consistent with § 1607 of this chapter, schools and school districts shall consider contracting for educational or related goods and services with the State Departments of Services for Children, Youth and Their Families and Health and Social Services, and other governmental and non-governmental social service agencies using funds authorized by this section. Each school filing a report pursuant to subsection (6) of this section shall include information regarding the provisions of this subsection (5)."

Section 4. Amend Section 1605, Title 14 of the Delaware Code, by adding a new subsection which shall read:

"(7) To receive a supplemental grant greater than the dollar amount for base grants funded in support of programs defined in this section by the annual budget act, schools shall establish a site-based committee in the school to govern discipline matters and shall meet the criteria set forth in this subsection. Supplemental grants shall be available for grades 7, 8, 9, and 10 only. The annual budget act shall establish the dollar amount of such supplemental grants. Before issuing funding pursuant to this subsection, the State Board shall determine that the school's application meets the following criteria:

a. The grant application must certify that the composition of the site-based committee is in proportion to the percentage of building-level administrators and building-level professional instructional staff of the school; that the committee contains representatives of the support staff, student body (for schools enrolling students in grades 7 through 12), parents, and the community; that representatives of the employee groups are chosen by members of each respective group and representatives of the non-employee groups are appointed by the local board of education; and that the committee operates on the one-person, one-vote principle for reaching all decisions.

b. The grant application must certify that the committee has the authority, within established local district budgetary guidelines and at its sole discretion, to:

(i) establish a school code of conduct which defines the roles and responsibilities of all members of the school community (administrators, teachers, support staff, contracted service personnel, students, families and child/family advocates) and which is consistent with the district code of conduct and related policies established by the local board of education;

(ii) conduct any necessary hearings on the expulsion of a student and recommend appropriate action to the local board of education;

(iii) hear concerns from a staff member dissatisfied with the disposition of any disciplinary matter by the school administration;

(iv) refer students to programs defined in Section 1604 of this title; provided, however, that any child with disabilities be referred to such programs through the child's Individualized Education Plan;

(v) design, approve, and oversee the implementation of programs established in the school as defined in this chapter;

(vi) establish and enforce the school's attendance policy, including mandating attendance in programs established in paragraph (7) of this subsection;

(vii) establish extended day, week, or year programs, for students with discipline or attendance problems, or at risk of academic failure, that provide for the assessment of penalties for violations of school discipline or attendance policies and for academic acceleration and tutoring, mentoring, and counseling services for such students and their families as an integral program component;

(viii) establish staff development programs for conflict resolution for all school staff, and establish programs in classroom and behavioral management for schools staff identified as needing improvement;

(ix) design student mentoring, conflict resolution, and/or peer counseling programs for all students, especially for those who are identified as having chronic discipline, academic, or attendance problems."

Section 4. Because of the fact that the site-based committees will be established for the first time in the 1995-1996 school year, funding contingent upon the satisfaction of the criteria set forth in Section 6 of this Act shall, for the 1995-1996 school year, be released to schools which have provided the State Board of Education on or before October 1, 1995, with a preliminary plan for satisfying the criteria in Section 6 of this Act, which plan shall demonstrably increase teacher and parental involvement in addressing school discipline issues during the 1995-1996 school year. On or before March 15, 1996, each school which has received such funding shall provide the State Board with a report on the implementation of its preliminary plan, which report shall be provided to each of the school's teachers.

Section 3. Amend Section 1605 (3), Title 14 of the Delaware Code, by inserting the word "either" after the words "Any school which" as they appear at the beginning of such subsection.

Section 4. Amend Section 1605 (3), Title 14 of the Delaware Code, by inserting immediately before the text "and which establishes" as it appears in the first sentence of such subsection, new text, to read:

"or enrolls pupils solely in one or more of grades K through 3,."

Approved July 12, 1995

CHAPTER 215

FORMERLY

HOUSE BILL NO. 284

AN ACT TO AMEND TITLE 14 RELATING TO IMPROVING SCHOOL DISCIPLINE.

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

Section 1. Amend Chapter 16, Title 14, Delaware Code by adding a new section to read as follows:

"§1605A. Prevention Component.

The Family Services Cabinet Council (Council), with the Department of Public Instruction and the Department of Services for Children, Youth and Their Families acting as lead agencies, shall administer a program to offer prevention-related student support services (prevention services) to students to prevent them from becoming discipline problems and from failing academically in our schools. Within the limits of appropriations made for this purpose, the Council shall provide rules and regulations for the award of prevention grants and the conduct of prevention programs authorized under this section, subject to the following limitations:

(1) The Council shall issue prevention funding to local school districts proposing to establish an integrated plan to deliver prevention services including, but not limited to, academic tutoring and student mentoring programs to provide at-risk students with the extra help they may need to succeed academically and with positive adult role models; outreach programs to promote parental, family, and community involvement in students' academic studies and in reducing and resolving school discipline problems; school-linked support services to help students 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 to help teachers better manage the behavior of students in their classrooms.

(2) Applications for funding pursuant to this section shall be made by school districts in accordance with procedures and standards established by the Council. Each applicant shall set forth an integrated plan to provide prevention services consistent with subsection (1) of this section. To avoid duplication of effort, maximize the impact of limited resources, and increase the effect of efforts by state, local, community and private, non-profit agencies through increased coordination and cooperation, the Council shall give preference to applications which:

a. are submitted by two or more school districts working in concert, where appropriate;

b. include private, non-profit agencies, and community organizations as partners in the application, and identify the roles those agencies and organizations are to play in delivering prevention services in the community;

c. indicate how grants from the federal government and foundations will be used or sought to help deliver prevention services in the community; and

d. identify the roles state and local agencies are to play in delivering prevention services in the community.

(3) The Council shall provide technical assistance to districts preparing applications and ongoing assistance to districts awarded funding pursuant to this section.

(4) The Council shall establish a timetable for the award of grants pursuant to this section which shall provide, at minimum, for a period of one month for joint planning between the Council and the applicants that the Counsel selects as finalists eligible for a funding award. During such joint planning, the Council and the applicant shall refine the applicant's prevention plan, ensure that the plan makes cost-effective use of the resources and services of state, local, community and private, non-profit agencies, and consider the incorporation of successful elements of other districts' prevention programs into the applicant's plans. Final awards shall be made by the Council on or before January 15 of each year for the subsequent school year, contingent upon the appropriation of funds for such purpose in the annual appropriations act."

Section 2. Evaluation.

As a result of the enactment of House Bill No. 247 in the 137th General Assembly, the State of Delaware invested over \$5 million in Fiscal Year 1995 to improve school climate and discipline. Additional funding is expected in Fiscal Year 1996. Therefore, it is important that the State of Delaware ensure that the programs created by H.B. No. 247 are implemented cost-effectively, that district programs and policies which have had the most positive effects are adopted by other districts, and that less effective district programs and policies are abandoned or improved. In addition, a long-run plan for the statewide implementation of the prevention component of the Program needs to be developed. To accomplish these purposes, the Comprehensive School Discipline Oversight Program is hereby established to:

(1) evaluate the cost-effectiveness and programmatic results of each element of the State's Comprehensive School Discipline Program;

(2) examine local school districts' use of funding under the Program, identify exemplary and cost-effective practices which should be adopted on a wider basis, and identify less cost-effective and beneficial practices which should be modified or eliminated;

(3) determine what, if any, modification should be made to the Program to deliver the appropriate services to the appropriate grade levels;

(4) develop performance measures to evaluate, on an ongoing basis, the effectiveness of the Program; and

(5) evaluate the effects of the pilot prevention programs created by the Program and recommend a fiscally responsible plan for statewide implementation of the prevention component of the Program.

The Oversight Committee shall consist of the following members: a Chairperson appointed by the Governor; a member appointed by the Speaker of the House; a member appointed by the President Pro Tempore of the Senate; a member appointed by the Delaware State Education Association; a member appointed by the Delaware School Boards Association; a member appointed by the Delaware Association of School Administrators; a member appointed by the Delaware School Chiefs' Association; a member appointed from the faculty of the University of Delaware Department of Education by the Governor; a member appointed from the faculty of Delaware State University Department of Education by the Governor; the Superintendent of Public Instruction or the Superintendent's designee; the Secretary of the Department of Services for Children, Youth & Their Families or the Secretary's designee; and the Budget Director or the Director's designee.

The Departments of Public Instruction and Services for Children, Youth, and Their Families, the Budget Office, and the Controller General's Office shall provide staff support to the Committee.

The Committee shall serve until July 1, 1997. It shall issue no fewer than two reports, the first to be issued on or before February 15, 1996, the second to be issued on or before February 15, 1997.

Approved July 12, 1995

CHAPTER 216

FORMERLY

SENATE BILL NO. 204

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO SHELLFISH LICENSES.

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 §1918(c), Title 7 of the Delaware Code by inserting after the word "years" and before the symbol "." the following: "and such license has not previously been transferred to a designee on or after the effective date of this act."

Section 2. Amend §1918, Title 7 of the Delaware Code by inserting as new subsection §1918(d) the following:

"(d) Notwithstanding subsection (c), no license shall be transferred to any person under 16 years of age."

Section 3. Amend Title 7 of the Delaware Code by inserting as a new section §1919 the following:

"§1919. Prohibition against the selling of both licenses and the privilege of being designated a designee; penalties.

No person shall buy, offer to buy, sell, offer to sell, barter, trade or otherwise transfer for value a license or the privilege of being designated a designee or attempt to buy, sell, barter, trade or otherwise transfer for value a license or the privilege of being designated a designee. Any person found in violation of this section shall, in addition to the penalties otherwise provided for in this Chapter, be subject to a fine of double the amount that he or she paid or offered to pay for a license or the privilege of being designated a designee or that he or she sold or offered to sell the license or privilege of being designated a designee for and, in the case of a licensee found in violation of this section, his or her license shall be subject to immediate and permanent revocation by the Department."

Section 4. Amend §2303, Title 7 of the Delaware Code by inserting as new subsection (d) the following:

"(d) A commercial crab pot license may designate no more than two persons on said licensee's commercial crab pot license as his or her designees. A commercial crab pot licensee's designees are authorized, whether in the presence of the licensee or not, to place, use, set or tend said licensee's crab pots while operating the vessel owned by the licensee that is listed on said licensee's commercial crab pot license."

Section 5. Amend §2303, Title 7 of the Delaware Code by inserting as new subsection (e) the following:

"(e) Notwithstanding subsection (a), the number of commercial crab pot licensees that may list the same vessel on their commercial crab pot license shall not exceed three (3) and the total number of crab pots that three licensees may be licensed to place, use, set or tend from the same vessel shall not exceed 500 pots."

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. Section 5 of this Act shall be effective May 1, 1996; the remainder of the Act shall be effective upon enactment.

Approved July 12, 1995

CHAPTER 217

FORMERLY

HOUSE BILL NO. 319

AN ACT TO AMEND CHAPTERS 9 AND 22, TITLE 5 OF THE DELAWARE CODE RELATING TO BANK AND LICENSED LENDERS' REVOLVING CREDIT.

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

Section 1. Amend Section 952(b)(3), Chapter 9, Title 5, Delaware Code, by deleting such subsection (b)(3) in its entirety and by inserting in lieu thereof the following:

"(b)(3) Notwithstanding paragraph (2) of this subsection, the bank may also amend the agreement governing the plan by requiring that any amendment shall become effective only if the borrower uses the plan after a date specified in the notice of the proposed amendment which is at least 30 days after the giving of the notice (but which need not be the date the amendment becomes effective) by making a purchase or obtaining a loan or if the borrower indicates to the bank such borrower's express agreement to the amendment. Any such amendment may become effective as to a particular borrower as of the first day of the billing period during which such borrower so used such borrower's account or so indicated agreement to the amendment. Any borrower who fails to use such borrower's account or so to indicate agreement to an amendment shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment subject to the right of the bank to convert the borrower's account to a closed end credit account as provided in paragraph (2) of this subsection."

Section 2. Amend Section 2224(b)(3), Title 5, Chapter 22, Delaware Code, by deleting such subsection (b)(3) in its entirety and inserting in lieu thereof the following:

"(3) Notwithstanding paragraph (2) of this subsection, the licensee may also amend the agreement governing the plan by requiring that any such amendment shall become effective only if the borrower uses the plan after a date specified in the notice of the proposed amendment which is at least 30 days after the giving of the notice (but which need not be the date the amendment becomes effective) by making a purchase or obtaining a loan or if the borrower indicates to the licensee such borrower's express agreement to the amendment. Any such amendment may become effective as to a particular borrower as of the first day of the billing period during which such borrower so used such borrower's account or so indicated agreement to the amendment. Any borrower who fails to use such borrower's account or so to indicate agreement to an amendment shall be permitted to pay the outstanding unpaid indebtedness in such borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment subject to the right of the licensee to convert the borrower's account to a closed end credit account as provided in paragraph (2) of this subsection."

Approved July 12, 1995

CHAPTER 218

FORMERLY

SENATE BILL NO. 40

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 91, TITLE 7 OF THE DELAWARE CODE RELATING TO
THE DELAWARE HAZARDOUS SUBSTANCE CLEANUP ACT.

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

Section 1. Amend Section 9102, Title 7 of the Delaware Code, by redesignating subsection "(c)" as subsection "(d)" and inserting as new subsection (c) the following:

"(c) The General Assembly recognizes the need to remedy contaminated facilities and to promote opportunities and provide incentives to encourage the remedy of such facilities to yield economic revitalization and redevelopment within the State."

Section 2. Amend Section 9103, Title 7 of the Delaware Code by deleting in its entirety subsection (4).

Section 3. Amend Section 9103, Title 7 of the Delaware Code by deleting in its entirety Subsection (17).

Section 4. Amend Subsection (6) of Section 9103, Title 7 of the Delaware Code by deleting the following: "to be emitted into the air, or discharged into any waters including groundwaters".

Section 5. Amend Subsection (8) of Section 9103, Title 7 of the Delaware Code, by inserting between the word "recycled," and the words "disposed of," the following: "released,".

Section 6. Amend Subsection (13)d of Section 9103, Title 7 of the Delaware Code, by inserting between the word "a" and the word "state" the following: "federal,".

Section 7. Amend Subsection (18)a of Section 9103, Title 7 of the Delaware Code, by inserting after the word "employer;" the following:

"provided, however, that this exclusion does not apply to any such release which also results in exposure to the environment;"

Section 8. Amend Section 9103, Title 7 of the Delaware Code, by deleting Subsection (19) in its entirety and inserting in lieu thereof new Subsection (19) as follows:

"(19) 'Remedial Action' means the containment, contaminant mass or toxicity reduction, isolation, treatment, removal, cleanup, or monitoring of hazardous substances released into the environment, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate harm or risk of harm to the public health or welfare or the environment which may result from a release or an imminent threat of a release of hazardous substances."

Section 9. Amend Subsection (20) of Section 9103, Title 7 of the Delaware Code by inserting between the words "investigative" and "or monitoring activities" the following: ", oversight of remedy" and by deleting at the end of subsection (20) the words "human health." and inserting in lieu thereof the following: "public health or welfare or the environment."

Section 10. Amend Section 9103, of Title 7 of the Delaware Code by renumbering the entire Section 9103 consecutively, i.e. (1) through (20) accordingly.

Section 11. Amend Subsection (b)(2) of Section 9104, Title 7 of the Delaware Code by inserting between existing (b)(2)b. and (b)(2)c. as new subsection "(b)(2)c." the following: "For identifying potentially responsible parties;" and by inserting between existing (b)(2)c. and (b)(2)d. as new subsection "(b)(2)e." the following: "For determining the appropriate type of settlement agreement that may be entered into by potentially responsible parties or any person who agrees to perform a remedy;" and by relettering subsection (b)(2) "(a) through (c)" accordingly.

Section 12. Amend newly lettered Subsection (b)(2)f of Section 9104, Title 7 of Delaware Code by inserting between the words "parties" and "with" the following: "or any other person" and by inserting between the words "parties" and "may" the following: "or any other person".

Section 13. Amend newly lettered Subsection (b)(2)h of Section 9104, Title 7 of the Delaware Code by deleting the words "proposed settlement agreements" and inserting in lieu thereof the following: "the proposed plan of remedial action".

Section 14. Amend Subsection (c)(3) of Section 9105 by deleting the words "commercial lending institution which" and inserting in lieu thereof the following: "person who" and by deleting the period at the end of subsection (c)(3) after the word "part" and inserting the following:

"; provided, however, that this exemption shall not relieve a person from liability under this Section where such liability is based on conduct entirely independent from that covered by this exemption."

Section 15. Amend Section 9105, Title 7 of the Delaware Code by adding new subsections (e) and (f) the following:

"(e) Where the Secretary has issued a certification of completion of remedy pursuant to § 9108 of this title with respect to a remedy performed at a facility, any person who owns, operates or otherwise controls activities at the facility after the date of issuance of the certification shall not, by virtue of that later ownership, operation or control, be liable for the release or imminent threat of release addressed in the certification, or for any future release or imminent threat of release attributable to conditions existing prior to the issuance of the certification, provided such person does not interfere or permit any interference with any aspect of the remedy addressed by the certification of completion of remedy.

(f) The exemption contained in Subsection (e) shall also apply to any person who, in connection with the sale, lease, acquisition or transfer of a facility, enters into a settlement agreement with the Secretary for a remedy at the facility, provided that the remedy is satisfactorily conducted and the Department issues a certification of completion of remedy. The Secretary, in the settlement agreement, may place conditions or limitations on the scope of the exemption granted under this Subsection."

Section 16. Amend Subsection (a)(1) of Section 9106, Title 7 of the Delaware Code by deleting the period after the word "parties" and inserting a semicolon in lieu thereof and by inserting as new subpart "(a)(1)d." the following:

"The financial ability of a potentially responsible party to perform a remedy."

Section 17. Amend Subsection (a) of Section 9107, Title 7 of the Delaware Code by deleting the word "propose" and inserting in lieu thereof the following: "enter into" and by adding to the end of the subsection (a) the following:

"The Secretary may provide any person who has knowledge of a release of a hazardous substance at a facility and agrees to perform a remedy with an opportunity to enter into a settlement agreement providing for a remedy consistent with regulations developed pursuant to Section 9104 of this title."

Section 18. Amend Subsection (b) of Section 9107, Title 7 of the Delaware Code by deleting the sentence "When the Secretary and potentially responsible parties reach a settlement agreement providing for a voluntary remedy, it shall be filed with the Superior Court as a consent decree." and inserting in lieu thereof the following:

"The settlement agreement providing for a remedy may be in the form of a consent decree, administrative order of consent, memorandum of agreement, or any other form of agreement consistent with regulations developed pursuant to Section 9104 of this title. When a settlement agreement is entered into in the form of a consent decree pursuant to this chapter, it shall be filed with the Superior Court."

Section 19. Amend Subsection (b) of Section 9107, Title 7 of the Delaware Code by adding at the end of subsection (b) after the word "entered." the following:

"If the Secretary deems it appropriate to effectuate the purposes of this Chapter, he or she may choose to resolve a person's liability with the State under this Section through use of settlement agreements entered into pursuant to CERCLA."

Section 20. Amend Subsection (e) under Section 9107, Title 7 of the Delaware Code by deleting the word "remedy" and inserting in lieu thereof the following: "remedial action".

Section 21. Amend Subsection (e)(2) under Section 9107, Title 7 of the Delaware Code by adding after the words "comment on the plan" the following: "as well as the investigation upon which the plan of remedial action is based;"

Section 22. Amend Subsection (e)(3) under Section 9107, Title 7 of the Delaware Code by deleting the words "based on" and inserting in lieu thereof the following: "with due consideration of".

Section 23. Amend Subsection (f) of Section 9107, Title 7 of the Delaware Code by adding at the end of that subsection after the word "Secretary." the following:

"The Secretary shall maintain a remedial decision record for a period that he or she deems appropriate based upon the remedy being implemented and the future use of the facility."

Section 24. Amend Subsection (a) of Section 9108, Title 7 of the Delaware code by deleting the words "all remedies identified in a consent decree, the parties to the consent decree" and inserting in lieu thereof the following: "a remedy at a facility, the owners, parties to the settlement agreement or parties responding to an order," and by inserting after the first sentence of Subsection (a) the following:

"For the purposes of this Section, the Secretary may consider a remedy complete when the remedial action is operational and functional; provided, however, that the Secretary may place conditions or limitations in the certification of completion of remedy which identify those portions of the final plan of remedial action, including but not limited to operation and maintenance, and compliance monitoring, which must continue to be performed, and which provide for the performance of additional remedies in the event that the remedial goals contained in the final plan of remedial action are not achieved as required by the plan and the regulations promulgated under Section 9104 of this title."

Section 25. Amend Section 9109, Title 7 of the Delaware Code by inserting as new subsection (d) between existing subsections "(c)" and "(d)" the following: "(d) The Secretary may bring an action in the Superior Court to recover from any potentially responsible party all natural resource damages resulting from a release." and by inserting as new subsection(f) the following:

"(f) The Secretary may issue an order as he or she deems appropriate to any person who fails to provide the required information or documents under Section 9106(a)(1), who fails to provide access under Section 9106(a)(2), or who fails to report a release as required by the Regulations promulgated pursuant to this chapter."

By inserting as new subsection (g) the following:

"(g) The Secretary may bring an action in Superior Court to enforce any order issued by the Secretary under Subsection (f) of this Section. Any person refusing to comply, without sufficient cause, with such an order shall be liable pursuant to Subsection (h)(2) of this Section."

By relettering previously existing subsection "(d)" as subsection "(e)" and by relettering previously existing subsection "(e)" as subsection "(h)" and by arranging subsections of 9109 alphabetically (a) -(h).

Section 26. Amend Section 9109, Title 7 of the Delaware Code by amending the newly lettered Subsection (e) by deleting the words "as a result of the" and inserting in lieu thereof the following: ", or for a" and by amending the newly lettered Subsection (h) by deleting the reference to Subsection "(d)" as it appears between the words "subsection" and "of" and inserting in lieu thereof "(e)" and by inserting after the word "section" and before the comma (",") the following: "for a refusal to comply with an order".

Section 27. Amend Subsection (b)(2) under Section 9110, Title 7 of the Delaware Code by deleting the citation "§ 6008" and inserting in lieu thereof the citation "§ 6009".

Section 28. Amend Section 9111(a), Title 7 of the Delaware Code by deleting ", consent decree".

Section 29. Amend Section 9112, Title 7 of the Delaware Code, by inserting between words "chapter" and "the" the following: "and, if the Secretary receives a meritorious request for a public hearing from any person on" and by deleting the words "settlement agreement" and inserting in lieu thereof the following: "consent decree".

Section 30. Amend Subsection (c)(6) of Section 9113, Title 7 of the Delaware Code by deleting the word "potential" and inserting in lieu thereof the following "potentially" deleting the words "entered consent decree" and inserting in lieu thereof the following: "executed settlement agreement".

Section 31. Amend Subsection (a) of Section 9115, Title 7 of the Delaware Code, by deleting the sentence "The Secretary shall maintain records that identify the hazardous substance or substances released and the remedial decision record approved by the Secretary."

Section 32. Amend § 9116, Title 7 of Delaware Code by deleting in the title the words "trade secrets" and inserting in lieu thereof the following: "proprietary information" and by inserting after the word "secrets" the following: "or as confidential financial or commercial information" and by deleting the word "effecting" as it appears between the words "government" and "this" and inserting in lieu thereof the following: "to effectuate the purposes of" and by inserting between the words "chapter" and "prior" the following:

"Furthermore, nothing in this Section shall prevent the Secretary from including in the remedial decision record information concerning the cost of the remedy or the manner in which it is performed."

and by deleting the word "proprietary" between the words "of" and "information" and inserting between the words "information" and "to" the following: "certified by the Secretary to be proprietary".

Approved July 13, 1995

CHAPTER 219

FORMERLY

SENATE BILL NO. 41

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1AN ACT TO AMEND CHAPTER 20, TITLE 30 OF THE DELAWARE CODE RELATING
TO BUSINESS TAX CREDITS AND DEDUCTIONS.

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

Section 1. Amend §2010, Title 30 of the Delaware Code by inserting as new subsection (16) the following:

"(16) 'Brownfield' is a vacant or unoccupied site with respect to any portion of which the taxpayer has reasonable cause to believe may, as a result of any prior commercial or industrial activity by any person, have been environmentally contaminated by the release or threatened release of a hazardous substance as defined under 7 Del. C. Chapter 91 in a manner that would interfere with the taxpayer's intended use of such site; provided, however, that such term shall not include any site or facilities with respect to any portion of which enforcement action has been initiated against any person pursuant to Chapter 63, Chapter 74 or Chapter 91 of Title 7; 42 U.S.C. §6901 et seq.; or 42 U.S.C. §9606 or §9607."

Section 2. Amend §2011, Title 30 of the Delaware Code by inserting as a new subsection (1) the following:

"(1) Except as otherwise provided in §2021(d) of this title, in the case of a qualified facility located on a brownfield, this section shall be applied with respect to such qualified facility by (i) treating as a qualified activity any business, trade, commerce, profession or vocation carried on in or in connection with such qualified facility, (ii) treating as additional qualified investment all amounts expended by the taxpayer for environmental investigation and remediation of the brownfield, and (iii) substituting 'Five hundred dollars' for 'Two hundred fifty dollars' in each of subparts (b)(1) and (b)(2) of this section. The total incremental credits allowable to the taxpayer under this subsection (1) shall not exceed the aggregate amount expended by the taxpayer for environmental investigation and remediation of the brownfield."

Section 3. Amend §2012(a), Title 30 of the Delaware Code by inserting immediately after "§2011(a)" the words "or §2011(1)".

Section 4. Amend §2021, Title 30 of the Delaware Code by inserting as new subsection (d) the following:

"(d) In the case of a qualified facility located on a brownfield within any targeted area, (i) '\$750' shall be substituted for '\$500' in subsection (a) of this section with respect to such qualified facility, and (ii) in applying this section, there shall be treated as a qualified activity any business, trade, commerce, profession or vocation carried on or in connection with such qualified facility, and there shall be treated as additional qualified investment all amounts expended by the taxpayer for environmental investigation and remediation of the brownfield. The total incremental credits allowable to the taxpayer under this subsection (d) shall not exceed the appropriate amount expended by the taxpayer for environmental investigation and remediation of the brownfield. If the provisions of this subsection (d) apply with respect to any qualified facility, the provisions of §2011(1) of this title shall not apply with respect to such qualified facility."

Section 5. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 6. This Act shall take effect on July 1, 1995, and shall apply with respect to property placed in service by the taxpayer after June 30, 1995, and before January 1, 1997.

Approved July 13, 1995

CHAPTER 220

FORMERLY

HOUSE BILL NO. 219

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO
RESTITUTION.

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

Section 1. Amend §4106(d)(3), Title 11 of the Delaware Code by adding thereto the following sentence:

"Any and all principal amounts received as restitution payments which are unclaimed after five years from date of receipt, shall be deposited in the Victim Compensation Fund.

If, at any time in the future, the victim owed restitution requests the transferred funds, and make application to the Victim Compensation Fund Board, said monies will be refunded, following verification by the transferring Court."

Approved July 14, 1995

CHAPTER 221

FORMERLY

HOUSE BILL NO. 291

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE ENFORCEMENT PERSONNEL OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL.

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

Section 1. Amend §2114, Title 10, Delaware Code, by deleting the title of said subsection and substituting in lieu thereof the words "Fish and Wildlife Agent."

Section 2. Further amend §2114, Title 10, Delaware Code, by deleting the words "Game Warden" therefrom and substituting in lieu thereof the words "fish and wildlife agent, as defined in §101, Title 7 of the Delaware Code."

Approved July 14, 1995

CHAPTER 222

FORMERLY

HOUSE BILL NO. 263

AN ACT TO AMEND CHAPTERS 11 AND 51 OF TITLE 16 OF THE DELAWARE CODE,
RELATING TO MENTAL HEALTH.

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

Section 1. Amend Title 16, Chapter 51, Subchapter V of the Delaware Code, by striking the existing § 5161 in its entirety and substituting in lieu thereof the following:

"§ 5161. Rights of patients in mental health hospitals or residential centers.

(a) As used in this section:

(1) 'Department' means the Department of Health and Social Services, except that Department means the Department of Services for Children, Youth and Their Families for facilities certified under § 5135 and 5001(2) of this title.

(2) For purposes of persons admitted pursuant to Chapter 55 of this title, the term 'treatment' includes habilitation and the term 'patient' means resident.

(b) Any hospital or residential center that admits persons pursuant to Chapters 50, 51, or 55 of this title shall prominently post in English and Spanish the list of patients rights set forth in this subsection. In addition to the posting, the Department shall distribute a copy of the list to each patient and to other persons, as provided in Department regulations. Each patient shall have the following rights:

(1) Each patient shall receive care and treatment suited to his or her needs, skillfully, safely, and humanely administered with full respect for the patient's dignity and personal integrity. The care and treatment shall be provided in a setting and under conditions that restrict the patient's personal liberty only to the extent required by the patient's treatment needs, applicable law, and judicial orders.

(2) Each patient shall have an outcome-oriented, individualized, written treatment plan; treatment based on such plan; periodic review or revision of the plan consistent with treatment progress; and a description of treatment and other support services that may be needed upon discharge.

(3) Each patient, and if the patient is a minor, the patient's parents or legal guardian, shall have the right to ongoing participation, in a manner appropriate to the patient's capabilities, in the development and revision of an individualized treatment plan. In furtherance of this right, each patient, and, if the patient is a minor, the patient's parents or legal guardian, shall minimally be provided with a reasonable explanation of the following:

a. The patient's general mental condition and, if a facility has provided a physical examination, the patient's general physical condition;

b. The objectives of treatment and the reasons why a particular treatment is considered appropriate;

c. The expected benefits and risks of recommended treatments, including all significant potential adverse effects and the steps which may be taken to obviate or ameliorate such effects;

d. The nature, duration, and expected benefits and risks of any alternative treatments that are available.

(4) Prior to discharge, the facility shall prepare a written continuing care plan developed in consultation with interdisciplinary staff, anticipated post-discharge providers, and the patient, and, if the patient is a minor, with the patient's parents or legal guardian. At a minimum, Departmental community-based services staff shall be consulted for adult patients in Departmental facilities. The continuing care plan shall include:

a. a realistic assessment of the patient's post-discharge social, financial, vocational, housing, and treatment needs;

b. identification of available support services and provider linkages necessary to meet the assessed needs; and

c. identification and a timetable of discrete, predischarge activities necessary to promote the patient's successful transition to the community-based services system or to another appropriate post-discharge setting.

(5) Absent a patient's informed, voluntary, written consent to a mode or course of treatment, each patient shall have the right not to receive the mode or course of treatment established pursuant to a treatment plan, except as follows:

a. During an emergency situation, if such treatment is pursuant to and documented contemporaneously by the written order of a physician; or

b. As authorized under applicable law or court order in the case of a person involuntarily committed to the facility; or

c. In the case of a minor, as authorized by a parent or legal guardian.

(6) Each patient shall have the right to be free from the following:

a. Abuse, mistreatment, and neglect, as proscribed by Chapters 9 and 11 of this title.

b. Unjustifiable force, as defined by 11 Del. C. § 468;

c. Seclusion, physical restraint, drugs, or other interventions administered primarily for purposes of staff convenience; provided, however, that restraint or seclusion may be administered pursuant to and documented contemporaneously by the written order of an authorized mental health professional, to the extent necessary to prevent physical harm to self or others.

(7) Each patient shall be advised of the availability of any internal and external systems for reporting abuse, neglect, and mistreatment, including those established by Chapters 9 and 11 of this title.

(8) The hospital or residential center shall require:

a. careful reexamination and evaluation of each patient not less than every 6 months;

b. periodic physical examination of each patient by a physician at least once a year;

c. an order of a staff member, operating within the scope of a professional authority and based upon appropriate examination, before any treatment is administered;

d. written, informed consent by the patient, or, if the patient is a minor, a parent or legal guardian, for surgery, electroconvulsive therapy, major medical treatment in the nature of surgery, or the use of research, investigational, or experimental drugs or procedures; and

e. notation in the patient's clinical record, signed by the personnel involved, of periodic examinations, individualized treatment programs, evaluations, reevaluations, and of orders for treatment and specific therapies.

(9) Each patient shall be entitled to communicate freely and privately with persons and groups inside and outside the facility, consistent with the safety and welfare of other patients and with avoiding serious harassment of others. Correspondence initiated to others by the patient shall be sent along promptly without being opened. The facility shall establish procedures to insure that patients have a full opportunity to conduct correspondence, to have reasonable, confidential access to telephones, and, subject to treatment team limitation based on a clinical determination of serious patient harm, to have frequent and convenient opportunities to meet with visitors. Any treatment team's limitation of such patient communication shall be documented in the patient's treatment plan and shall include the team's specific rationale.

(10) A patient's right to retain reasonable personal belongings shall be respected, except that the facility may temporarily retain custody of a patient's personal property for the patient's protection, provided that such property is used or conserved for the support of the patient. The patient is entitled to a receipt for any personal property over which the facility retains temporary custody. Nothing in this paragraph shall be construed to relieve any patient from the obligations arising out of § 5127 of this title.

(11) Each patient shall have the right to participate in available vocational rehabilitation, community care, or release programs consistent with the patient's treatment plan. It is recognized that work programs can be therapeutic and, therefore, may be included in a patient's individualized treatment plan provided that the following conditions are met:

a. The facility must document in the individualized treatment plan the patient's need or desire for work;

b. The individualized treatment plan must specify the nature of the work to be performed and whether the work is to be voluntary or paid;

c. The patient must consent to the work program described in the treatment plan; and

d. The patient must be aware that he or she may withdraw consent to the work program at any time.

To the extent specifically authorized by the Department of Labor, workers' compensation law and unemployment insurance law shall not apply to any patient engaged in work programs pursuant to this paragraph.

(12) Each patient who, but for a mental disability, would be entitled to attend a public school shall receive the same training and education that he or she would otherwise be entitled to receive in his or her local school district. The facility shall arrange for such training and education, which shall be consistent with the mental ability of the patient, and shall arrange for suitable resources and equipment to address the needs of those patients with visual or hearing impairments.

(13) The hospital or residential center shall maintain a clinical record for each patient admitted. The clinical record shall contain complete information on all matters relating to the admission, legal status, care, and treatment of the patient, and shall include all pertinent documents relating to the patient. Copies of informed consent forms signed by patients or guardians pursuant to paragraph (8)d of this subsection shall be kept with each patient's ward chart. The Department shall, by regulation, determine the scope and method of recording information maintained on the clinical records. Those regulations shall ensure the completeness and accuracy of data pertaining to admission, legal matters affecting the patient, records and notations of the course of care and treatment, therapies, the patient's progress if in research and adverse or other reactions thereto, restrictions on the patient's rights, periodic examinations, and other information required by the Department.

No information reported to the Department and no clinical records maintained with respect to patients shall be public records. Such information and records shall not be released to any person or agency outside of the Department except in conformity with existing law and as follows:

a. To patients, or, if the patient is a minor, to a parent or legal guardian, except that access to specific records may be refused when a clinical determination is made and documented in the patient's individualized treatment plan that such access would be seriously detrimental to the patient's health or treatment progress. In the latter case, such material may be made available to a licensed mental health professional selected by the patient, and that professional may, in the exercise of professional judgment, provide the patient with access to any or all parts of the denied material or otherwise disclose the information contained therein. Whenever records are released in accordance with this paragraph, the recipient shall have the right to review the record with a mental health professional furnished by the facility;

b. Pursuant to an order of a court of record;

c. To attorneys representing the patient;

d. To rights-protection agencies otherwise entitled to access under applicable federal or State law or implementing interagency agreement, including the Office of the Long-term Care Ombudsman and designated programs under the federal Protection and Advocacy for Mentally Ill Individuals Act and Developmental Disabilities Assistance and Bill of Rights Act, as amended;

e. With the consent of the patient, or, if the patient is a minor, with the consent of a parent or legal guardian;

f. To Departmental contractors to the extent necessary for professional consultation or services;

g. To the State Bureau of Identification pursuant to subsection (14) of this section and 11 Del.C. § 8509; and

h. As otherwise required by law.

(14) The Delaware State Hospital and any other hospital as defined in 16 Del.C. § 5001(2) shall submit to the State Bureau of Identification, pursuant to 11 Del.C. § 1448A, the name, date of birth, and social security number of any adult who is involuntarily committed to such facility.

(15) Each patient, and, if the patient is a minor, the minor's parent or legal guardian, shall have the right to assert grievances with respect to infringement of

the rights described in this section, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the facility. Without diminution of such right, the facility may also establish a supplemental mediation system to resolve grievances.

(16) Each patient, and, if the patient is a minor, the minor's parent or legal guardian, shall have a right to confidential access to any internal rights protection office established by the facility and to any State or federally authorized mental health ombudsman or rights protection agency.

(17) Each patient shall have the right to exercise the rights described in this section without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(18) Nothing in this section or in any rule or regulation adopted pursuant thereto shall be construed to deny treatment by spiritual means through prayer for any patient detained for evaluation or treatment who desires spiritual treatment, or to a minor, if the minor's parent or guardian desires such treatment.

(19) Consistent with the nature of the right and applicable law, a right may devolve to the patient's guardian.

(20) The rights described above are in addition to, and not in derogation of, any other statutory or constitutional rights."

Section 2. Amend § 5162 of Title 16 of the Delaware Code by striking the final sentence and substituting in lieu thereof the following: "Notwithstanding 10 Del.C. § 342, the Court of Chancery shall have jurisdiction over all actions, including those requesting declaratory relief, to enforce or resolve disputes concerning the rights arising out of this subchapter."

Section 3. Amend § 1131 of Title 16 of the Delaware Code by striking subsection (4) in its entirety and substituting in lieu thereof the following:

"(4) 'Facility' shall include:

- a. Any facility required to be licensed under this chapter;
- b. Any facility operated by or for the State which provides long-term care residential services; and
- c. The Delaware State Hospital and hospitals certified by the Department of Health and Social Services pursuant to 16 Del.C. § 5001 or § 5136."

Section 4. Amend Section 1134 of Title 16 of the Delaware Code by adding the following sentence at the end of Subsection (1): "If not otherwise prohibited by law, the results of the investigation shall be shared with the reporter, the patient or resident, and, if applicable, with the guardian of the patient or resident."

Approved July 14, 1995

CHAPTER 223
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR
HOUSE BILL NO. 83

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO CHILD WELFARE.

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

AMEND § 307 (a), Title 31, Delaware Code, by inserting the words "in any free, wage or boarding home or" after the words "procuring placement of such child".

Approved July 14, 1995

CHAPTER 224
FORMERLY
HOUSE BILL NO. 337

AN ACT TO AMEND CHAPTER 174, VOLUME 23, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO RE-INCORPORATE THE TOWN OF TOWNSEND", RELATING TO REAL ESTATE TRANSFER TAX.

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

AMEND Chapter 174, Volume 23, Laws of Delaware, as amended, by adding a new section to read as follows:

"Section 16. Real Estate Transfer Tax.

Appropriate transfer taxes shall 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."

Approved July 14, 1995

CHAPTER 225

FORMERLY

HOUSE BILL NO. 334

AN ACT TO AMEND CHAPTER 64, VOLUME 63, LAWS OF DELAWARE, AS AMENDED, ENTITLED "AN ACT TO REINCORPORATE THE TOWN OF OCEAN VIEW IN SUSSEX COUNTY, DELAWARE."

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

Section 1. Amend Section 5.103, Chapter 64, Volume 63, Laws of Delaware, as amended, by deleting the phrase "Two Hundred Thousand Dollars (\$200,000.00)" appearing therein, and by inserting in lieu thereof the phrase "Three Hundred Thousand Dollars (\$300,000.00)".

Approved July 14, 1995

CHAPTER 226

FORMERLY

SENATE BILL NO. 233

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND THE STATUTORY PROVISIONS OF §106 (a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF LAURIE PATTON AND ALLEN J. LIPSTEIN..

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

Section 1. Laurie Patton and Allen J. Lipstein are hereby exempted from the provisions of 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 Thomas Kenney of the Justice of the Peace Courts of the State of Delaware is hereby authorized to solemnize the marriage between Laurie Patton and Allen J. Lipstein. The Clerk of the Peace for New Castle County shall issue to Laurie Patton and Allen J. Lipstein one official marriage license pursuant to this Act, the provisions of the 13 Del. C. 106 to the contrary notwithstanding.

Approved July 14, 1995

CHAPTER 227

FORMERLY

SENATE BILL NO. 199

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE SALE
OF TIMBER AND THE DISPOSITION OF THE PROCEEDS.

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

Section 1. Amend §1057 of Title 14 of the Delaware Code by adding a new
subsection (f) to read as follows:

"(f) Notwithstanding any provisions of subsections (a), (b), (c), (d), or (e) of this
section, a school district may sell timber located on the real property of the school upon
an affirmative vote of a majority of the members of the Board. Sixty percent (60%) of
the net proceeds (after the expenses relating to the sale and any replanting of trees
determined appropriate by the Board) from the sale shall be assigned to the school district
to be used in conformance with subparagraphs b. and c. of paragraph 15 of subsection (a)
of this section. The balance of the proceeds may be utilized by the Board as part of their
general fund."

Approved July 14, 1995

CHAPTER 228

FORMERLY

HOUSE BILL NO. 166

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE
DIVISION OF COMMUNICATIONS AND THE AUTHORITY TO ENTER INTO
CONTRACTS AND PROVIDE SERVICES TO COUNTY GOVERNMENT AND
LOCAL MUNICIPALITIES.

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

Section 1. Amend § 1607, Title 17 of the Delaware Code, by inserting the words "local
municipalities, towns and the counties and any and all agencies thereof" after the words "as
applicable and reasonable to" as the same appear in the first sentence.

Approved July 14, 1995

CHAPTER 229

FORMERLY

HOUSE BILL NO. 84

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO
UNEMPLOYMENT COMPENSATION.

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

Section 1. Amend Section 3302(9)(A), Title 19 of the Delaware Code by striking
subsections

"(i) (I)", "(i)(II)", and "(i)(III)" of this section in their entirety and in their place inserting a new
subsection (i) to read as follows:

"(i) Any officer of a corporation after December 31, 1995."

Section 2. This Act shall be effective January 1, 1996.

Approved July 14, 1995

CHAPTER 230

FORMERLY

HOUSE BILL NO. 231

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO DELAWARE TAXES.

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

Section 1. Amend § 2901(2)(iv), Chapter 29, Title 30 of the Delaware Code by inserting after the word "heating" as it appears in said paragraph the phrase "of ambient space" and by inserting after the word "cooking" as it appears in said subparagraph the phrase "of foodstuffs".

Section 2. Amend § 2908(a)(1)a, Chapter 29, Title 30 of the Delaware Code by striking the word and punctuation "nursery," as they appear in said subparagraph and substituting in lieu thereof the following:

"nursery which produced the products; provided, however, that no business described in this subparagraph shall be required to obtain a license under this chapter if it's gross receipts from the sale of unprocessed agricultural products not produced on the taxpayer's farm or nursery does not exceed the amount excluded from tax under § 2905(b) or § 2902(c) of this title;"

Section 3. Amend § 2908(c), Chapter 29, Title 30 of the Delaware Code by deleting said subsection in its entirety and substituting therefore the following subsection (c):

"(c) The tax imposed by Section 2905(b) or Section 2906(b) shall not apply to gross receipts from the retail sale for off premises consumption of alcoholic liquor, beer, or wine under license pursuant to Title 4 of the Delaware Code."

Section 4. Amend § 4305(c), Chapter 43, Title 30 of the Delaware Code by striking the period "." at the end of such subsection and substituting in lieu thereof the following:

"; provided that:

(1) such person deems gross receipts to which subsection (b) of this section would otherwise apply to be receipts from the sale of goods and thus subject to § 2905(b); and

(2) any such person more than 50% of whose gross receipts are derived from the leasing of personal property within this State shall obtain a license under subsection (a) of this section.

Nothing in this subsection shall exempt any person from imposition or collection of tax under § 4302 of this Title."

Section 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect 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 severable.

Section 6. This Act is intended to declare the original intent of the General Assembly with regard to the portions of the Delaware Code that are amended by this Act, and as such this Act merely clarifies the language of such portions of the Delaware Code.

Approved July 14, 1995

CHAPTER 231

FORMERLY

HOUSE BILL NO. 141

AS AMENDED BY

SENATE AMENDMENT NO. 1

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

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

Section 1. Amend §2706, Chapter 27, Title 14 of the Delaware Code by adding a new subsection (c) thereto which shall provide as follows:

"(c) No pupil who could otherwise legally fail to attend school pursuant to §2702(a) of this Chapter may do so without the written consent of such person(s) having legal control of that pupil."

Approved July 14, 1995

CHAPTER 232

FORMERLY

SENATE BILL NO. 231

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO JUSTICE OF THE PEACE CONSTABLES AND PROCEDURE IN JUSTICE OF THE PEACE COURTS.

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

Section 1. Amend subsection (a) of §2802, Title 10 of the Delaware Code by striking the word "all" and by substituting in lieu thereof the word "the".

Section 2. Amend subsection (c) of §9501, Title 10 of the Delaware Code by striking the words "and constables" and by substituting in lieu thereof a comma ',' followed by the words "constables and persons specially authorized by the Chief Magistrate or the Chief Magistrate's designee".

Section 3. Amend subsection (b) of §9524, Title 10 of the Delaware Code by inserting the words "or duly authorized special process server" after "Constable" and before "or", and by inserting the words "or the special process server's" after the word "Constable's" and before the word "affidavit".

Section 4. Amend subsection (a) of §9546, Title 10 of the Delaware Code by inserting the words "of the peace court" after the word "justice" and before "rendered".

Section 5. Amend subsection (a) of §9547, Title 10 of the Delaware Code by inserting the words "of the peace court" after "justice" and before "rendering" and after "justice" and before the comma ',' and by striking the word "whom" and adding in lieu thereof "which".

Section 6. Strike §9548, Title 10 of the Delaware Code entitled "Form of Execution Process" in its entirety by substituting in lieu thereof the following:

"§9548. *Form of Execution Process.*

The form of execution process will be as prescribed by the Court and shall be issued in the manner provided by law."

Section 7. Strike present §9552, Title 10 of the Delaware Code, entitled "Delivery of Execution to Constable or Sheriff", in its entirety and by substituting in lieu thereof the following:

"§9552. *Time of Binding of Goods and Chattels by Execution; Duration of Lien.*

An execution shall not bind goods and chattels until it is delivered to the constable or other officer to be executed. An execution shall, from the time it is so delivered, bind all the goods, and chattels of the defendant, within the bailiwick of such constable or other officer which are actually levied upon within thirty (30) days thereafter. No levy upon goods and chattels, made by virtue of execution process, shall be of any force or effect as against a subsequent execution levied upon the same goods and chattels for a longer period than two (2) years from the making of such first mentioned levy."

Section 8. Strike present §9553, Title 10 of the Delaware Code entitled "Levy; inventory; appraisal; binding effect of execution," in its entirety and by substituting in lieu thereof the following:

"§9553. Levy; Inventory; Appraisal.

(a) The goods and chattels seized by virtue of an execution issued by a justice of the peace court shall be inventoried and appraised by the officer levying the same.

(b) The property which any debtor is entitled to have set apart under any exemption law of the State shall be set apart and delivered to the debtor at the time when the levy and appraisal is made, in the manner provided by law if requested by the debtor pursuant to Chapter 49 of this Title."

Section 9. Amend subsection (a) of §9554, Title 10 of the Delaware Code by adding the word "court" after "peace" and before "shall".

Section 10. Strike present §9555, Title 10 of the Delaware Code entitled "Duration of Lien of Levy" and by substituting in lieu thereof the following:

"§9555. Priority of Liens.

If several executions against the same defendant are delivered on the same day, the first delivered shall have priority. If several executions against the same defendant are delivered together, they shall have priority according to their respective numbers."

Section 11. Strike present §9556, Title 10 of the Delaware Code entitled "Return of Execution" in its entirety and by substituting in lieu thereof, the following:

"§9556. Duty of Constable or Sheriff Upon Receipt of Execution; Return of Execution.

(a) A constable, or other officer, receiving an execution, shall, in a docket, set down the date of receiving it; and when several executions are delivered on the same day, the docket shall show the order in which they are received. The constable or other officer shall also endorse upon an execution, immediately on receiving it, the precise time the officer received delivery of the execution.

(b) The officer to whom an execution issued by a justice of the peace court is delivered, shall duly return it with a certificate of all the officer's proceedings, and a statement of the officer's fees, giving the items.

(c) If no levy is made, the reason shall be given.

(d) If the levy has been made, an inventory and appraisal shall be returned, and shall state as whose property the goods and chattels were seized in execution.

(e) In case of a sale the list of the goods and chattels sold, with the amount thereof, shall be returned."

Section 12. Repeal §9568, Title 10 of the Delaware Code, "Filing of Abstract of Execution".

Approved July 14, 1995

CHAPTER 233

FORMERLY

HOUSE BILL NO. 19

AS AMENDED BY

HOUSE AMENDMENT NOS. 6 AND 8
AND SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO SPECIFIC OFFENSES; AND PROVIDING FOR PROHIBITIONS AGAINST TICKET SCALPING.

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 thereto a new section which shall read as follows:

“§916. Ticket Scalping.

(a) No person shall sell, re-sell, or exchange any ticket to any event or exhibit at a price higher than the original price on the day preceding or on the day of an event at the Bob Carpenter Sports/Convocation Center on the South Campus of the University of Delaware or of a NASCAR Race held at Dover Downs, or on any State or Federal highway artery within this State.

(b) Any person who violates this section shall be guilty of ticket scalping. Any person convicted a first time of ticket scalping is guilty of a class B misdemeanor. Any person convicted a second or subsequent time of ticket scalping shall be guilty of a class A misdemeanor. The Superior Court shall have jurisdiction over any offense charged under this section.

(c) For purposes of this Section the word “ticket” shall mean any admittance, receipt, entrance ticket or other evidence of a right to be admitted to an event or exhibit.”

Section 2. This Act shall become effective on July 1, 1995.

Approved July 14, 1995

CHAPTER 234

FORMERLY

HOUSE BILL NO. 298

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO RISK-BASED CAPITAL STANDARDS FOR LIFE AND HEALTH AND PROPERTY AND CASUALTY INSURERS.

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

Section 1. Amend Title 18, Delaware Code by adding thereto a new Chapter 58 to read as follows:

"CHAPTER 58. RISK-BASED CAPITAL (RBC) FOR INSURERS.

§ 5801. Definitions.

As used in this Act, these terms shall have the following meanings:

a. 'Adjusted RBC Report' means an RBC report which has been adjusted by the Commissioner in accordance with § 5802e. of this chapter.

b. 'Corrective Order' means an order issued by the Commissioner specifying corrective actions which the Commissioner has determined are required.

c. 'Domestic insurer' means any insurance company domiciled in this State, except insurers not doing business with citizens or residents of the United States or organized or located within the United States.

d. 'Foreign insurer' means any insurance company which is licensed to do business in this State under § 516 of this title, but is not domiciled in this State.

e. 'NAIC' means the National Association of Insurance Commissioners.

f. 'Life and/or health insurer' means any insurance company licensed under § 516 of this title, or a licensed property and casualty insurer writing only accident and health insurance.

g. 'Property and casualty insurer' means any insurance company licensed under § 516 of this title, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

h. 'Negative Trend' means, with respect to a life and/or health insurer, negative trend over a period of time, as determined in accordance with the Trend Test Calculation included in the RBC Instructions.

i. 'RBC Instructions' means the RBC Report including risk-based capital instructions adopted by the NAIC; as such, RBC Instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

j. 'RBC Level' means an insurer's Company Action Level RBC, Regulatory Action Level RBC, Authorized Control Level RBC, or Mandatory Control Level RBC where:

(1) 'Company Action Level RBC' means, with respect to any insurer, the product of 2.0 and its Authorized Control Level RBC;

(2) 'Regulatory Action Level RBC' means the product of 1.5 and its Authorized Control Level RBC;

(3) 'Authorized Control Level RBC' means the number determined under the risk-based capital formula in accordance with the RBC Instructions;

(4) 'Mandatory Control Level RBC' means the product of .70 and the Authorized Control Level RBC.

k. 'RBC Plan' means a comprehensive financial plan containing the elements specified in § 5803b of this chapter. If the Commissioner rejects the RBC Plan, and it is revised by the insurer, with or without the Commissioner's recommendation, the plan shall be called the Revised RBC Plan.

l. 'RBC Report' means the report required in § 5802 of this chapter.

m. 'Total Adjusted Capital' means the sum of:

(1) An insurer's statutory capital and surplus; and

(2) Such other items, if any, as the RBC Instructions may provide.

§ 5802. RBC Reports.

a. Every domestic insurer shall, on or prior to each March 1 (the 'filing date'), prepare and submit to the Commissioner a report of its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC Instructions. In addition, every domestic insurer shall file its RBC Report:

(1) With the NAIC in accordance with the RBC Instructions; and

(2) With the insurance commissioner in any state in which the insurer is authorized to do business, if the insurance commissioner has notified the insurer of its request in writing, in which case the insurer shall file its RBC Report not later than the later of:

(a) Fifteen (15) days from the receipt of notice to file its RBC Report with that state; or

(b) The filing date.

(c). A life and health insurer's RBC shall be determined in accordance with the formula set forth in the RBC Instructions. The formula shall take into account and may adjust for the covariance between:

(1) The risk with respect to the insurer's assets;

(2) The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;

(3) The interest rate risk with respect to the insurer's business; and

(4) All other business risks and such other relevant risks as are set forth in the RBC Instructions;

determined in each case by applying the factors in the manner set forth in the RBC Instructions.

c. A property and casualty insurer's RBC shall be determined in accordance with the formula set forth in the RBC Instructions. The formula shall take into account and may adjust for the covariance between:

- (1) Asset risk;
- (2) Credit risk;
- (3) Underwriting risk; and
- (4) All other business risks and such other relevant risks as are set forth in the RBC Instructions;

determined in each case by applying the factors in the manner set forth in the RBC Instructions.

d. An excess of capital over the amount produced by the risk-based capital requirements contained in this Act and the formulas, schedules and instructions referenced in this Act is desirable in the business of insurance. Accordingly, insurers should seek to maintain capital above the RBC levels required by this Act. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the risk-based capital requirements contained in this Act.

e. If a domestic insurer files an RBC Report which in the judgment of the Commissioner is inaccurate, then the Commissioner shall adjust the RBC Report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC Report as so adjusted is referred to as an 'Adjusted RBC Report'.

§ 5803. Company Action Level Event.

a. 'Company Action Level Event' means any of the following events:

(1) The filing of an RBC Report by an insurer which indicates that:

(a) The insurer's Total Adjusted Capital is greater than or equal to its Regulatory Action Level RBC but less than its Company Action Level RBC; or

(b) If a life and/or health insurer, the insurer has Total Adjusted Capital which is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 2.5 and has a negative trend;

(2) The notification by the Commissioner to the insurer of an Adjusted RBC Report that indicates an event in Paragraph (1) of this subsection, provided the insurer does not challenge the Adjusted RBC Report under § 5807 of this chapter; or

(3) If, pursuant to § 5807 of this chapter, an insurer challenges an Adjusted RBC Report that indicates the event in Paragraph (1) of this subsection, the notification by the Commissioner to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge.

b. In the event of a Company Action Level Event, the insurer shall prepare and submit to the Commissioner an RBC Plan which shall:

(1) Identify the conditions which contribute to the Company Action Level Event;

(2) Contain proposals of corrective actions which the insurer intends to take and would be expected to result in the elimination of the Company Action Level Event;

(3) Provide projections of the insurer's financial results in the current year and at least the four (4) succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital and/or surplus. (The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component);

(4) Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(5) Identify the quality of, and problems associated with, the insurer's business including, but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance, if any, in each case.

c. The RBC Plan shall be submitted:

(1) Within forty-five (45) days of the Company Action Level Event; or

(2) If the insurer challenges an Adjusted RBC Report pursuant to Section 7, within forty-five (45) days after notification to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge.

d. Within sixty (60) days after the submission by an insurer of an RBC Plan to the Commissioner, the Commissioner shall notify the insurer whether the RBC Plan shall be implemented or is, in the judgment of the Commissioner, unsatisfactory. If the Commissioner determines the RBC Plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which will render the RBC Plan satisfactory, in the judgment of the Commissioner. Upon notification from the Commissioner, the insurer shall prepare a Revised RBC Plan, which may incorporate by reference any revisions proposed by the Commissioner, and shall submit the Revised RBC Plan to the Commissioner:

(1) Within forty-five (45) days after the notification from the Commissioner; or

(2) If the insurer challenges the notification from the Commissioner under § 5807 of this chapter, within forty-five (45) days after a notification to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge.

e. In the event of a notification by the Commissioner to an insurer that the insurer's RBC Plan or Revised RBC Plan is unsatisfactory, the Commissioner may at the Commissioner's discretion, subject to the insurer's right to a hearing under § 5807 of this chapter, specify in the notification that the notification constitutes a Regulatory Action Level Event.

f. Every domestic insurer that files an RBC Plan or Revised RBC Plan with the Commissioner shall file a copy of the RBC Plan or Revised RBC Plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(1) Such state has an RBC provision substantially similar to §5808a of this chapter; and

(2) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC Plan or Revised RBC Plan in that state no later than the later of:

(a) Fifteen (15) days after the receipt of notice to file a copy of its RBC Plan or Revised RBC Plan with the state; or

(b) The date on which the RBC Plan or Revised RBC Plan is filed under § 5803(c) and (d) of this chapter.

§ 5804. Regulatory Action Level Event.

a. 'Regulatory Action Level Event' means, with respect to any insurer, any of the following events:

(1) The filing of an RBC Report by the insurer which indicates that the insurer's Total Adjusted Capital is greater than or equal to its Authorized Control Level RBC but less than its Regulatory Action Level RBC;

(2) The notification by the Commissioner to an insurer of an Adjusted RBC Report that indicates the event in Paragraph (1), provided the insurer does not challenge the Adjusted RBC Report under § 5807 of this chapter;

(3) If, pursuant to § 5807 of this chapter, the insurer challenges an Adjusted RBC Report that indicates the event in Paragraph (1), the notification by the Commissioner to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge;

(4) The failure of the insurer to file an RBC Report by the filing date, unless the insurer has provided an explanation for such failure which is satisfactory to the Commissioner and has cured the failure within ten (10) days after the filing date;

(5) The failure of the insurer to submit an RBC Plan to the Commissioner within the time period set forth in § 5803c of this chapter;

(6) Notification by the Commissioner to the insurer that:

(a) The RBC Plan or revised RBC Plan submitted by the insurer is, in the judgment of the Commissioner, unsatisfactory; and

(b) Such notification constitutes a Regulatory Action Level Event with respect to the insurer, provided the insurer has not challenged the determination under § 5807 of this chapter;

(7) If, pursuant to § 5807 of this chapter, the insurer challenges a determination by the Commissioner under Paragraph (6), the notification by the Commissioner to the insurer that the Commissioner has, after a hearing, rejected such challenge;

(8) Notification by the Commissioner to the insurer that the insurer has failed to adhere to its RBC Plan or Revised RBC Plan, but only if such failure has a substantial adverse effect on the ability of the insurer to eliminate the Company Action Level Event in accordance with its RBC Plan or Revised RBC Plan and the Commissioner has so stated in the notification, provided the insurer has not challenged the determination under § 5807 of this chapter; or

(9) If, pursuant to § 5807 of this chapter, the insurer challenges a determination by the Commissioner under Paragraph (8), the notification by the Commissioner to the insurer that the Commissioner has, after a hearing, rejected the challenge.

b. In the event of a Regulatory Action Level Event the Commissioner shall:

(1) Require the insurer to prepare and submit an RBC Plan or, if applicable, a Revised RBC Plan;

(2) Perform such examination or analysis as the Commissioner deems necessary of the assets, liabilities and operations of the insurer including a review of its RBC Plan or Revised RBC Plan; and

(3) Subsequent to the examination or analysis, issue an order specifying such corrective actions as the Commissioner shall determine are required (a 'Corrective Order').

c. In determining corrective actions, the Commissioner may take into account such factors as are deemed relevant with respect to the insurer based upon the Commissioner's examination or analysis of the assets, liabilities and operations of the insurer, including, but not limited to, the results of any sensitivity test undertaken pursuant to the RBC Instructions. The RBC Plan or Revised RBC Plan shall be submitted:

(1) Within forty-five (45) days after the occurrence of the Regulatory Action Level Event;

(2) If the insurer challenges an Adjusted RBC Report pursuant to § 5807 of this chapter, and the challenge is not frivolous in the judgment of the Commissioner within forty-five (45) days after the notification to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge; or

(3) If the insurer challenges a Revised RBC Plan pursuant to § 5807 of this chapter, and the challenge is not frivolous in the judgment of the Commissioner, within forty-five (45) days after the notification to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge.

d. The Commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the Commissioner to review the insurer's RBC Plan or Revised RBC Plan, examine or analyze the assets, liabilities and operations of the insurer and formulate the Corrective Order with respect to the insurer. The fees, costs and expenses relating to consultants shall be borne by the affected insurer or such other party as directed by the Commissioner.

§ 5805. Authorized Control Level Event.

a. 'Authorized Control Level Event' means any of the following events:

(1) The filing of an RBC Report by the insurer which indicates that the insurer's Total Adjusted Capital is greater than or equal to its Mandatory Control Level RBC but less than its Authorized Control Level RBC;

(2) The notification by the Commissioner to the insurer of an Adjusted RBC Report that indicates the event in Paragraph (1), provided the insurer does not challenge the Adjusted RBC Report under § 5807 of this chapter;

(3) If, pursuant to § 5807 of this chapter, the insurer challenges an Adjusted RBC Report that indicates the event in Paragraph (1), notification by the Commissioner to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge;

(4) The failure of the insurer to respond, in a manner satisfactory to the Commissioner, to a Corrective Order (provided the insurer has not challenged the Corrective Order under § 5807 of this chapter); or

(5) If the insurer has challenged a Corrective Order under § 5807 of this chapter, and the Commissioner has, after a hearing, rejected the challenge or modified the Corrective Order, the failure of the insurer to respond, in a manner satisfactory to the Commissioner, to the Corrective Order subsequent to rejection or modification by the Commissioner.

b. In the event of an Authorized Control Level Event with respect to an insurer, the Commissioner shall:

(1) Take such actions as are required under § 5804 of this chapter, regarding an insurer with respect to which an Regulatory Action Level Event has occurred; or

(2) If the Commissioner deems it to be in the best interests of the policyholders and creditors of the insurer and of the public, take such actions as are necessary to cause the insurer to be placed under regulatory control under Chapter 59 of this title. In the event the Commissioner takes such actions, the Authorized Control Level Event shall be deemed sufficient grounds for the Commissioner to take action under Chapter 59 of this title, and the Commissioner shall have the rights, powers and duties with respect to the insurer as are set forth in Chapter 59 of this title. In the event the Commissioner takes actions under this paragraph pursuant to an Adjusted RBC Report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of Chapter 59 of this title pertaining to summary proceedings.

§ 5806. Mandatory Control Level Event.

a. 'Mandatory Control Level Event' means any of the following events:

(1) The filing of an RBC Report which indicates that the insurer's Total Adjusted Capital is less than its Mandatory Control Level RBC;

(2) Notification by the Commissioner to the insurer of an Adjusted RBC Report that indicates the event in Paragraph (1), provided the insurer does not challenge the Adjusted RBC Report under § 5807 of this chapter; or

(3) If, pursuant to § 5807 of this chapter, the insurer challenges an Adjusted RBC Report that indicates the event in Paragraph (1), notification by the Commissioner to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge.

b. In the event of a Mandatory Control Level Event:

(1) With respect to a life insurer, the Commissioner shall take such actions as are necessary to place the insurer under regulatory control under Chapter 59 of this title. In the event the Mandatory Control Level Event shall be deemed sufficient grounds for the commissioner to take action under Chapter 59 of this title, and the Commissioner shall have the rights, powers and duties with respect to the insurer as are set forth in Chapter 59 of this title. If the Commissioner takes actions pursuant to an Adjusted RBC Report, the insurer shall be entitled to the protections of Chapter 59 to this title pertaining to summary proceedings. Notwithstanding any of the forgoing, the Commissioner may forgo action for up to ninety (90) days after the Mandatory Control Level Event if the Commissioner finds there is a reasonable expectation that the Mandatory control Level Event may be eliminated within the ninety (90) day period.

(2) With respect to a property and casualty insurer, the Commissioner shall take such actions as are necessary to place the insurer under regulatory control under Chapter 59 of this title, or, in the case of an insurer which is writing no business and which is running-off its existing business, may allow the insurer to continue its run-off under the supervision of the Commissioner. In either event, the Mandatory Control Level Event shall be deemed sufficient grounds for the Commissioner to take action under Chapter 59 of this title and the Commissioner shall have the rights, powers and duties with respect to the insurer as are set forth in Chapter 59 of this title. If the Commissioner takes actions pursuant to an Adjusted RBC Report, the insurer shall be entitled to the protections of Chapter

59 of this title pertaining to summary proceedings. Notwithstanding any of the foregoing, the Commissioner may forgo action for up to ninety (90) days after the Mandatory Control Level Event if the Commissioner finds there is a reasonable expectation that the Mandatory Control Level Event may be eliminated within the ninety (90) day period.

§ 5807. Hearings.

Upon:

a. Notification to an insurer by the Commissioner of an Adjusted RBC Report; or

b. Notification to an insurer by the Commissioner that:

(1) The insurer's RBC Plan or Revised RBC Plan is unsatisfactory; and

(2) Such notification constitutes a Regulatory Action Level Event with respect to such insurer; or

c. Notification to any insurer by the Commissioner that the insurer has failed to adhere to its RBC Plan or Revised RBC Plan and that such failure has a substantial adverse effect on the ability of the insurer to eliminate the Company Action Level Event with respect to the insurer in accordance with its RBC Plan or Revised RBC Plan; or

d. Notification to an insurer by the Commissioner of a Corrective Order with respect to the insurer, the insurer shall have the right to a departmental hearing, on a record, at which the insurer may challenge any determination or action by the Commissioner. The insurer shall notify the Commissioner of its request for a hearing within five (5) days after the notification by the Commissioner under Subsection a, b, c, or d of this section. Upon receipt of the insurer's request for a hearing, the Commissioner shall set a date for the hearing, which date shall be no less than ten (10) nor more than thirty (30) days after the date of the insurer's request.

§ 5808. Confidentiality; Prohibition on Announcements, Prohibition on Use in Ratemaking.

a. All RBC Reports (to the extent the information therein is not required to be set forth in a publicly available annual statement schedule) and RBC Plans (including the results or report of any examination or analysis of an insurer performed pursuant hereto and any Corrective Order issued by the Commissioner pursuant to examination or analysis) with respect to any domestic insurer or foreign insurer which are filed with the Commissioner constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the Commissioner. This information shall not be made public and/or be subject to subpoena, other than by the Commissioner and then only for the purpose of enforcement actions taken by the Commissioner pursuant to this Act or any other provision of the insurance laws of this State.

b. It is the judgment of the legislature that the comparison of an insurer's Total Adjusted Capital to any of its RBC Levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not intended as a means to rank insurers generally. Therefore, except as otherwise required under the provisions of this Act, the making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing an assertion, representation or statement with regard to the RBC Levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; provided, however, that if any materially false statement with respect to the

comparison regarding an insurer's Total Adjusted Capital to its RBC Levels (or any of them) or an inappropriate comparison of any other amount to the insurers RBC Levels is published in any written publication and the insurer is able to demonstrate to the Commissioner with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

c. It is the further judgment of the legislature that the RBC Instructions, RBC Reports, Adjusted RBC Reports, RBC Plans and Revised RBC Plans are intended solely for use by the Commissioner in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and shall not be used by the Commissioner for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the Commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or any affiliate is authorized to write.

§ 5809. Supplemental Provisions; Rules; Exemption.

a. The provisions of this chapter are supplemental to any other provisions of the laws of this State, and shall not preclude or limit any other powers or duties of the Commissioner under such laws, including, but not limited to, Chapter 59 of this title.

b. The Commissioner may adopt reasonable rules necessary for the implementation of this chapter.

c. The Commissioner may exempt from the application of this Chapter any domestic property and casualty insurer which:

(1) Writes direct business only in this State;

(2) Writes direct annual premiums of \$2,000,000 or less; and

(3) Assumes no reinsurance in excess of five percent (5 %) of direct premium written.

(d) The provisions of this Chapter shall not apply to any domestic insurer transacting insurance in foreign countries only, as defined in §103 of this Title; and negotiation and issuance of insurance on objects of insurance resident, located or to be performed in such foreign jurisdictions, and changes in, communications concerning, and collection of premiums and payment of proceeds on insurance so issued, shall not be deemed to constitute the transaction of insurance in any such state.

§ 5810. Foreign Insurers.

a. Any foreign insurer shall, upon the written request of the Commissioner, submit to the Commissioner an RBC Report as of the end of the calendar year just ended the later of:

(1) The date an RBC Report would be required to be filed by a domestic insurer under this Act; or

(2) Fifteen (15) days after the request is received by the foreign insurer.

a. Any foreign insurer shall, at the written request of the Commissioner, promptly submit to the Commissioner a copy of any RBC Plan that is filed with the insurance Commissioner of any other state.

b. In the event of a Company Action Level Event, Regulatory Action Level Event or Authorized Control Level Event with respect to any foreign insurer as determined under the RBC statute applicable in the state of domicile of the insurer (or, if no RBC

statute is in force in that state under the provisions of this Act), if the insurance Commissioner of the state of domicile of the foreign insurer fails to require the foreign insurer to file an RBC Plan in the manner specified under that state's RBC statute (or, if no RBC statute is in force in that state, under § 5803 of this chapter), the Commissioner may require the foreign insurer to file an RBC Plan with the Commissioner. In such event, the failure of the foreign insurer to file an RBC Plan with the Commissioner shall be grounds to order the insurer to cease and desist from writing new insurance business in this state.

c. In the event of a Mandatory Control Level Event with respect to any foreign insurer, if no domiciliary receiver has been appointed with respect to the foreign insurer under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign insurer, the Commissioner may make application to the Court of Chancery permitted under Chapter 59 of this title with respect to the liquidation of property of foreign insurers found in this state, and the occurrence of the Mandatory Control level Event shall be considered adequate grounds for the application.

§ 5811. Immunity.

There shall be no liability on the part of, and no cause of action shall arise against, the Commissioner or the insurance department or its employees or agents for any action taken by them in the performance of their powers and duties under this Act.

§ 5812. Notices.

All notices by the Commissioner to an insurer which may result in regulatory action hereunder shall be effective upon dispatch if transmitted by registered or certified mail, or in the case of any other transmission shall be effective upon the insurer's receipt of such notice.

§ 5813. Phase-In Provision.

a. For RBC Reports required to be filed insurers with respect to 1994, the following requirements shall apply in lieu of the provisions of § § 5803, 5804, 5805 and 5806 of this chapter:

(1) In the event of a Company Action Level Event with respect to a domestic insurer, the Commissioner shall take no regulatory action hereunder.

(2) In the event of a Regulatory Action Level Event under § 5804a(1), (2) or (3) of this chapter the Commissioner shall take the actions required under § 5803 of this chapter.

(3) In the event of a Regulatory Action Level Event under § 5804a(4), (5), (6), (7), (8) or (9) of this chapter or an Authorized Control Level Event, the Commissioner shall take the actions required under § 5804 of this chapter with respect to the insurer.

(4) In the event of a Mandatory Control Level Event with respect to an insurer, the Commissioner shall take the actions required under § 5805 of this chapter with respect to the insurer."

Section 2. Severability Clause.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect the provisions or applications of this Act which can be given effect without the invalid provision or application, and to that end the provisions of this act are severable.

Section 3. This Act shall become effective on September 1, 1995.

Approved July 14, 1995

CHAPTER 235

FORMERLY

HOUSE BILL NO. 247

AN ACT TO AMEND CHAPTER 47, TITLE 16 OF THE DELAWARE CODE RELATING TO TRAFFICKING IN PHENCYCLIDINE.

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

Section 1. Amend Section 4753A(a)(6), subchapter IV, Chapter 47, Title 16, Delaware Code, by striking the citation "4718(e)(5)" as it appears in the first sentence of said paragraph and substituting in lieu thereof the citation "4716(e)(5)".

Approved July 14, 1995

CHAPTER 236

FORMERLY

HOUSE BILL NO. 154

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 & 2 AND
SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO
DRIVERS LICENSES.

WHEREAS the Delaware Office of Highway Safety in concert with the Delaware State Police has repeatedly found that alcohol and drugs are primary factors in highway accidents and fatalities; and

WHEREAS in 1994 known alcohol-related crashes in Delaware resulted in 59 fatalities and 964 serious injuries; and

WHEREAS alcohol was known to be involved in fifty-three percent (53%) of all fatal vehicle accidents and eleven percent (11%) of all accidents resulting in serious injuries; and

WHEREAS these figures do not include accidents in which alcohol was involved but the driver causing the accident was not obviously intoxicated or otherwise subject to blood alcohol content tests; and

WHEREAS the use of cocaine, heroin, marijuana, or drugs other than alcohol is often less readily detectable than alcohol, resulting in the failure to administer an appropriate test; and

WHEREAS the tests usually employed by the Delaware State Police are not designed to reliably detect cocaine, heroin, marijuana, or drugs other than alcohol; and

WHEREAS the figures of the Delaware State Police and the Delaware Safety Council may significantly underestimate the role of alcohol and other drugs in causing motor vehicle accidents and resulting injuries and fatalities in Delaware; and

WHEREAS, according to the Delaware Vital Statistics Annual Report 1992, released by the Delaware Health Statistics Center in August 1994, motor vehicle accidents were the leading cause of death in 1992 for 15- to 19-year-old Delawareans, with over half the deaths in that age group attributable to motor vehicle accidents; and

WHEREAS motor vehicle accidents were the leading cause of death in 1992 for 20- to 34-year-olds; and

WHEREAS the State has a compelling interest in protecting the life, limb, and property of innocent motorists and pedestrians on the public streets and highways of Delaware against persons who drive intoxicated; and

WHEREAS the State and its political subdivisions expend tens of millions of dollars each year in designing, building, maintaining, lighting, posting signs on, patrolling, and otherwise regulating State streets and highways; and

WHEREAS the State and the people of Delaware spend millions of dollars each year in testing, licensing, and regulating the qualifications of drivers in the State of Delaware; and

WHEREAS the State and the people of Delaware spend tens of millions of dollars each year in inspecting, licensing, registering, and maintaining motor vehicles to ensure their safe operation; and

WHEREAS current driver intoxicant detection practices are inadequate to serve the public interest in preserving and protecting life, limb, and property on the public streets and highways; and

WHEREAS the General Assembly finds that alcohol and drugs are primary factors in highway accidents and fatalities in the State of Delaware, and that there is a special governmental need to detect, and to deter, the use of intoxicants which frustrate and violate the public commitment to reducing motor vehicle accident losses by all other reasonable means;

NOW, THEREFORE:

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

Section 1. Amend § 2740, Title 21 of the Delaware Code, by appending the text “; test required” to the end of the section heading; and by appending to the text of § 2740 new language, to read:

“The testing shall be required of a person when an officer has probable cause to believe the person was driving, operating or in physical control of a vehicle in violation of § 4177 or § 2742 of this Title or a local ordinance substantially conforming thereto and was involved in an accident which resulted in a person’s death. In the event of a fatal accident if the officer does not believe that probable cause exists to require testing, then the officer shall file a written report outlining the reasons for that determination.”

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 14, 1995

CHAPTER 237

FORMERLY

SENATE BILL NO. 218

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO BRAILLE LITERACY.

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

Section 1. Amend Chapter 2, Title 14, Delaware Code by adding thereto a new section, as follows:

"§206 Braille Literacy Rights and Education

(a) In developing the individualized written education program for each blind student the presumption shall be that proficiency in braille reading and writing is essential for each student to achieve satisfactory educational progress. The assessment required for each student shall include a Braille skills inventory, including a statement of strengths and weaknesses. Braille instruction and its use are not mandated by this section if, in the course of developing the student's individualized educational program, all members of the team concur that the student's visual impairment does not affect reading and writing performance commensurate with ability. Nothing in this section requires exclusive use of Braille if other special education services are appropriate to the student's needs. The provision of other appropriate services shall not preclude Braille use or instruction.

(b) Instruction in Braille reading and writing shall be sufficient to enable each blind student to communicate effectively and efficiently with the same proficiency expected of the student's peers of comparable ability and grade level. The student's individualized educational plan shall specify:

(1) the results obtained from the inventory required in subsection (a) of this section;

(2) how braille will be implemented as the primary mode for learning through integration with other classroom activities;

(3) the date on which Braille instruction will commence;

(4) the length of the period of instruction and the frequency and duration of each instructional session;

(5) the level of competency in Braille reading and writing to be achieved by the end of the period, and the objective assessment measures to be used; and

(6) the evidence used to determine that the student's ability to read and write effectively without special education services will not be impaired if a decision has been made under subsection (a) of this section that Braille instruction or use is not required for the student.

(c) Each publisher of textbooks purchased by Delaware School Districts must, in addition to granting copyright permission for transcription into braille, large print or tape for visually impaired students as already established by law, must furnish to the Division for the Visually Impaired, a print copy, and when requested, with computer diskettes in the American Standard Code for Information Interchange (ASCII) from which Braille versions of the texts can be produced. The print copy is also required since the accompanying graphics must be reproduced by hand, and some subject matter, such as mathematics must still be hand transcribed.

(d) As part of the certification process, all newly certified teachers of the visually impaired, after enactment of this Act shall be required to demonstrate competence in reading and writing braille. The Department of Public Instruction which certifies teachers shall require proof of a passing score on the Library of Congress Braille Competency Test (when it is completed and validated), or any comparable, nationally recognized validated test. Until that time, the Department of Public Instruction will continue to certify teachers of the visually impaired through its existing standards. All newly hired teacher aides will be required to achieve certification as braille transcribers through the Library of Congress within 2 years of employment.

(e) In order to meet the instructional needs of blind students, the Division for the Visually Impaired shall hire an itinerant teacher of the visually impaired for every 28 students (or major fraction thereof) who are registered and receiving instruction from the Agency. At least 2 of these teacher units shall be 12-month employees in order to insure competent braille instruction during the summer months."

Approved July 14, 1995

CHAPTER 238

FORMERLY

HOUSE BILL NO. 179

AS AMENDED BY

HOUSE AMENDMENT NOS. 1, 8, 10 & 11 AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND CHAPTER 17, TITLE 24, AND CHAPTER 9, TITLE 10 OF THE DELAWARE CODE RELATING TO NOTICE OF ABORTIONS PERFORMED ON MINORS.

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

Section. 1. Amend Chapter 17, Title 24, Delaware Code by striking the heading for subchapter VIII, which reads "Uniform Anatomical Gift Act", and by inserting a new subchapter to read:

"Subchapter VIII. Parental Notice of Abortion Act.

§ 1780. Short Title.

This Act shall be known and may be cited as the Parental Notice of Abortion Act.

§ 1781. Legislative Purpose and Findings.

(a) The Legislature of the State of Delaware finds as fact that:

(i) immature minors often lack the ability to make fully informed choices that take into account both immediate and long-range consequences;

(ii) the physical, emotional, and psychological consequences of teen pregnancy are serious and can be lasting, particularly when the patient is immature;

(iii) the capacity to become pregnant and the capacity for mature judgment concerning how to choose among the alternatives for managing that pregnancy are not necessarily related;

(iv) parents ordinarily possess information essential to enable a physician to exercise his or her best medical judgment concerning the child;

(v) parents who are aware that their minor daughter has had an abortion can ensure that she receives adequate medical attention after the abortion;

(vi) parental consultation is usually desirable and in the best interest of their minor children and parents ordinarily act in the best interest of their minor children; and

(vii) parental involvement legislation enacted in other states has been shown to have significant impact in reducing abortion, birth and pregnancy rates among minors.

(b) It is the intent of the Legislature of the State of Delaware in enacting this parental notice provision to further the important and compelling State interests of:

(i) protecting minors against their own immaturity;

- (ii) fostering the family structure and preserving it as a viable social unit;
- (iii) protecting the rights of parents to rear children who are members of their household; and
- (iv) protecting the health and safety of minor children.

§ 1782. Definitions.

For purposes of this Act, the following definitions will apply.

- (a) 'Minor' means a female person under the age of 16.
- (b) 'Emancipated minor' means any minor female who is or has been married or has, by court order or otherwise, been freed from the care, custody, and control of her parents or any other legal guardian.
- (c) 'Abortion' means the use of any instrument, medicine, drug, or any other substance or device to terminate the pregnancy of a woman known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.
- (d) 'Medical emergency' means that condition which, on the basis of the physician or other medically authorized person's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which delay will create serious risk of substantial and irreversible impairment of a major bodily function.
- (e) 'Coercion' means restraining or dominating the choice of a minor female by force, threat of force, or deprivation of food and shelter.
- (f) 'Licensed mental health professional' means a person licensed under the Division of Professional Regulation of the State of Delaware as a:
 - (i) psychiatrist;
 - (ii) psychologist; or
 - (iii) licensed professional counselor of mental health.

§ 1783. Notice Required.

No physician or other medically authorized person shall perform an abortion upon an unemancipated minor until complying with the following notification provisions:

- (a) No physician or other medically authorized person shall perform an abortion upon an unemancipated minor unless the physician, medically authorized person, or an agent of the physician or of the medically authorized person has given at least 24 hours actual notice to one or both parents (either custodial or non-custodial), a grandparent, a licensed mental health professional (who shall not be an employee or under contract to an abortion provider except employees or contractors of an acute care hospital) or to the legal guardian of the pregnant minor of the intention to perform the abortion, or unless the physician, medically authorized person, or an agent of the physician or of the medically authorized person has received a written statement or oral communication from another physician or medically authorized person, hereinafter called the 'referring physician or medically authorized person,' certifying that the referring physician or medically authorized person has given such notice. If the person contacted pursuant to this subsection is not the parent or guardian, the person so contacted must explain to the minor the options available to her include adoption, abortion and full-term pregnancy, and must agree that it is in the best interest of the minor that a waiver of the parental notice requirement be granted. Any licensed mental health professional so contacted shall certify that he or she has performed an assessment of the specific factors and circumstances of the minor subject to the evaluation

including but not limited to the age and family circumstances of the minor and the long-term and short-term consequences to the minor of termination or continuation of the pregnancy.

(i) No physician or other abortion provider shall charge a referral fee to a person authorized under this section to receive notice; nor shall a person authorized under this section to receive notice charge a referral fee to a physician or other abortion provider.

(ii) Nothing in this section shall affect the obligations of a person pursuant to other provisions of this Code to report instances of child abuse to the appropriate government agencies.

(b) A minor may petition the Family Court ('Court') of any county of this State for a waiver of the notice requirement of this section pursuant to the procedures of §1784 of this Chapter. A physician who has received a copy of a court order granting a waiver application under §1784 of this Chapter shall not, at any time, give notice of the minor's abortion to any person without the minor's written permission.

§ 1784. Application for waiver of parental notice requirement; grounds; timeliness of decision; notice of decision; appeals; costs.

(a) The Court shall consider waiving the notice requirement of § 1783 of this Chapter upon the proper application of a minor. The application shall be in writing, signed by the minor, and verified by her oath or affirmation before a person authorized to perform notarial acts. It shall designate: (i) the minor's name and residence address; (ii) a mailing address where the Court's order may be sent and a telephone number where messages for the minor may be left; (iii) that the minor is pregnant; (iv) that the minor desires to obtain an abortion; (v) each person for whom the notice requirement is sought to be waived; and (vi) the particular facts and circumstances which indicate that the minor is mature and well-informed enough to make the abortion decision on her own and/or that it is in the best interest of the minor that notification pursuant to § 1783 of this Chapter be waived.

(b) The Court, by a judge, shall grant the written application for a waiver if the facts recited in the application establish that the minor is mature and well-informed enough to make the abortion decision on her own or that it is in the best interest of the minor that notification pursuant to § 1783 of this Chapter be waived. The Court shall presume that married parents not separated and grandparents are complete confidants, such that, on application to waive the notice requirement as to either, grounds to waive the notice requirement as to one parent or grandparent shall constitute grounds to waive the notice requirement as to the spouse thereof.

(c) If the Court fails to rule within five calendar days of the time of the filing of the written application, the application shall be deemed granted; in which case, on the sixth day, the Court shall issue an order stating that the application is deemed granted.

(d) The Court shall mail three copies of any order to the mailing address identified in the application on the day the order issues, shall attempt to notify the minor by telephone on the day the order issues, and if so requested, shall make copies of the order available at Court chambers for the minor.

(e) An expedited appeal to the Supreme Court shall be available to any minor whose petition is denied by a judge of the Family Court. Notice of intent to appeal shall be given within two days of the receipt of actual notice of the denial of the petition. The Supreme Court shall advise the minor that she has a right to court-appointed counsel and shall provide her with such counsel upon request, at no cost to the minor. The Supreme Court shall expedite proceedings to the extent necessary and appropriate under the circumstances. The Supreme Court shall notify the minor of its decision consistent with subsection (d) of this section.

(f) No court shall assess any fee or cost upon a minor for any proceeding under this section.

(g) Each court shall provide by rule for the confidentiality of proceedings under this subchapter, but shall continue to initiate investigations into any allegations of past abuse

where otherwise appropriate, without disclosing that an application under this subchapter was the source of the information prompting the investigation.

§ 1785. Short form of affidavit and application for waiver of parental notice requirement.

The following shall be sufficient form of affidavit and application for waiver of parental notice requirement under this subchapter:

IN THE FAMILY COURT OF THE STATE OF DELAWARE

IN AND FOR (NAME OF COUNTY) COUNTY

IN THE MATTER OF:	}	AFFIDAVIT AND
	}	APPLICATION FOR
(NAME OF MINOR APPLICANT),	}	WAIVER OF NOTICE OF
	}	ABORTION
STATE OF DELAWARE	}	
	}	SS.
_____ COUNTY	}	

BE IT REMEMBERED that on this _____ day of _____, A.D. _____ before me, (name of person authorized to perform notarial acts), personally appeared (name of minor applicant/affiant) who, being by me duly sworn or affirmed, depose and say:

- (1) That the minor applicant resides at (minor's address);
- (2) That the Court may send its order to (mailing address designated by applicant minor) and leave telephone messages for the applicant minor at (phone number designated by applicant minor);
- (3) That the minor applicant is pregnant;
- (4) That the minor applicant desires to obtain an abortion;
- (5) That the minor applicant desires that the Court waive the notice requirement of 24 Del. C. § 1783;
- (6) That the minor applicant believes that she is mature and well-informed enough to make the abortion decision on her own and/or it would be in her best interest that a waiver of notice be granted because (state reasons why mature and well-informed enough and/or waiver of notice is in best interest based upon the applicant's age and family circumstances and the long-term and short-term consequences to the applicant of termination or continuation of the pregnancy).

WHEREFORE, this minor applicant intends to submit this affidavit and application for waiver of notice of abortion to the Family Court, and pray that an order be issued waiving the notification requirement of 24 Del. C. § 1783 as to the following persons: (identify each such person).

Minor applicant/affiant

SWORN TO or affirmed and subscribed before me by the minor applicant/affiant this _____ day of _____, A.D. _____.

(Notary)"

§ 1786. Coercion Prohibited.

No parent, guardian, or other person shall coerce a minor to undergo an abortion or to continue a pregnancy. Any minor who is threatened with such coercion may apply to a court of competent jurisdiction for relief. The court shall provide the minor with counsel, give the matter expedited consideration, and grant such relief as may be necessary to prevent such coercion. Should a minor be denied the financial support of her parents or legal guardian by reason of her refusal to undergo abortion or to continue a pregnancy, she shall be considered emancipated for purposes of eligibility for assistance benefits.

§ 1787. Medical Emergency Exception.

The requirements of § 1783, § 1784 and § 1786 of this Act shall not apply when, in the best medical judgment of the physician or other medically authorized person, based on the facts of the case, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion.

§ 1788. Counseling to affected persons.

The Division of Child Mental Health Services, Department of Services for Children, Youth and Their Families, shall offer counseling and support to any minor who is pregnant and is considering filing or has filed an application under this subchapter, if the minor requests such services. Notwithstanding any contrary statute, no notification of the request for or provision of such services to the minor shall be provided to any person, nor shall the consent of any person thereto be required.

§ 1789. Penalty and Criminal Jurisdiction.

(a) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion has been performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of this Act, shall be guilty of a class A misdemeanor.

(b) The Superior Court shall have exclusive jurisdiction of violations of this section.

§ 1790. Notice and avoidance of liability.

In any prosecution pursuant to § 1789 of this chapter, the State shall prove beyond a reasonable doubt that the physician (or other medically authorized person) who performed the abortion did not have a good faith belief on his or her part that actual notice was given by such physician (or other medically authorized person), his or her agent, or the referring physician or another medically authorized person to a person listed in § 1783(a) of this chapter as qualified to receive notice. In any civil case, the plaintiff must prove the absence of such a good faith belief by clear and convincing evidence.

§ 1791. Civil Damages Available.

Failure to give notice pursuant to the requirements of this Act is prima facie evidence of interference with family relations in appropriate civil actions. The law of this State shall not be construed to preclude the award of punitive damages in any civil action relevant to violations of this Act. Nothing in this Act shall be construed to limit the common law rights of parents."

Section 2. Amend § 921, Chapter 9, Title 10, Delaware Code, by adding a new paragraph to read as follows:

"(15) Proceedings relative to parental notice of abortion under Subchapter VIII, Chapter 17, Title 24."

Section 3. Severability.

If any provision, word, phrase, or clause of this Act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions, words, phrases, clauses, or application of this Act which can be given effect without the invalid provision, word, phrase, clause, or application, and to that end the provisions, words, phrases, and clauses of this Act are declared to be severable.

Section 4. This Act takes effect 90 days after it becomes law.

Approved July 17, 1995

CHAPTER 239**FORMERLY****SENATE BILL NO. 99****AS AMENDED BY****HOUSE AMENDMENT NO. 1**

**AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE TO EXTEND THE EXISTING
REGISTRATION REQUIREMENT FOR EXTREMELY HAZARDOUS
SUBSTANCES FROM ONE TO THREE YEARS.**

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

Section 1. Amend §7709, Title 7 of the Delaware Code by striking subsection (a) in its entirety and substituting in lieu thereof the following:

"(a) Within fourteen (14) months of July 19, 1988, the Department shall prepare a registration form and shall issue public notice for all persons to register any EHS in an amount equal to or greater than its RQ. Each person shall return the completed registration form and the fee, if required, to the Department within sixty (60) days of the issuance of the notice and once every three(3) years thereafter, and attest compliance with the provisions of this chapter and its regulations. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended notice within sixty (60) days to the Department."

Approved July 17, 1995

CHAPTER 240

FORMERLY

SENATE BILL NO. 106

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO THE TEMPORARY STORAGE OF HAZARDOUS WASTES.

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

Section 1. Amend §6302(13), Title 7 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(13) 'Storage' means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous wastes."

Section 2. Amend §6306, Title 7 of the Delaware Code by striking subsection (g) in its entirety and substituting in lieu thereof the following:

"(g) Any person transporting hazardous waste who owns, operates or utilizes a hazardous waste transfer facility for storage of in-transport hazardous waste shall do so in accordance with the Delaware Regulations Governing Hazardous Wastes."

Section 3. Amend §6306, Title 7 of the Delaware Code by striking subsections (h), (i) and (j) in their entirety.

Section 4. Amend §6319, Title 7 of the Delaware Code by redesignating existing subsections (h), (i) and (j) as (i), (j) and (k), respectively. Further amend said section by adding a new subsection (h) to read as follows:

"(h) The owner or operator of a hazardous waste transfer facility shall be assessed an annual fee, as established by the Department and approved by the General Assembly, for all waste stored at the facility not subject to the assessment provisions of this section. The timing of the assessment, payment and penalties shall be consistent with the requirements of this section."

Approved July 17, 1995

CHAPTER 241

FORMERLY

HOUSE BILL NO. 130

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND CHAPTER 60 AND CHAPTER 74, TITLE 7 OF THE DELAWARE CODE RELATING TO STAGE 1 VAPOR RECOVERY PERMITS.

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

Section 1. Amend Subchapter I, Chapter 74, Title 7 of the Delaware Code by adding thereto a new section, designated as § 7420, to read as follows:

“§ 7420. Notification Requirement for Stage 1 Vapor Recovery Activities.

The vapor recovery permit requirements for Stage 1 vapor recovery equipment, as identified by the Department, and operation thereof required under § 6003 of this Title may be suspended by the Secretary and replaced with a notification requirement in accordance with duly promulgated regulations.”

Section 2. Amend Subchapter II, Chapter 74, Title 7 of the Delaware Code by redesignating § 7420, § 7421, § 7422, § 7423 therein as § 7421, § 7422, § 7423, § 7424, respectively.

Section 3. Amend Subchapter III, Chapter 74, Title 7 of the Delaware Code by redesignating § 7424 therein as § 7425.

Approved July 17, 1995

CHAPTER 242

FORMERLY

HOUSE BILL NO. 107

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 19 AND TITLE 29 OF THE DELAWARE CODE RELATING TO THE REGULATION OF PRIVATE EMPLOYMENT AGENCIES.

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

Section 1. Amend Chapter 31, § 3155, Title 19 of the Delaware Code by striking said section in its entirety.

Section 2. Amend Chapter 88, § 8810(b), Title 29 of the Delaware Code by striking said subsection in its entirety, and redesignating subsections (c) through (l) of § 8810 as subsections (b) through (k) respectively.

Section 3. Amend Chapter 83, § 8305(2)(a)(3), Title 29 of the Delaware Code, by striking said subparagraph in its entirety.

Approved July 17, 1995

CHAPTER 243

FORMERLY

HOUSE BILL NO. 125

AN ACT TO AMEND CHAPTER 64, TITLE 7 OF THE DELAWARE CODE TO ELIMINATE THE REQUIREMENT FOR APPROVAL BY THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL PRIOR TO DISPOSAL OF INDUSTRIAL SOLID WASTE AT DELAWARE SOLID WASTE AUTHORITY FACILITIES.

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

Section 1. Amend § 6427(b), Chapter 64, Title 7 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

“(b) The Authority shall develop criteria, to be approved by the Department, for determining whether industrial solid wastes or special solid wastes are acceptable for disposal at the Authority's facilities. The Authority may require, from any person seeking to dispose of industrial solid waste or special solid waste at any of its facilities, any evidence the Authority deems necessary to determine whether the industrial solid waste or special solid waste meets the criteria developed pursuant to this subsection.”

Approved July 17, 1995

CHAPTER 244

FORMERLY

HOUSE BILL NO. 288

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CORRECTIONS; AND PROVIDING FOR A BOOT CAMP INTENSIVE INCARCERATION ACT.

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

Section 1. Amend Part IV, Title 11 of the Delaware Code by adding thereto a new chapter, designated as Chapter 67, which new chapter shall read as follows:

"CHAPTER 67. BOOT CAMP INTENSIVE INCARCERATION**§6701. Findings and Purposes**

(a) The General Assembly hereby finds that certain offenders, especially young adults, respond positively to a short term military-type program which would provide for the restructuring of behavior through a highly-regimented routine of physical exercise, hard work, continued education, and substance abuse therapy. The General Assembly also finds that the cost of incarcerating the increasing number of criminal offenders in conventional prison facilities has been increasing annually, and there is an urgent need to develop and implement innovative and cost-effective options to alleviate prison overcrowding.

(b) This Chapter has the following purposes:

(1) *Deterrence*: to include a 'shock' component to give certain offenders, especially young first offenders, an advance warning of the unpleasant consequences of conventional imprisonment, in an attempt to discourage future criminal behavior;

(2) *Cost effectiveness*: to reduce future corrections expenses by utilizing cost avoidance as an effective strategy of cost savings and capital savings due to implementation of this Chapter.

(3) *Rehabilitation*: to develop a foundation on which a participant in the program can develop the self-control needed to meet daily stresses and challenges;

(4) *Behavior modification*: to instill more positive attitudes and behavior within each participant, which will be reflected, upon release, in less negative behavior and no subsequent arrests for violent crimes.

§6702. Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

(a) "Bureau" shall mean the Bureau of Prisons.

(b) "Department" shall mean the Department of Correction.

§6703. "Violent Crime" defined

(a) For purposes of this Chapter, the words "violent crime" shall mean: abuse of an infirm adult; abuse of a patient in a nursing facility; abuse of a patient causing injury; abuse of a patient

causing death; adulteration causing death; adulteration causing injury; aggravated intimidation; arson in the first degree; arson in the second degree; assault in the first degree; assault in the second degree; assault in the third degree; assault in the first degree on K-9 dog causing, injury or death to the dog; assault on a K-9 dog with risk of injury to the dog; assault in a detention facility which causes injury; assault in a detention facility; assault on a sports official; bestiality; burglary in the first degree; burglary in the second degree;

Carjacking; carrying a concealed dangerous instrument; carrying a concealed deadly weapon (second offense); continuous sexual abuse of child; criminally negligent homicide; dealing with child pornography, second offense; delivering drug paraphernalia to a minor; delivery or distribution of narcotics within 1000 feet of a school; delivery or distribution of narcotics within 300 feet of a park; delivery or manufacture of narcotics causing death; delivery or manufacture or possession with intent to deliver narcotics (non-use); delivery or manufacture or possession with intent to deliver narcotics listed on schedule I or schedule II; delivery of narcotics to minor under 16 years of age; delivery of narcotics to minor; delivery of non-narcotic drugs to a minor under 16 years of age; delivery or distribution of non-narcotic drugs within 1000 feet of a school; delivery or distribution of non-narcotic drugs within 300 feet of parkland; delivery or manufacture or possession with intent to deliver a non-narcotic controlled substance; delivery or possession with intent to deliver a prescription body-building drug; possession of a destructive weapon; trafficking in drugs; reckless endangering;

Escape after conviction; escape in the second degree; extortion; possession of an explosive device;

Unlawful imprisonment; incest; kidnapping in the first degree; kidnapping in the second degree; manslaughter; manufacture or delivery or possession with intent to deliver any schedule I or schedule II narcotic; manufacture or delivery or possession with intent to deliver non-narcotics; manufacture or use or possession of explosives or an incendiary device; murder in the first degree; murder in the second degree;

Organized crime and racketeering; possession of a deadly weapon during the commission of a felony; possession of a destructive weapon; possession of a firearm during the commission of a felony; promoting prison contraband (weapon); promoting prostitution in the first degree;

Racketeering; reckless endangering first degree; reckless endangering in the second degree; riot; robbery in the first degree; robbery in the second degree; continued sexual abuse of child; unlawful sexual contact in the first degree; unlawful sexual contact in the second degree; unlawful sexual contact in the third degree; sexual exploitation of a child; sexual extortion; unlawful sexual intercourse in the first degree; unlawful sexual intercourse in the second degree; unlawful sexual intercourse in the third degree; unlawful sexual penetration in the first degree; unlawful sexual penetration in the second degree; unlawful sexual penetration in the third degree; stalking;

Terroristic threatening; trafficking in illegal drugs; unlawful delivery of a controlled substance; unlawful firearm transactions (second or subsequent offense); unlawful imprisonment in the first degree; unlawful transportation of a firearm to commit a felony; vehicular assault in the first degree; vehicular assault in the second degree; vehicular homicide in the first degree; vehicular homicide in the second degree; wearing body armor during felony.

§6704. Establishment of boot camp programs

(a) The Bureau of Prisons may establish one or more regimented boot camp inmate training programs. Subject to appropriations therefor, each such program shall include, but not be limited to:

- (1) a military-style intensive physical training and discipline component;
- (2) an educational and vocational component, emphasizing job-seeking skills;
- (3) a health education component; and

(4) a substance abuse education and treatment component, which shall be structured as an integral part of the boot camp program.

(5) such other activities as may be deemed appropriate and effective by the Bureau.

(b) The Bureau may establish and enforce standards for the boot camp program, and each component set forth in paragraphs (1) through (5) of subsection (a).

(c) The boot camp facilities and all boot camp participants should be effectively separated from the general inmate population, and shall be supervised by a specially-trained staff.

(d) The boot camp program shall be six months in duration; provided however, that any participant who is assigned to the program shall remain in the program at least one month, unless the camp commander, in his or her discretion, determines otherwise. In exceptional cases, a participant may be retained in the program in order to join the next following class if the additional time spent in the program is, in the opinion of the Bureau, needed to allow such person to complete the program successfully after illness or other circumstance has delayed such person's normal progress through the program.

(e) Selection for participation in a boot camp program is a privilege, and not a right. No person has the right to participate in a boot camp program.

§6705. Sentencing: boot camp designation

(a) Each participant in the boot camp program shall have first been convicted of a criminal offense. The trial court, after receiving recommendations from the Attorney General at or before the time of sentencing, may designate an offender as "boot camp eligible." The trial judge shall have full discretion and authority to exclude any offender from eligibility if in the determination of the judge such offender would be inappropriate for placement in a boot camp. No person shall be eligible for participation in any boot camp program, nor undergo classification for any boot camp program, nor participate in any boot camp program unless such person has been designated as boot camp eligible by the trial court. Where the Bureau believes an inmate would successfully complete the boot camp program, it may recommend such person's name to the trial judge, who may determine eligibility in accordance with the provisions of this Chapter.

(b) Notwithstanding the provisions of subsection (a), any person convicted for any of the following reasons shall not be eligible for boot camp participation:

(1) any person declared to be an habitual offender under §4214, Title 11 of the Delaware Code;

(2) any person who has ever been convicted of a violent crime;

(3) any person convicted of escape after conviction or escape in the second degree;

(4) escape in third degree, as a second offense.

(c) The selection of boot camp participants shall be made by the Bureau from those offenders designated by the Courts as boot camp eligible. However, satisfying the statutory qualifications for admission to the boot camp program does not mean an offender will automatically be permitted to participate in the program.

§6706. Criteria for Selection and Classification by the Bureau

In order for a person to be eligible for selection by the Bureau for the boot camp program, such person shall:

(a) not have been convicted of a violent crime;

(b) be at least eighteen years of age at the time of sentencing;

(c) have been sentenced to a period of incarceration of five years or less;

(d) in accordance with the Bureau's assessment and determination, be physically and mentally capable of successfully completing the rigorous boot camp program, provided, however, no such assessment and/or determination shall be deemed as a waiver of any of the various immunity defenses or otherwise trigger a duty, obligation and/or liability on the Department or Bureau not presently provided under applicable law;

(e) be a resident of the state of Delaware; and

(f) have a term of not less than nine months, nor have more than eighteen months remaining in level V incarceration.

§6707. Contract: admission into the program

No offender may participate in the boot camp program unless such individual voluntarily enrolls by agreeing to be bound by a written contract with the Bureau, which contract shall clearly set forth the obligations, duties, responsibilities and expectations with which such offender must comply. A representative of the Bureau shall also explain to the offender the intended benefits of the program, and the consequences of failing the program. The time served as a boot camp participant shall begin the first day such person is physically within the camp.

§6708. Evaluation of Program Participants

Each participant shall be evaluated by members of the boot camp staff on a continual basis throughout the period of such person's participation in the program. Such evaluation shall include the participant's performance within the program, the likelihood of successful adjustment after release, and such other matters which the boot camp staff deems relevant or important.

§6709. Conduct and Administration of boot camp program

(a) The program shall be a rigorous military-type program which, among other features, shall include mandatory physical training; hard labor which has a rational goal or objective; military formations, drills and courtesies; regimentation of all activities, except those which are specifically exempted by the camp commander; control which is strict, but not capricious; uniformity and cleanliness in dress and appearance; education and counseling; and drug treatment, counseling and education where appropriate.

(b) The Bureau and the camp commander shall establish rules and regulations for the conduct and administration of each boot camp program. Such rules and regulations shall reflect the goals and objectives of this Chapter, and shall include a system of rewards for individuals and groups based upon achievements and progress in achieving camp standards and requirements; and shall include sanctions, administered by the staff within the confines and authority of the camp, to punish those individuals whose demeanor, behavior or attitude do not comply with camp standards and requirements. The rules and regulations shall also include the supervision and the structure to be used in each program offered by the camp.

(c) The camp commander and staff shall be responsible for the day-to-day functions and decisions affecting the operations of the boot camp. Each full-time employee employed inside the boot camp shall, to the extent possible, be a volunteer regardless of job description or function. All boot camp employees shall receive appropriate specialized boot camp training. Each drill instructor shall receive specialized drill instructor training, preferably military training, from an agency which specializes in such training. Boot camp employees shall receive, for the same general responsibilities, the same salaries as prison employees not employed in a boot camp. Job bidding shall not be used in the selection of the camp staff.

(d) Participants may be formed into work squads by boot camp staff to perform labor-intensive projects outside the perimeters of the camp. No wages shall be paid to individual participants working outside the camp, but the camp commander may from time to time receive funds or gifts for the general use or benefit of the camp or for all participants. Work squads may be utilized to work on State, county, municipal or town projects; for disaster relief, civil or community emergencies; and for specific projects for non-profit organizations, if the Bureau determines that the project is of direct benefit to a community or a large number of people, and

not for the organization itself. No work squad is permitted to do any labor for the benefit of any individual or commercial entity. Approved projects may include, but are not limited to, highway clean-up and trash removal; timber clearing on state forestry lands; preparing and stacking sandbags in the event of a flood; and beach and state park clean-up. Participants are not employees for purposes of worker's compensation.

§6710. Sanctions: removal from the program

(a) A participant who is accepted into the boot camp program shall not receive any credit for time spent in the program, except for actual time served, unless such participant completes the full program. Before any participant is deemed to have completed the full boot camp program, such participant must have been graduated from the program with a written certification of successful completion.

(b) A participant who fails to complete the boot camp program, who is administratively terminated from the program, or who violates any conditions of the program, shall be reclassified to serve the full unexpired term of his original sentence.

(c) Upon the successful completion of the boot camp program as determined by the Department in its sole discretion, and having served at least six months of incarceration, the participant shall be allowed to serve the remaining part of his or her level V sentence at either level IV or level III, in the discretion of the Department. Should a boot camp graduate violate the level IV or Level III conditions of supervision, such person shall upon conviction of a violation of probation, be returned to level V custody to serve the full term of the original level V sentence, less the six months served in boot camp.

§6711. Aftercare: intensive parole supervision

A person who has successfully completed the boot camp program shall be placed under probation supervision (level IV or level III supervision). During this period, such person shall participate in an aftercare program which emphasizes completion of GED requirements where appropriate, drug and alcohol education and treatment; the development of job placement skills and opportunities; and the learning of successful employment habits and attitudes.

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

Section 3 This Act shall be known as, and may be referred to as, the Boot Camp Incarceration Act.

Approved July 18, 1995

CHAPTER 245

FORMERLY

SENATE BILL NO. 255

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

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

Section 1. Amend §3181(a), Title 15 of the Delaware Code by striking all the words after "shall be conducted" and by substituting in lieu thereof the following:

"on the Saturday next following the day on which the state of New Hampshire elects to conduct a Presidential Primary Election."

Section 2. Amend §3181(b), Title 15 of the Delaware Code by striking all the words after "the State Election Commissioner in writing" and by substituting in lieu thereof the following:

"prior to the close of business on August 1 of the year preceding any year in which a President of the United States is to be elected that such political party elects not to be governed by the provisions of this subchapter."

Section 3. Amend §5503, Title 15 of the Delaware Code by deleting the period (".") following the words "year in which the election is to be held." in the third sentence and adding the following:

"except in the case of a Presidential Primary Election, in which case the affidavit shall not be dated prior to August 15 of any year prior to the year in which a President of the United States is to be elected."

Section 4. Amend §3183(a), Title 15 of the Delaware Code by deleting from the first sentence in §3183(a) the words "on or before 12:00 Noon of the 1st Friday in January" and inserting in lieu thereof the following:

"at least thirty (30) days prior to the Presidential Primary Election held in the State of Delaware, as set by the State Election Commissioner, but in no event, prior to the third Friday in December in the year preceding the year in which the President of the United States is elected, or later than the first Friday in January in the year in which the President of the United States is elected."

Section 5. Amend §3183(a), Title 15 of the Delaware Code by deleting from the second sentence the words "1st Friday in January" and by substituting in lieu thereof the following:

"date set for the filing deadline".

Section 6. Amend §3183(b), Title 15 of the Delaware Code by deleting the subsection in its entirety and by substituting in lieu thereof the following:

"(b) Such notification of candidacy may be withdrawn on or before the deadline for candidate filing without penalty. In the event that said notification of candidacy is withdrawn after the filing deadline, all filing fees paid in accordance with §3187 of this Title shall be forfeited. The Commissioner of Elections shall convey all forfeited filing fees to the state committee of the withdrawn candidate's political party."

Section 7. Amend §3183(c), Title 15 of the Delaware Code by inserting a period (".") after the words "State of New Hampshire" and by deleting all the words that follow the "State of New Hampshire".

Section 8. Amend §3183, Title 15 of the Delaware Code by inserting the following subsection:

not for the organization itself. No work squad is permitted to do any labor for the benefit of any individual or commercial entity. Approved projects may include, but are not limited to, highway clean-up and trash removal; timber clearing on state forestry lands; preparing and stacking sandbags in the event of a flood; and beach and state park clean-up. Participants are not employees for purposes of worker's compensation.

§6710. Sanctions: removal from the program

(a) A participant who is accepted into the boot camp program shall not receive any credit for time spent in the program, except for actual time served, unless such participant completes the full program. Before any participant is deemed to have completed the full boot camp program, such participant must have been graduated from the program with a written certification of successful completion.

(b) A participant who fails to complete the boot camp program, who is administratively terminated from the program, or who violates any conditions of the program, shall be reclassified to serve the full unexpired term of his original sentence.

(c) Upon the successful completion of the boot camp program as determined by the Department in its sole discretion, and having served at least six months of incarceration, the participant shall be allowed to serve the remaining part of his or her level V sentence at either level IV or level III, in the discretion of the Department. Should a boot camp graduate violate the level IV or Level III conditions of supervision, such person shall upon conviction of a violation of probation, be returned to level V custody to serve the full term of the original level V sentence, less the six months served in boot camp.

§6711. Aftercare: intensive parole supervision

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

Section 3 This Act shall be known as, and may be referred to as, the Boot Camp Incarceration Act.

Approved July 18, 1995

CHAPTER 245

FORMERLY

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"on the Saturday next following the day on which the state of New Hampshire elects to conduct a Presidential Primary Election."

Section 2. Amend §3181(b), Title 15 of the Delaware Code by striking all the words after "the State Election Commissioner in writing" and by substituting in lieu thereof the following:

"prior to the close of business on August 1 of the year preceding any year in which a President of the United States is to be elected that such political party elects not to be governed by the provisions of this subchapter."

Section 3. Amend §5503, Title 15 of the Delaware Code by deleting the period (".") following the words "year in which the election is to be held." in the third sentence and adding the following:

"except in the case of a Presidential Primary Election, in which case the affidavit shall not be dated prior to August 15 of any year prior to the year in which a President of the United States is to be elected."

Section 4. Amend §3183(a), Title 15 of the Delaware Code by deleting from the first sentence in §3183(a) the words "on or before 12:00 Noon of the 1st Friday in January" and inserting in lieu thereof the following:

"at least thirty (30) days prior to the Presidential Primary Election held in the State of Delaware, as set by the State Election Commissioner, but in no event, prior to the third Friday in December in the year preceding the year in which the President of the United States is elected, or later than the first Friday in January in the year in which the President of the United States is elected."

Section 5. Amend §3183(a), Title 15 of the Delaware Code by deleting from the second sentence the words "1st Friday in January" and by substituting in lieu thereof the following:

"date set for the filing deadline".

Section 6. Amend §3183(b), Title 15 of the Delaware Code by deleting the subsection in its entirety and by substituting in lieu thereof the following:

"(b) Such notification of candidacy may be withdrawn on or before the deadline for candidate filing without penalty. In the event that said notification of candidacy is withdrawn after the filing deadline, all filing fees paid in accordance with §3187 of this Title shall be forfeited. The Commissioner of Elections shall convey all forfeited filing fees to the state committee of the withdrawn candidate's political party."

Section 7. Amend §3183(c), Title 15 of the Delaware Code by inserting a period (".") after the words "State of New Hampshire" and by deleting all the words that follow the "State of New Hampshire".

Section 8. Amend §3183, Title 15 of the Delaware Code by inserting the following subsection:

"(d) In the event that only one candidate files for a party's nomination by the filing deadline set forth in subsection (a) of this section, that candidate shall be considered as having received 100% of the vote for that party's Presidential Primary Election automatically upon the expiration of the filing deadline and thus declared the winner of that election. In the event no candidate files for the party's nomination, no election shall be held for that party's nomination."

Section 9. Amend §3184(1), Title 15 of the Delaware Code by deleting the words "recognized pursuant to §3001 of this title," and by substituting in lieu thereof the following:

"appearing on the ballot of the previous General Election,".

Section 10. Amend §3184(2), Title 15 of the Delaware Code by deleting the period (".") following the words "political party as the candidate" and by adding the following:

"at the time of the filing in accordance with §3183(a) of this subchapter."

Section 11. Amend §3186, Title 15 of the Delaware Code by deleting the section in its entirety.

Section 12. Amend §3188, Title 15 of the Delaware Code by deleting the section in its entirety.

Section 13. Amend §3187, Title 15 of the Delaware Code by deleting the period ("") following the words "the candidate's political party" and by substituting in lieu thereof the following:

" , and on a form prescribed by the State Election Commissioner, certify one (1) individual, who is registered to vote in the State of Delaware and of the same political party affiliation as the candidate, who is authorized by the candidate to act on his or her behalf in all election-related matters. The candidate will be held jointly responsible with his or her authorized representative for compliance with all of the election laws for the State of Delaware. Following the deadline for withdrawal of candidacy set forth in §3183(b) of this Title, the State Election Commissioner shall promptly turn over the filing fee checks of the presidential primary candidates to the state chairman of their political parties."

Section 14. Amend §3189, Title 15 of the Delaware Code by deleting the subsection in its entirety and by substituting in lieu thereof the following:

"§3189. Presidential primary election ballots, voting in presidential election; change of party affiliation.

The name of each presidential candidate in the presidential primary shall appear on the primary election ballot in accordance with §3124(b) of this Title. In any presidential primary election, each voter shall be permitted to vote one vote for one presidential candidate of the party of the voter's registration as shown by the voter's original permanent registration record. A duly registered voter may not apply to change his or her party affiliation as designated on his or her registration record during the period from the fourth Friday in the month of September immediately preceding the day of the presidential primary election until the first Monday immediately following the day of the presidential primary election."

Section 15. Amend §2049(b), Title 15 of the Delaware Code by deleting the subsection in its entirety and by substituting in lieu thereof the following:

"(b) In the event that the time period from the first Monday immediately following the day of the Presidential Primary Election is less than thirty (30) calendar days prior to March 1 in the year in which a President of the United States is elected, or after March 1 in the year in which the President of the United States is elected, a duly registered voter may change his or her party designation upon the permanent registration record during the period of thirty (30) days beginning the Monday after said Presidential Primary Election."

Approved July 18, 1995

CHAPTER 246

FORMERLY

SENATE BILL NO. 254

AN ACT TO AMEND CHAPTER 41, TITLE 7, DELAWARE CODE RELATING TO DRAINAGE OF LANDS; TAX DITCHES.

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

Section 1. Amend the title of the Chapter 41, Delaware Code, by striking the caption in its entirety and substituting in lieu thereof a new caption to read as follows:

"CHAPTER 41. DRAINAGE OF LANDS AND MANAGEMENT OF WATERS; TAX DITCHES"

Section 2. Amend Section 4101, Chapter 41, Title 7 of the Delaware Code, by striking the phrase "low, wet, swampy or overflowed lands or".

Section 3. Amend Section 4101, Chapter 41, Title 7 of the Delaware Code, by striking the phrase "subject to overflow" and substituting in lieu thereof ", and the management of water for resource conservation".

Section 4. Amend Section 4102, Chapter 41, Title 7 of the Delaware Code, by striking the word "drainage" and substituting in lieu thereof "tax ditch".

Section 5. Amend Section 4102, Chapter 41, Title 7 of the Delaware Code, by inserting the phrase "and management" following the word "conservation".

Section 6. Amend Section 4103(1), Chapter 41, Title 7 of the Delaware Code, by striking the phrase "draining one's lands into" and substituting in lieu thereof "participating in a cooperative system for the management of water from one's lands by".

Section 7. Amend Section 4103, Chapter 41, Title 7 of the Delaware Code, by appending the following sections to the end of the section:

" (5) 'Flooding' means the occurrence of damaging, excess surface water. The occurrence of surface water for beneficial uses is a component of water management, not flooding.

(6) 'Water management' means the removal, storage, or application of water by intentional means, including but not limited to management methods using drains, channels, culverts, structures for water level control, and dams."

Section 8. Amend Section 4106 (a), Chapter 41, Title 7 of the Delaware Code, by inserting, following the phrase "knowledge of", the phrase "water management including" and additionally inserting , following the phrase "drainage problems", the phrase "and their impacts to natural resources".

Section 9. Amend Section 4107, Chapter 41, Title 7 of the Delaware Code, by striking the phrase "area to be drained by" and substituting in lieu thereof the phrase "boundary of".

Section 10. Amend Section 4117 (a), Chapter 41, Title 7 of the Delaware Code, by inserting , following the first occurrence of the word "flooding", the phrase "or the waters of their lands to be managed".

Section 11. Amend Section 4117 (a), Chapter 41, Title 7 of the Delaware Code, by striking the second occurrence of the phrase "to be drained or protected from flooding," and substituting in lieu thereof the word "involved".

Section 12. Amend Section 4118, Chapter 41, Title 7 of the Delaware Code, by striking the phrase "low, wet, swampy or overflowed lands or" and inserting, following the phrase "lands subject to overflow", the phrase "or in need of water management".

Section 13. Amend Section 4118, Chapter 41, Title 7 of the Delaware Code, by striking, following the phrase "Whereas the draining", the word "of" and substituting in lieu thereof the phrase "and the prevention of flooding of said lands, and/or the management of water for resource conservation on".

Section 14. Amend Section 4121, Chapter 41, Title 7 of the Delaware Code, by striking the second sentence in its entirety and substituting therein the following:

"If the petition is in the prescribed form and has been properly executed, the board shall immediately notify the Division of Soil and Water Conservation, and by virtue of such action shall have made available to it the services of the Department of Natural Resources and Environmental Control to assist it with the investigation concerning the possible formation of the tax ditch."

Section 15. Amend Section 4123, Chapter 41, Title 7 of the Delaware Code, by striking the second sentence in its entirety.

Section 16. Amend Section 4125(a), Chapter 41, Title 7 of the Delaware Code, by striking the phrase "to be drained or protected from flooding" and substituting in lieu thereof the word "involved".

Section 17. Amend Section 4126(a), Chapter 41, Title 7 of the Delaware Code, by striking in the first sentence the phrase "to be drained or protected from flooding" and substituting in lieu thereof the phrase "that may be included in the tax ditch".

Section 18. Amend Section 4126(a), Chapter 41, Title 7 of the Delaware Code, by inserting, prior to the second occurrence of the word "sizes", the word "approximate".

Section 19. Amend Section 4126(a), Chapter 41, Title 7 of the Delaware Code, by striking the phrase "the watershed of".

Section 20. Amend Section 4126(a), Chapter 41, Title 7 of the Delaware Code, by striking the phrase "said watershed" and substituting in lieu thereof "the tax ditch".

Section 21. Amend Section 4126(a), Chapter 41, Title 7 of the Delaware Code, by striking the phrase "tax ditch watershed" and substituting in lieu thereof the phrase "tax ditch".

Section 22. Amend Section 4126(b), Chapter 41, Title 7 of the Delaware Code, by striking the phrase "to be drained or protected from flooding" and substituting in lieu thereof "involved".

Section 23. Amend Section 4130(3)d, Chapter 41, Title 7 of the Delaware Code, by striking the phrase "watershed or area proposed to be drained".

Section 24. Amend Section 4130(3)e, Chapter 41, Title 7 of the Delaware Code, by striking the word "watershed".

Section 25. Amend Section 4131, Chapter 41, Title 7 of the Delaware Code, by striking in the first sentence the phrase "to be drained or protected from flooding" and substituting in lieu thereof the word "involved".

Section 26. Amend Section 4131, Chapter 41, Title 7 of the Delaware Code, by striking the second sentence in its entirety and substituting in lieu thereof the following:

"The notice shall be mailed by first-class mail at least 20 days prior to the hearing and shall designate the time and place thereof."

Section 27. Amend Section 4131, Chapter 41, Title 7 of the Delaware Code, by inserting in the last sentence, following the word "hearing" the word "date".

Section 28. Amend Section 4132, Chapter 41, Title 7 of the Delaware Code, by striking in the third sentence the phrase "to a fixed future date".

Section 29. Amend Section 4132, Chapter 41, Title 7 of the Delaware Code, by inserting after the third sentence the following:

"The hearing may be adjourned to a fixed future date with no additional notification required or adjourned to an unspecified future date for which the notification and display procedures of § 4131 of this title will again apply."

Section 30. Amend Section 4133, Chapter 41, Title 7 of the Delaware Code, by striking in the first sentence the phrase "to be drained or prevented from flooding" and substituting in lieu thereof the word "involved".

Section 31. Amend Section 4133(3), Chapter 41, Title 7 of the Delaware Code, by striking the phrase "provided with a direct drainage outlet into" and substituting in lieu thereof the phrase "directly or indirectly affected by".

Section 32. Amend Section 4136(c), Chapter 41, Title 7 of the Delaware Code, by striking in the first sentence the phrase "to be drained or prevented from flooding" and substituting in lieu thereof the word "involved".

Section 33. Amend Section 4136(c), Chapter 41, Title 7 of the Delaware Code, by inserting after the first sentence the following:

"Notice of the final hearing shall also be given to landowners involved by first class mail. This notice shall be mailed not less than 15 days before the time of the hearing."

Section 34. Amend Section 4137, Chapter 41, Title 7 of the Delaware Code, by striking the first sentence and substituting in lieu thereof the following:

"At least 10 days prior to the date set for the final hearing before the Superior Court, any interested person may file his objection in writing to the report of the board of ditch commissioners."

Section 35. Amend Section 4137, Chapter 41, Title 7 of the Delaware Code, by inserting following the second sentence the following:

"Damages to any one landowner shall not be grounds for denying the petition, but may be used to adjust the assessment base of that property or the damages to be paid to that landowner and shall be considered as part of the total cost of the proposed tax ditch."

Section 36. Amend Section 4137, Chapter 41, Title 7 of the Delaware Code, by striking in the last sentence the word "filed" and substituting in lieu thereof the word "presented".

Section 37. Amend Section 4142, Chapter 41, Title 7 of the Delaware Code, by striking the phrase "to be drained" and substituting in lieu thereof the word "involved".

Section 38. Amend Section 4152(b), Chapter 41, Title 7 of the Delaware Code, by striking in its entirety and re-label the next subsection "(c)" to "(b)".

Section 39. Amend Section 4156(c), Chapter 41, Title 7 of the Delaware Code, by striking in its entirety and substituting therein the following:

"(c) In the event that any tax ditch officer dies, resigns, ceases to be one of the taxables, or is removed from office, the remaining ditch officers shall within 60 days, appoint a taxable to serve the remainder of the term of such officer. However, except in the case of death or removal from office, each tax ditch officer shall continue to serve until his successor has been appointed."

Section 40. Amend Section 4159, Chapter 41, Title 7 of the Delaware Code, by striking in the first sentence the phrase " , which shall be held in January".

Section 41. Amend Section 4161(2), Chapter 41, Title 7 of the Delaware Code, by inserting after the word "ditch" the phrase " , and suits against the tax ditch shall be governed by 10 DEL. C. Chapter 40, Subchapter I".

Section 42. Amend Section 4167, Chapter 41, Title 7 of the Delaware Code, by adding to the end thereof the following sentence:

"The tax ditch shall indemnify the ditch managers or other officers in accordance with 10 DEL. C. § 4003 for all tort claims."

Section 43. Amend Section 4186, Chapter 41, Title 7 of the Delaware Code, by striking each occurrence of the words "drainage system" and substituting therein the words "tax ditch".

Section 44. Amend Section 4187, Chapter 41, Title 7 of the Delaware Code, by striking "area to be drained" substituting therein "tax ditch".

Section 45. Amend Section 4188(b), Chapter 41, Title 7 of the Delaware Code, by striking in the first sentence the phrase "landowner drains, directly or indirectly into any part of a tax ditch, land which is not within the drainage area of the tax ditch as established in the ditch order and which was not assessed as part of the tax ditch, or which was not assessed to the prong or part of the tax ditch into which said land is drained" and substitute in lieu thereof "landowner, directly or indirectly, alters his lands to utilize any part of a tax ditch to benefit land which is not within the original boundary of the tax ditch as established in the ditch order and which was not assessed as part of the tax ditch, or which was not assessed to the prong or part of the tax ditch utilized by the alteration"

Section 46. Amend Section 4189, Chapter 41, Title 7 of the Delaware Code, by striking in the first sentence the number "1" and substituting in lieu thereof the word "one".

Section 47. Amend Section 4189(1), Chapter 41, Title 7 of the Delaware Code, by striking in the second sentence "4" and substituting in lieu thereof "3".

Section 48. Amend Section 4189(1), Chapter 41, Title 7 of the Delaware Code, by inserting in the third sentence the word "and" after "proper county," and following the word "ditch" strike the phrase "and file 1 copy with the Department of Natural Resources and Environmental Control".

Section 49. Amend Section 4189(2), Chapter 41, Title 7 of the Delaware Code, by striking in the first sentence "4" and substituting in lieu thereof "3".

Section 50. Amend Section 4189(2), Chapter 41, Title 7 of the Delaware Code, by inserting in the second sentence the word "and" after "proper county" and following the word "ditch," strike the phrase "and file 1 copy with the Department of Natural Resources and Environmental Control".

Approved July 18, 1995

CHAPTER 247

FORMERLY

HOUSE BILL NO. 244

AS AMENDED BY

HOUSE AMENDMENT NO. 2

AN ACT TO AMEND SECTION 2118, TITLE 21 OF THE DELAWARE CODE, RELATING TO REGISTRATION OF VEHICLES AND UNINSURED MOTORISTS.

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

Section 1. Amend § 2118(s), Title 21 of the Delaware Code, by deleting paragraph (1) thereof and inserting the following paragraph in its place:

"(1) Whoever violates any subsection of this section shall be fined for the first offense not less than \$1,500 nor more than \$2,000 and shall have his driving license and/or privileges suspended for 6 months. For each subsequent offense occurring within 3 years of a former offense, he shall be fined not less than \$3,000 nor more than \$4,000. The minimum fine levied for a violation of subsection (a), (b) or (p) of this section shall not be subject to suspension or avoidance for any reason, including the securing of insurance between the time of arrest and sentencing,' if the person subject to such fines has been in violation for a period of 30 or more consecutive days unless such person affirmatively proves that the insurer did not send notice to the named insured as required under Subsection (1) of this section."

Section 2. Amend § 2118(1), Title 21, Delaware Code, by deleting the second sentence of said subsection and substituting in lieu thereof the following:

"All insurers shall, within 10 days, send to the Division of Motor Vehicles written notice of those termination' and lapses for assigned risk insurance plans and non-standard policyholders which are final and occur within the first two years after such policies were issued. A non-standard plan is defined as a motor vehicle insurance policy which for underwriting purposes cannot be written in the standard market. The insurance Commissioner can further develop this definition by Regulation."; and by inserting the following sentence at the end of said subsection: 'All insurers shall send notice to the named insured when a motor vehicle insurance policy is canceled pursuant to the provisions of Title 18, § 3905 of the Delaware Code.'"

Section 3. Amend § 2118, Title 21 of the Delaware Code, by inserting new subsections, and redesignating the subsequent remaining subsections, which new subsections shall read:

"(w) The Division of Motor Vehicle shall conduct a study or cause such study to be conducted to assess the feasibility and costs of establishing a direct computer link between the Division of Motor Vehicle's registration files and the insurance companies' data bases for the purposes of allowing the Division to conduct 'real time' status reports of uninsured motorists. The Division of Motor Vehicles shall also conduct a study or cause such study to be conducted to analyze the ramifications of implementing an uninsured motorist program in the State of Delaware similar to that of Virginia's Uninsured Motorist Program.

(x) Notwithstanding any contrary provisions of the Delaware Code, there shall be established a special fund of the State to be known as the D.M.V.T. Fund. The Secretary of Finance shall, commencing upon the effective date of this legislation, and commencing at the beginning of each fiscal year thereafter, cause to be deposited into the D.M.V.T. Fund amounts received as payments of fines

and costs assessed by the Justice of the Peace Courts and/or the Court of Common Pleas under § 2118, Title 21 of the Delaware Code, until the amount deposited in said fiscal year shall equal \$150,000.

(y) The purpose of the D.M.V.T. Fund is to provide for the administrative costs associated with this Act. Any balance in the D.M.V.T. Fund as of the last day of the fiscal year in excess of \$15,000 shall be deposited to the General Fund. The Secretary of Finance shall make deposits to the D.M.V.T. Fund as required under this Section commencing after August 1, 1995."

Section 4. If any provision of this Act or amendments hereto, or the application thereof to any person, thing, or circumstances is held invalid, such invalidity shall not affect the provisions or application of the Act or such amendments that can be given effect without the invalid provisions or application, and to this end the provisions of this Act and such amendments are declared to be severable.

Section 6. This legislation shall apply to violations committed on or after August 1, 1995.

Approved July 18, 1995

CHAPTER 248

FORMERLY

HOUSE BILL NO. 140

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 Chapter 7, Section 709(d), Title 4 of the Delaware Code, by striking said section in its entirety and by substituting in lieu thereof the following:

"(d) For purposes of this section, the following shall be considered holidays: Sundays, except the Sunday before Christmas when Christmas falls on a Monday and the Sunday before New Year's Day when New Year's Day falls on a Monday; Thanksgiving Day; Christmas; and the hours of the day during which the polls are open for voting in any territory where an election is being held, except for the elections specified in subsection (g) of this section.

When the Sunday before Christmas and the Sunday before New Year's Day are not considered holidays, the sale of spirits, wine, and beer may occur only between the hours of 1:00 p.m. and 6:00 p.m."

Approved July 18, 1995

CHAPTER 249

FORMERLY

HOUSE BILL NO. 302

AN ACT TO AMEND VOLUME 69, CHAPTER 291 OF THE LAWS OF DELAWARE RELATING TO APPROPRIATIONS AND TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO GENERAL REGULATORY PROVISIONS IN EDUCATION.

WHEREAS, the 137th General Assembly amended 14 Del. C. § 4112 to create a mandatory obligation for public school officials to report certain crimes on school property to the appropriate local police agency so that appropriate charges would be placed against delinquent youths who threaten the learning environment of our public schools; and

WHEREAS, a lack of resources, experience, and initiative in criminal matters is hampering school officials' responses to school crime, indicating a need for professional assistance in this realm;

NOW, THEREFORE:

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

Section 1. Amend Chapter 41, Title 14 of the Delaware Code by adding new sections to read:

"Section 4112A. Office of School Criminal Offense Ombudsman.

(a) There is hereby established within the State Department of Justice, the Office of School Criminal Offense Ombudsman.

(b) The purpose of the Ombudsman is to ensure the proper administration of the school criminal offense reporting law contained in Section 4112 of this Title.

(c) The Ombudsman shall have the power to:

(1) Investigate and seek to resolve complaints made by and concerns of members of the public, school officials, and pupils regarding criminal offenses committed on school property;

(2) Investigate complaints regarding the alleged failure of school officials to report criminal offenses as required under Section 4112 of this chapter;

(3) Establish policies and procedures for eliciting, receiving, investigating, verifying, and resolving complaints; and

(4) Perform such other acts as are necessary to carry out the purpose set forth in subsection (b) of this section.

Section 4112B. Ombudsman access.

(a) The Ombudsman shall have access to any school record or pupil file which is relevant to the performance of his or her duties, including any record otherwise considered confidential under Delaware law.

(b) The Ombudsman may initiate an investigation of any criminal offense committed on school property independent of the receipt of a specific complaint.

(c) The Ombudsman shall protect the confidentiality of pupils' records and files as required under Delaware law.

(d) Notwithstanding any other provision of law, the Ombudsman shall not disclose the identity of any complainant unless a court orders such disclosure or the complainant consents in writing to the disclosure of his or her identity.

Section 4112C. Good faith immunity.

Persons and agencies participating in an investigation of the Ombudsman shall be immune from civil liability which may result from their good faith participation in such investigation."

Section 2. The Office of School Crime Offense Ombudsman shall provide the public with telephone access by means of a "1-800" toll-free number.

Approved July 19, 1995

CHAPTER 250
FORMERLY
SENATE BILL NO. 128
AS AMENDED BY

SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE UNFAIR INSURANCE PRACTICE OF DISCRIMINATION BY INSURANCE COMPANIES BASED ON AN INDIVIDUAL'S STATUS AS A VICTIM OF DOMESTIC VIOLENCE.

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

Section 1. Amend Title 18 of the Delaware Code by adding the following subsection to §2302 immediately following §2302(4):

"(5) 'Abuse' means the occurrence of one or more of the following acts between family members, current or former household members, or current or former intimate partners:

(a) Intentionally or recklessly causing or attempting to cause physical injury, or a sexual offense as defined in §761 of Title 11 of the Delaware Code;

(b) Intentionally or recklessly placing or attempting to place another individual in reasonable apprehension of physical injury or sexual offense to himself, herself, or another;

(c) Intentionally or recklessly damaging, destroying or taking the tangible property of another individual;

(d) Insulting, taunting or challenging another individual or engaging in a course of alarming or distressing conduct in a manner which is likely to provoke a violent or disorderly response or which is likely to cause humiliation, degradation or fear in another individual;

(e) Trespassing on or in property of another individual, or on or in property from which the trespasser has been excluded by court order;

(f) Child abuse, as defined in Chapter 9 of Title 16 of the Delaware Code;

(g) Unlawful imprisonment, kidnapping, interference with custody and coercion, as defined in Title 11 of the Delaware Code;

(h) Any other conduct which a reasonable individual under the circumstances would find threatening or harmful."

Section 2. Amend Title 18 of the Delaware Code by adding the following subsection to 2304 immediately following §2304(23):

"(24) Discriminatory practices against victims of abuse.

A person or entity engaged in the business of life and/or health insurance in this State may not:

(a) Deny, refuse to issue, refuse to renew, refuse to reissue, cancel, or otherwise terminate an insurance policy or restrict coverage on any individual because that individual is, has been, or may be the subject of abuse, or seeks, has sought, or should have sought, medical or psychological treatment for abuse, protection from abuse, or shelter from abuse;

(b) Add any surcharge or rating factor to a premium of an insurance policy because of an individual's history of, status as, or potential to be subject to abuse;

(c) Exclude or limit coverage for losses or deny a claim incurred by an insured as a result of abuse or the potential for abuse; or

(d) Ask an insured or an applicant for insurance whether that individual is, has been, or may be the subject of abuse, or seeks, has sought, or should have sought medical or psychological treatment specifically for abuse, protection from abuse, or shelter from abuse.

Nothing in this section shall be construed to prohibit a person from declining to issue an insurance policy insuring the life of an individual who is or has been the subject of abuse if the perpetrator of the abuse is the applicant or would be the owner of the insurance policy. Nothing in this section shall be construed to prohibit a person from underwriting or rating a risk on the basis of a preexisting physical or mental condition, even if such condition had been caused by abuse, provided that

(a) the person routinely underwrites or rates such condition in the same manner with respect to an insured or an applicant who is not a victim of abuse,

(b) no person shall refuse to insure, refuse to continue to insure, limit the amount, extent or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of a physical or mental condition, except where the refusal, limitation or rate differential is based on sound actuarial principles;

(c) the fact that an individual is, has been, or may be the subject of abuse may not be considered a physical or mental condition; and

(d) such underwriting or rating is not used to evade the intent of this law or any other provision of law. A person shall not be held civilly or criminally liable for any cause of action which may be brought because of compliance with this section."

Approved July 19, 1995

CHAPTER 251
FORMERLY
SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 34
AS AMENDED BY

SENATE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE
EXERCISE OF FIRST AMENDMENT RIGHTS BY PUBLIC SCHOOL STUDENTS.

WHEREAS, the Delaware State Senate and House of Representatives wish to ensure that students in Delaware's public schools are permitted to exercise all of the religious freedoms that they are guaranteed by the Constitutions of the United States and the State of Delaware; and

WHEREAS, the Senate and the House of Representatives also recognize that the Establishment Clause of the United States Constitution places limitations upon the ability of public schools to allow organized religious activities during school-related functions; and

WHEREAS, the Supreme Court of the United States has handed down several rulings which have helped to define the types of religious activities which the public schools can allow consistent with the Establishment Clause of the Constitution; and

WHEREAS, certain public school officials and administrators have sought in recent years to impose limitations on the religious and free-speech rights of public school students over and above those required by law in an apparent effort to avoid controversy; and

WHEREAS, the Supreme Court of the United States has identified the individual's freedom of conscience as the "central liberty that unifies the various clauses in the First Amendment" of the United States Constitution; and

WHEREAS, it is the intent and purpose of the Delaware General Assembly by means of this Act to guarantee opportunities to public school students in the State of Delaware to exercise First Amendment rights in an appropriate manner during graduation or commencement ceremonies according to the dictates of their individual consciences;

NOW, THEREFORE:

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

Section 1. Amend Title 14, §4101 of the Delaware Code by deleting the phrase"; daily student activity" where said phrase appears in the Title of §4101.

Section 2. Amend Title 14, §4101 of the Delaware Code by deleting §4101 (b) and by deleting the subsection designation "a" from §4101 (a).

Section 3. Amend Title 14 of the Delaware Code by adding thereto a new section, §4101A, to read as follows:

"4101A. Use of schools for First Amendment purposes.

(a) As used in this section:

(1) 'student-initiated' refers to any action that is taken only after students have asked that such an action be taken;

(2) 'student-delivered' refers to any message spoken by a student of the public school at which the message is delivered.

(b) During the initial period of study on each school day all students in the public schools in Delaware may be granted a brief period of silence, not to exceed 2 minutes in duration, to be used according to the dictates of the individual conscience of each student. During that period of silence no other activities shall take place.

(c) Notwithstanding any other provision or provisions of the Delaware Code, on public school property, or other public property, student-delivered, voluntary messages may be permitted by schools during graduation or commencement ceremonies where appropriate in the context of the event. The content of any message authorized by this section shall be determined by the student delivering the message. No school district, school administrator, teacher or other school employee shall exclude, include, or otherwise discriminate for or against any student on the basis of the political, philosophical, religious, or other content of the message that the student intends to deliver or does deliver.

(d) A school shall be deemed to offer a fair opportunity to students who wish to deliver voluntary messages during graduation or commencement ceremonies under the provisions of this section if such school uniformly provides that the delivery of such messages occur in a manner which does not substantially interfere with the orderly conduct of the ceremony.

(e) Nothing in this section shall be construed to limit the authority of the school district, school administrators, teachers or other school employees to maintain order and discipline on school premises, to protect the well-being of students and school administrators, teachers and other school employees, and to assure that the content of student-delivered voluntary messages is consistent with federal and state law.

(f) Each school district shall establish rules and regulations for the implementation of this section within the district. The Department of Justice shall provide each school district an annual set of model rules and regulations on or before January 1 of each year commencing in 1996 which, if adopted by a school district, will ensure that this section is implemented consistently with federal and state law. Any school district which complies with the model rules and regulations provided pursuant to this subsection shall be entitled to representation by the Department of Justice, upon request, in the event that the school district is sued as a result of activity related to this section. The State shall, if the school district complies with the rules and regulations provided pursuant to this subsection, reimburse the school district for any monetary award related to compliance with this section."

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

Approved July 19, 1995

CHAPTER 252
FORMERLY
HOUSE SUBSTITUTE NO. 1

FOR
HOUSE BILL NO. 210

AN ACT TO AMEND CHAPTER 1, TITLE 25, DELAWARE CODE RELATING TO THE
ENFORCEABILITY OF CERTAIN LEASES AND DOCUMENTS PERTAINING TO
LANDS AND TENEMENTS.

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

Section 1. Amend §158, Title 25, Delaware Code by striking said section in its entirety
and substituting in lieu thereof the following:

"§158. Enforceability of certain leases and documents pertaining to lands and tenements

No document defined or described in Section 5401(4) of Title 30 and not exempt
from transfer tax on the basis of Section 5401(1) of Title 30 or otherwise, shall be
enforceable in any court of this State unless such document, or a memorandum thereof
identifying the parties thereto, the premises, and the duration of the interest created
thereby, including any renewals and purchase options, shall have been recorded in the
Office of the Recorder of Deeds in the county in which the premises or any part thereof
are located within fifteen days of the commencement of the term provided by such
document; provided, however, that upon recordation and payment of any and all taxes,
penalties and other charges relating thereto, any document rendered unenforceable by this
statute or any predecessor statute shall be renewed and revived with the same force and
effect as if it had never been unenforceable."

Approved July 19, 1995

CHAPTER 253
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 211

AN ACT TO AMEND CHAPTER 21, TITLE 25, DELAWARE CODE RELATING TO PERFECTION OF SECURITY INTERESTS IN THE LESSOR'S INTEREST IN LEASES OR RENTS ARISING FROM REAL PROPERTY.

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 thereto a new section which shall read as follows:

"2121. Instruments transferring, pledging or assigning lessors' interests in leases or rents arising from real property as security.

(a) Upon recording, in the office of the Recorder of Deeds in and for the county where the real property lies, of any instrument transferring, pledging or assigning the lessor's interest in leases (whether in existence or thereafter existing) of or rents (including security deposits) arising from real property as conditional or unconditional security for a debt or duty, the interest of the transferee, pledgee or assignee shall be fully perfected as to the transferor, pledgor or assignor and as to all third parties without the necessity of furnishing further notice to the transferor, pledgor or assignor or any lessee, of obtaining possession of the real property, of impounding the rents or security deposits, of filing a financing statement under the Delaware Uniform Commercial Code, of securing the appointment of a receiver, or of taking any other affirmative action, and such interest shall have priority according to the time of recording the instrument in the proper office, without respect to the time of its being signed and delivered.

(b) Except as may be provided in the lease or other agreement by which it is bound, the lessee under any such lease identified in subsection (a) is authorized to pay the transferor, pledgor or assignor, rents and security deposits until the lessee receives written notification that rents due or to become due have been transferred, pledged or assigned and that payment is to be made to the transferee, pledgee or assignee. A notification that does not reasonably identify the rents transferred, pledged or assigned is ineffective. If requested by the lessee, the transferee, pledgee or assignee must furnish reasonable proof that the assignment has been made and is in full force and effect and unless so furnished the lessee may pay the transferor, pledgor or assignor.

(c) Whenever the debt or duty secured by an instrument described in this section is satisfied or performed, and to the extent such instrument is not self-terminating, upon such an event, the transferee, pledgee or assignee shall forthwith cause to be recorded in the office in which the instrument is recorded a document pursuant to which it declares that the instrument is terminated. The recording of such document shall extinguish the instrument and the effect shall be the same as if such instrument had not been made.

(d) Any recorded instrument transferring, pledging or assigning an interest in leases of or rents arising from real property shall be duly perfected as herein provided, except that nothing herein shall alter, change or modify any

perfected order of priority of interests in such leases or rents which exists on the date that this legislation is enacted.”

Approved July 19, 1995

CHAPTER 254

FORMERLY

HOUSE BILL NO. 212

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 25, DELAWARE CODE, RELATING TO MORTGAGES.

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

Section 1. Amend §2118, Title 25, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

“§2118. Priority of Mortgages and other Instruments Securing Future Advances and Certain

Other Advances; Modifications of Mortgages and Other Instruments.

(a) Any mortgage or other instrument given for the purpose of creating a lien on real property, when so expressed therein or when so expressed in a separate instrument or other agreement specifically referred to therein and incorporated by reference (which instrument or other agreement need not be recorded), may secure not only existing indebtedness, but also future advances, whether such advances are obligatory or to be made at the option of the lender, or otherwise, and whether made before or after default or maturity or other similar events, to the same extent as if such future advances were made on the date of the execution of such mortgage or other such instrument, although there may be no advance made at the time of the execution of such mortgage or other instrument and although there may be no indebtedness outstanding at the time any advance is made. Such lien, as to third persons with or without actual knowledge thereof, shall be valid as to all such indebtedness and future advances from the time the mortgage or other such instrument is recorded or filed in the proper office as provided by law. The total amount of the indebtedness having the priority established by such lien may decrease or increase from time to time, but the total unpaid principal balance at any one time shall not exceed the maximum principal amount of the obligation which must be specified in such mortgage or other such recorded instrument.

Any mortgage or other instrument to which this subsection (a) applies, and all such existing indebtedness, future advances and interest thereon, shall have preference to and priority over any lien, other than those liens the priority of which is governed by 25 Del. C. §2901, which is subsequent in time to the time such mortgage or other such instrument is recorded or filed in the proper office as provided by law.

(b) In addition to the stated indebtedness, a mortgage or other instrument given for the purpose of creating a lien on real property may secure disbursements and other advances thereunder for the payment of taxes, assessments, maintenance charges, insurance premiums or costs relating to the property encumbered by such mortgage or other instrument, for the curing of waste of the property that is the subject of the lien, for the indemnification obligations regarding environmental liabilities of the property that is the subject of the lien, and for the payment of service charges and expenses incurred by reason of default, and including late charges, attorneys' fees and court costs, if such mortgage or other such instrument states that it shall secure any such advances and disbursements, together with all interest thereon.

Any mortgage or other instrument to which this subsection (b) applies, and all such stated indebtedness, disbursements and other advances expressed therein and interest thereon, shall have preference to and priority over any lien, other than those liens the priority of which is governed by 25 Del. C. §2901, which is subsequent in time to the time such mortgage or other such instrument is recorded or filed in the proper office as provided by law.

(c) Nothing in this section is intended to limit or restrict the obligations, indebtedness, liabilities, covenants, disbursements or advances that may be secured by any mortgage or other instrument given for the purpose of creating a lien on real property.

(d) The preference and priority of the lien of any mortgage or other such instrument given for the purpose of creating a lien on real property and all matters secured thereby shall extend to any and all future modifications thereof, or of the obligations secured by the mortgage or such other instrument, that have been recorded or filed in the proper office as provided by law, except for such modification as expressly increases the maximum principal amount that is specified in such mortgage or other such instrument or separate instrument or agreement referred to in subsection (a).

(e) Nothing herein shall be construed to limit any agreement between the lender and the borrower or other parties to any such mortgage or other such instrument given for the purpose of creating a lien on real property as to the time period for the repayment of such existing indebtedness, future advances, interest, service charges and disbursements as aforesaid, as to other obligations, advances or disbursements that are secured thereby or as to any other terms and conditions of such mortgages or other such instrument."

Section 2. Effect of Act on Prior Mortgages. Nothing contained in this Act shall be construed to affect the priority of any mortgage or other instrument, or advances made under any mortgage or other instrument, recorded before the effective date of this Act.

Approved July 19, 1995

CHAPTER 255

FORMERLY

HOUSE BILL NO. 270

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTERS 30, 48 AND 68, TITLE 9, DELAWARE CODE, PROVIDING FOR RULES AND REGULATIONS GOVERNING PLAN APPROVAL AND MAINTENANCE OF PUBLIC STREETS IN SUBDIVISIONS.

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

Section 1. Amend § 3008, Title 9, Delaware Code by adding after the last sentence thereof the following:

"The Commission may adopt and the county government may approve such regulations as are deemed advisable for the removal of snow from the streets appearing on the plan from the time the plan is recorded until the obligation to maintain such improvements is assumed either by a maintenance corporation or by an appropriate public agency."

Section 2. Amend § 4810(a), Title 9, Delaware Code by adding after the last sentence thereof the following:

"The Commission may adopt and the county government may approve such regulations as are deemed advisable for the removal of snow from the streets appearing on the plan from the time the plan is recorded until the obligation to maintain such improvements is assumed either by a maintenance corporation or by an appropriate public agency."

Section 3. Amend § 6810(a), Title 9, Delaware Code by adding after the last sentence thereof the following:

"The Commission may adopt and the county government may approve such regulations as are deemed advisable for the removal of snow from the streets appearing on the plan from the time the plan is recorded until the obligation to maintain such improvements is assumed either by a maintenance corporation or by an appropriate public agency."

Approved July 19, 1995

CHAPTER 256

FORMERLY

HOUSE BILL NO. 317

AS AMENDED BY

HOUSE AMENDMENT NOS. 1 & 3 AND

HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 3, TITLE 31 OF THE DELAWARE CODE RELATING TO
CHILD WELFARE.

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

Section 1. Amend Chapter 3 of Title 31 of the Delaware Code by redesignating Subchapters II through VI thereof as Subchapters III through VII, respectively, and by adding thereto a new Subchapter II, to read as follows:

"Subchapter II. Child Death Review Commission.

§ 320. Declaration of Legislative Intent.

The General Assembly hereby declares that the health and safety of the children of the State of Delaware will be safeguarded if deaths of children under the age of eighteen are reviewed in order to provide recommendations to alleviate those practices or conditions which impact the mortality of children. This subchapter establishes the Child Death Review Commission (for purposes of this subchapter, the "Commission").

§ 321. Organization and Composition.

(a) The following shall be members of the Commission: the State Attorney General, the Secretary of the State Department of Health and Social Services, the Secretary of the State Department of Services to Children, Youth and Their Families, the State Superintendent of Public Instruction, the State Medical Examiner, and the Superintendent of the Delaware State Police, or the designee of any of the preceding persons. Additionally, the following shall be appointed by the Governor as members of the Commission: (i) A representative of the Medical Society of Delaware specializing in each of pediatrics, neonatology, obstetrics and perinatology; (ii) a representative of the Delaware Nurses Association; (iii) a representative of the National Association of Social Workers; (iv) a representative of the Police Chiefs' Council of Delaware who is an active law enforcement officer; (v) a representative of the New Castle County Police Department; and (vi) two child advocates from state-wide non-profit organizations. A Chairperson of each regional child death review panel established pursuant to Subsection (d) hereof shall also serve as members of the Commission. The term of members appointed by the Governor shall be three years and shall terminate upon the Governor's appointment of a new member to the Commission. The members of the Commission and of the regional panels shall serve without compensation.

(b) The Commission shall, by affirmative vote of a majority of all members of the Commission, appoint a chairperson from its membership for a term of one year. The Commission shall meet at least semi-annually.

(c) Meetings of the Commission and regional panels shall be closed to the public.

(d) The Commission shall by resolution passed by a majority of its members establish at least one but no more than three regional child death review panels. Members of the Commission shall appoint representatives to each regional panel such that the regional panel reflects the disciplines of the Commission. The Commission shall also

appoint to each regional panel (i) a representative from each of the three police departments which investigate the majority of child deaths in the region covered by the panel, and (ii) a citizen of the region interested in child death issues.

(e) Each regional panel shall have the powers, duties and authority of the Commission as delegated by the Commission. Each regional panel shall, by affirmative vote of a majority of all members of that regional panel, appoint co-chairpersons from its membership for a term of one year.

§ 322. Voting.

Except as expressly provided herein, an affirmative vote of sixty percent of all members of the Commission or any regional panel shall be required to adopt any findings or recommendations of the Commission or such regional panel.

§ 323. Powers and Duties.

(a) The Commission shall have the power to investigate and review the facts and circumstances of all deaths of children under the age of eighteen which occur in Delaware. The review of deaths involving criminal investigations will be delayed until the later of the conclusion of such investigation, or the adjudication of related criminal charges, if any. The Commission shall make recommendations to the Governor and the General Assembly, at least annually, regarding those practices or conditions which impact the mortality of children. Such recommendations shall be available to the public upon request.

(b) The Commission shall conduct reviews according to procedures promulgated by the Abuse Intervention Committee of the State Attorney General's Office, which procedures shall be adopted in writing prior to the first review. The Commission may amend such procedures upon a three-quarters affirmative vote of all members of the Commission.

(c) In connection with any review, the Commission shall have the power and authority to:

(1) administer oaths; and

(2) compel the attendance of witnesses whose testimony is related to the death under review and the production of records related to the death under review by filing a praecipe for a subpoena, through the Attorney General or a Deputy Attorney General, with the Prothonotary of any county of this State, such a subpoena to be effective throughout the State and service of such a subpoena to be made by any sheriff of the State; failure to obey said subpoena will be punishable according to the rules of the Superior court.

§ 324. Confidentiality of Records and Immunity From Suit.

(a) The records of the Commission and of all regional panels, including original documents and documents produced in the review process with regard to the facts and circumstances of each death, shall be confidential and shall not be released to any person except as expressly provided herein. Such records shall be used by the Commission, and any regional panel only in the exercise of the proper function of the Commission or regional panel and shall not be public records and shall not be available for Court subpoena or subject to discovery. Aggregate statistical data compiled by the Commission or regional panels, however, may be released at the discretion of the Commission or regional panels.

(b) Members of the Commission and of the regional panels, and their agents or employees, shall not be subject to, and shall be immune from, claims, suits, liability, damages or any other recourse, civil or criminal, arising from any act, proceeding, decision or determination undertaken or performed or recommendation made, provided such persons acted in good faith and without malice in carrying out their responsibilities,

authority, duties, powers and privileges of the offices conferred by this law upon them or by any other provisions of the Delaware law, Federal law or regulations, or duly adopted rules and regulations of the Commission or its regional panels. Complainants shall bear the burden of proving malice or a lack of good faith to defeat the immunity provided herein.

(c) No person in attendance at a meeting of any such Commission or regional panel shall be required to testify as to what transpired thereat. No organization, institution or person furnishing information, data, reports or records to the Commission or any regional panel with respect to any subject examined or treated by such organizations, institution, or person, by reason of furnishing such information, shall be liable in damages to any person or subject to any other recourse, civil or criminal."

Approved July 19, 1995

CHAPTER 257

FORMERLY

HOUSE BILL NO. 112

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 1, TITLE 17, DELAWARE CODE RELATING TO SALE OF REAL PROPERTY.

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

Section 1. Amend §137(b), Chapter 1, Title 17, Delaware Code by striking paragraphs "(1)", and "(2)" in their entirety and redesignating paragraphs "(3)" through "(16)" as paragraphs "(5)" through "(18)" respectively, substituting in lieu thereof the following:

"(1) Except as provided in other subsections of this section, the Department shall, in writing notify the current lessee of the subject real property, of at least ten years duration, that the subject real property has been declared no longer needed for transportation purposes. Such notice is not required if the lessee, waived such interest at the time of initial Departmental leasing to said lessee.

(2) The current lessee may elect to acquire the subject property by providing written notice to the Department within 30 days of the Department's written notification of availability. The cost to the current lessee shall be no less than the Department's approved appraised value of the property as determined by a qualified appraiser(s). The current lessee must notify the Department within 30 days of written notice of approved appraised value that they want to acquire the subject real property.

Once an offer has been accepted by the Department, the parties shall be prepared to settle for such real property within 90 days of the acceptance by the Department. Should settlement not occur on this schedule through no fault of the Department, the Department may elect to invalidate the sale and proceed pursuant to this section.

(3) If the current lessee elects not to acquire the subject real property pursuant to paragraph (2) of this subsection, then, the Department shall thereafter, in writing notify the owner from which the real property was acquired or his/her successor in interest, that the subject real property has been declared no longer needed for transportation purposes. Such notice is not required if the owner waived such interest at the time of initial Departmental purchase.

(4) The previous owner or successor in interest may elect to reacquire the subject property by providing written notice to the Department within 30 days of the Department's written notification of availability. The cost to the previous owner shall be no less than the Department's approved appraised value of the property as determined by a qualified appraiser(s). The previous owner or successor in interest must notify the Department within 30 days of written notice of approved appraised value that they want to reacquire the subject real property.

Once an offer has been accepted by the Department, the parties shall be prepared to settle for such real property within 90 days of the acceptance by the Department. Should settlement not occur on this schedule through no fault of the Department, the Department may elect to invalidate the sale and proceed with public disposition.

Approved July 19, 1995

CHAPTER 258

FORMERLY

HOUSE BILL NO. 122

AN ACT TO AMEND TITLE 21, CHAPTER 42 OF THE DELAWARE CODE RELATING
TO ACCIDENTS INVOLVING MOTOR VEHICLES AND REPORTING LIMITS.

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

Section 1. Amend § 4203, Title 21 of the Delaware Code, by striking subsection (b) thereof in its entirety and substituting in its place:

"(b) When an accident is not required to be reported under subsection (a) of this section, the driver may report such accident to the appropriate police agency as described in subsection (a) of this section, after complying with § 4201(b) of this Title."

Section 2. Amend § 4203(d) of Title 21 of the Delaware Code by striking "\$500" as it appears therein and inserting in place thereof "\$1,000".

Section 3. Amend § 4203, Title 21 of the Delaware Code, by adding a new subsection (f) thereto which shall read:

"(f) The property damage requirement in subsection (d) of this Section for investigation and completion of the Uniform Traffic Collision Report shall be adjusted beginning January 1, 1997, and annually thereafter on January 1st of each calendar year by increasing the previous base rate by an additional one hundred dollars (\$100), up to a maximum of one thousand five hundred (\$1,500)".

Section 4. "This legislation shall become effective January 1, 1996."

Approved July 19, 1995

CHAPTER 259

FORMERLY

HOUSE BILL NO. 185

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO VEHICLE SIZE AND WEIGHT LIMITATIONS AND RESTRICTIONS.

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

Section 1. Amend § 4502, Title 21 of the Delaware Code, by striking the last sentence of subsection (a) thereof in its entirety, and inserting in lieu thereof the following:

"Provided, however, that such weight limitations and restrictions listed in this section apply only to the interstate highway; weight limitations and restrictions for United States numbered routes shall be as listed in Section 4502 of this title."

Section 2. Amend Chapter 45, Title 21 of the Delaware Code, by striking the catchline of Section 4502 of that Chapter in its entirety, and inserting in lieu thereof the following:

"§ 4503. Size and weight of vehicles on interstate highways; size of vehicles on United States numbered routes."

Section 3. Amend Chapter 45, Title 21 of the Delaware Code, by striking the catchline of Section 4503 of that Chapter and the first sentence of subsection (a) in its entirety, and inserting in lieu thereof the following:

"§ 4502. Size and weight of vehicles on roadways.

(a) Except as provided in Section 4503 of this Title, this section sets forth the size and weight restrictions applicable to all roads, streets and highways within this State."

Section 4. Amend Section 2732(a)(6), Title 21 of the Delaware Code, by striking the symbol and numerals "§ 4503" and inserting in lieu thereof the symbol and numerals "§ 4502".

Section 5. Amend Section 2733(a)(1), Title 21 of the Delaware Code, by striking the symbol and numerals "§ 4503" and inserting in lieu thereof the symbol and numerals "§ 4502".

Section 6. Amend Section 4501(h), Title 21 of the Delaware Code, by striking the symbol and numerals "§ 4503" and inserting in lieu thereof the symbol and numerals "§ 4502".

Section 7. Amend Section 4510(b), Title 21 of the Delaware Code, by striking the symbol and numerals "§ 4502" and inserting in lieu thereof the symbol and numerals "§ 4503".

Approved July 19, 1995

CHAPTER 260

FORMERLY

HOUSE BILL NO. 278

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND SUBPART D, SUBCHAPTER III, CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO THEFT AND RELATED OFFENSES.

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

Section 1. Amend § 849(a) of Title 11, Delaware Code, by deleting said subsection in its entirety and inserting in lieu thereof the following:

"(a) A person is guilty of theft of rental property if the person, with the intent specified in § 841 of this title, takes, destroys, converts, wrongfully withholds or appropriates by fraud, deception, threat, false token, false representation or statement, or by any trick, contrivance or other device to avoid payment for or to otherwise appropriate rental property entrusted to said person. For purposes of this section, 'property' shall include the use of vehicles or other movable property."

Section 2. Amend § 849(b) by redesignating existing subsection (2) thereof as subsection (3).

Section 3. Further amend § 849(b) by adding thereto a new subsection (2) to read as follows:

"That one who has leased or rented the personal property of another and has returned such property, failed to make payment, at the agreed rental rate, for the full period which the property was rented or leased, except when said person has a good faith dispute with the owner of the rental property as to whether any payment, or additional payment, is due to the owner of the rental property; and/or".

Approved July 19, 1995

CHAPTER 261

FORMERLY

HOUSE BILL NO. 305

AN ACT TO AMEND CHAPTER 9 OF TITLE 10 RELATING TO CERTAIN CRIMES COMMITTED BY JUVENILES.

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

Section 1. Amend Section 921(2)a of Title 10 of the Delaware Code by inserting the phrase "paragraph (15) of this Section, or" between the phrase "except as provided in" and the phrase "§ 927 of this Title" as they appear in said paragraph.

Section 2. Amend Section 921 of Title 10 of the Delaware Code by adding thereto a new subsection (15), to read as follows:

"(15) Notwithstanding any provision of this Title to the contrary, charges of delinquency based upon an alleged violation of any provision of Title 11, 16 or 21 of this Code which would otherwise be within the original civil jurisdiction of Family Court shall instead be within the original criminal jurisdiction of Superior Court if said charges may be joined properly with a felony pending against the same child in Superior Court, as determined pursuant to the relevant rules of the Superior Court."

Approved July 19, 1995

CHAPTER 262

FORMERLY

HOUSE BILL NO. 306

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE PROSECUTION IN SUPERIOR COURT OF CERTAIN SERIOUS CRIMES COMMITTED BY JUVENILES.

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

Section 1. Amend Section 921(2)a of Title 10 of the Delaware Code by adding the following phrase immediately after the phrase "kidnapping in the first degree" as it appears in said paragraph:

" , or any attempt to commit said crimes; "

Section 2. Amend Section 1010(a)(1) of Title 10 of the Delaware Code by adding at the end of said paragraph the following phrase:

" , or any attempt to commit said crimes; "

Approved July 19, 1995

CHAPTER 263

FORMERLY

HOUSE BILL NO. 307

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO CERTAIN
CRIMES COMMITTED BY JUVENILES.

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

Section 1. Amend Section 1010(c) of Title 10 of the Delaware Code by redesignating the text thereof as paragraph (1) of subsection(c), and by redesignating paragraphs (1), (2), (3), (4), (5) and (6) of said subsection as subparagraphs "a", "b", "c", "d", "e" and "f", and by adding a new paragraph to subsection (c), to read:

"(2) Notwithstanding any provision of this section or Title to the contrary, any child who has previously been declared to be non-amenable to the rehabilitative processes of the Court pursuant to this section, or who has previously been the subject of a denied application for transfer pursuant to Section 1011 of this Title, and who thereafter is charged with being delinquent shall be referred to the Superior Court or to any other court having jurisdiction over the offense for trial as an adult."

Section 2. Amend Section 1011 of Title 10 of the Delaware Code by adding thereto a new subsection to be designated (d), to read as follows:

"(d) Notwithstanding any provision of this section or Title to the contrary, the Superior Court shall retain jurisdiction over any case involving a child where the child has previously been declared to be non-amenable to the rehabilitative processes of the Family Court pursuant to Section 1010 of this Title, or where the child has previously been the subject of a denied application for transfer pursuant to this section, or where the child has previously been convicted as an adult of any felony as set forth in Titles 11 or 16 of the Delaware Code."

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the 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 4. Any action, case, prosecution, trial or other legal proceeding in progress at the time of the enactment into law of the provisions of this Act, no matter the stage of the proceeding, shall be preserved and shall not become illegal or terminated upon the effective date of this Act. The prior law shall remain in full force and effect as to all such proceedings in progress at the time of enactment of this Act.

Approved July 19, 1995

CHAPTER 264

FORMERLY

SENATE BILL 33

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING
TO MOTOR VEHICLE REGISTRATION.

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

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

"(1) Any single letter or combination of letters or combination of letters and numerals, not to exceed seven (7) in number. If the combination includes numerals, the numerals shall be displayed to the right of all letters on the plate. A hyphen shall be permitted and shall be counted as one (1) letter. In its discretion, the Department may refuse any combination of letters, or letters and numerals. The Department may refuse seven (7) character combinations that do not allow adequate spacing between letters and/or numbers;"

Section 2. Amend subsection 2126(a), Chapter 21, Title 21 of the Delaware Code by adding the following at the end of said subsection:

"Special license plates may be displayed on the front or rear of the vehicle. The regular numbered plate assigned to the vehicle or a duplicate special license plate furnished under § 2121(h) of this Title must be displayed on the vehicle rear when the special plate is displayed on the front of the vehicle."

Approved July 19, 1995

CHAPTER 265

FORMERLY

SENATE BILL NO. 89

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO BICYCLING.

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

Section 1. Amend §2740, Title 21, Delaware Code by deleting the phrase ", a moped or a bicycle" and by inserting in lieu thereof the phrase "or a moped".

Section 2. Amend §4177(c)(4), Title 21, Delaware Code by deleting the phrase "any moped as defined in §101(53) of this title, and any bicycle as defined in §101(52) of this title" and by inserting in lieu thereof the phrase "and any moped as defined in §101(53) of this Title."

Section 3. Amend Subchapter XII, Chapter 41, Title 21, Delaware Code by adding a new Section as follows:

"§4198J Bicycling on highways under influence of drugs or alcohol.

(a) No person shall ride a bicycle on a highway of this State while under the influence of intoxicating liquor and/or narcotic drugs to a degree which renders such person a hazard.

(b) Whoever is convicted of a violation of subsection (a) of this section shall, for the first offense be fined not less than \$150 nor more than \$1,150 and for subsequent offenses, be fined not less than \$400 nor more than \$1,500 or be imprisoned not less than 10 days nor more than 30 days, or both. A subsequent offense must have been committed within two years of the prior offense.

(c) No violation of this section shall be entered on a driver's motor vehicle record."

Approved July 19, 1995

CHAPTER 266

FORMERLY

SENATE BILL NO. 225

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO HOMICIDES OF CHILDREN WHICH OCCUR THROUGH ABUSE OR NEGLECT.

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

Section 1. Amend Title 11 of the Delaware Code by adding a new section thereto to be designated as §633, which shall read as follows:

"§633. Murder by abuse or neglect in the second degree; Class B felony.

(a) A person is guilty of murder by abuse or neglect in the second degree when, with criminal negligence, he or she recklessly causes the death of a child and he or she has engaged in an act or previous pattern of abuse and/or neglect of such child.

(b) For the purpose of this section:

(1) 'child' shall refer to any person who has not yet reached his or her 14th birthday

(2) 'abuse' and 'neglect' shall have the same meaning as set forth in §1103 of this title.

(3) 'previous pattern' of abuse and/or neglect shall mean two (2) or more incidents of conduct:

a. that constitute an act of abuse and/or neglect; and

b. are not so closely related to each other or connected in point of time and place that they constitute a single event.

(c) A conviction is not required for an act of abuse or neglect to be used in prosecution of a matter under this section including an act used as proof of the previous pattern as defined including one which may be in paragraph (b)(3) of this section. A conviction for any act of abuse or neglect including one which may be relied upon to establish the previous pattern of abuse and/or neglect does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Delaware Code.

(d) Murder by abuse and/or neglect in the second degree is a class B felony. Notwithstanding any provision of this title to the contrary, the minimum sentence for a person convicted or murder by abuse or neglect in the second degree in violation of this section shall be ten (10) years at Level V."

Section 2. Amend Title 11 of the Delaware Code by adding a new section thereto to be designated as §634, which shall read as follows:

"§634. Murder by abuse or neglect in the first degree; class A felony.

(a) A person is guilty of murder by abuse or neglect in the first degree when he or she recklessly causes the death of a child and has engaged in an act or previous pattern of abuse and/or neglect of such child.

(b) For the purpose of this section:

- (1) 'child' shall refer to any person who has not yet reached his or her 14th birthday
- (2) 'abuse' and 'neglect' shall have the same meaning as set forth in §1103 of this title.
- (3) 'previous pattern' of abuse and/or neglect shall mean two (2) or more incidents of conduct:
 - a. that constitute an act of abuse and/or neglect; and
 - b. are not so closely related to each other or connected in point of time and place that they constitute a single event.
- (c) A conviction is not required for an act of abuse or neglect to be used in prosecution of a matter under this section including an act used as proof of the previous pattern as defined including one which may be in paragraph (b)(3) of this section. A conviction for any act of abuse or neglect including one which may be relied upon to establish the previous pattern of abuse and/or neglect does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Delaware Code.
- (d) Murder by abuse or neglect in the first degree is a class A felony."

Section 3. Amend §1103(b), Title 11 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) 'Neglect' means threatening or impairing the physical, mental or emotional health and well-being of a child through inadequate care or protection, nontreatment, or abandonment by the child's custodian or other person in whose temporary custodial care the child is left, when such custodian or other person has the ability and financial means to provide adequate care or protection, but does not or will not do so. A child subjected to the conditions defined in this subsection is considered a 'neglected child'. Nothing in this subsection shall be construed to mean that a child is neglected for the sole reason that the child's custodian, or other person in whose custodial care the child is left, provided treatment by spiritual means alone through prayer in lieu of medical treatment, provided that such custodian is a member or adherent of an organized church or religious group, the tenets of which prescribe prayer as the principal treatment for illness, and the treatment provided conformed to such tenets."

Section 4. Amend §1103, Title 11 of the Delaware Code by inserting a new subsection "(a)" to read as follows:

"(a) 'Abuse' means causing any physical injury to a child through unjustified force as defined in §468(1)(c) of this title, torture, negligent treatment, sexual abuse, exploitation, maltreatment, mistreatment or any means other than accident.";

and by redesignating the remaining subsections accordingly.

Approved July 19, 1995

CHAPTER 267

FORMERLY

SENATE BILL NO. 251

AS AMENDED BY

SENATE AMENDMENT NOS. 1 AND 2 AND
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PUBLIC SWIMMING AND BATHING PLACES.

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

Section 1. Amend §122(3)(d) of Title 16 of the Delaware Code by adding after the word "places" and before the semicolon the phrase " , except that no regulation currently existing or hereafter adopted shall require a life guard to be on duty at any pool of any motel or hotel facility".

Section 2. This Act shall become effective January 1, 1996.

Approved July 19, 1995

CHAPTER 268

FORMERLY

HOUSE BILL NO. 239

AS AMENDED BY

HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 23 OF THE DELAWARE CODE RELATING TO BOATING SAFETY.

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

Section 1. Amend §2212, Title 23 of the Delaware Code by adding the following language at the beginning of subsection (i):

"(i) Except for the waters of Delaware's Inland Bays contiguous to incorporated areas,"

Section 2. Amend §2212, Title 23 of the Delaware Code by redesignating existing subsections "(j)", "(k)" and "(l)" as "(k)", "(l)" and "(m)", and by adding a new subsection "(j)" to read as follows:

"(j) Within the waters of Delaware's Inland Bays contiguous to incorporated areas, no person shall operate a personal watercraft at any speed greater than headway speed unless said personal watercraft is at least 300 feet from all wharves, piers, docks, boat-launching areas, pilings, bridge structures or abutments, moored, drifting or anchored vessels, all non-motorized vehicles, any shoreline and all people in the water."

Approved July 19, 1995

CHAPTER 269

FORMERLY

HOUSE BILL NO. 312

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 4, TITLE 17, DELAWARE CODE, RELATING TO THE POWER OF THE DEPARTMENT OF TRANSPORTATION OR ITS AGENTS TO IMPOSE TOLLS.

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

Section. 1. Amend Section 420, Title 17 of the Delaware Code by adding a new subsection "(c)" thereto which shall read as follows:

"(c) The Department shall not impose, establish, levy or collect a toll that it would otherwise be permitted to impose, establish, levy or collect under this section, for any emergency vehicle of a volunteer fire company or volunteer ambulance company, or any emergency vehicle engaged in the ordinary course of business of a volunteer fire company or a volunteer ambulance company."

Approved July 19, 1995

CHAPTER 270

FORMERLY

SENATE BILL NO. 116

AS AMENDED BY

SENATE AMENDMENT NOS. 1 AND 2 AND
HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO COUNTY,
STATE, AND LOCAL PLANNING EFFORTS

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

Section 1. Amend § 2603(a), Title 9 of the Delaware Code, by deleting the words
"Chapter 13 of" from the first sentence thereof.

Section 2. Amend § 2652(c), Title 9 of the Delaware Code by deleting the words
"Kent, or Sussex".

Section 3. Amend § 2652, Title 9 of the Delaware Code by relettering existing
§2652(b)-(t) as §2652(c)-(u) and by inserting as new §2652(b) the following:

"Coordination' as used in the this chapter means, in general terms, to act jointly,
concurrently, and/or harmoniously toward a common end or purpose."

Section 4. Amend § 2653(a)(3), Title 9 of the Delaware Code by inserting after
"thereof." the following:

"In furtherance of the authority to adopt, amend, and implement comprehensive plans or
elements or portions thereof to guide and control future growth, counties are expressly
granted the authority to develop and adopt regulations governing the transfer of
development rights from identified low density residential districts, zones or parcels of
land to residential districts, zones or areas designated to receive such development rights;
provided that such receiving districts, zones, or areas are within the same planning district
as defined by the County. Such regulations may provide for the establishment of
development right banking. Whenever a County exercises its authority to provide for the
transfer of development rights it shall:

(a) Comply with all requirements of this subchapter pertaining to the
amendment of a comprehensive plan;

(b) Provide for the transfer of development rights as a option to the use and
development of the subject property according to the otherwise applicable zoning
ordinance;

(c) Limit designation of receiving areas to locations where the County has
determined that growth should be encouraged and where a transfer of development rights
would not result in the inability of either the existing or planned public facilities which
serve the area to accommodate such growth; and

(d) Demonstrate that the creation and regulation of both sending and receiving
districts are otherwise consistent with promotion of the policies expressed by the
comprehensive plan and Statewide Planning Goals and Objectives established pursuant to
29 Delaware Code Chapter 91."

Section 5. Amend § 2656 (c) by inserting as new §2656 (c)(4) the following:

"(4) To the extent provisions of the Capital Improvements Plan anticipate State financial assistance, involvement, or cooperation, such provisions shall be developed in conjunction with the State Capital Improvement Plan and Annual Capital Budget."

Section 6. Amend § 2656 (e) by inserting at the end thereof the following:

"Such policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter."

Section 7. Amend § 2656 (g) (1) by inserting at the end thereof the following:

"Population, demographic, environmental and economic data and projections used to determine present conditions, future land use, and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, consistent with projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified."

Section 8. Amend § 2656 (g) (2) by striking it in its entirety and by inserting in lieu thereof the following:

"(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Delaware Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, rail facilities, terminals, and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment."

Section 9. Amend § 2656 (g)(3) by deleting the last sentence thereof in its entirety and inserting in lieu thereof the following:

"The water and sewer element shall be developed in consultation with and reviewed by the Delaware Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved Area-wide Wastewater Treatment Plans."

Section 10. Amend § 2656 (g) (4) by inserting at the end thereof the following:

"The conservation element shall also consider areas most suited for agricultural uses, silvicultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Delaware Department of Agriculture and the Delaware Department of Natural Resources and Environmental Control."

Section 11. Amend § 2656 (g) (5) by striking the last sentence thereof and inserting in lieu thereof the following:

"The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Delaware Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities."

Section 12. Amend § 2656(g)(6) by inserting at the end thereof a new § 2656(g)(6)g as follows:

"g. Demonstrated coordination with the Delaware State Housing Authority including but not limited to guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available."

Section 13. Amend § 2656 (g) by inserting at the end thereof as new § 2656(g)(8), § 2656(g)(9) and § 2656(g)(10) the following:

"(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations, and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural, or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Delaware Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and manpower utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria, and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities, and other locations. The economic development element shall be developed in consultation with and reviewed by the Delaware Economic Development Office."

Section 14. Amend § 2656(h) by deleting it in its entirety and by inserting in lieu thereof the following:

"(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency."

Section 15. Amend § 2656(i) by redesignating it as new "§ 2657(a)" and titling new § 2657 as follows: "State Responsibilities to Local Planning Agencies" and renumbering existing § 2657 through § 2661 as § 2658 through § 2662 accordingly.

Section 16. Amend new § 2657 by inserting as new subsection (b) the following:

"(b). The State through the Cabinet Committee on State Planning Issues shall provide to the County for use in the comprehensive planning process State land use and development goals and policies, state regulatory requirements, estimates of future state financial capabilities, the State Capital Improvements Budget and Plan, State facility location plans, estimates of existing quantity of natural resources, economic development strategies, and any other information which might reasonably influence the County's future land use decisions. The State shall provide the County with long-range plans, performance standards, land development policies, facility siting criteria, and infrastructure impact assessment standards (necessary to ensure the availability of public facilities and the adequacy of those facilities), so as to enable the County to prepare the plan elements required by § 2656 and to clearly set forth the criteria the State will use to review such elements. The Cabinet Committee on State Planning Issues' review of county comprehensive plans as provided herein shall be limited to the plans, policies, criteria, and other information provided to the county. During preparation of the county comprehensive plan, the County and the State shall jointly establish guidelines for the location and arrangement of public facilities, such as public schools, health care facilities, public safety and correctional institutions, libraries and other public buildings. Such guidelines shall be used to coordinate between the various levels of government so as to ensure that public buildings and facilities are located in a manner which consistent with State and County development goals."

Section 17. Amend renumbered § 2658 (existing § 2657) by relettering existing subsections (a), (b), and (c) as subsections (c), (d), and (e) respectively and adding as new subsections (a) and (b) the following:

"(a) The comprehensive plan shall be presented to the Cabinet Committee on State Planning Issues at such time as the plan is made available for public review. The County shall provide the Committee with sufficient copies of the plan and its supporting documents to facilitate review. The Committee shall consider the plan in a public meeting during which the County will make a presentation of the plan and its underlying goals and development policies. The Committee shall have at least 60 days to review the plan and provide comments and recommendations before adoption of the plan by the County's legislative body. The Committee's review shall include an assessment of the potential fiscal impacts of the proposed County comprehensive plan as they relate to State funded infrastructure, including but not limited to transportation facilities, water and sewer systems, and public schools. The Committee's comments and recommendations shall be submitted in writing and shall be based on such statewide land development goals, policies, and criteria as have been adopted by the Committee, State laws and regulations, and comments from State agencies regarding the various plan elements. The reasons for any State comments or objections, including concerns resulting from the assessment of infrastructure impacts, shall be stated, along with suggestions for improvements or revisions needed to address these comments. The Committee's comments shall be made part of the official record and shall be specifically addressed by the County in adoption of the comprehensive plan.

(b) The State shall not be obligated to provide state financial assistance or infrastructure improvements to support land use or development actions by the County where the County's adopted comprehensive plan or portions thereof are determined to be substantially inconsistent with State development policies."

Section 18. Amend newly designated § 2658(c) (existing § 2657(a)) by deleting the second sentence thereof and inserting in lieu thereof the following:

"The local planning agency shall prepare a report on the comprehensive plan, which shall be sent to the Cabinet Committee on State Planning Issues each year after adoption of the comprehensive plan."

Section 19. Amend new § 2658 by inserting as new § 2658(f) the following:

"(f) The Cabinet Committee on State Planning Issues shall prepare an annual assessment report of statewide trends, issues, and opportunities to be submitted to County and local governments, the General Assembly, and the public. The first report shall be prepared by December 31, 1995."

Section 20. Amend new § 2660(a) by deleting it in its entirety and by inserting in lieu thereof the following:

"(a) The County shall prepare a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than December 31, 1996; provided, however, the County may request an extension of such date by forwarding an official request to the Cabinet Committee on State Planning Issues at least 90 days prior to December 31, 1996. The basis for the request shall be clearly indicated. In no case shall the deadline for submission of a final plan be extended beyond March 31, 1997. Upon completion of the comment period set forth in this subchapter, the County shall solicit public comment and adopt a comprehensive plan for zoning, subdivision, and other land use decisions. Such plan shall be updated every five years thereafter."

Section 21. Amend new § 2660 by inserting new subsections (c) and (d) as follows:

"(c) Within one year of the date of adoption of the county plan, the County shall initiate an implementation program regarding subdivision and development controls. The County shall report the status of the implementation program in the monitoring report as required by this subchapter. This report should include progress to date, problems, issues, and opportunities.

(d) Subsequent amendments to the county comprehensive plan required by this chapter shall be submitted to the Cabinet Committee on State Planning Issues for review pursuant to 29 Del.C. § 9211."

Section 22. Amend § 4952(c), Title 9 of the Delaware Code by deleting the words "New Castle, or Sussex".

Section 23. Amend § 4952 of the Delaware Code by relettering existing § 4952(b)-(t) as § 4952(c)-(u) and by inserting as new § 4952(b) the following:

"'Coordination' as used in this chapter means, in general terms, to act jointly, concurrently, and/or harmoniously toward a common end or purpose."

Section 24. Amend Title 9, § 4953(a)(3) of the Delaware Code by inserting after "thereof." the following:

"In furtherance of the authority to adopt, amend, and implement comprehensive plans or elements or portions thereof to guide and control future growth, counties are expressly granted the authority to develop and adopt regulations governing the transfer of development rights from identified districts, zones or parcels of land to districts, zones or areas designated to receive such development rights. Such regulations may provide for the establishment of development right banking. Whenever a County exercises its authority to provide for the transfer of development rights it shall:

a. Comply with all requirements of this subchapter pertaining to the amendment of a comprehensive plan;

b. Provide for the transfer of development rights as a option to the use and development of the subject property according to the otherwise applicable zoning ordinance;

c. Limit designation of receiving areas to locations where the County has determined that growth should be encouraged and where a transfer of development rights would not result in the inability of either the existing or planned public facilities which serve the area to accommodate such growth; and

d. Demonstrate that the creation and regulation of both sending and receiving districts are otherwise consistent with promotion of the policies expressed by the comprehensive plan and Statewide Planning Goals and Objectives established pursuant to 29 Delaware Code Chapter 91."

Section 25. Amend § 4956 (c) by inserting as new § 4956(c)(4) the following:

"(4) To the extent provisions of the Capital Improvements Plan anticipate State financial assistance, involvement, or cooperation, such provisions shall be developed in conjunction with the State Capital Improvement Plan and Annual Capital Budget."

Section 26. Amend § 4956 (e) by inserting at the end thereof the following:

"Such policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter."

Section 27. Amend § 4956 (g) (1) by inserting at the end thereof the following:

"Population, demographic, environment, oil economic data and projections used to determine present conditions, future land use, and public facility requirements shall be developed

in conjunction with the State and municipalities, and shall, as a minimum, be consistent with projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified."

Section 28. Amend § 4956 (g) (2) by striking it in its entirety and by inserting in lieu thereof the following:

"(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Delaware Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, rail facilities, terminals, and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment."

Section 29. Amend § 4956 (g)(3) by deleting the last sentence thereof in its entirety and inserting in lieu thereof the following:

"The water and sewer element shall be developed in consultation with and reviewed by the Delaware Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved Area-wide Wastewater Treatment Plans."

Section 30. Amend § 4956 (g) (4) by inserting at the end thereof the following:

"The conservation element shall also consider areas most suited for agricultural uses, silvicultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Delaware Department of Agriculture and the Delaware Department of Natural Resources and Environmental Control."

Section 31. Amend § 4956 (g) (5) by striking the last sentence thereof and inserting in lieu thereof the following:

"The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Delaware Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities."

Section 32. Amend § 4956(g)(6) by inserting at the end thereof as new § 4956(g)(6) as follows:

"g. Demonstrated coordination with the State Housing Authority including but not limited to guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available."

Section 33. Amend § 4956 (g) by inserting at the end thereof as new § 4956(g)(8), § 4956(g)(9) and § 4956(g)(10) the following:

"(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations, and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural, or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Delaware Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and manpower utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria, and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities, and other locations. The economic development element shall be developed in consultation with and reviewed by the Delaware Economic Development Office."

Section 34. Amend § 4956(h) by deleting it in its entirety and by inserting in lieu thereof the following:

"(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency."

Section 35. Amend § 4956(i) by redesignating it as new "§ 4957(a)" and titling new § 4957 as follows: "State Responsibilities to Local Planning Agencies" and renumbering existing § 4957 through § 4961 as § 4958 through § 4962 accordingly.

Section 36. Amend new § 4957 by inserting as new subsection (b) the following:

"(b). The State through the Cabinet Committee on State Planning Issues shall provide to the County for use in the comprehensive planning process: state land use and development goals and policies, state regulatory requirements, estimates of future state financial capabilities, the State Capital Improvements Budget and Plan, State facility location plans, estimation of existing quantity of natural resources, economic development strategies, and any other information which might reasonably influence the County's future land use decisions. The State shall provide the County with long-range plans, performance standards, land development policies, facility citing criteria, and infrastructure impact assessment standards (necessary to ensure the availability of public facilities and the adequacy of those facilities), so as to enable the County to prepare the plan elements required by § 4956 and to clearly set forth the criteria the State will use to review such elements. The Cabinet Committee on State Planning Issues' review of county comprehensive plans as provided herein shall be limited to the plans, policies, criteria, and other information provided to the county. During preparation of the county comprehensive plan, the County and the State shall jointly establish guidelines for the location and arrangement of public facilities, such as public schools, health care facilities, public safety and correctional institutions, libraries and other public buildings. Such guidelines shall be used to coordinate between the various levels of government so as to ensure that public buildings and facilities are located in a manner which consistent with State and County development goals."

Section 37. Amend renumbered § 4958 (existing § 4957) by relettering existing subsections (a), (b), and (c) as subsections (c), (d), and (e) respectively and adding as new subsections (a) and (b) the following:

"(a) The comprehensive plan shall be presented to the Cabinet Committee on State Planning Issues at such time as the plan is made available for public review. The County shall provide the Committee with sufficient copies of the plan and its supporting documents to facilitate review. The Committee shall consider the plan in a public meeting during which the County will make a presentation of the plan and its underlying goals and development policies. The Committee shall have at least 60 days to review the plan and provide comments and recommendations before adoption of the plan by the County's legislative body. The Committee's review shall include an assessment of the potential fiscal impacts of the proposed County comprehensive plan as they relate to State funded infrastructure, including but not limited to transportation facilities, water and sewer systems, and public schools. The Committee's comments and recommendations shall all be submitted in writing and shall be based on such statewide land development goals, policies, and criteria as have been adopted by the Committee, State laws and regulations, and shall incorporate comments from State agencies regarding the various plan elements. The reasons for any State comments or objections,

including concerns resulting from the assessment of infrastructure impacts, shall be stated, along with suggestions for improvements or revisions needed to address these comments. The Committee's comments shall be made part of the official record and shall be specifically addressed by the County in adoption of the comprehensive plan.

(b) The State shall not be obligated to provide state financial assistance or infrastructure improvements to support land use or development actions by the County where the County's adopted comprehensive plan or portions thereof are determined to be substantially inconsistent with State development policies."

Section 38. Amend newly designated § 4958(c) (existing § 4957(a)) by deleting the second sentence thereof and inserting in lieu thereof the following:

"The local planning agency shall prepare a report on the comprehensive plan, which shall be sent to the Cabinet Committee on State Planning Issues each year after adoption of the comprehensive plan."

Section 39. Amend new § 4958 by inserting as new § 4958(f) the following:

"(f) The Cabinet Committee on State Planning Issues shall prepare an annual assessment report of statewide trends, issues, and opportunities to be submitted to County and local governments, the General Assembly, and the public. The first report shall be prepared by December 31, 1995."

Section 40. Amend new § 4960(a) by deleting it in its entirety and by inserting in lieu thereof the following:

"(a) The County shall prepare a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than December 31, 1996; provided, however, the County may request an extension of such date by forwarding an official request to the Cabinet Committee on State Planning Issues at least 90 days prior to December 31, 1996. The basis for the request shall be clearly indicated. In no case shall the deadline for submission of a final plan be extended beyond March 31, 1997. Upon completion of the comment period set forth in this subchapter, the county government shall solicit public comment and adopt a comprehensive plan for zoning, subdivision, and other land use decisions. Such plan shall be updated every five years thereafter."

Section 41. Amend new § 4960 by inserting new subsections (c) and (d) as follows:

"(c) Within one year of the date of adoption of the county plan, the County shall initiate an implementation program regarding subdivision and development controls. The County shall report the status of the implementation program in the monitoring report as required by this subchapter. This report should include progress to date, problems, issues, and opportunities.

(d) Subsequent amendments to the county comprehensive plan required by this chapter shall be submitted to the Cabinet Committee on State Planning Issues for review pursuant to 29 Del.C. § 9211."

Section 42. Amend § 6952(c), Title of the Delaware Code by deleting the words "Kent, or New Castle".

Section 43. Amend § 6952. Title 9 of the Delaware Code by relettering existing § 6952(b)-(t) as § 6952(c)-(u) and by inserting as new § 6952(b) the following:

"'Coordination' as used in the this chapter means, in general terms, to act jointly, concurrently, and/or harmoniously toward a common end or purpose."

Section 44. Amend § 6953(a)(3), Title 9 of the Delaware Code by inserting the following at the end of the subparagraph:

"In furtherance of the authority to adopt, amend, and implement comprehensive plans or elements or portions thereof to guide and control future growth, counties are expressly

granted the authority to develop and adopt regulations governing the transfer of development rights from identified districts, zones or parcels of land to districts, zones or areas designated to receive such development rights. Such regulations may provide for the establishment of development right banking. Whenever a County exercises its authority to provide for the transfer of development rights it shall:

a. Comply with all requirements of this subchapter pertaining to the amendment of a comprehensive plan;

b. Provide for the transfer of development rights as a option to the use and development of the subject property according to the otherwise applicable zoning ordinance;

c. Limit designation of receiving areas to locations where the County has determined that growth should be encouraged and where a transfer of development rights would not result in the inability of either the existing or planned public facilities which serve the area to accommodate such growth; and

d. Demonstrate that the creation and regulation of both sending and receiving districts are otherwise consistent with promotion of the policies expressed by the comprehensive plan and Statewide Planning Goals and Objectives established pursuant to 29 Delaware Code Chapter 91."

Section 45. Amend § 6956 (c) by inserting as new §6956(c)(4) the following:

"(4) To the extent provisions of the Capital Improvements Plan anticipate State financial assistance, involvement, or cooperation, such provisions shall be developed in conjunction with the State Capital Improvement Plan and Annual Capital Budget."

Section 46. Amend § 6956 (e) by inserting at the end thereof the following:

"Such policy statement or coordinated mapping element shall specifically identify the coordination process undertaken and the official action taken by affected municipalities regarding the county comprehensive plan. Such statement or element shall also set forth the procedures to be followed to ensure continuing coordination with municipalities, regional agencies and the State. In addition, the comprehensive plan shall provide for coordination with state agencies regarding land use and development policies and shall provide for review and consideration by the Cabinet Committee on State Planning Issues at such times as required by this subchapter."

Section 47. Amend § 6956 (g) (1) by inserting at the end thereof the following:

"Population, demographic, environment, and economic data and projections used to determine present conditions, future land use, and public facility requirements shall be developed in conjunction with the State and municipalities, and shall, as a minimum, be based on [consistent with] projections officially adopted by the Delaware Population Consortium. The sources and assumptions used to develop such projections shall be clearly identified."

Section 48. Amend § 6956 (g) (2) by striking it in its entirety and inserting in lieu thereof the following:

"(2) A mobility element which is consistent with the approved Area-wide Transportation Plan and has been developed in conjunction with the Delaware Department of Transportation. The mobility element shall provide a balanced transportation system addressing the movement of people and goods while showing existing and proposed rights-of-way, sidewalks, bikeways, rail facilities, terminals, and related facilities. The mobility element shall include recommendations for land use regulations that promote a range of sustainable transportation choices for future transportation needs. The mobility element shall be consistent with the State Implementation Plan (SIP) for air quality attainment."

Section 49. Amend § 6956 (g)(3) by deleting the last sentence thereof in its entirety and inserting in lieu thereof the following:

"The water and sewer element shall be developed in consultation with and reviewed by the Delaware Department of Natural Resources and Environmental Control. The water and sewer element shall include an assessment of fiscal considerations and shall be consistent with approved Area-wide Wastewater Treatment Plans."

Section 50. Amend § 6956 (g) (4) by inserting at the end thereof the following:

"The conservation element shall also consider areas most suited for agricultural uses, silvacultural uses and watershed protection. The conservation element shall be developed in consultation with and reviewed by the Delaware Department of Agriculture and the Delaware Department of Natural Resources and Environmental Control."

Section 51. Amend § 6956 (g) (5) by striking the last sentence thereof and inserting in lieu thereof the following:

"The recreation and open space element shall be consistent with the Comprehensive Land Use Plan. The element shall be developed in consultation with and reviewed by the Delaware Department of Natural Resources and Environmental Control and shall reflect the State's open space preservation and outdoor recreation planning activities."

Section 52. Amend § 6956(g)(6) by inserting at the end thereof as new § 6956(g)(6)g as follows:

"g. Demonstrated coordination with the State Housing Authority including but not limited to guidelines to insure that sites for publicly assisted housing are located where adequate transportation opportunities, health and social services and other community services are available."

Section 53. Amend § 6956 (g) by inserting at the end thereof as new § 6956(g)(8), § 6956(g)(9) and § 6956(g)(10) the following:

"(8) A recommended community design element to assist in the achievement of the objectives of the comprehensive plan which may consist of design recommendations for land subdivision, neighborhood development, neighborhood redevelopment, design of open space locations, and similar matters. To that end, such recommendations may be made available as aids and guides to developers in the future planning and development of land in the area.

(9) An historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural, or similar significance. The historical preservation element shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Delaware Department of State.

(10) An economic development element setting forth principles and guidelines for the commercial and industrial development, if any, and the employment and manpower utilization within the area. The element may detail the type of commercial and industrial development sought while correlating the present and projected employment needs of the area to other elements of the plan and may set forth methods by which a balanced and stable economic base will be pursued. The economic development element shall include a general area redevelopment component consisting of plans, criteria, and programs for community redevelopment, including reuse of housing sites, business sites, industrial sites, central business districts, public building sites, recreational facilities, and other locations. The economic development element shall be developed in consultation with and reviewed by the Delaware Economic Development Office."

Section 54. Amend § 6956(h) by deleting it in its entirety and inserting in lieu thereof the following:

"(h) The comprehensive plan may include such other elements as may be peculiar to and/or necessary for the area concerned and as are added by the governing body upon the recommendation of the local planning agency."

Section 55. Amend § 6956(i) by redesignating it as new “§ 6957(a)” and titling new § 6957 as follows: “State Responsibilities to Local Planning Agencies” and renumbering existing § 6957 through § 6961 as § 6958 through § 6962 accordingly.

Section 56. Amend new § 6957 by inserting as new subsection (b) the following:

“(b). The State through the Cabinet Committee on State Planning Issues shall provide to the County for use in the comprehensive planning process: state land use and development goals and policies, state regulatory requirements, estimates of future state financial capabilities, the State Capital Improvements Budget and Plan, State facility location plans, economic development strategies, and any other information which might reasonably influence the County’s future land use decisions. The State shall provide the County with long-range plans, performance standards, land development policies, facility siting criteria, and infrastructure impact assessment standards (necessary to ensure the availability of public facilities and the adequacy of those facilities), so as to enable the County to prepare the plan elements required by § 6956 and to clearly set forth the criteria the State will use to review such elements. The Cabinet Committee on State Planning Issues’ review of county comprehensive plans as provided herein shall be limited to the plans, policies, criteria, and other information provided to the county. During preparation of the county comprehensive plan, the County and the State shall jointly establish guidelines for the location and arrangement of public facilities, such as public schools, health care facilities, public safety and correctional institutions, libraries and other public buildings. Such guidelines shall be used to coordinate between the various levels of government so as to ensure that public buildings and facilities are located in a manner which consistent with State and County development goals.”

Section 57. Amend renumbered § 6958 (existing § 6957) by relettering existing subsections (a), (b), and (c) as subsections (c), (d), and (e) respectively and adding as new subsections (a) and (b) the following:

“(a) The comprehensive plan shall be presented to the Cabinet Committee on State Planning Issues at such time as the plan is made available for public review. The County shall provide the Committee with sufficient copies of the plan and its supporting documents to facilitate review. The Committee shall consider the plan in a public meeting during which the County will make a presentation of the plan and its underlying goals and development policies. The Committee shall have at least 60 days to review the plan and provide comments and recommendations before adoption of the plan by the County’s legislative body. The Committee’s review shall include an assessment of the potential fiscal impacts of the proposed County comprehensive plan as they relate to State funded infrastructure, including but not limited to transportation facilities, water and sewer systems, and public schools. The Committee’s comments and recommendations shall all be submitted in writing and shall be based on such statewide land development goals, policies, and criteria as have been adopted by the Committee, State laws and regulations, and shall incorporate comments from State agencies regarding the various plan elements. The reasons for any State comments or objections, including concerns resulting from the assessment of infrastructure impacts, shall be stated, along with suggestions for improvements or revisions needed to address these comments. The Committee’s comments shall be made part of the official record and shall be specifically addressed by the County in adoption of the comprehensive plan.

(b) The State shall not be obligated to provide state financial assistance or infrastructure improvements to support land use or development actions by the County where the County’s adopted comprehensive plan or portions thereof are determined to be substantially inconsistent with State development policies.”

Section 58. Amend newly designated § 6958(c) (existing § 6957(a)) by deleting the second sentence thereof and inserting in lieu thereof the following:

“The local planning agency shall prepare a report on the comprehensive plan, which shall be sent to the Cabinet Committee on State Planning Issues each year after adoption of the comprehensive plan.”

Section 59. Amend new § 6958 by inserting as new § 6958(f) the following:

"(f) The Cabinet Committee on State Planning Issues shall prepare an annual assessment report of statewide trends, issues, and opportunities to be submitted to County and local governments, the General Assembly, and the public. The first report shall be prepared by December 31, 1995."

Section 60. Amend new § 6960(a) by deleting it in its entirety and by inserting in lieu thereof the following:

"(a) The County shall prepare a final comprehensive plan for submission to the Cabinet Committee on State Planning Issues no later than December 31, 1996; provided, however, the County may request an extension of such date by forwarding an official request to the Cabinet Committee on State Planning Issues at least 90 days prior to December 31, 1996. The basis for the request shall be clearly indicated. In no case shall the deadline for submission of a final plan be extended beyond March 31, 1997. Upon completion of the comment period set forth in this subchapter, the county government shall solicit public comment and adopt a comprehensive plan for zoning, subdivision, and other land use decisions. Such plan shall be updated every five years thereafter."

Section 61. Amend new § 6960 by inserting new subsections (c) and (d) as follows:

"(c) Within one year of the date of adoption of the county plan, the County shall initiate an implementation program regarding subdivision and development controls. The County shall report the status of the implementation program in the monitoring report as required by this subchapter. This report should include progress to date, problems, issues, and opportunities.

(d) Subsequent amendments to the county comprehensive plan required by this chapter shall be submitted to the Cabinet Committee on State Planning Issues for review pursuant to 29 Del.C. § 9211."

Approved July 19, 1995

CHAPTER 271

FORMERLY

HOUSE BILL NO. 95

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO STATE CLASSIFICATIONS.

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

Section 1. Amend Title 29, Delaware Code, striking the Section 5915 in its entirety and substituting in lieu thereof the following to read:

“§ 5915. Classification; Uniformity; Appeal of Classification.

The rules shall provide for the preparation, maintenance and revision of a position classification plan for all positions in the classified service and all merit comparable positions, based upon similarity of duties performed and responsibilities assumed so that uniform qualifications and pay ranges shall apply to all positions in the same classification.

After approval of such maintenance review classifications determination by the Director, State Budget Director and Controller General, the Director shall notify the agency and employee of the results. The maintenance review classification determination shall become effective on the following July 1.

Any maintenance review classification determination may be appealed to the Merit Employee Relations Board by any affected employee or agency within thirty (30) calendar days of notification.

Within ten (10) calendar days of the filing of an appeal, the Board shall assign an independent reviewer, trained in job analysis, to evaluate the merits of the employee's appeal. Within thirty (30) calendar days, the independent reviewer must submit a written independent finding to the Board, and copy to the employee and the Director. In unusual circumstances, the Board may authorize the independent reviewer an additional thirty (30) calendar days to complete the review.

The employee and the Director shall have thirty (30) calendar days to accept the finding rendered by the independent reviewer and notify the Board.

If the findings of the independent reviewer are accepted by the employee and the Director, the Board shall also accept the findings.

If these findings are ignored or disputed by either the employee or the Director, the parties shall be notified and permitted to respond and the Board shall hold a hearing on the employee's appeal within sixty (60) calendar days.

At the hearing, the parties may present brief oral argument in support of their position.

The Board shall render a final and binding decision on the matter within fifteen (15) calendar days of the hearing. In rendering its decision, the Board shall consider the following criteria:

- a. the findings of the independent reviewer;

- b. the Director's initial determination;
- c. the Director's response to the independent reviewer's findings;
- d. the employee's response to the independent reviewer's findings;
- e. the oral argument;
- f. the consistency with other existing classified positions of a similar nature; and
- g. the minimization of the number of classifications.

The Board shall have the authority to hire a staff of independent reviewers and contract for services in carrying out the provisions of this section.

In the event that the State Budget Director can demonstrate that sufficient funds are not available to fund the classification decisions rendered by this section, the effective date may be delayed until the beginning of the next fiscal year.

This Act shall become effective ninety (90) days after enactment."

Approved July 19, 1995

CHAPTER 272

FORMERLY

HOUSE BILL NO. 96

AN ACT TO AMEND CHAPTER 59, TITLE 29, DELAWARE CODE, TO ALLOW VACANT POSITIONS IN PAYGRADE 4 TO BE FILLED BY AGENCY RECRUITMENT EFFORTS.

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

Section 1. Amend § 5919, Chapter 59, Title 29, Delaware Code, by deleting the last sentence and substituting in lieu thereof:

"Vacant positions in paygrades 1-4 will be filled by agency recruitment efforts unless an eligibility list is required by federal law for that position."

Approved July 19, 1995

CHAPTER 273

FORMERLY

SENATE BILL NO. 266

AN ACT TO MAKE A SUPPLEMENTAL APPROPRIATION TO THE STATE TREASURER FOR THE FISCAL YEAR ENDING JUNE 30, 1996 TO DEFEASE AND/OR DEAUTHORIZE GENERAL OBLIGATION BONDS AT THE DIRECTION OF THE SECRETARY OF FINANCE.

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

Section 1. The sum of forty-one million dollars (\$41,000,000) is hereby appropriated to the State Treasurer, Debt Management (12-05-03) for Fiscal Year 1996 Defeasance and/or Deauthorization Bonds.

Section 2. The Secretary of Finance is hereby authorized on behalf of the State to apply funds herein appropriated to undertake a defeasance and/or a deauthorization of General Obligation Bonds issued or authorized but unissued by the State of Delaware. The funds appropriated hereby shall be applied (i) to the purchase of direct obligations of the U.S. Government, or other essentially risk-free securities to be deposited in trust to accomplish an in substance defeasance of said bonds in accordance with "Statement of Financial Accounting Standards No. 76, Extinguishment of Debt" which shall cause designated bonds to be deemed retired for the purposes of Section 7422 of Title 29, Delaware Code, (ii) to the transaction costs associated with accomplishing said defeasance, or (iii) to pay the costs of capital projects for which General Obligation Bonds are authorized but unissued. In the event that the Secretary of Finance elects to apply such funds to pay the costs of capital projects in lieu of issuing bonds, then and in that event, the authorization to issue such bonds shall be terminated. The Secretary of Finance is also authorized, pursuant to such procedures and subject to such terms and conditions as she/he shall deem in the best interest of the State, to acquire the aforesaid securities for deposit in trust, to identify the bonds of the State to be retired with the proceeds of the trust assets or the bonds to be deauthorized, to waive the right of the State to redeem any such identified bonds prior to their stated maturities, to select a financial institution to serve as trustee and to do all other things reasonably related to the retirement of bonds with the proceeds of this appropriation.

Section 3. This Act is a supplementary appropriation and the funds herein appropriated shall be paid to the State Treasurer from the General Fund of the State of Delaware from funds not otherwise appropriated.

Approved July 19, 1995

CHAPTER 274

FORMERLY

HOUSE BILL NO. 327

AN ACT TO AMEND TITLES 15, 17 AND 29 OF THE DELAWARE CODE RELATING TO THE OFFICE OF INFORMATION SERVICES.

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

Section 1. Amend Subchapter IV, Chapter 63, Title 29 of the Delaware Code by deleting said subchapter in its entirety and substituting in lieu thereof the following:

"Subchapter IV. Office of Information Services.

§ 6351. Office of Information Services.

There is hereby established the Office of Information Services within the Executive Department, replacing the Office of Information Systems within the Office of the Budget.

§ 6352. Powers, duties and functions.

(a) The Office of Information Services within the Executive Department is established having powers, duties and functions as follows:

(1) Provide operations and production support to ensure the efficient and reliable operation of the State's computer and telecommunications network;

(2) provide technical support and assistance to maintain control programs for computer operations, program development, telecommunications network operation and data base management;

(3) Evaluate the performance of computer/informational systems and equipment;

(4) Provide analytical and programming support to maintain and upgrade existing information systems, applications and programs;

(5) provide facilities management of certain informational facilities, including certain office-support informational centers;

(6) Make studies of all facets of data/voice/image processing, word processing, computer and computer-related telecommunications, voice and radio telecommunications in State government, and systems that may have been or will be installed or are proposed to be installed, and all matters pertaining thereto, including approval or disapproval of systems and equipment installed or to be installed or of changes or additions in or to equipment in any or all of the various State agencies, regardless of size or of the method or source of funding;

(7) Establish statewide standards, policies, guidelines and procedures relating to the State's information assets including, but not limited to, statewide technology and information architectures, statewide information technology plans, development life cycle methodologies, transport facilities, communications protocols, data and information sharing considerations, grantsmanship efforts involving the State's informational resources, and the overall coordination of information technology efforts undertaken by and between the various State agencies; and

(8) Provide consulting services to client agencies including, but not limited to, information technology planning, program budget planning for information system initiatives, expertise in systems development life cycle methods, and access to technical information on emerging technologies.

(b) No data processing, word processing, voice processing or image processing computer or computer-related telecommunications equipment or software system acquisitions may be purchased, leased, rented, developed or otherwise acquired by any State agency, department or institution without prior written approval of the Executive Director. Such approval shall not be made unless the Executive Director has received complete details, including full life cycle costs (for example, equipment, maintenance, training, staff development, and support costs) key anticipated benefits, detailed machine and equipment specifications, programs to be processed and any other data which he/she may require. All the data and pertinent programming information shall be furnished to the Executive Director at least 90 days prior to the execution of any purchase, lease or rental contract.

(c) (1) Within guidelines established by the Office of Information Services, no new computer or computer-programming related systems study may be initiated by any department or agency unless covered by a formal project approved by the department or agency head. Such project will be in the form prescribed by the Executive Director, but shall include in any case:

a. A statement of work to be done, existing work to be modified or displaced;

b. total cost of system development and conversion effort including, but not limited to, systems analysis and programming costs, establishment of master files, testing, documentation, special equipment costs and all other costs, including full overhead;

c. savings or added operating costs that will result after conversion;

d. other advantages or reasons that justify the work;

e. source of funding of the work, including ongoing costs;

f. conformance with formal (or abbreviated, where applicable) information systems planning methodologies;

g. consideration of shared applications and data elements/bases;

h. consistency with budget submissions and planning components thereof; and

i. whether or not work is within scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(2) No project is to be undertaken which is beyond the scope of work funded by the General Fund or a special fund. This paragraph applies to all telecommunications or computer or computer-related systems development performed by the Office of Information Services, a department or agency itself, or an outside contractor, and also applies to new computer programs or systems purchased or otherwise acquired and placed in use.

(3) All projects are to be signed by the Executive Director and the concerned department or agency head, or their designees, before work is begun, except such relatively minor feasibility work required to prepare the project. Copies of all projects are to be provided to the Comptroller General and the Budget Director, who shall ensure that the Office of Information Services is included in reviews of agency information systems and technology tactical plans and

technology budget requests. Within constraints established by the Budget Director and the Controller General, the Office of Information Services will provide an analysis of the technical feasibility, consistent with statewide technology strategy, and completeness and reasonableness of projected costs to develop and operate all agency projects submitted through the annual budget process. In support of all projects executed between the Office of Information Services and the concerned department or agency, the Office of Information Services shall provide or maintain staff support to the benefiting department or agency at the projected level of effort until the project work has been accomplished.

(4) Management control and policy direction over all aspects of computerized data requirements definition, data acquisition, data storage and dissemination, data retention, and data retirement standards shall be the sole province of the Office of Information Services.

(5) The creation and maintenance of statewide data dictionary in which each element of data is defined, collection responsibilities are affixed, and data access by legitimate users clearly defined, shall likewise be the responsibility of the Office of Information Services.

(6) To those ends, no agency shall:

a. Claim unreasonable proprietary ownership of public domain information needed by another agency in the performance of its lawful duties, except as specifically excluded by law; or

b. create a computerized data base outside of guidelines established by the Office of Information Services.

(d) Responsibility for the development and coordination of new technology-based management or productivity improvement programs is vested within the Office of Information Services, along with the responsibility to establish statewide information systems and technology priorities for purposes of budgetary funding reviews by the Budget Director.

(e) The Office of Information Services shall promote cooperation between the several State agencies, departments and institutions in order that work may be done by one agency for another agency and equipment and/or technical personnel in one agency may be made available to another agency, and promote such improvements as may be necessary in joint or cooperative data processing operations. The Executive Director is authorized to purchase, lease or rent data processing equipment in the name of the Office of Information Services and to operate the equipment in providing services to one or more State agencies, departments and institutions. When, in the opinion of the Executive Director, better and more efficient data processing services can be performed, the Office of Information Services may enter into lease or purchase agreements in the acquiring or the use of any data processing equipment and use such equipment in a consolidated or cooperative program. When the Office of Information Services acts as a cooperative or consolidated data processing operating agency, the cost of the operation shall be prorated among the State agencies utilizing the data processing services provided thereby. The Executive Director shall decide on the number of data processing centers, including the size of each, and shall be empowered to pick the site or sites for the centers and the controlling agency.

(f) Any consolidated or cooperative plan approved by the Executive Director shall be given effect. The Information Services Advisory Committee shall adjudicate disputes in all matters pertaining to the division of cost of data processing operations among the several agencies, and shall resolve differences with respect to data sharing and access privileges among and between using/owning agencies. The Office of Information Services shall maintain as a paramount consideration the successful internal organization

and duties of the several agencies so that efficiency existing in the agencies shall not be adversely affected or impaired by the decisions that are made.

(g) The Office of Information Services, via the Director of Telecommunications Management, shall:

- (1) Cause a statewide telecommunications plan to be created, implemented and maintained;
- (2) monitor and control the execution of said plan;
- (3) review and approve all agency plans, and shall advise the Executive Director and the Budget Director regarding budget requests and acquisitions, involving any telecommunications resources and activities;
- (4) report on status to an advisory committee, as is required;
- (5) provide technical assistance and consultation to State agencies with regard to meeting agency needs for telecommunications goods and services;
- (6) coordinate telecommunications plans and activities with related statewide information resource management functions;
- (7) establish and promulgate standards, policies, guidelines and procedures concerning the development, implementation, acquisition, and use of the State's communications facilities and assets; and
- (8) assume those communications powers, duties and functions specified in § 6353 of this title.

(h) The Office of Information Services shall have such other powers, duties and functions as the Governor may assign which are not otherwise inconsistent with the laws of this State.

§ 6353. Communications powers, duties and functions.

To provide for the development of an efficient and reliable communications system for joint use by departments, agencies and subdivisions of State government and effect maximum practical consolidation and joint use of existing and future communications facilities, equipment and services owned or used by the State and generally to obtain maximum practical economies by centralized coordination and budgetary control of all communications functions and activities of State government, the Office of Information Services, Telecommunications Management, shall:

- (a) (1) Approve and authorize all State government communications activities in accordance with this subchapter. The management control of and accountability for the use and operation of communications activities shall be a function of the using agency subject to the policies and intent of this subchapter. Expenditure of any funds, regardless of source, for unauthorized communications activities of any kind, by any agency, for any reason, or for communications activities not in compliance with the policies and intent of this subchapter shall be a violation of law punishable under the applicable statutes or regulations;
- (2) develop, coordinate, publish and administer a comprehensive State communications plan which shall provide for the maximum practical consolidation and joint use of existing and future communications systems, facilities, equipment and services by State government;

(3) develop, coordinate, publish and administer standards, policies and procedures for identifying, justifying and documenting communications requirements of State government;

(4) develop, coordinate, publish and administer policies and procedures for the use of communications facilities and services by State government;

(5) design, procure, install and maintain or, if appropriate, contract for the design, installation and maintenance of communications systems, facilities, equipment and services for State government in accordance with the determinations directed by this subchapter;

(6) apply for, receive and hold, or, if appropriate, assist agencies in applying for, receiving and holding such authorizations, licenses, permits and allocations of channels and frequencies as are necessary to carry out the purpose of this subchapter;

(7) perform periodic audits of the communications facilities and activities of State agencies to ensure compliance with the policy and intent of this subchapter, and other applicable laws and regulations; and

(8) perform such other duties in connection with the communications activities of the State government as may be directed by the Governor, or the General Assembly, or as may be required by existing or future State or federal statute.

(b) (1) Develop, coordinate, publish and administer policies and procedures for the submission of a communications budget, which shall include all requirements of State government, including identification of detailed requirements by agency;

(2) require that all State government agencies having communications requirements shall cooperate with and assist in the preparation of the communications budget; and

(3) provide for emergency or unplanned communications requirements by presenting a detailed program item in a supplemental budget request. Justification for the budget request shall be the responsibility of the agency having such emergency or unplanned requirements.

§ 6354. Creation, powers, duties and functions of Executive Director.

(a) There is hereby created the Office of the Executive Director of the Office of Information Services (for purposes of this subchapter, the 'Executive Director'). The Executive Director shall be appointed by the Governor with the advice and consent of the Senate and to serve at his pleasure as the State of Delaware's Chief Information Officer.

(b) The Executive Director shall:

(1) Supervise, direct and account for the administration and operation of the Office of Information Services and its subsections, facilities, functions and employees;

(2) appoint personnel as may be necessary for the administration and operation of the Office of Information Services within such limitations as may be imposed by law;

(3) establish, consolidate or abolish such sections within the Office of Information Services or transfer or combine the powers, duties and functions of the subsections within the Office of Information Services as the Executive Director, with the approval of the Governor, may deem necessary, providing that

all powers, duties and functions required and assigned by law to the Office of Information Services shall be provided for and maintained;

(4) make and enter into any and all contracts, agreements or stipulations for equipment, facilities and support services, and retain, employ and contract for the services of private and public consultants, research and technical personnel and to procure by contract consulting, research, technical and other services and facilities from public and private agencies in this State and other states, whenever the same shall be deemed by the Executive Director to be necessary in the performance of the functions of the Office of Information Services; and necessary legal services shall be provided pursuant to Chapter 25 of this title;

(5) delegate any of the Executive Director's powers, duties or functions to a manager, except the power to remove employees of the Office of Information Services or to determine their compensation;

(6) establish and promulgate such rules and regulations governing the services and programs of the Office of Information Services and such other rules and regulations governing the administration and operation of the Office of Information Services as may be deemed necessary by the Executive Director and which are not inconsistent with the federal and State law;

(7) maintain such facilities throughout the State as may be required for the effective and efficient operation of the Office of Information Services;

(8) prepare a proposed budget for the operation of the Office of Information Services to be submitted for the consideration of the Budget Director, the Governor and the General Assembly as directed under this chapter;

(9) coordinate the activities of the Office of Information Services with those of other State departments and agencies concerned with the services provided; and

(10) have any and all other powers and duties as are necessary to administer the powers, duties and functions of the Office of Information Services and implement the purposes of this subchapter.

§ 6355. Exemptions from Merit System.

The Executive Director shall be exempt from the application of Chapter 59 of this title.

§ 6356. Advisory Committee.

An Advisory Committee on Information Services is hereby established, to be chaired by a member so designated by the Governor. Its members shall include: (i) one member of the State Senate appointed by the President Pro Tempore of the Senate; (ii) one member of the State House of Representatives appointed by the Speaker of the House of Representatives; (iii) the State Secretary of Finance; (iv) the State Secretary of Health and Social Services; (v) the Secretary of State; (vi) the State Superintendent of Public Instruction; (vii) the State Secretary of Public Safety; (viii) the State Budget Director; (ix) the State Controller General; (x) one member of the State Judiciary appointed by the Chief Justice; (xi) one member representing State public schools, to be appointed by the Governor; and (xii) no more than three other members from within and outside of State government as the Governor may deem appropriate. The duties and responsibilities of the Advisory Committee, meeting at periodic intervals at the call of the Chair, shall be as follows:

(a) Identify information policy issues of statewide importance and provide overall information policy direction to address these issues;

(b) provide overall policy review and guidance to the planning, budgeting, operation and control of the State's informational assets;

(c) provide guidance in the review and establishment of policies and standards governing the State's informational resources;

(d) adjudicate appeals and disputes involving the Office of Information Services and the various State agencies;

(e) engage in, or cause to occur, post-implementation reviews of Information System and Technology initiatives to assess attainment of goals and objectives and budgetary compliance; and

(f) assist and consult with the Executive Director as is required in the discharge of his/her duties and responsibilities.

§ 6357. Information resource coordination.

(a) To assist the Executive Director in discharging his duties as 'Chief Information Officer' in the coordination and statewide management of informational resources, each cabinet level agency shall name an individual to act as that agency's 'information resource manager' or 'coordinator'. It is the intent of this section that such coordinators will act as the primary points of contact for appropriate communications between the Office of Information Services and the agencies. It is further intended that the State General Assembly, the State Judiciary, the State Department of Elections, the State Board of Education, the Office of the State Public Defender, the State Attorney General, and other elective offices similarly assign such a coordinator. The Executive Director shall cause the collective body of coordinators to meet regularly for purposes of statewide coordination of Delaware's informational resources.

(b) The Executive Director, along with agency information resource managers, will be responsible for developing a statewide Information Technology Strategy, to be published in the first quarter of each calendar year. This will document current and evolving technology standards, the evolution of the State's technology infrastructure, and projections of the Office of Information Services service and support levels.

(c) On an annual basis each State department and agency will submit a technology plan to the Office of Information Services, projecting anticipated information technology needs and objectives over a three-year time horizon.

§ 6358. Assumption of powers.

As of July 1, 1995, the Office of Information Services shall assume the powers, duties and functions formerly vested in the Office of Information Systems within the Budget Office and the powers, duties and functions for all data processing, information systems and telecommunications previously vested in the Department of Administrative Services, Division of Central Data Processing, and the Office of Planning Systems Development.

§ 6359. Existing rights of appeal preserved.

Any and all rights of appeal now existing by law with respect to any act or acts constituting the exercise of any function or functions transferred to the Office of Information Services shall continue to exist with respect to such act or acts as hereafter performed by the Office of Information Services to which such functions are transferred and each such appeal shall be perfected in the manner heretofore provided by law.

§ 6360. Budgeting and financing.

(a) The Executive Director, in cooperation with the internal program managers and office administrators, shall prepare a proposed budget for the operation of the Office of Information Services to be submitted for the consideration of the Budget Director, the

Governor and the General Assembly. The Office of Information Services shall be operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly.

(b) Special funds may be used in accordance with approved programs, grants and appropriations."

Section 2. Amend § 6528(e), Title 29, Delaware Code, by deleting said subsection in its entirety and substituting in lieu thereof the following:

"§ 6528. Transfer of funds.

(e) The provisions of subsection (d) of this section are waived with respect to the Office of Information Services. Requests from the Executive Director of the Office of Information Services for transfer of unexpended funds appropriated to personnel costs to 'contractual services -- equipment rental' may be made upon approval of the Budget Director and the Controller General."

Section 3. Amend § 6903(a)(6), Title 29, Delaware Code, by deleting therefrom the word "Systems" and substituting in lieu thereof the word "Services"; and by adding the words "or professional services," between the word "software" and the word "without".

Section 4. Amend § 7105(d), Title 29, Delaware Code, by deleting therefrom the words "Information Systems" and substituting in lieu thereof the words "Information Services".

Section 5. Amend § 2051(f), Title 15, Delaware Code, by deleting therefrom the words "Office of Information Systems" and substituting in lieu thereof the words "Office of Information Services".

Section 6. Amend § 1603(b)(4), Title 17, Delaware Code, by deleting therefrom the word "Systems" and substituting in lieu thereof the word "Services".

Approved July 19, 1995

CHAPTER 275

FORMERLY

SENATE BILL NO. 187

AS AMENDED BY

HOUSE AMENDMENT NO. 1 AND
HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE UPDATING THE WILDLIFE
LAWS OF THIS STATE AND ESTABLISHING A FINE SCHEDULE.

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

Section 1. Amend § 102(a), Title 7, Delaware Code, by striking the phrase "conserve and propagate" and substituting in lieu thereof the phrase "manage and conserve", and by striking the word "objects" and substituting in lieu thereof the word "objectives".

Section 2. Amend § 103(a)(2), Title 7, Delaware Code, by striking the phrase "or fishing and trapping" and substituting in lieu thereof the phrase ", trapping and/or fishing".

Section 3. Amend § 103(b), Title 7, Delaware Code, by striking the second and third sentences.

Section 4. Amend § 103(c), Title 7, Delaware Code, by striking said subsection in its entirety.

Section 5. Amend § 103(e), Title 7, Delaware Code, by striking the phrase in the first sentence "fined not less than \$10 nor more than \$50 and costs for each offense, or imprisoned not more than 30 days, or both" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor for each offense". Further amend said subsection by striking the second sentence and substituting in lieu thereof the following:

"Whoever violates any rule or regulation of the Department pertaining to deer
shall be guilty of a class C environmental misdemeanor for each offense."

Section 6. Amend § 103(f), Title 7, Delaware Code, by striking said subsection in its entirety.

Section 7. Amend § 103, Title 7, Delaware Code, by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

Section 8. Amend § 105, Title 7, Delaware Code, by inserting the phrase "as amended" after the citation "[16 U.S.C.A. § 669 et seq.]", and by striking the word "Agriculture" and substituting in lieu thereof the phrase "the Interior".

Section 9. Amend § 106, Title 7, Delaware Code, by inserting the phrase "as amended" after the citation "[16 U.S.C.A. § 777 et seq.]".

Section 10. Amend § 107, Title 7, Delaware Code, by inserting the phrase "as amended" after the citation "[16 U.S.C.A. § 777 et seq.]", and by inserting a comma "," after the phrase "fish restoration" the first time that it appears. Further amend said section by striking the comma "," as it appears between the words "restoration" and "shall", and by striking the phrase "proper vouchers for the propagation of upland game including cottontail rabbits" and substituting in lieu thereof the phrase "the fish and wildlife resources of this State in accordance with the federal guidelines to manage such fish and wildlife resources".

Section 11. Amend § 108, Title 7, Delaware Code, by inserting the phrase "as amended" between the citation "[16 U.S.C.A. § 777 et seq.]" and the comma ",", and by inserting the phrase "and wildlife" after the phrase "coordinated fish".

Section 12. Amend § 109, Title 7, Delaware Code, by striking the phrase "report made thereof" and substituting in lieu thereof the phrase "shall be reported".

Section 13. Amend § 110, Title 7, Delaware Code, by striking the semicolon ";," and substituting in lieu thereof a comma ",", and by striking the word "of" the first time that it appears and substituting in lieu thereof the phrase "there is".

Section 14. Amend § 113, Title 7, Delaware Code, by inserting the word "to" between the word "furnished" and the phrase "the Department".

Section 16. Amend Chapter 3, Title 7, Delaware Code, by striking said chapter in its entirety.

Section 17. Amend § 506(b), Title 7, Delaware Code, by striking the first sentence.

Section 18. Amend § 509(a)(4), Title 7, Delaware Code, by striking the phrase "Bureau of Sport Fisheries and Wildlife" and substituting in lieu thereof the phrase "United States Fish and Wildlife Service".

Section 19. Amend § 514(c), Title 7, Delaware Code, by striking the phrase "fined not less than \$10 nor more than \$50 and costs" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor".

Section 20. Amend § 515(b), Title 7, Delaware Code, by striking the phrase "fined not less than \$50 and costs" and substituting in lieu thereof the phrase "guilty of a class B environmental misdemeanor".

Section 21. Amend § 516, Title 7, Delaware Code, by striking the phrase ", if a resident, be fined not less than \$10 nor more than \$50 and costs for each offense, and, if a nonresident or an alien, be fined not less than \$50 and costs" and substituting in lieu thereof the phrase "be guilty of a class B environmental misdemeanor".

Section 22. Amend § 517, Title 7, Delaware Code, by striking said section in its entirety.

Section 23. Amend § 519, Title 7, Delaware Code, by inserting the phrase "hunts or" after the word "Whoever", and by striking the phrase "pursuant to § 512 of this title shall be fined \$1,000" and substituting in lieu thereof the phrase "shall be guilty of a class A environmental misdemeanor, and upon conviction, shall be denied the privilege of hunting or trapping, with or without a license, in the State for a period of 5 years, commencing with the date of conviction". Further amend said section by striking the word "Trapping" from the Title and substituting in lieu thereof the phrase "Hunting or trapping", and by striking the second sentence.

Section 24. Amend Chapter 5, Title 7, Delaware Code, by redesignating §§ 518 and 519 of Subchapter I as §§ 517 and 518 of Subchapter I, respectively.

Section 25. Amend Chapter 5, Title 7, Delaware Code, by striking Subchapter II, §§ 531 through 540, in its entirety, and by redesignating Subchapters III, IV, V and VI as Subchapters II, III, IV and V, respectively.

Section 26. Amend § 552, Title 7, Delaware Code, by striking section number "551" as it appears in said section and substituting in lieu thereof section number "528".

Section 27. Amend § 554, Title 7, Delaware Code, by striking section number "551" as it appears in said section and substituting in lieu thereof section number "528", and by striking the phrase "fined not less than \$100 nor more than \$500, and costs, for each and every offense" and substituting in lieu thereof the phrase "guilty of a class B environmental misdemeanor for each offense". Further amend said section by striking the second sentence.

Section 28. Amend § 555(c), Title 7, Delaware Code, by striking the phrase "fined not less than \$150 nor more than \$350, and costs for each offense" and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor", and by striking the second sentence.

Section 29. Amend Chapter 5, Title 7, Delaware Code, by redesignating §§ 551, 552, 553, 554 and 555 of Subchapter II as §§ 528, 529, 530, 531 and 532 of Subchapter II, respectively.

Section 30. Amend § 564, Title 7, Delaware Code, by striking the phrase "fined \$10" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor".

Section 31. Amend Chapter 5, Title 7, Delaware Code, by redesignating §§ 561, 562, 563 and 564 of Subchapter III as §§ 542, 543, 544 and 545 of Subchapter III, respectively.

Section 32. Amend § 572, Title 7, Delaware Code, by striking said section in its entirety.

Section 33. Amend Chapter 5, Title 7, Delaware Code, by redesignating § 571 of Subchapter IV as § 555 of Subchapter IV.

Section 34. Amend § 583, Title 7, Delaware Code, by striking subsection (b) in its entirety, and by designating subsection (a) as the section thereof. Further amend said section by striking the semicolon and word "; bond" from the Title.

Section 35. Amend § 584, Title 7, Delaware Code, by striking said section in its entirety.

Section 36. Amend § 585(a), Title 7, Delaware Code, by striking the phrase "from such liberated game not in excess of two thirds of the total number of each species so liberated, even though the number so killed may exceed" and substituting in lieu thereof the phrase "any number of such game so liberated, even if the number exceeds".

Section 37. Amend § 585, Title 7, Delaware Code, by striking subsections (b) and (c) in their entirety and designating subsection (a) as the section thereof. Further amend said section by striking the phrase "; regulations governing" from the Title and substituting in lieu thereof the word "and".

Section 38. Amend § 587, Title 7, Delaware Code, by striking said section in its entirety.

Section 39. Amend § 589, Title 7, Delaware Code, by striking the phrase "fined not less than \$100 nor more than \$200 for each offense" and substituting in lieu thereof "guilty of a class B environmental misdemeanor".

Section 40. Amend Chapter 5, Title 7, Delaware Code by redesignating §§ 581, 582, 583, 585, 586, 588 and 589 of Subchapter V as §§ 565, 566, 567, 568, 569, 570 and 571 of Subchapter V, respectively.

Section 42. Amend Chapter 6, Title 7, Delaware Code, by adding thereto a new section to read as follows:

"§ 605. Penalty.

Whoever violates this chapter shall be guilty of a class A environmental misdemeanor for each offense."

Section 43. Amend § 703, Title 7, Delaware Code, by striking paragraphs (1), (2), (3), (4), (6), (7), (8), (9), (10) and (12), and by redesignating paragraphs (5) and (11) as paragraphs (1) and (2), respectively. Further amend said section by striking the phrase "any of the following birds and animals" as it appears in the first paragraph and substituting in lieu thereof the phrase "muskrat or red fox". Further amend said section by striking the Title and substituting in lieu thereof the following:

"§ 703. Open season for muskrat and red fox."

Section 44. Amend § 704, Title 7, Delaware Code, by striking subsection (e) and redesignating subsection (f) as subsection (e).

Section 45. Amend § 705, Title 7, Delaware Code, by striking said section in its entirety.

Section 46. Amend § 706, Title 7, Delaware Code, by striking the second sentence and substituting in lieu thereof the following:

"Whoever violates this section shall be guilty of a class C environmental misdemeanor for each offense."

Section 47. Amend § 708(b), Title 7, Delaware Code, by striking the phrase "fined not less than \$25 nor more than \$50" and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor", and by striking the phrase "fined not less than \$50 nor more than \$100" and substituting in lieu thereof the phrase "guilty of a class B environmental misdemeanor". Further amend said subsection by striking the third sentence.

Section 48. Amend § 708, Title 7, Delaware Code, by striking the semicolon and word "; jurisdiction" from the Title, and by striking subsection (c) in its entirety.

Section 49. Amend § 710, Title 7, Delaware Code, by striking the phrase "1 hour" each time that it appears and substituting in lieu thereof the phrase "a half an hour".

Section 50. Amend § 711, Title 7, Delaware Code, by striking the phrase "fined \$20 for each offense" and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor".

Section 51. Amend § 712(b), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(b) Whoever violates this section shall be guilty of a class C environmental misdemeanor."

Section 52. Amend § 713, Title 7, Delaware Code, by striking said section in its entirety.

Section 53. Amend § 715(e), Title 7, Delaware Code, by striking the phrase "fined not less than \$25 nor more than \$100, and costs, for each offense, or imprisoned not less than 30 nor more than 90 days, or both," and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor for each offense". Further amend said subsection by striking the coma ",", as it appears after the word "penalty".

Section 54. Amend §§ 716, 717, 718 and 719, Title 7, Delaware Code, by striking said sections in their entirety.

Section 55. Amend § 720, Title 7, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"§ 720. Trespassing; penalty.

Whoever enters upon the lands or waters of another within this State, without first obtaining permission to do so from the owner or lessee, for the purpose of hunting, trapping or fishing, shall be guilty of a class C environmental misdemeanor."

Section 56. Amend § 721(a), Title 7, Delaware Code, by striking the second sentence.

Section 57. Amend § 721(d), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(d) Whoever violates this section shall be guilty of a class C environmental misdemeanor for each offense. In addition to being fined and/or imprisoned, he or she shall be fined \$5 for each game bird, game fish and game animal caught or killed illegally, purchased or offered to purchase, sold, offered for sale, bartered or exchanged, or taken or killed or found in possession in excess of the bag limit."

Section 58. Amend § 722, Title 7, Delaware Code, by striking subsections (a) and (b) in their entirety and substituting in lieu thereof the following:

"Any person required by this Title to obtain a license before hunting, trapping or fishing in this State and who hunts, traps or fishes without having obtained such license shall be guilty of a class C environmental misdemeanor."

Section 59. Amend § 723, Title 7, Delaware Code, by striking the phrase "fined not less than \$25, nor more than \$100, together with costs" and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor".

Section 60. Amend § 724, Title 7, Delaware Code, by striking said section in its entirety.

Section 61. Amend § 725(c), Title 7, Delaware Code, by striking the phrase ", upon conviction shall be fined not less than \$10 nor more than \$100" and substituting in lieu thereof the phrase "shall be guilty of a class D environmental misdemeanor".

Section 62. Amend § 725(d), Title 7, Delaware Code, by striking said subsection in its entirety.

Section 63. Amend § 726(c), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(c) Whoever violates this section shall be guilty of a class C environmental misdemeanor."

Section 64. Amend § 727, Title 7, Delaware Code, by striking section numbers "708, 709 and 726" as they appear in said section and substituting in lieu thereof section numbers "707, 708 and 719".

Section 65. Amend § 728, Title 7, Delaware Code, by striking the phrase "fined not less than \$250 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for each subsequent offense" and substituting in lieu thereof the phrase "guilty of a class B environmental misdemeanor for each offense", and by striking the second sentence.

Section 66. Amend § 729(c), Title 7, Delaware Code, by striking the phrase "fined not less than \$100 nor more than \$250 for the first offense and not less than \$250 nor more than \$500 for each subsequent offense" and substituting in lieu thereof the phrase "guilty of a class B environmental misdemeanor", and by striking the second sentence.

Section 67. Amend § 730(d), Title 7, Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof the following:

"(d) Whoever violates this section shall be guilty of a class C environmental misdemeanor."

Section 68. Amend § 731(b), Title 7, Delaware Code, by striking the phrase "fined not less than \$100 nor more than \$250" and substituting in lieu thereof the phrase "guilty of a class B environmental misdemeanor".

Section 69. Amend § 731(c), Title 7, Delaware Code, by inserting the phrase ", trapping or fishing" immediately after the phrase "lawful hunting".

Section 70. Amend § 731, Title 7, Delaware Code, by striking subsection (e) in its entirety and by redesignating subsection (f) as subsection (e).

Section 71. Amend Chapter 7, Title 7, Delaware Code, by redesignating §§ 706, 707, 708, 709, 710, 711, 712, 714, 715, 720, 721, 722, 723, 725, 726, 727, 728, 729, 730 and 731 of Subchapter I as §§ 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723 and 724 of Subchapter I, respectively.

Section 72. Amend § 745, Title 7, Delaware Code, by striking section numbers "741, 742 and 743" as they appear in the Title and in said section and substituting in lieu thereof section numbers "734, 735 and 736".

Section 73. Amend § 746, Title 7, Delaware Code, by striking the second sentence and substituting in lieu thereof the following:

"Whoever violates this section shall be guilty of a class D environmental misdemeanor for each offense."

Section 74. Amend § 747(a), Title 7, Delaware Code, by striking the phrase "fined not more than \$500, together with costs, or be imprisoned for 50 days or both" and substituting in lieu thereof the phrase "guilty of a class A environmental misdemeanor".

Section 75. Amend § 747(b), Title 7, Delaware Code, by striking the phrase "fined \$1,000, together with costs, or imprisoned 100 days or both" and substituting in lieu thereof the phrase "guilty of a class A environmental misdemeanor".

Section 76. Amend § 747(c), Title 7, Delaware Code, by striking the phrase "fined \$1,000, together with costs, or imprisoned 100 days or both" and substituting in lieu thereof the phrase "guilty of a class A environmental misdemeanor".

Section 77. Amend Chapter 7, Title 7, Delaware Code, by redesignating §§ 741, 742, 743, 745, 746, 747 and 748 of Subchapter II as §§ 734, 735, 736, 737, 738, 739 and 740 of Subchapter II, respectively.

Section 78. Amend § 762, Title 7, Delaware Code, by adding to the end of said section the following:

"Whoever violates this section shall be guilty of a class D environmental misdemeanor for each offense."

Section 79. Amend § 763(b), Title 7, Delaware Code, by striking the phrase "; for each and every offense, be fined not more than \$5, and in default of the payment of the fine and costs shall be imprisoned not more than 20 days" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor for each offense".

Section 80. Amend § 764(b), Title 7, Delaware Code, by striking the phrase "fined not less than \$25 nor more than \$100" and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor", and by striking the phrase ", and in default of the payment of the fine and costs shall be imprisoned for 1 day for each dollar of the total fine and costs imposed and defaulted".

Section 81. Amend § 765(a), Title 7, Delaware Code, by striking the phrase "fined not less than \$50 nor more than \$100, and the costs, for each offense, and in default of the payment thereof shall be imprisoned not more than 30 days" and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor".

Section 82. Amend § 766, Title 7, Delaware Code, by striking said section in its entirety.

Section 83. Amend § 767(b), Title 7, Delaware Code, by striking the phrase "fined not less than \$25 nor more than \$50 for each offense, and in default of the payment of such fine and costs, shall be imprisoned for not more than 30 days, or both" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor for each offense".

Section 84. Amend § 768(b), Title 7, Delaware Code, by striking the phrase "fined not less than \$25 nor more than \$50, for each offense, and in default of the payment of such fine and costs, shall be imprisoned for not more than 30 days" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor for each offense".

Section 85. Amend § 769(b), Title 7, Delaware Code, by striking the phrase "fined not less than \$20 nor more than \$200" and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor for each offense".

Section 86. Amend Chapter 7, Title 7, Delaware Code, by redesignating §§ 761, 762, 763, 764, 765, 767, 768 and 769 of Subchapter III as §§ 750, 751, 752, 753, 754, 755, 756 and 757 of Subchapter III, respectively.

Section 87. Amend § 772(c), Title 7, Delaware Code, by striking the phrase "fined for each offense not less than \$100 nor more than \$1,000" and substituting in lieu thereof the phrase "guilty of a class B environmental misdemeanor for each offense".

Section 88. Amend § 773, Title 7, Delaware Code, by striking section number "772" as it appears in said section and substituting in lieu thereof section number "768".

Section 89. Amend § 776, Chapter 7, Title 7, Delaware Code, by striking said section in its entirety.

Section 90. Amend Chapter 7, Title 7, Delaware Code, by redesignating §§ 771, 772, 773, 774 and 775 of Subchapter IV as §§ 767, 768, 769, 770 and 771 of Subchapter IV, respectively.

Section 91. Amend § 781, Title 7, Delaware Code, by striking the phrase "fined \$10" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor".

Section 92. Amend § 782, Title 7, Delaware Code, by striking said section in its entirety.

Section 93. Amend § 783, Title 7, Delaware Code, by striking the phrase "fined \$20" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor".

Section 94. Amend §§ 784 and 785, Title 7, Delaware Code, by striking said sections in their entirety.

Section 95. Amend § 786, Title 7, Delaware Code, by inserting the word "from" between the word "person" and the word "raising".

Section 96. Amend Chapter 7, Title 7, Delaware Code, by redesignating § 786 of Subchapter V as § 784 of Subchapter V.

Section 97. Amend § 792, Title 7, Delaware Code, by striking said section in its entirety and substituting in lieu thereof the following:

"§ 792. Protection of deer; penalties.

(a) No person shall hunt, chase or pursue with the intent to kill, kill, trap, take or have in possession any deer (living or dead), except those deer legally taken during the open season and during lawful hours in each county.

(b) All evidence including weapons, ammunition, lights, communication systems and/or instrumentalities including motor vehicles used in violation of subsection (a) may be seized and retained as evidence, and forfeited according to procedures set forth in the Superior Court Criminal Rules. Wherever the State seeks to have property allegedly used in violation of subsection (a) forfeited, the Superior Court shall have jurisdiction over both the violation of subsection (a) and the issue of forfeiture.

(c) No person shall make use of dogs for the hunting or pursuing of deer with intent to kill said deer in this State at any time.

(d) No person shall purchase, sell or expose for sale, or transport, ship or possess with the intent to sell, any deer or any part of such deer, except for the hides of lawfully killed deer, at any time. Nothing in this paragraph shall

preclude the importation and consumption of venison, approved for sale by the United States Department of Agriculture, into this State.

(c) Any person may possess a deer lawfully killed in another state if the person in possession of such deer has proof of such lawful killing and possession, and presents the proof upon demand to any officer or official of this State. It shall also be lawful to possess deer within an enclosure in a public zoo or park, or if a permit for such deer has been issued by the Department.

(f) Whoever violates this section shall be guilty of a class B environmental misdemeanor for each offense. In addition to being fined and/or imprisoned, anyone found guilty of a first offense for violating subsection (a) shall be required to turn in any valid hunting license and shall be denied the privilege of hunting, with or without a license, in the State for a period of 2 years, commencing with the date of conviction; for any subsequent offense, anyone found guilty shall be required to turn in any valid hunting license and be denied the privilege of hunting, with or without a license, in the State for a period of 5 years, commencing with the date of conviction."

Section 98. Amend § 793, Title 7, Delaware Code, by striking the phrase "fined not less than \$100 nor more than \$500 and in default of payment of said fine and costs shall be imprisoned not more than 30 days" and substituting in lieu thereof "guilty of a class C environmental misdemeanor". Further amend said section by striking the fourth sentence.

Section 99. Amend § 794(c), Title 7, Delaware Code, by striking the phrase "fined not less than \$100 nor more than \$500 or imprisoned not more than 30 days" and substituting in lieu thereof the phrase "guilty of a class B environmental misdemeanor for each offense", and by striking the second sentence.

Section 100. Amend § 795(b), Title 7, Delaware Code, by striking the phrase "fined not less than \$10 nor more than \$50, or imprisoned not more than 10 days," and substituting in lieu thereof the phrase "guilty of a class C environmental misdemeanor".

Section 101. Amend § 796(a), Title 7, Delaware Code, by striking the phrase "fined not less than \$5 nor more than \$10" and substituting in lieu thereof the phrase "guilty of a class D environmental misdemeanor".

Section 102. Amend § 796, Title 7, Delaware Code, by striking subsection (b) in its entirety and designating subsection (a) as the section thereof.

Section 103. Amend Chapter 7, Title 7, Delaware Code, by redesignating §§ 791, 792, 793, 794, 795, 795A, 796, 797, 798 and 799 of Subchapter VI as §§ 786, 787, 788, 789, 790, 791, 792, 793, 794 and 795 of Subchapter VI, respectively.

Section 104. Amend Chapter 7, Title 7, Delaware Code, by redesignating §§ 811 and 812 of Subchapter VII as §§ 797 and 798 of Subchapter VII, respectively.

Section 106. Amend Chapter 13, Title 7, Delaware Code, by striking § 1304 in its entirety and substituting in lieu thereof the following:

"§ 1304. Environmental misdemeanors, sentences and fines.

(a) Violations of Chapters 1, 5, 6 and 7 and of Subchapter I of Chapter 11 of this Title or Department orders, rules or regulations promulgated to implement provisions of these chapters are designated as environmental misdemeanors.

(b) Environmental misdemeanors are classified for the purpose of sentencing into 4 categories:

(1) Class A environmental misdemeanors;

- (2) Class B environmental misdemeanors;
- (3) Class C environmental misdemeanors;
- (4) Class D environmental misdemeanors.

(c) Any violation of Chapters 1, 5, 6 or 7 or of Subchapter I of Chapter 11 of this Title for which there is no prescribed penalty shall be a class C environmental misdemeanor.

(d) Any person convicted of a class A environmental misdemeanor shall be fined not less than \$1000, nor more than \$10,000, plus the costs of prosecution and court costs, or such person shall be imprisoned for up to 60 days, or such person shall be both fined and imprisoned according to the foregoing limitations. Any person convicted of a class A environmental misdemeanor within five years of a prior conviction for a class A environmental misdemeanor shall be fined not less than \$2,000, nor more than \$20,000, plus the costs of prosecution and court costs, or such person shall be imprisoned for up to 120 days, or such person shall be both fined and imprisoned according to the foregoing limitations.

(e) Any person convicted of a class B environmental misdemeanor shall be fined not less than \$250, nor more than \$1,000, plus the costs of prosecution and court costs, or such person shall be imprisoned for up to 30 days, or such person shall be both fined and imprisoned according to the foregoing limitations. Any person convicted of a class B environmental misdemeanor within five years of a prior conviction for a class B or greater environmental misdemeanor shall be fined not less than \$500, nor more than \$2,000, plus the costs of prosecution and court costs, or such person shall be imprisoned for up to 60 days, or such person shall be both fined and imprisoned according to aforesaid limitations.

(f) Any person convicted of a class C environmental misdemeanor shall be fined not less than \$50, nor more than \$250, plus the costs of prosecution and court costs, or such person shall be imprisoned for up to 10 days, or such person shall be both fined and imprisoned according to the foregoing limitations. Any person convicted of a class C environmental misdemeanor within five years of a prior conviction for a class C or greater environmental misdemeanor shall be fined not less than \$100, nor more than \$500, plus the costs of prosecution and court costs, or such person shall be imprisoned for up to 20 days, or such person shall be both fined and imprisoned according to the foregoing limitations.

(g) Any person convicted of a class D environmental misdemeanor shall be fined not less than \$25, nor more than \$100, plus the costs of prosecution and court costs, or such person shall be imprisoned for up to 5 days, or such person shall be both fined and imprisoned according to the foregoing limitations. Any person convicted of a class D environmental misdemeanor within five years of a prior conviction for a class D or greater environmental misdemeanor shall be fined not less than \$50, nor more than \$200, plus the costs of prosecution and court costs, or such person shall be imprisoned for up to 10 days, or such person shall be both fined and imprisoned according

to the foregoing limitations.

(h) Any fine imposed for any environmental misdemeanor shall not be suspended to any amount less than the minimum prescribed fine."

Section 107 Amend Chapter 13, Title 7, Delaware Code by adding thereto a new section to read as follows:

"§1313. Peace officers ex-officio Fish and Wildlife Agents.

All sheriffs, deputy sheriffs, constables and policemen, and all other peace officers of this State, shall be ex-officio fish and wildlife agents."

Section 108. Amend § 2953, Chapter 29, Title 7, Delaware Code, by striking the phrase "Game Wardens" as it appears in the title and the body of said section and substituting in lieu thereof the phrase "fish and wildlife agents."

Section 109. This Act shall become effective on September 1, 1996.

Approved July 19, 1995

CHAPTER 276
FORMERLY
SENATE SUBSTITUTE NO. 1
TO
SENATE BILL NO. 9
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21, OF THE DELAWARE CODE RELATING
TO SPECIAL ANIMAL WELFARE LICENSE PLATES.

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

Section 1. There is hereby created an Animal Welfare License Plate Contest. Any Delaware resident may submit an animal design to be chosen as the design for an animal welfare license plate to be issued by the Division of Motor Vehicles. The designs must be submitted to the Division of Motor Vehicles within sixty (60) days of the enactment of this Act and the Animal Welfare Contest Committee shall choose the winning design within thirty (30) days after the submission deadline. The Committee shall consist of the Director of the Division of Motor Vehicles or the Director's designee; two members from the House of Representatives, one of which is appointed by the Speaker of the House and one of which is appointed by the minority leader of the House; two members from the Senate, one of which is appointed by the President Pro Tem of the Senate and one of which is appointed by the minority leader of the Senate; and a Chairman, who shall be appointed by the Governor.

Section 2. Amend Chapter 21, Title 21 of the Delaware Code by adding a new §2139D to read as follows:

"§2139D Special animal welfare license plates.

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

(b) This section applies only to:

- (1) A private passenger vehicle; or
- (2) A truck with a three-fourths ton or smaller manufacturer's rated capacity.

(c) Upon the initial application for a plate to be issued pursuant to this section, a one-time fee of \$50, which includes an administrative fee of \$15, is required in addition to the annual registration fee required by this Title. This additional fee is required for members of nonprofit organizations even if members are exempt from registration fees under §2159 of this Chapter. A replacement plate may be obtained upon payment of a fee to be set by the Division which shall cover the cost of the plate.

(d) The one-time administrative fee collected pursuant to subsection (c) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section. Proceeds remaining after the Division of Motor Vehicles have covered the costs of promoting and administering this section shall be applied pursuant to subsection (f) of this section.

(e) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Committee. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. The license plate may also include words, a slogan or an emblem indicating support for, or interest in, animal welfare. The Committee may at its discretion drop the wording "The First State" and substitute in place thereof an animal welfare slogan. The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(f) The funds derived by the State from that portion of the on-time fee of \$50 that is not defined as an administrative fee pursuant to subsection (d) of this section shall be deposited in the State Treasury and credited to a special fund account to be known as the Animal Welfare License Fund in the Department of Natural Resources and Environmental Control, Division of Fish and Wildlife. The Department of Natural Resources and Environmental Control shall equally divide the funds to advocacy groups having an interest in animal welfare and animal population control.

(g) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section."

Approved July 19, 1995

CHAPTER 277

FORMERLY

SENATE BILL NO. 75

AN ACT CONCURRING IN A PROPOSED 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, 1995

CHAPTER 278

FORMERLY

SENATE BILL NO. 268

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO PENALTIES FOR FAILURE TO LICENSE DOGS; DOGS RUNNING AT LARGE; FEMALE DOGS AT LARGE, IN HEAT; STEALING OF DOGS AND GENERALLY RELATING TO DOGS.

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

Section 5. Amend §1704(d), Title 7 of the Delaware Code by deleting the amount "\$50" both places it appears therein, and by inserting in lieu thereof in both places the amount "\$100"; by deleting the amount "\$100" as it appears therein, and by inserting in lieu thereof the amount "\$500"; by deleting the amount "\$300" both places it appears therein, and by inserting in lieu thereof in both places "\$750"; and by deleting the amount "\$500" as it appears therein, and by inserting in lieu thereof the amount "\$1,500".

Approved July 25, 1995

CHAPTER 279

FORMERLY

SENATE BILL NO. 146

AS AMENDED BY

SENATE AMENDMENT NOS. 1 AND 3 AND
HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CHILD SAFE
SCHOOL ZONES.

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

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

"§1112. Sexual Offenders - Prohibitions from School Zones

(a) Any person who is a sexual offender and who:

(1) resides on or within 500 feet of the property of any school shall be
guilty of a class G felony.

(2) loiters on or within 500 feet of the property of any school shall be
guilty of a class F felony.

(b) For purposes of this section, the following definitions shall apply:

(1) 'loiter' means:

a. standing, sitting idly, whether or not the person is in a vehicle,
or remaining in or around school property, while not having reason or relationship involving
custody of or responsibility for a pupil or any other specific or legitimate reason for being there;
or

b. standing, sitting idly, whether or not the person is in a vehicle,
or remaining in or around school property, for the purpose of engaging or soliciting another
person to engage in sexual intercourse, sexual penetration, sexual contact, or sexual harassment,
sexual extortion, or indecent exposure.

(2) 'school' means any preschool, kindergarten, elementary school,
secondary school, vocational technical school or any other institution which has as its primary
purpose the education or instruction of children under sixteen years of age.

(3) 'reside' means to dwell permanently or continuously or to occupy a
dwelling or home as one's permanent or temporary place of abode.

(4) 'sexual offender' shall mean any person who:

a. has been convicted in this State of the commission or attempt to
commit any sexual offense upon a child under sixteen years of age under §767, §768, §769,
§770, §771, §772, §773, §774 and/or §775 of this Title; or

b. has been discharged or paroled from a penal institution where
he or she was confined because of the commission or attempt to commit one or more of the
offenses enumerated in paragraph a. of this subsection; or

c. has been adjudged guilty but mentally ill under §401 of this Title or not guilty by reason of insanity under §401 of this Title for the commission or attempt to commit one or more of the offenses enumerated in paragraph a. of this subsection; or

d. has been 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 offenses enumerated in paragraph a. of this subsection.

(c) It shall not be a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place on or within 500 feet of any school property."

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

Section 3. This Act shall become effective upon its enactment into law and shall be applicable to all sexual offenders, except that §1112(a)(1) of Title 11 shall not apply to those so residing at that specific location as of the date of enactment.

Section 4. This Act shall be known and may be cited as the "Child Safe School Zone Act."

Approved July 25, 1995

CHAPTER 280

FORMERLY

HOUSE BILL NO. 177

AS AMENDED BY

HOUSE AMENDMENT NOS. 1, 2 AND 3 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 2, DELAWARE CODE, BY ADDING THERETO A NEW CHAPTER AUTHORIZING A PUBLIC-PRIVATE INITIATIVES PROGRAM IN TRANSPORTATION AND ESTABLISHING A REVOLVING LOAN FUND TO FINANCE SUCH PROGRAM.

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

Section 1. Amend Title 2, Delaware Code, by adding thereto a new Chapter which Chapter shall read in its entirety as follows:

"Chapter 20. Public-Private Initiatives Program in

Transportation.

§2001. Findings and Declaration of Policy. The General Assembly hereby finds and declares that:

(a) It is essential for the economic, social and environmental well being of the State and the maintenance of a high quality of life that the citizens of the State of Delaware have an efficient transportation system.

(b) The State has limited resources to fund the maintenance and expansion of the State transportation system and therefore alternative funding sources should be developed to supplement public revenue sources.

(c) A significant alternative to public revenue sources is a public-private sector initiatives program permitting private entities to undertake all or a portion of the study, planning, design, development, financing, acquisition, installation, construction, improvement, expansion, repair, operation, and maintenance of public transportation projects for the citizens of Delaware in exchange for the right to lease or own the facilities for an agreed-upon period and earn a reasonable rate of return through tolls or user fees.

(d) In addition to alleviating the strain on the public treasury and allowing the State to use its limited resources for other needed projects, public-private initiative projects also do all of the following:

(1) Take advantage of private sector efficiencies in designing and building transportation projects and financial and development expertise;

(2) Allow for the rapid formation of capital necessary for funding transportation projects;

(3) More quickly reduce congestion in existing transportation corridors and provide the public with alternate route and mode selections;

(4) Provide the opportunity to link transportation investments with land use measures which further the State's growth management and clean air policies;

(5) Provide sound investment opportunities for the private sector; and

(6) Require continued compliance with environmental requirements and applicable State and Federal laws that all publicly financed projects must address.

(e) The Department should be permitted and encouraged to test the feasibility of building privately-funded transportation systems and facilities through innovative agreements with the private sector by developing up to four demonstration projects, and the Secretary should be granted authority to entertain, solicit, evaluate, negotiate and administer such agreements.

(f) The Department should be encouraged to take advantage of new opportunities provided by Federal legislation under Section 1012 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which section establishes a new program authorizing Federal participation in the construction or improvement of publicly and privately owned toll roads, bridges, and tunnels and allows States to leverage available Federal funds as a means for attracting private sector capital.

(g) A Public-Private Initiatives Program Revolving Loan Fund, which would allow available Federal and State funds to be leveraged, should be established to provide a source of public funds for partial financing of Demonstration Projects.

§2002. Definitions. As used in this Chapter, unless the context indicates a different intent:

(a) "Agreement" means an agreement entered into by the Secretary and one or more Contracting Parties for a Demonstration Project.

(b) "Contracting Party" means any individual, corporation, partnership, company, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated association, body politic, authority or any other form of entity not specifically listed herein entering into an Agreement with the Secretary for a Demonstration Project.

(c) "Demonstration Project" or "Project" means any public transportation project undertaken under this Chapter.

(d) "Department" means the Department of Transportation.

(e) "Metropolitan Planning Organization" means a metropolitan planning organization established and designated pursuant to 23 U.S.C. § 134 (1993).

(f) "Secretary" means the Secretary of Transportation.

(g) "Transportation System" means any capital-related improvement and addition to the State's transportation infrastructure, including but not limited to highways, roads, bridges, vehicles and equipment, ports and marine-related facilities, park and ride lots, rail and other transit systems, facilities, stations and equipment, rest areas, tunnels, airports, transportation management systems, control/communications/information systems and other transportation-related investments, or any combination thereof.

§2003. Demonstration Projects.

(a) **Number.** The Secretary shall entertain and solicit proposals from, and may negotiate and enter into Agreements with, private entities, or consortia thereof, for up to four (4) Demonstration Projects using in whole or in part private sources of financing involving (i) all or a portion of the study, planning, design, construction, operation and maintenance of Transportation Systems, or (ii) the repair and/or expansion, operation and maintenance of existing Transportation Systems, or any combination of the foregoing, provided that the Secretary shall not enter into any Agreements regarding Transportation Systems in the area of New Castle County known as Churchmans Crossing (formerly known as Metroform) until such time as road improvements in such area which are: (i) included in the Capital Improvements Program as of the date of the enactment of this Act or (ii) under construction as of the date of the enactment of this Act, have been completed.

(b) **Eligibility.** The Secretary may entertain and solicit proposals from any source whatsoever; provided, however, that the Secretary shall only enter into Agreements regarding a Transportation System (i) for which construction funding has been authorized by the Delaware General Assembly in the applicable Bond and Capital Improvements Act (except that no Agreement may be entered into which contains (A) direct or indirect expenditures or loans on the part of the State in excess of the total sum appropriated by the Delaware General Assembly for said Transportation System or (B) credit enhancements which pledge the full faith and credit of the State); and/or (ii) for which the General Assembly has provided specific or categorical funding authorization for purposes of implementing this Chapter; and (iii) which is consistent with Section 8419(2)(a), Title 29, Delaware Code, applicable provisions of the Department's long range transportation plan, any applicable recommendations developed by the Cabinet Committee on State Planning pursuant to Chapter 91, Title 29, Delaware Code, and applicable provisions of the Federal Clean Air Act.

(c) **Proposals.**

(1) The Secretary shall solicit proposals through a Request for Proposals accompanied by material explaining the Public-Private Initiatives Program enacted hereunder and describing the selection process and criteria.

(2) Potential projects may be identified and proposed by any potential Contracting Party. However, the Secretary may identify in the Request for Proposals specific systems, corridors, or routes for improvement. Any provisions of the Delaware Code to the contrary notwithstanding, proposals may provide for the design-build mode of infrastructure development.

(3) Proprietary information contained in proposals not selected for Demonstration Projects and records of negotiations in progress shall be exempt from public disclosure.

(d) **Fees Authorized.** To offset a portion of the costs of initiating this program and reviewing proposals received for Demonstration Projects under this Chapter, the Department is authorized to assess a non-refundable Proposal Review Fee for each proposal not to exceed fifty thousand dollars (\$50,000.00).

(e) **Selection and Approval.**

(1) The Demonstration Projects shall be selected by a Demonstration Project Committee, chaired by the Secretary, consisting of the Secretary, the Director of Financial Management and Budget, the Chief Engineer of the Department of Transportation, and up to four (4) other persons to be appointed by the Secretary. The Demonstration Projects shall be selected without regard to the provisions of Chapter 69, Title 29 of the Delaware Code.

Each proposal shall be weighed on its own merits and ranked according to the selection criteria stipulated in the Request for Proposals, provided that upon receipt of all proposals the Demonstration Project Committee may group similar types of project proposals together for purposes of evaluation and selection, and provided further that the proposals selected by such committee from any such group of proposals must be those with the highest ranking within that group, and provided further that such committee may elect not to select any proposals from an established group of proposals, and provided further that as to similar proposals or proposals that are mutually exclusive so that the undertaking of one would preclude the need, desirability, or ability of undertaking the other, only the proposal with the highest ranking among such proposals shall be selected, and, subject to approval as set forth above, proceed to negotiations. Each of the Agreements shall be negotiated individually as a stand-alone project.

(2) Each selected Project must be subsequently approved, within forty-five (45) days of its selection, by both (i) the directly affected Metropolitan Planning Organization(s) and (ii) the Council on Transportation established pursuant to § 8409 of Title 29 of the Delaware Code or its successor, in that order. If a directly affected Metropolitan Planning Organization approves a selected Project, it shall be deemed to have given its approval to amend the Transportation Improvement Program to include such Project. If the Council on Transportation approves a selected Project, it shall be deemed to have given its approval to amend the Capital Improvements Program to include such Project. Approval for each selected Project by the affected Metropolitan Planning Organization and the Council on Transportation shall be based solely upon the Project's compatibility with State and Regional transportation plans, compliance with applicable laws and regulations, and fiscal impact upon the State Capital Improvement Program or regional Transportation Improvement Program. If either organization disapproves a Project, it shall set forth in writing its reasons for doing so.

(3) The Secretary shall promptly notify the Joint Bond Bill Committee of the Delaware General Assembly when a Project has been duly selected by the Demonstration Project Committee. After the Joint Bond Bill Committee's receipt of such notice, the Joint Bond Bill Committee shall convene and either approve or reject the selected Demonstration Project. Upon its approval of a Demonstration Project, the Joint Bond Bill Committee shall forward a notice of such approval to the Delaware General Assembly, which shall either approve or reject the recommended Demonstration Project.

(f) **Compliance.** Except as otherwise expressly provided in this Chapter, all Demonstration Projects must comply with all applicable rules and statutes in existence at the time the Agreement is entered into, including but not limited to this Title, §711 of Title 19 of the Delaware Code, §§ 6912, 6914 and 6920 of Title 29 of the Delaware Code and 49 C.F.R. Part 21, provided that the provisions of Chapter 69 of Title 29 of the Delaware Code other than §§ 6912, 6914 and 6920 thereof shall not be applicable to the Demonstration Projects regardless of the use of State funds. Each Agreement may provide for protection for the Contracting Party from future discretionary regulatory changes which would substantially or materially change the terms and conditions or financial assumptions of the Agreement.

(g) **Financing.**

(1) The Department may (i) enter into Agreements using Federal, State and local financing in connection with the Demonstration Projects, including without limitation grants, direct

loans, credit enhancements which do not pledge the full faith and credit of the State, loans from the Public-Private Initiatives Program Revolving Loan Fund established in § 2012 hereof, and other measures authorized by § 1012 of ISTEA, provided that the Projects meet all applicable financing eligibility criteria, and (ii) do such things as necessary and desirable to maximize the funding and financing of such Projects, provided that private capital shall constitute not less than 51% of the total projected capital cost for each Demonstration Project.

(2) The Department may apply for, receive, and accept, from any Federal agency or any other governmental body, grants for or in aid of the design, construction, reconstruction, resurfacing, restoring, rehabilitation, replacement, maintenance or operation of toll and non-toll highways, bridges and tunnels and other eligible Transportation Systems, or study of the feasibility of such activities, and enter into any contracts with the granting body or any other governmental body and with private entities as may be required to qualify for such grant. The Department may transfer or lend the proceeds of any such grant, or utilize such proceeds available for credit enhancement, to public agencies or Contracting Parties, on terms and conditions complying with applicable Federal and State law.

§2004. Ownership and Lease of Demonstration Project Transportation Systems.

Each Agreement shall provide for private ownership of the Demonstration Project during the construction period. Each Agreement shall provide for State ownership or control of the underlying real property at all times. After completion and final acceptance of each Project, or discrete segment thereof, the Agreement shall provide for State ownership of the Project and lease to the Contracting Party, unless the State elects to provide for ownership of the Project or portion thereof by the Contracting Party during the term of the Agreement in which case the Agreement shall provide for the transfer of the Project to the State at no charge at the expiration of the term of the Agreement. The State shall lease each of the Demonstration Projects, or applicable Project segments, to the Contracting Parties for up to fifty (50) years after completion of such Projects. An Agreement may provide for lease payments to consist of royalties.

§2005. Exercise of Department's Powers.

For purposes of facilitating these Demonstration Projects and to assist the Contracting Parties in the financing, development, construction, maintenance and operation of such projects, the Agreements may include provisions for the Department to exercise any powers conferred upon it by law, including but not limited to the lease of rights of way and airspace, granting of necessary easements and rights of access, power of eminent domain, granting of development rights and opportunities, issuance of permits or other authorizations, protection from competition, remedies in the event of default of either of the parties, granting of contractual and real property rights, liability during construction and the term of the lease, and the authority to negotiate acquisition of rights of way in excess of appraised value. Amounts paid by a Contracting Party for any right-of-way in excess of the appraised value thereof may be considered a contribution to the project only to the same extent that such excess amounts could be paid by the Department to acquire the right-of-way under applicable law.

§2006. Authorization of Tolls and User Fees; Limitations on Toll and User Fee Revenues.

(a) **Authorization of Tolls and User Fees.** Each Agreement shall authorize the Contracting Party to impose tolls or user fees for use of the Transportation System constructed and/or leased by it to allow a reasonable rate of return on investment. The Agreement may authorize the Contracting Party to collect tolls or user fees through both conventional methods and non-conventional methods including, but not limited to, Automatic Vehicle Identification Systems, electronic toll collection systems and, to the extent permitted by law, video-based toll collection enforcement. The Agreement may authorize the collection of tolls and user fees by a third party.

(b) **Classification of Tolls and User Fees.** A Contracting Party may establish different toll rates or user fees based on categories such as vehicle class or vehicle weight and may further vary toll rates by time of day or year.

(c) **Maximum Rate of Return.** A maximum rate of return on investment shall be negotiated by the parties and stated in the Agreement. A Contracting Party may establish and modify toll rates and user fees as long as the maximum rate of return on investment is not exceeded.

(d) **Uses of Revenues.** Each Agreement shall require that over the term of the lease toll or user fee revenues be applied to payment of the Contracting Party's capital outlay costs for the Project, including interest expense, the Project's operations costs, costs of toll collections, administration of the Project, any reimbursement to the State for the costs of project review and oversight, maintenance and police services, establishment and funding of a fund to ensure the adequacy of maintenance expenditures, a reasonable return on investment to the Contracting Party, and any other use mutually agreed upon by the parties and specifically set forth in the Agreement, regardless of any contrary provisions of Delaware law.

(e) **Excess Revenues.** As agreed upon by the parties the Agreement may require that any revenues in excess of the maximum rate of return allowed in the Agreement either be applied to any indebtedness incurred by the Contracting Party in connection with the Project and/or be paid to one or more other entities or funds including, but not limited to, the Revolving Loan Fund established in § 2012 hereof, the State's Transportation Trust Fund established under §1404, Title 2 of the Delaware Code, the Department, or the State. For the purpose of determining whether there are revenues in excess of the maximum rate of return (or in excess of any incentive rate of return authorized by the Agreement pursuant to subsection (f) of this Section), the Agreement shall expressly provide for an annual audit to be performed (at the expense of the Contracting Party) by the same auditor chosen to perform the annual audit of the Transportation Trust Fund pursuant to §1323, Title 2, Delaware Code, and the certification of the rate of return which the Contracting Party has realized during the audited period. The Contracting Party shall maintain its books and corporate records in the State of Delaware.

(f) **Incentive Rates of Return.** Notwithstanding subsection 2006(c) above, each Agreement or an amendment to each Agreement may provide for incentive rates of return in excess of the maximum rate of return established in the Agreement for the attainment of specific safety, performance, transportation demand management or other goals set forth in the Agreement or amendment.

(g) **Continuation of Tolls.** After expiration of the lease or ownership period of a Project to or by a Contracting Party, the Department may continue to charge tolls or user fees for the use of the Project. The Department may delegate such authority to continue to collect tolls or user fees for the use of the Project to a third party, provided that such revenues must first be used for operations and maintenance of the Project and, subsequently, any revenues determined by the Secretary to be excess must be paid by such third party to the State's Transportation Trust Fund, the Department or the State.

§2007. Reimbursement for Services Rendered by Department or Other State Agencies.

(a) **Police Services.** Each Project is deemed to be part of the State Transportation System. The Delaware State Police shall have primary jurisdiction over each Project except with respect to all or any portion of a Project located in a jurisdiction where primary law enforcement responsibility is delegated to another law enforcement agency by law or by applicable status of forces agreements or otherwise. Each law enforcement agency rendering services pursuant to the above shall receive reimbursement for such services in accordance with an agreement that the Contracting Party shall enter into with such agency.

(b) **Maintenance Services.** Agreements for maintenance services may be entered into under this Chapter with the Department or other State agencies, provided that such Agreements shall provide for full reimbursement for services rendered by the Department or such other agencies.

(c) **Coordination of Permits and Licenses.** The Department shall, with the mandatory assistance of all applicable State agencies and departments, establish a unified permitting and licensing process in the Department for the processing and issuance of all necessary permits and licenses for Demonstration Projects under this Chapter, including, but not limited to, all environmental permits, businesses and tax licenses and transportation permits. The Department shall seek the cooperation of Federal and local agencies to expedite all necessary Federal and local permits, licenses and approvals necessary for the Demonstration Projects, provided, however, that the Agreements shall provide for full reimbursement for services rendered by the Department or other agencies.

(d) **Other.** The Department may provide services for which it is reimbursed including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), and preliminary design of the Demonstration Projects.

§2008. Liability Coverage; Indemnification.

Each Agreement must require that liability insurance coverage of an amount appropriate to protect the Demonstration Project's viability is secured and maintained by the Contracting Party. Each Agreement may provide for State indemnification of the Contracting Party for design and construction liability where the State has approved relevant design and construction plans.

§2009. Other Agreement Provisions.

(a) **Grant of Rights to Contracting Party.** An Agreement may include provisions authorizing the State to grant necessary easements and lease to a Contracting Party existing rights of way or rights of way subsequently acquired. An Agreement may also include provisions to lease the airspace above or below the right of way associated with the Demonstration Project to the Contracting Party at less than fair market value during the term of the Contracting Party's lease of the Demonstration Project, provided that if the Department continues to lease the airspace rights to the Contracting Party after the expiration of such lease term, it must do so only at fair market value. The Agreement may also grant the Contracting Party the right of first refusal to undertake projects utilizing real estate and airspace owned by the Department within or contiguous to the right of way, provided that in the judgment of the Secretary such projects must contribute to the public use and benefit of the Demonstration Project, and provided further that nothing herein shall derogate from the Department's power to declare real estate or airspace owned by the Department surplus to the needs of the Department pursuant to §137, Title 17 of the Delaware Code or any successor provision.

(b) **Miscellaneous.** An Agreement may include any contractual provision that is necessary to protect the Demonstration Project revenues required to repay the costs incurred to study, plan, design, finance, acquire, build, install, operate, enforce laws, and maintain the Transportation System including, but not limited to, a traffic guarantee, an equity guarantee or insurance provided that such provision will not unreasonably prohibit the development of essential public transportation systems and facilities.

§2010. Operation of Toll Facility.

At the request of a Contracting Party operating a toll facility hereunder, the Department may adopt and enforce reasonable regulations consistent with State law which (i) set maximum and minimum speeds, (ii) exclude undesirable vehicles, cargoes, or materials from the use of the facility, (iii) establish high occupancy or express lanes for use during all or any part of a day and limit the use of such lanes to certain traffic, (iv) determine points of access, (v) determine truck/trailer multiples, (vi) determine truck weight stations, and (vii) determine truck weight limits.

§2011. Plans and Specifications.

The plans and specifications for each Demonstration Project constructed pursuant to this Chapter shall comply with the Department's standards for State projects and any applicable Federal standards. Each Demonstration Project is deemed to be part of the State highway system for purposes of identification, maintenance standards, and enforcement of traffic laws and for the purposes of applicable sections of this Title.

§2012. Public-Private Initiatives Program Revolving Loan Fund.

(a) **Establishment of Fund.** There is hereby established a Public-Private Initiatives Program Revolving Loan Fund which shall be maintained and administered by the Department in accordance with the provisions of this Chapter and such rules as the Department may from time to time prescribe. The Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this Section. Subject to the provisions of any applicable bond resolution governing the investment of bond proceeds deposited in the Fund, the Fund shall be invested and reinvested in the same manner as other State funds. The Fund shall retain any investment earnings. Subject to the provisions of any applicable bond covenants or resolutions or any other applicable laws or regulations governing the Fund, the Department may, with the approval of the Delaware General Assembly, transfer monies from the Fund to the Transportation Trust Fund.

(b) **Fund Deposits.** The following shall be deposited in the Fund:

- (1) Federal grants and awards or other Federal assistance received by the State for the purpose of deposit therein and eligible for deposit therein under applicable Federal law;
- (2) State funds appropriated for deposit to the Fund;
- (3) Payments received from any public or private agency in repayment of a loan previously made from the Fund or pursuant to 23 U.S.C. 129(a)(7) or successor legislation;
- (4) Net proceeds of bonds approved by the Delaware General Assembly which have been designated by the Delaware General Assembly for deposit in the Fund;
- (5) Interest or other income earned on the investment of moneys in the Fund; and

(6) Any additional moneys made available to the Fund by the Secretary from any sources, public or private, including excess toll revenues, for the purposes for which the Fund has been established.

(c) **Accounting of Deposits.** In order to facilitate the determination of the amount of funds available for financing Projects which meet either Federal eligibility criteria or State eligibility criteria but not both, deposited funds commingled in the Fund shall also be accounted for separately based on whether their source is Federal or State.

(d) **Permitted Uses of Funds.** Amounts in the Fund may be used only:

(1) To make loans for the construction, reconstruction, resurfacing, restoring, rehabilitation or replacement of public or private toll transportation facilities or other Transportation Systems within the State, or the study of the feasibility thereof;

(2) To guarantee, or purchase insurance for, bonds, notes, or other evidences of obligation issued by the Contracting Party developing a public or private toll facility or other Transportation System for the purpose of financing all or a portion of the cost of such toll facility or system, if such action would improve the credit market access of the Contracting Party or reduce interest rates payable by such party;

(3) To earn interest on Fund accounts; and

(4) For the reasonable costs of administering the Fund.

(e) **Terms of Loan Agreements.** The following terms shall apply to all loans made from the Fund:

(1) Loans shall bear interest at the average rate of interest earned by the State's pooled investment fund for the period beginning with the first month following the date that the loan is funded and ending on the last day of the month preceding the start of repayment; provided, however, that in the event the Department funds a loan with the proceeds of a bond issue, the rate of interest charged shall be no less than the cost the Department incurs to borrow such funds irrespective of the average rate of interest earned by the State's pooled investment funds;

(2) Loan repayment shall begin no later than five (5) years from the date that the facility or system is opened to toll traffic and shall be completed by no later than thirty (30) years from the time the loan was obligated;

(3) The loan may be subordinated to other debt financing except for loans made by any other public agency; and

(4) Reasonable origination or processing fees may be charged.

Approved July 26, 1995

CHAPTER 281

FORMERLY

SENATE BILL NO. 101

AS AMENDED BY

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE
ISSUANCE OF SPECIAL REGISTRATION PLATES.

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

Section 1. There is hereby created an Environmental License Plate Contest. Any Delaware resident may submit a design of a scenic, wildlife or environmental nature to be chosen as the design for an environmental license plate to be issued by the Division of Motor Vehicles. The designs must be submitted to the Division of Motor Vehicles within 60 days of the enactment of this Act and the Environmental Contest Committee shall choose the winning design within 30 days after the submission deadline. The Committee shall consist of the Secretary of the Department of Natural Resources and Environmental Control or the Secretary's designee; the Director of Historical and Cultural Affairs or the Director's designee; the Director of the Division of Motor Vehicles or the Director's designee; two members from the House of Representatives, one of which is appointed by the Speaker of the House and one of which is appointed by the minority leader of the House; two members from the Senate, one of which is appointed by the President Pro Tem of the Senate and one of which is appointed by the minority leader of the Senate; and a Chairman, who shall be appointed by the Governor.

Section 2. Amend Chapter 21, Title 21, by adding a new section 2140A to read as follows:

"§2140A Environmental License Plates

(a) The owner of a motor vehicle may apply to the Division of Motor Vehicles for a special environmental license plate.

(b) Upon the initial application for a plate to be issued pursuant to this section, a one-time fee of \$35, which includes an administrative fee of \$15, is required in addition to the annual registration fee required by this Title. This additional fee is required for members of nonprofit organizations even if members are exempt from registration fees under §2159 of this Chapter. A replacement plate may be obtained upon payment of a fee to be set by the Division which shall cover the cost of the plate.

(c) The one-time administrative fee collected pursuant to subsection (b) of this section shall be deposited into a special fund and used by the Division of Motor Vehicles for the purpose of promoting the sale of the plate and administering this section. Proceeds remaining after the Division of Motor Vehicles has covered the costs of promoting and administering this section shall be applied pursuant to subsection (e) of this section.

(d) All registration plates issued pursuant to this section shall be of the colors and design as determined by the Committee. The numbers and/or letters assigned will be the same as the current license plate assigned to the vehicle. No special numbers or letters will be authorized for these plates. The Committee may at its discretion drop the wording "The First State" and substitute in place thereof an environmental slogan. The Division of Motor Vehicles shall have the power to refuse any design which it believes would cause a public safety enforcement problem.

(e) The funds derived by the State from that portion of the one-time fee of \$35 that is not defined as an administrative fee pursuant to subsection (c) of this section shall be deposited by

the Division of Motor Vehicles with the State Treasurer and shall be specifically set aside and divided equally between:

- (1) the Delaware Center for the Inland Bays; and
- (2) the Partnership for the Delaware Estuary, Incorporated.

(f) The Division of Motor Vehicles may promulgate rules and regulations as required to administer this section."

Approved July 26, 1995

CHAPTER 282

FORMERLY

SENATE BILL NO. 120

AN ACT TO AMEND TITLE 3, OF THE DELAWARE CODE RELATING TO DEALERS IN AGRICULTURAL PRODUCTS

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 § 2511, Title 3 of the Delaware Code by deleting present § 2511 in its entirety and substituting in lieu thereof the following:

"(a) The Secretary shall have the power to issue an order to any person violating any provision of this chapter to cease and desist from such violation; provided, that any cease and desist order issued pursuant to this section shall expire (1) after ninety (90) days of its issuance, or (2) upon withdrawal of said order by the Secretary, or (3) when the order is suspended by an injunction, whichever should first occur.

(b) Whoever violates this chapter, or an order of the Secretary, shall be punishable as follows:

(1) For the first offense, be fined not less than \$500 nor more than \$1,000, or be confined in jail for a period not exceeding six (6) months, or both;

(2) Upon conviction of a second offense shall be fined not less than \$2,000 nor more than \$5,000, or be confined in jail for a period not exceeding one (1) year, or both, in the discretion of the court."

This bill grants the Secretary of Agriculture the authority to issue cease and desist orders to those who are operating as dealers in agricultural products without procuring the necessary license from the Department of Agriculture.

Author: Sen.

Approved July 27, 1995

CHAPTER 283

FORMERLY

SENATE BILL NO. 121

AN ACT TO AMEND TITLE 3, OF THE DELAWARE CODE RELATING TO THE POWERS AND DUTIES OF THE DEPARTMENT OF AGRICULTURE.

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

Section 1. Amend § 101(3), Title 3 of the Delaware Code by deleting it in its entirety and renumbering the remaining sections accordingly.

Section 2. Amend § 105, Title 3 of the Delaware Code by deleting the words "moneys appropriated for the Peninsular Horticultural Society, and all" as they appear in the first sentence.

Section 3. Amend § 504, Title 3 of the Delaware Code by deleting it in its entirety.

Section 4. Amend § 3145, Title 3 of the Delaware Code by deleting it in its entirety and renumbering the remaining sections accordingly.

Section 5. Amend § 3146, Title 3 of the Delaware Code by deleting it in its entirety.

Section 6. Amend Chapter 33, Title 3 of the Delaware Code by deleting it in its entirety.

Section 7. Amend Chapter 37, Title 3 of the Delaware Code by deleting it in its entirety.

Section 8. Amend Chapter 39, Title 3 of the Delaware Code by deleting it in its entirety.

Section 9. Amend Chapter 55, Title 3 of the Delaware Code by deleting it in its entirety.

Section 10. Amend Chapter 65, Title 3 of the Delaware Code by deleting it in its entirety.

Section 11.

Approved July 27, 1995

CHAPTER 284

FORMERLY

SENATE BILL NO. 135

AN ACT TO AMEND TITLE 6, OF THE DELAWARE CODE RELATING TO WEIGHTS AND MEASURES.

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

Section 1. Amend Title 6, of the Delaware Code by adding a new §5141 to read as follows:

"§5141. Fees for Services for Out-of-State Companies

The following fees shall be charged for the services listed below to those firms which do not possess a current Delaware business license:

1. Cast Iron and Steel Weights - Class F Tolerances.

The Department shall charge the following fees to test cast iron and steel weights (Class F tolerances):

(a) If the weight is less than or equal to 30 kilograms (66 pounds), the fee is \$8 a unit;

(b) If the weight is greater than 30 kilograms (66 pounds) but less than or equal to 1,200 kilograms (2,646 pounds), the fee is \$25 a unit;

(c) If the weight is greater than 1,200 kilograms (2,646 pounds) but less than or equal to 2,268 kilograms (5,000 pounds), the fee is \$45 a unit; and

(d) If the weight is greater than 2,268 kilograms (5,000 pounds) but less than or equal to 9,072 kilograms (20,000 pounds), the fee is \$90 a unit.

2. Class F. Tolerances - Test Weight Sets

The Department shall charge the following fees to test a Class F Tolerances test weight set provided, however, that the set does not have a total capacity that is greater than 16 kilograms (35 pounds):

(a) If the number of weights in the set is less than or equal to 18, the fee is \$40 a set;

(b) If the number of weights in the set is greater than 18 but less than or equal to 36, the fee is \$60 a set; and

(c) If the number of weights in the set is greater than 36 but less than or equal to 50, the fee is \$80 a set.

3. Other Weighing Services.

The Department may provide other weighing services not otherwise noted in this chapter at a rate of \$49 an hour.

4. Equipment Refurbishing

If equipment needs refurbishing before it can be tested and if the Department agrees to refurbish the equipment, the Department shall do this work at the rate of \$49 an hour plus materials cost.

5. Weight-Moving Equipment for Vehicle Scales

The Department shall charge \$115 a unit plus an additional \$10 for shop supplies and material to test weight-moving equipment for vehicle scales.

6. Mass Laboratory Standards

The Department shall charge the following fees to test mass laboratory standards:

- a. If the standard is less than or equal to 3 kilograms (7 pounds), the fee is \$20 a unit;
- b. If the standard is greater than 3 kilograms (7 pounds) but less than or equal to 30 kilograms (66 pounds), the fee is \$60 a unit; and
- c. If the standard is greater than 30 kilograms but less than or equal to 1,200 kilograms (2,646 pounds), the fee is \$70 a unit.

7. Laboratory Standards - Test Weight Sets

The Department shall charge the following fees to test a laboratory standards test weight set provided, however, the set does not have a total capacity that is greater than 16 kilograms (35 pounds):

- a. If the number of weights in the set is 18 or less, the fee is \$160 a set;
- b. If the number of weights in the set is greater than 18 but less than or equal to 36, the fee is \$180 a set; and
- c. If the number of weights in the set is greater than 36 but less than or equal to 50, the fee is \$200 a set.

8. Other Services Related to Laboratory Standards of Mass

The Department shall provide other services related to laboratory standards of mass at a rate of \$49 an hour.

9. Volumetric Field Standards

The Department shall charge the following fees to test volumetric field standards:

- a. If the standard is less than or equal to 20 liters (5 gallons), the fee is \$20 a unit;
- b. If the standard is greater than 20 liters (5 gallons) but less than or equal to 100 liters (26 gallons), the fee is \$40 a unit;
- c. If the standard is greater than 100 liters (26 gallons) but less than or equal to 1,000 liters (264 gallons), the fee is \$90 a unit;
- d. If the standard is greater than 1,000 liters (264 gallons) but less than or equal to 5,000 liters (1,321 gallons), the fee is \$160 a unit; and
- e. If the standard is greater than 5,000 liters (1,321 gallons), the fee is \$200 a unit.

10. Other Volumetric Calibrations

The Department shall perform other volumetric calibrations not otherwise noted in this chapter at a rate of \$49 an hour.

11. Volumetric Laboratory Standards

The Department shall charge the following fees to test volumetric laboratory standards:

- a. If the standard is less than or equal to 4 liters (1 gallon), the fee is \$30 each; and
- b. If the standard is greater than 4 liters (1 gallon) but less than or equal to 40 liters (11 gallons), the fee is \$90 each.

12. Other Volumetric Laboratory Services

The Department shall perform other volumetric laboratory services at a rate of \$49 an hour.

13. Thermometry and Calibration Services

The Department shall perform thermometry and calibration services at a rate of \$49 an hour.

14. Environmental Chamber Services

For performing environmental chamber services, the Department shall charge as follows:

- a. \$250 per device for use of the chamber; and
- b. \$45 per hour for each technician required for testing the device.

15. Linear Measures and Surveyor Tapes Testing

The Department shall test linear measures at the following rates:

- a. The fee for testing rules shall be \$15 a unit.
- b. Tapes:
 - (1) If the tape is less than or equal to 25 feet, the fee shall be \$25.
 - (2) If the tape is greater than 25 feet but less than or equal to 100 feet, the fee shall be \$45.
 - (3) If the tape is greater than 100 feet, the fee shall be \$75.
- c. The fee for testing other linear devices shall be \$49 an hour."

Approved July 27, 1995

CHAPTER 285

FORMERLY

SENATE BILL NO. 143

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO NOXIOUS WEEDS.

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

Section 1. Amend § 2405, Title 3 of the Delaware Code by deleting present § 2405 in its entirety and substituting in lieu thereof the following:

" Failure to comply with the provisions of this chapter may result in the assessment of a civil penalty. No civil penalty shall be imposed until an administrative hearing is held before the Secretary or his or her designee after due notice has been given to the landowner or person who possesses or has use of the land in accordance with § 10122 of Title 29. Provided, however, a landowner or person who possesses or has the use of that land may enter into a written agreement with the Department of Agriculture specifying terms and conditions of a program for the control and eradication of designated noxious weeds, and so long as all the terms and conditions are being complied with, there is no violation of this chapter as to the land covered by the agreement."

Section 2. Amend § 2406, Title 3 of the Delaware Code by deleting present § 2406 in its entirety and substituting in lieu thereof the following:

"§ 2406. Hearing procedure and appeals.

All hearings which are held to enforce the provisions of this chapter shall be conducted by the Secretary or his or her designee. The landowner or person who possesses or has use of the land shall have the right to appear personally, and to be represented by counsel, and to provide evidence and witnesses in his or her own behalf. The Department shall preserve a full record of the proceeding. A transcript of the record may be purchased by any person interested in such hearing on payment to the Department the cost of preparing such transcript. The Department shall issue a decision in writing to the landowner or person who possesses or has use of the land within 30 days of the conclusion of the hearing. Any individual who feels aggrieved by an action of the Department as a result of an action resulting from a hearing held under this chapter may take an appeal, within 30 days of such action, to the Superior Court, and after full hearing the Court shall make such decree as seems just and proper. Written notice of such appeal, together with the grounds therefor, shall be served upon the Secretary of the Department."

Section 3. Amend § 2407, Title 3 of the Delaware Code by redesignating present § 2407 as § 2408, Title 3 of the Delaware Code and substituting in lieu thereof the following:

"§ 2407. Penalties.

(a) Any person who interferes with the Department of Agriculture in the enforcement of this chapter as determined in an administrative hearing, shall be assessed a civil penalty of no less than \$50 nor more than \$500 on each count.

(b) Any person who refuses to comply with the provisions of this chapter shall be assessed a civil penalty of a minimum of \$100 or \$25 per acre of land upon which noxious weeds have set seed, whichever is greater.

(c) The proceeds of any fines or penalties imposed under this chapter shall be deposited into an appropriated special fund account in the Department of Agriculture. These funds shall be used to support the noxious weed eradication programs of the Department of Agriculture."

Approved July 27, 1995

CHAPTER 286

FORMERLY

HOUSE BILL NO. 188

AS AMENDED BY

SENATE AMENDMENT NO. 1 AND

HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 83, TITLE 9 OF THE DELAWARE CODE RELATING TO THE VALUATION OF LAND DEVOTED TO AGRICULTURAL, HORTICULTURAL OR FOREST USE.

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

Section 1. Amend § 8333 of Chapter 83, Title 9, Delaware Code, by striking said section in its entirety and by substituting in lieu thereof a new § 8333 to read as follows:

“§ 8333. Criteria for Land Use.

Land shall be deemed to be actively devoted to agricultural, horticultural or forestry use when (i) not less than 10 acres are in such use, and the gross sales of agricultural, horticultural or forestry products produced thereon together with any agricultural program payments and sales of commodities received under government entitlement programs have averaged at least \$1,000 per year within a 2-year period of time immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$1,000 per year, within a 2-year period of time, or (ii) less than 10 acres are in such use and the gross sales of agricultural, horticultural or forestry products produced thereon together with any agricultural program payments and sales of commodities received under government entitlement programs shall have averaged at least \$10,000 per year within a 2-year period of time immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$10,000 per year within a 2-year period of time. In computing such anticipated yearly gross sales for land under 10 acres in such use, the maximum amount computed from future sales of forestry products shall be not more than \$2,000 annually. In applying these criteria, and in determining whether the minimum acreage requirements are met, all contiguous parcels of land held by identical owners in identical proportions of ownership and in identical legal form of title, shall be considered as a single unit.”

Section 2. Amend § 8334(2) of Chapter 83, Title 9, Delaware Code, by striking said paragraph in its entirety and by substituting in lieu thereof a new § 8334(2) to read as follows:

“(2) The area of such land (i) is not less than 10 acres in such use, and the gross sales of agricultural, horticultural or forestry products produced thereon together with any agricultural program payments and sales of commodities received under government entitlement programs have averaged at least \$1,000 per year within a 2-year period of time immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$1,000 per year, within a 2-year period of time, or (ii) is less than 10 acres in such use and the gross sales of agricultural, horticultural or forestry products produced thereon together with any agricultural program payments and sales of commodities received under government entitlement programs shall have averaged at least \$10,000 per year within a 2-year period of time immediately preceding the tax year in issue, or there is clear evidence of anticipated yearly gross sales and such payments amounting to at least \$10,000 per year within a 2-year period of time. In computing such anticipated yearly gross sales for land

under 10 acres in such use, the maximum amount computed from future sales of forestry products shall not be more than \$2,000 annually. In applying these criteria, and in determining whether the minimum acreage requirements are met, all contiguous parcels of land held by identical owners in identical proportions of ownership and in identical legal form of title, shall be considered as a single unit."

Approved July 27, 1995

CHAPTER 287

FORMERLY

HOUSE BILL NO. 301

AN ACT TO AMEND CHAPTER 83, TITLE 9, DELAWARE CODE RELATING TO PENALTIES FOR FAILING TO REPORT DISQUALIFICATION OF LAND FOR VALUATION, ASSESSMENT AND TAXATION AS AGRICULTURAL, HORTICULTURAL AND FOREST LANDS.

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

Section 1. Amend Section 8336, Title 9, Delaware Code by striking subsection (b) thereof in its entirety and substituting in lieu thereof the following:

"(h) If the eligibility of land under this section changes the owner shall on or before February 1 of the following year in which the eligibility of the land changes, notify the assessing authority in the taxing district, in writing, of the change in land use.

Any owner who fails to properly notify the assessing authority in the tax district of the change in land use shall be assessed a penalty for such failure in an amount of 20% of the rollback taxes recoverable against the property, which penalty shall be collected by the taxing district."

Approved July 27, 1995

CHAPTER 288

FORMERLY

SENATE BILL NO. 124

AS AMENDED BY

SENATE AMENDMENT NOS. 1 AND 2
AND HOUSE AMENDMENT NOS. 1 AND 2AN ACT TO AMEND TITLES 10, 12, 13, AND 19 OF THE DELAWARE CODE RELATING
TO CHILD SUPPORT ORDERS.

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 §513 (b)(4), Title 13, Delaware Code by striking it in its entirety and substituting in lieu thereof the following:

"(4) a. In all cases brought under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651, et seq.), a copy of the Court's income withholding order shall be issued to the Division of Child Support Enforcement and shall be served by the Division by first class mail upon the obligor's employer, and any successive employer, and such service shall be as effectual for all purposes as if served by the Court.

b. In all cases brought under Title IV-D of the Social Security Act, the Division shall be authorized to file the verified notice on behalf of said obligee."

Section 2. Amend §513 (b)(8), Title 13, Delaware Code by striking the comma "," after the word "Court" and before the phrase "the employer" in the first sentence thereof and inserting between said word and phrase the following: "or copy from the Division of Child Support Enforcement,"; and by striking the last sentence of said paragraph in its entirety and substituting in lieu thereof the following: "Upon the termination of the obligor's employment, the employer shall notify the Court, or the Division of Child Support Enforcement if the order of income withholding was served by the Division, of said termination and shall provide the Court, or the Division if the order of income withholding was served by the Division, with the obligor-employee's last known address, along with the name and address of his future employer, if known."

Section 3. Amend §513 (b)(9), Title 13, Delaware Code by adding after the word "Court" and before the word "by" the following: "or from the Division of Child Support Enforcement".

Section 4. Amend §513, Title 13, Delaware Code by adding thereto a new subsection (g) as follows:

"(g) Upon receipt of a written request, or a request by other electronic means where available, from the Director of the Division of Child Support Enforcement in any case enforced by the Division pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651, et seq.), any employer, as that term is defined in paragraph (b)(6) of this Section, and any labor organization, as that term is defined in §710 of Title 19, shall cooperate with and provide relevant employment and income information in the possession of such employer or labor organization to the Director or his or her designee for the purpose of establishing, modifying, or enforcing a child support order. Relevant employment and income information includes: whether a named person has or has not been employed by an employer or whether a named person has or has not been employed to the knowledge of the labor organization; the full name of the employee or member; the employee's or member's last known address; the employee's or member's date of birth; the employee's or member's social security number; all income, as that term is defined in subsection (b)(5) of this section, paid to the employee or member in the prior

and current calendar year and the employee's or member's current rate of pay; and whether dependent health insurance coverage is available to the employee or member through employment or membership in the labor organization, together with information about the name of the health care insurer and the extent of the coverage available.

(1) An employer or labor organization shall be immune from any liability for providing information pursuant to this subsection.

(2) Any employer or labor organization which fails or refuses to provide the information described in this subsection within 30 days after receipt of a request from the Director of the Division of Child Support Enforcement or as otherwise provided in such request shall be punished by a fine of not less than \$100 nor more than \$500. For a second or subsequent offense, such employer or labor organization shall be fined not less than \$500 nor more than \$1,000. A fine under this section may not be suspended. If the employer or labor organization is a corporation, criminal liability shall be established pursuant to Sections 281-284 of Title 11."

Section 5. Amend Chapter 5, Title 13 of the Delaware Code by adding a new §519 to read as follows:

"§519. Child support liens.

(a) Where an obligor has been ordered by the Court to pay child support and owes arrears or retroactive support in a case enforced by the Division of Child Support Enforcement pursuant to Title IV-D of the Social Security Act (42 U.S.C. Sec. 651, et seq.), the Director of the Division of Child Support Enforcement may:

(1) Cause a lien for the unpaid arrears or retroactive support to be placed upon the obligor's distributive share of a decedent's estate by filing notice with the Register of Wills of the county in which the decedent's estate is being administered and by sending copies of the notice by certified or registered mail to the obligor and to the personal representative of the decedent. The notice shall contain the obligor's name and address, the obligor's social security number, if known, the name of the obligee and the amount of the arrears or retroactive support. The lien shall attach to the obligor's distributive share upon the filing of the notice of the lien with the Register of Wills. Thereafter, the personal representative of the decedent shall pay to the Director the lesser of the obligor's distributive share or the amount of the arrears or retroactive support. If the personal representative fails to pay the Director in accordance with the lien, the personal representative shall be liable on his bond to the Director, as the payee of child support obligation;

(2) Cause a lien for the unpaid arrears or retroactive support to be placed upon any claim, counterclaim, cross-claim, action or suit, at law or in equity, of the obligor by filing notice with the Prothonotary or clerk of the court in which the claim, counterclaim, cross-claim or other action or suit is pending and by sending a copy of the notice by certified or registered mail to the obligor. The notice shall contain the obligor's name and address, the obligor's social security number, if known, the name of the obligee, and the amount of arrears or retroactive support. Upon the filing of the notice, the Prothonotary or clerk of the court shall mail a copy of the notice to the obligor and to all attorneys and insurance carriers of record, if known, each of whom shall be deemed to have received the notice 5 days after the date of mailing by the Prothonotary or clerk. The lien described in this paragraph shall attach to any payment or settlement, after deducting expenses of recovery and attorneys fees, made more than 5 days after the Prothonotary or clerk mailed the notice. Any person, firm or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any claim, counterclaim, cross-claim or other action or suit after the receipt of the notice of lien shall be liable to the Director, as payee of the child support order, in an amount equal to the lesser of the payment or settlement or the child support arrears or retroactive support; and the Director may enforce the child support lien in an action in the Family Court against any person, firm or corporation, including an insurance carrier, making the payment or settlement;

(3) Cause a lien for the unpaid arrears or retroactive support to be placed upon any demand or cause of action for negligence or personal injury of the obligor by sending notice by certified or registered mail to the obligor, to the party or parties alleged to be liable to the obligor,

if known, and to their attorneys of record, if known. The notice shall contain the obligor's name and address, the obligor's social security number, if known, the name of the obligee, and the amount of arrears or retroactive support. The notice shall also instruct the party to whom it is directed to deliver a copy of the notice to his insurance carrier, if any. The lien described in this paragraph shall attach to any payment or settlement, after deducting expenses of recovery and attorneys' fees, made more than five (5) days after the notice is mailed. Any person, firm or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any demand or cause of action after receipt of the notice of lien shall be liable to the Director, as payee of the child support order, in an amount equal to the lesser of the payment or settlement or the child support arrears or retroactive support; and the Director may enforce the child support lien in an action in the Family Court against any person, firm or corporation, including an insurance carrier, making the payment or settlement; and

(4) Cause a lien for the unpaid arrears or retroactive support to be placed upon any workmen's compensation benefits payable to the obligor by filing notice with the Secretary of the Industrial Accident Board and by sending a copy of the notice by certified or registered mail to the obligor. The notice shall contain the obligor's name and address, the obligor's social security number, if known, the name of the obligee, and the amount of arrears or retroactive support. Upon the filing of the notice, the Secretary of the Industrial Accident Board shall mail a copy of the notice to the obligor and to all attorneys and insurance carriers of record, each of whom shall be deemed to have received the notice 5 days after the date of mailing by the Secretary. The lien described in this paragraph shall attach to any Industrial Accident Board award or any payment or settlement, after deducting expenses of recovery and attorneys fees, made more than 5 days after the Secretary of the Industrial Accident Board mailed the notice. The lien described in this paragraph shall not take priority over liens created by 19 Del. C. §2363. Any person, firm or corporation, including an insurance carrier, making any payment or settlement in full or partial satisfaction of any workmen's compensation claim after receipt of the notice shall be liable to the Director, as payee of the child support order, in an amount equal to the lesser of the award, payment or settlement or the child support arrears or retroactive support; and the Director may enforce the child support lien in an action in the Family Court against any person, firm or corporation, including an insurance carrier, making the payment or settlement. This paragraph shall not apply to periodic workmen's compensation payments from which child support is paid by income attachment under §513(b) of this Title;

(b) The records of the Division of Child Support Enforcement shall be presumptive evidence of the amount of any lien for unpaid arrears or retroactive support. Any person, firm or corporation, including an insurance carrier, who has received notice of any child support lien shall determine from the Division of Child Support Enforcement the amount of unpaid arrears or retroactive support owed by the obligor as of the date such party makes any payment to which a lien under this Section attaches."

Section 6. Amend §2105(a), Title 12, Delaware Code by adding a new paragraph (3) as follows and renumbering the remaining paragraphs accordingly:

"(3) Child support arrears or retroactive support due as of the date of the decedent's death;"

Section 7. Amend §2355, Title 19, Delaware Code by striking the present §2355 in its entirety and substituting in lieu thereof the following:

§2355. Assignment of compensation prohibited; exemption from creditors' claims; child support exception.

Except for attachments pursuant to child support orders entered under Chapters 4, 5 or 6 of Title 13, claims or payment for compensation due or to become due under this chapter shall not be assignable and all compensation and claims therefor shall be exempt from all claims of creditors."

Section 8. Amend §921, Title 10, Delaware Code by adding a new paragraph (15) as follows:

"(15) Actions concerning child support liens pursuant to §519 of Title 13."

Section 9. Sections 4, 6, and 7 of this Act shall become effective upon the Act's enactment into law. All other provisions of this Act shall become effective on January 1, 1996.

Section 10. If any provision of this Act or the application thereof to any person or circumstance 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 28, 1995

CHAPTER 289

FORMERLY

HOUSE BILL NO. 373

AN ACT TO WAIVE CERTAIN STATUTORY PROVISIONS OF CHAPTER 1, TITLE 13 OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF ROSE ARLINE SCHIAVELLI AND JOHN FREDERICK FULMER.

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

Section 1. Rose Arline Schiavelli and John Frederick Fulmer are hereby exempted from the provisions of 13 Del. C. § 106(a) which state that a clergyman or minister of a recognized religion, or the clerks of the peace of various counties, may solemnize marriages; and the Honorable Vincent J. Poppiti of the Delaware Family Court is hereby authorized to solemnize the marriage between Rose Arline Schiavelli and John Frederick Fulmer. The Clerk of the Peace of New Castle County shall issue to Rose Arline Schiavelli and John Frederick Fulmer one official marriage license pursuant to this Act, the provisions of 13 Del. C., Chapter 1 to the contrary notwithstanding.

Approved September 7, 1995

CHAPTER 290

FORMERLY

HOUSE BILL NO. 384

AN ACT TO AMEND VOLUME 70, CHAPTER 210, LAWS OF DELAWARE, RELATING TO THE FISCAL YEAR 1996 BOND AND CAPITAL IMPROVEMENT ACT; AND AMEND CERTAIN PERTINENT STATUTORY PROVISIONS.

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

Section 1. Amend page A-3, Section 1 Addendum of Volume 70, Chapter 210, Laws of Delaware by deleting the numbers "40-07-02" as they appear following the words "Cape Henlopen Pier Reconstruction Completion" under "NATURAL RESOURCES & ENVIRONMENTAL CONTROL" and inserting in lieu thereof the numbers "40-06-02".

Section 2. Amend page A-4, Section 1 Addendum of Volume 70, Chapter 210, Laws of Delaware by deleting the word "Southern" wherever it appears under "DELAWARE TECHNICAL & COMMUNITY COLLEGE" and inserting in lieu thereof the word "Owens".

Section 3. Amend page A-5, Section 1 Addendum of Volume 70, Chapter 210, Laws of Delaware by deleting the numbers "(60/40)" after the words "Christina, Replace Leasure Elementary" as it appears under "STATE BOARD OF EDUCATION" and inserting in lieu thereof the numbers "(26/74)".

Section 4. Amend Section 5 of Volume 70, Chapter 210, Laws of Delaware by striking the following language as it appears therein:

"Minor Capital Improvements and Equipment 67/285 35-01-20-6212 3,231.64" and by substituting in lieu thereof the following language:

"Minor Capital Improvements and Equipment 68/156 35-01-20-6212 3,231.64"

Section 5. (a) Amend Section 6 of Volume 70, Chapter 210, Laws of Delaware by striking the words "Five Hundred twenty-three Thousand Two Hundred Dollars (\$523,200)" as they appear therein and substituting in lieu thereof the words "Five Hundred Eleven Thousand One Hundred Dollars (\$511,100)".

(b) Further Amend Section 6 of Volume 70, Chapter 210, Laws of Delaware by striking the following language as it appears therein:

"Department of Administrative Services	<u>\$523,200</u>
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TOTAL	<u>\$523,200"</u>
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and by substituting in lieu thereof the following language:

"Department of Administrative Services	<u>\$511,100</u>
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TOTAL	<u>\$511,100"</u>
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(c) Further Amend Section 6, Volume 70, Chapter 210, Laws of Delaware by designating said paragraph as subsection (a) and by adding a new subsection (b) to read as follows: "(b) In addition to the above, the sum of Seventy-Seven Thousand Dollars (\$77,000) shall be transferred from the State Treasurer's Bond Reversion Account

(94-12-05-03-8101) to the Office of the Budget to be used to ensure that the City of Wilmington acquires a marine hovercraft rescue vessel."

Section 6. Amend Section 7 of Volume 70, Chapter 210, Laws of Delaware by striking the following language as it appears therein:

"Brandywine/Elementary Renovations 68/46 95-31-00-6012 3,284.99"

and by substituting in lieu thereof the following language:

"Brandywine/Elementary Renovations 67/46 95-31-00-6012 3,284.99"

Section 7. Amend Section 9 of Volume 70, Chapter 210, Laws of Delaware by striking the following language as it appears therein:

"Christina, Leasure Elem (60/40)	2,168,500	6,212,889	8,381,389
Subtotal	43,372,100	28,105,929	71,478,029"

and by substituting in lieu thereof the following language:

"Christina, Leasure Elem (26/74)	2,168,500	6,212,889	8,381,389
Christina, Leasure Elem Land	-0-	720,000	720,000
Subtotal	43,372,100	28,825,929	72,198,029"

Section 8. Amend Section 15 of Volume 70, Chapter 210, Laws of Delaware by striking the following language as it appears therein:

"1993	40-08-04-0181	Water Fund
1990	40-08-04-0183	Rev. Loan Fund
1993	40-08-04-6313	Wastewater SRF"

and by substituting in lieu thereof the following language:

"1993	40-08-01-0181	Water Fund
1990	40-08-01-0183	Rev. Loan Fund
1993	40-08-01-6313	Wastewater SRF
1995	95-01-01-0179	School Building Annual Maintenance
1993	95-15-00-6384	MCI-VE-93"

Section 9. Amend Subsection (h)(3), Section 6102A., Title 29, Delaware Code by deleting said Subsection in its entirety and substituting in lieu thereof the following.

"(3) A funding match shall be required of at least 25 percent for resource, conservation and development projects approved by the Joint Legislative Committee on Capital Improvement Programs."

Section 10. Amend Subsection (i)(5), Section 6102A., Title 29, Delaware Code by deleting the word "Chair" and inserting in lieu thereof the word "Co-Chairs"

Section 11. Amend Section 8017A. (d), Title 29, Delaware Code by striking the following language as it appears therein: "subsection (c)(7)" and by substituting in lieu thereof the following language: "subsection (c)(6)".

Section 12. Amend Subsection (a), Section 8743., Title 29, Delaware Code by striking the following language as it appears therein:

"The Corporation may elect to participate in the County and Municipal Pension Plan set forth in Chapter 55A, Title 29, Delaware Code. The Corporation may elect to establish a separate pension plan for the Corporation's employees upon such terms and conditions as the Corporation deems advisable, which pension plan shall be administered by the Board of Pension

"Trustees established by Section 8303, Title 29, Delaware Code" and by substituting in lieu thereof the following language:

"The Corporation shall establish pension plans for its employees who shall, for purposes of participation in any such plans, be governmental employees. Contributions by the Corporation and/or its employees pursuant to such plans shall be deposited into a fund established for these purposes. Benefits, fees and expenses authorized to be paid pursuant to such plans shall be paid from said fund. The assets of such fund may be commingled for investment purposes with the assets of the fund created by Section 5541, Title 29, Delaware Code - referred to as the State Employees' Retirement Fund. The fund established by the Corporation shall at all times be maintained separately for purposes of accounting and expenses. No assets of the State Employees' Retirement Fund shall be used to pay benefits owed to employees of the Corporation. The Corporation's pension plans shall be administered by the Board of Pension Trustees established by Section 8308, Title 29, Delaware Code, upon such terms and conditions as the Corporation may negotiate with the Board of Pension Trustees."

Section 13 Amend Section 30(a), Volume 70, Chapter 210, Laws of Delaware by striking in their entirety the words "Section 24 of this Act" and substituting in lieu thereof the words "Subsection (i)(3), Section 6102A, Title 29, Delaware Code"

Section 14 Amend Section 30(b) by striking said subsection in its entirety and substituting in lieu thereof the following new subsection (b) to read as follows:

"(b) Projects qualifying for the balance of three million two hundred and thirty-eight thousand dollars (\$3,238,000) remaining after allocation for projects contained in subsection 30(a) of this Act shall conform to the provisions of Title 29, Delaware Code, Section 6102A(i)(3)

Section 15 Amend Section 30(f), Volume 70, Chapter 210, Laws of Delaware by adding a new sentence thereto as follows: "However, the Department of Administrative Services shall make no further expenditure of funds for the Arena until the Board of Directors of the Delaware State Fair Corporation shall have made an affirmative vote that the Delaware State Fair will operate and maintain the Arena without further cost to the State."

Section 16 Amend Section 31, Volume 70, Chapter 210, Laws of Delaware by adding the following words at the beginning of the sentence: "For Fiscal Year 1996," and by changing the "P" in Projects to lower case "p"

Section 17 Amend Section 34, Volume 70, Chapter 210, Laws of Delaware by deleting said Section in its entirety

Section 18 Amend Section 35, Volume 70, Chapter 210, Laws of Delaware by deleting said Section in its entirety

Section 19 Amend Section 38, Volume 70, Chapter 210, Laws of Delaware by deleting said Section in its entirety

Section 20 (a) Amend Section 41(a), Volume 70, Chapter 210, Laws of Delaware by deleting the words "thirteen member Board of Directors" as they appear in said subsection and inserting in lieu thereof the words "fifteen member Board of Directors"

(b) Further Amend Section 41(a), Volume 70, Chapter 210, Laws of Delaware, by inserting after the sentence "The Governor shall appoint a board member representing the private sector to serve as Chair of the Board of Directors who shall serve at the Governor's pleasure" a new sentence to read as follows:

"A quorum of the Board of Directors shall consist of eight or more members."

Section 21 Amend Section 44, Volume 70, Chapter 210, Laws of Delaware by deleting said Section in its entirety and substituting in lieu thereof the following: "Of the amount authorized in the Section 1 Addendum of this Act, up to \$500,000 may be utilized in order to provide financial assistance in the form of matching grants in an amount not greater than either \$25,000 or 50 percent of the total project costs for environmental assessments of sites associated

with the "brownfield" initiative. For purposes of this Section a "brownfield" is defined as a vacant, unoccupied, or underutilized site, with respect to any portion thereof, which the owner of the site has reasonable cause to believe may, as a result of any prior commercial or industrial activity by any person, have been environmentally contaminated in a manner that would interfere with the intended use of such site. The Delaware Economic Development Authority shall draft rules and regulations pertaining to eligibility, and establish criteria to administer the assistance."

Section 22. Amend Volume 70, Chapter 210, Laws of Delaware by adding a new Section to read as follows: "Section 48 A. The General Funds appropriated herein and in Volume 70, Section 273, Laws of Delaware are not subject to the provisions of Section 7414(b), Chapter 74, Title 29, Delaware Code."

Section 23. Amend Section 53, Volume 70, Chapter 210, Laws of Delaware by deleting the words "in order to acquire a Document Production System" and inserting in lieu thereof the words "for computer equipment related to building expansion".

Section 24. (a) Amend Section 57, Volume 70, Chapter 210, Laws of Delaware by deleting the word "Central" in the second sentence of said Section and substituting in lieu thereof the word "General". (b) Further amend Section 57, Volume 70, Chapter 210, Laws of Delaware by adding a semicolon ";" in the first sentence of subsection (b) after the word "Committees" and before the word "the".

Section 25. Amend Volume 70, Chapter 210, Section 57(b), Laws of Delaware by adding a new sentence to the end of said subsection to read as follows: "The Chairs of the Senate and House Corrections Committees shall be Co-Chairs of the Correction Facilities Privatization Task Force."

Section 26. Amend Subsection (a), Section 58, Volume 70, Chapter 210, Laws of Delaware by deleting the words "Joint Advisory Committee on Prison Issues" in the third sentence of said Subsection and substituting in lieu thereof the words "Correction Facilities Privatization Task Force".

Section 27. Amend Section 58(e), Volume 70, Chapter 210, Laws of Delaware by adding a sentence at the end of said subsection to read as follows: "Funds authorized in the Section 1 Addendum of this Act for prison construction are not intended to supplant federal funds which may be available through Public Law 103.322, The Violent Crime Control and Law Enforcement Act of 1994."

Section 28. Amend Section 60, Volume 70, Chapter 210, Laws of Delaware by deleting Subsection "(b)" in its entirety.

Section 29. Amend Volume 70, Chapter 210, Laws of Delaware by striking Section 62 in its entirety and substituting in lieu thereof the following new Section 62:

"Section 62. Except for land acquired by approval of the Open Space Council or approved through a Bond and Capital Improvement Act, land shall not be purchased by the Department of Natural Resources and Environmental Control without prior approval of the Co-Chairs of the Joint Legislative Committee on Capital Improvement Programs provided, however, that the Department is not prohibited from conducting studies, surveys or other contractual arrangements that would normally precede land acquisition procedures."

Section 30. Amend Section 63, Volume 70, Chapter 210, Laws of Delaware by adding the following sentence: "Completion of the Cape Henlopen Pier Project shall include air conditioning in the Bait and Tackle facility."

Section 31. Amend Volume 70, Chapter 210, Laws of Delaware by adding a new Section under DEPARTMENT OF PUBLIC SAFETY to read as follows:

"**Section 65A. Helicopter Acquisition.** The Section 1 Addendum of this Act authorizes funds for the lease-purchase of a new helicopter. It is anticipated that the helicopter being replaced shall be retained by the Delaware State Police for the purpose of providing full helicopter coverage during maintenance down-time as well as for training. The Delaware State Police shall

be responsible for maintenance of four helicopters within their existing operating budget. The Insurance Coverage Office is herein authorized to purchase the appropriate helicopter insurance necessary for four helicopters."

Section 32. Amend Section 66(c), Volume 70, Chapter 210, Laws of Delaware by striking the words "and to such new programs" as they appear therein.

Section 33. Amend Section 67(c), Volume 70, Chapter 210, Laws of Delaware by inserting a new sentence at the end of said Subsection to read as follows: "A copy of the modified list shall be forwarded to the Budget Director and Controller General."

Section 34. Amend Section 76, Volume 70, Chapter 210, Laws of Delaware by striking the following language as it appears therein: "(reflected in House Bill No. 177 as amended)" and by substituting in lieu thereof the following language:

"(reflected in House Bill No. 177 of the 138th General Assembly, as amended)"

Section 35. Amend Section 78, Volume 70, Chapter 210, Laws of Delaware by deleting said Section in its entirety.

Section 36. Amend Section 79, Volume 70, Chapter 210, Laws of Delaware by deleting said Section in its entirety.

Section 37. Amend Section 80, Volume 70, Chapter 210, Laws of Delaware by striking the following language as it appears therein: "dated June 30, 1995" and by substituting in lieu thereof the following language: "as attached hereto".

Section 38. Amend Section 90, Volume 70, Chapter 210, Laws of Delaware by striking the following language as it appears therein: "Amend Section 1310(b) by striking said subsection in its entirety and substituting in lieu thereof:" and by substituting in lieu thereof the following language: "Amend Section 1310(b), Title 14, Delaware Code by striking said subsection in its entirety and substituting in lieu thereof:"

Section 39. Amend Section 1310(b), Title 14, Delaware Code by (a) striking the word "recognized" in the first sentence and by substituting in lieu thereof the word "reorganized" and (b) by inserting the word "nurse" after the word "school" and before the words "per facility" in the second sentence of said subsection.

Section 40. Amend Volume 70, Chapter 210, Laws of Delaware by adding a new Section 95 to read as follows:

"Resource, Conservation and Development Projects entered into prior to February 1, 1996 shall be categorized as highway construction."

Section 41. Amend Title 29, Section 8017A by striking the words "Delaware Greenway and Trails Council" and inserting in lieu thereof the words "Council on Greenways and Trails" as they appear within said Section.

Approved September 7, 1995

CHAPTER 291

FORMERLY

HOUSE BILL NO. 385

AN ACT TO AMEND VOLUME 70, CHAPTER 119, LAWS OF DELAWARE RELATING TO THE FISCAL YEAR 1996 GRANT-IN-AID ACT.

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

AMEND Volume 70, Chapter 119, Laws of Delaware by adding a new line to Section 2 under the heading of Neighborhood/Community Services to read as follows:

"Peninsula United Methodist Homes, Inc. 2,500".

FURTHER AMEND Volume 70, Chapter 119, Laws of Delaware by adding a new line to Section 2 under the heading of One-Time Items: to read as follows:

"Milton Fire Company 3,672".

FURTHER AMEND Volume 70, Chapter 119, Laws of Delaware by adding a new line to Section 3(d) under the heading of Sussex County to read as follows:

"Milton 3,672".

FURTHER AMEND Volume 70, Chapter 119, Laws of Delaware by adding after the words "Delaware City Day Committee" as they appear in Section 15(a) the words "Delaware Teachers Academy for Service Learning".

FURTHER AMEND Volume 70, Chapter 119, Laws of Delaware by recalculating all sub-totals and totals.

Approved September 7, 1995

CHAPTER 292

FORMERLY

HOUSE BILL NO. 388

AN ACT TO WAIVE CERTAIN STATUTORY PROVISIONS OF CHAPTER 1, TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF PAMELA HASTINGS AND MICHAEL F. MCCALL.

Section 1. Pamela Hastings and Michael F. McCall 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 Alfred Fraczkowski, Chief Judge of Wilmington Municipal Court is hereby authorized to solemnize the marriage between Pamela Hastings and Michael F. McCall. The Clerk of the Peace for New Castle County shall issue to Pamela Hastings and Michael F. McCall one official marriage license pursuant to this Act, the provisions of 13 Del. C. Chapter 1 to the contrary notwithstanding.

Approved September 7, 1995

CHAPTER 293

FORMERLY

HOUSE BILL NO. 389

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE GOVERNMENT OF KENT COUNTY.

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

Section 1. Amend § 4103 of Title 9 of the Delaware Code by striking subsection (c) in its entirety and inserting new text to read:

"(c) The office of an elected official shall become vacant upon the elected official's death, resignation, removal from office in any manner authorized by law, or forfeiture of the office. The elected official's office will be forfeited if at any time during the elected official's term of office the elected official:

(1) Lacks any qualification for the office prescribed by this chapter or other law of the State, including residence in the district from which the elected official was elected;

(2) Violates any express prohibition of this title; or

(3) Is convicted of a crime involving moral turpitude.

(d) If the office of an elected official becomes vacant, a temporary official shall be appointed by the majority vote of the remaining body of elected officials until the special election provided for in § 303 of this title shall have been completed. The special election shall be held within 6 months of the occurring of the vacancy. The County government shall prescribe by ordinance the procedures for the special election, which procedures shall not be inconsistent with the provisions of Title 15 of the Delaware Code. The Kent County Chairperson of each political party that had State ballot status at the preceding general election, or, if there is no Kent County Chairperson, the State Chairperson of that political party, shall without primary, be eligible to file with the Kent County Department of Elections the name of one eligible candidate for the vacant office. The President of the county government shall issue a Writ of Election to the Kent County Department of Elections, which shall conduct the special election in accordance with the county ordinance."

Approved September 7, 1995

CHAPTER 294

FORMERLY

SENATE BILL NO. 274
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS.

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

Section 1. Amend Section 3183, Title 15, Delaware Code, by striking subsection (b) thereof in its entirety and inserting in lieu thereof the following:

"(b) The chairman of each political party participating in the presidential primary shall, fifteen days after the deadline set in accordance with subsection (a) above, provide the State Election Commissioner with a list of all persons affiliated with such party, not already on the ballot pursuant to subsection (a) above, who have become eligible by the close of business on the preceding day to receive payments from the Presidential Primary Matching Payment Account of the Internal Revenue Code and who have not previously announced their withdrawal from the national presidential race and/or who have not announced the suspension of their presidential campaign. The State Election Commissioner shall place all such persons on the presidential primary ballot for their respective party. Prior to, or concurrently with, the filing of the above-mentioned list with the State Election Commissioner, each state chairman shall notify the candidate or the candidate's campaign, that the candidate's name has been (or will be) provided to the State Election Commissioner pursuant to this subsection. A candidate placed on the ballot pursuant to this subsection, or a candidate already on the ballot pursuant to subsection (a), may have his or her name removed from the ballot provided that no later than the close of the business day following the day on which the above-mentioned list was provided to the State Election Commissioner, the candidate files an affidavit with the State Election Commissioner stating that he or she is not currently and does not intend to become a candidate in any other state's presidential primary and that he or she is not currently (or is no longer), and does not intend to become, a candidate for the presidential nomination of his or her party."

Section 2. Amend Section 3183(d), Title 15, Delaware Code, by inserting the following between the word "section" and the ",", thereafter in the first sentence:

"and no additional candidates are added to the ballot pursuant to subsection (b) of this section".

Section 3. Amend Section 3187, Title 15, Delaware Code, by changing the title of said section from "Filing Fees" to "Filing Requirements" and by inserting the phrase "in accordance with section 3183(a)" between the words "filing" and "for" in the first sentence of said section and by deleting the phrase "tender a filing fee in the sum of \$2,000 to the State Election Commissioner, payable to the state committee of the candidate's political party, and" from the first sentence of said section and deleting the last sentence of said section. Any funds collected pursuant to Section 3187, Title 15, Delaware Code prior to the enactment of this Act for an upcoming election shall be returned to the respective candidates.

Section 4. For purposes of the 1996 presidential primary, any person who presented a petition with a minimum of 300 valid signatures of registered voters of this state of the same political party of the candidate on or before 4:30 p.m. of December 27, 1995 shall be placed on the ballot as a candidate in his or her party's primary."

Approved January 10, 1996

CHAPTER 295

FORMERLY

SENATE BILL NO. 270

AN ACT RELATING TO EXEMPTING THE STATUTORY PROVISIONS OF §106 (a), TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF JANICE WORKMAN DONOVAN AND PETER VINCENT GIGLIO.

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

Section 1. Janice Workman Donovan and Peter Vincent Giglio 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 Margaret L. Barrett, Magistrate Judge of the State of Delaware is hereby authorized to solemnize the marriage between Janice Workman Donovan and Peter Vincent Giglio. The Clerk of the Peace for Kent County shall issue to Janice Workman Donovan and Peter Vincent Giglio one official marriage license pursuant to this Act, the provisions of the 13 Del. C. 106 to the contrary notwithstanding.

Approved January 19, 1996

CHAPTER 296

FORMERLY

SENATE BILL NO. 191

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO REQUISITION/EXTRADITION COSTS.

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

Section 1. Amend Section 2524 of Title 11 of the Delaware Code by striking subsection (b) thereof in its entirety and by substituting in lieu thereof the following:

"(b) Upon the conviction of any individual returned to this State by requisition proceedings, the court shall assess the costs of requisition in the same manner as other costs of the case.

(c) All money received by the State in payment of the costs of requisition shall be credited by the State Treasurer to a fund to be known as the "Extradition Fund".

(d) The Extradition Fund shall be a revolving fund and shall consist of funds transferred to it pursuant to recovery of the costs of requisitions.

(e) If, at the end of any fiscal year, the balance in the Extradition Fund exceeds \$40,000.00, the excess shall be withdrawn from the Extradition Fund and deposited in the General Fund.

(f) The Attorney General is authorized to expend from the Extradition Fund such funds as are necessary for the payment of operating costs, expenses and charges incurred in connection with the requisition proceedings necessary to return individuals to this State."

Approved January 22, 1996

CHAPTER 297

FORMERLY

SENATE BILL NO. 271

AN ACT TO AMEND 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 §1121, Title 30 of the Delaware Code by striking the word "resident" as it appears in said section and substituting in lieu thereof the phrase "resident, reduced by the credit allowed under §1110(b) of this title, and the difference".

Section 2. This Act shall be effective for tax years beginning after December 31, 1995.

Approved February 1, 1996

CHAPTER 298

FORMERLY

HOUSE BILL NO. 232

AN ACT TO AMEND CHAPTER 11, TITLE 12 OF THE DELAWARE CODE RELATING TO ESCHEAT OF ABANDONED OR UNCLAIMED PROPERTY.

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

Section 1. Amend § 1130, Title 12 of the Delaware Code by inserting between the words "bank" and "created" as they appear in said section the phrase "or credit union".

Section 2. Amend § 1198(6), Title 12 of the Delaware Code by striking the phrase "a credit union," as it appears in the first sentence of said subsection.

Section 3. Amend § 1199(a), Title 12 of the Delaware Code by striking the words and punctuation ", in duplicate," as they appear in the first sentence.

Section 4. Amend § 1142(c)(5), Title 12 of the Delaware Code by striking subparagraph "c" of said paragraph in its entirety.

Section 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared severable.

Approved February 1, 1996

CHAPTER 299

FORMERLY

SENATE BILL NO. 272

AN ACT TO AMEND 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 Section 253(a), Title 8, Delaware Code, by inserting "(other than a corporation which has in its certificate of incorporation the provision required by subsection (g)(7)(i) of Section 251 of this title)" in the first sentence immediately following the words "corporation or corporations" the first time said words appear in said sentence.

Section 2. Amend Section 262(b), Title 8, Delaware Code, by inserting "(other than a merger effected pursuant to subsection (g) of §251)" in the first sentence immediately following the number "251" the first time said number appears in said sentence.

Section 3. Amend Section 262(b)(1) by deleting the words "subsections (f) or (g)" and inserting in lieu thereof the words "subsection (f)".

Section 4. Amend Section 281(a), Title 8, Delaware Code, by deleting "§280(a)(2)" in the next to last sentence and inserting in lieu thereof "§280(a)(3)".

Approved February 1, 1996

CHAPTER 300

FORMERLY

SENATE BILL NO. SB 286

AN ACT TO AMEND VOLUME 67, CHAPTER 285, LAWS OF DELAWARE, RELATING TO THE FISCAL YEAR 1991 BOND AND CAPITAL IMPROVEMENT ACT.

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

Section 1. Amend Section 2, Volume 67, Chapter 285, Laws of Delaware, by redesignating said paragraph as subsection (a) and by adding a new subsection (b) to read as follows:

"(b) Any remaining funds so authorized in Section 2(a) and as detailed in the Fiscal Year 1991 Capital Improvements Project Schedule for the Redding-House Study project may be used for repairs to the Christiana Colored School #111-C."

Approved February 1, 1996

CHAPTER 301

FORMERLY

SENATE BILL NO. 284

AN ACT TO WAIVE THE STATUTORY PROVISIONS OF CHAPTER 1, TITLE 13, OF THE DELAWARE CODE RELATING TO THE MARRIAGE OF DR. ANDREW M. BERMAN AND STEPHANIE L. HALL.

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

Section 1. Dr. Andrew M. Berman and Stephanie L. Hall 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 Henry duPont Ridgely, President Judge of the Superior Court of the State of Delaware, is hereby authorized to solemnize the marriage between Dr. Andrew M. Berman and Stephanie L. Hall. The Clerk of the Peace for Kent County shall issue to Dr. Andrew M. Berman and Stephanie L. Hall one official marriage license pursuant to this Act, the provisions of 13 Del. C. Chapter 1 to the contrary notwithstanding.

Approved February 1, 1996

CHAPTER 302

FORMERLY

SENATE BILL NO. 278

AN ACT TO WAIVE STATUTORY PROVISIONS OF TITLE 13 OF THE DELAWARE CODE RELATING TO THE SOLEMNIZATION OF CERTAIN MARRIAGES.

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

Section 1. Tahli D. Silber and Paul Ledeboer and Jose Edwin Velazquez and Sallie Jo Jacobson are hereby exempted from the provisions of §106(a) of Title 13 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 Aida Wasserstein of the Family Court of the State of Delaware is hereby authorized to solemnize the marriages between Tahli D. Silber and Paul Ledeboer and between Jose Edwin Velazquez and Sallie Jo Jacobson. The Clerk of the Peace for New Castle County shall issue to Tahli D. Silber and Paul Ledeboer and to Jose Edwin Velazquez and Sallie Jo Jacobson one official marriage license per couple pursuant to this Act, the provisions of §106(a) of Title 13 to the contrary notwithstanding.

Approved February 1, 1996

CHAPTER 303

FORMERLY

HOUSE BILL NO. 328
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 23, TITLE 19 OF THE DELAWARE CODE RELATING TO WORKMEN'S COMPENSATION.

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

Section 1. Amend § 2312, Chapter 23, Title 19 of the Delaware Code by deleting subsection "(d)" in its entirety and substituting in lieu thereof the following:

"(d) For the purpose of this section, 'volunteer fire company' and 'volunteer firefighters' shall also include junior members, Auxiliary members, paid full-time employees of volunteer fire companies, volunteer ambulance companies of this State, volunteer ambulance company members, paid full-time employees of volunteer ambulance companies, and members of the University of Delaware Emergency Care Unit."

Approved February 1, 1996

CHAPTER 304

FORMERLY

HOUSE BILL NO. 403

AN ACT APPROVING AND VALIDATING ALL ACTIONS TAKEN BY THE CHRISTINA SCHOOL DISTRICT RELATING TO AUTHORIZATION OF THE ISSUANCE OF BONDS FOR A SCHOOL CONSTRUCTION PROGRAM.

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

Section 1. Notwithstanding any other provision of the law to the contrary, the General Assembly hereby approves and validates all actions taken by the Christina School District, a school district of the State of Delaware, acting by and through its Board of Education, related to the special election held on March 7, 1995, which provided the school district with the authority to issue bonds in the aggregate total of \$33,211,597 for the purpose of financing a school construction program.

Approved February 1, 1996

CHAPTER 305

FORMERLY

HOUSE BILL NO. 415

AS AMENDED BY HOUSE AMENDMENT NOS. 1 AND 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE AND TITLE 2 OF THE DELAWARE CODE RELATING TO CERTAIN ADDITIONAL USES OF THE HIGHWAY CONSTRUCTION RATES.

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

Section 1. Amend § 6102A(h), Title 29 of the Delaware Code, by appending a new subsection to read:

"(6) Drainage projects funded from this account shall, whenever the prevailing wage provisions of §6912 of Title 29 of the Delaware Code would otherwise be applicable, be subject to the 'highway construction' rate developed through the regulatory process implementing Section 6912 of Title 29 of the Delaware Code."

Section 2. Amend § 1404, Title 2 of the Delaware Code, by striking the period following the text "Title 7" as it appears at the end of the tenth sentence thereof, and inserting new text in its place to read:

"of the Delaware Code".

Section 3. Amend § 1404, Title 2 of the Delaware Code, by striking the period following the text "Title 29" as it appears at the end of the ninth sentence thereof, and by inserting new text in its place, to read:

"of the Delaware Code. Projects for which Transportation Trust Fund appropriations are provided in the Suburban Street, Drainage and Miscellaneous funding category in the annual Capital Improvements Act shall, whenever the prevailing wage provisions of §6912 of Title 29 of the Delaware Code would otherwise be applicable, be subject to the 'highway construction' rate developed through the regulatory process implementing Section 6912 of Title 29 of the Delaware Code."

Approved February 1, 1996

CHAPTER 306

FORMERLY

SENATE BILL NO. 28

AS AMENDED BY HOUSE AMENDMENT NO. 1 AND SENATE AMENDMENT NO. 3

AN ACT TO AMEND CHAPTER 59, TITLE 29 OF THE DELAWARE CODE RELATING TO THE MERIT SYSTEM OF PERSONNEL ADMINISTRATION; AND PROVIDING FOR DONATED LEAVE.

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

Section 1. Amend Chapter 59, Title 29 of the Delaware Code by adding thereto a new section, designated as §5956, which new section shall read as follows:

"§5956. Donated leave program.

(a) An officer or employee of this State, with the approval of his or her immediate supervisor or the Director of the Division in which he or she is employed, may donate accrued sick leave and annual leave in equal amounts to a leave Bank established by the Director of State Personnel for all officers or employees of this State or to another officer or employee of this State.

(b) A person wishing to donate leave time under this section may request the Director of State Personnel to debit the donor's sick leave and annual leave accounts.

(c) Sick leave and annual leave accrued in the Leave Bank or directly donated to an employee may be used by a recipient only for catastrophic illness. For purposes of this subsection, the term "catastrophic illness" shall mean any illness or injury to an employee which is diagnosed by a physician and certified by the physician as rendering the employee unable to work for a period greater than 5 calendar weeks. Separate periods of disability lasting 7 calendar days or more each, resulting from the same or a related medical condition and occurring within any 12 consecutive month period, shall be considered the same period of disability.

(d) The Director of State Personnel shall convert the donated leave into cash value at the donor's rate of pay, shall re-convert the cash value to hours of leave at the recipient's rate of pay, and shall then credit the recipient's account.

(e) Before receiving donated leave time under this section, the recipient of the leave time shall:

(1) have been an officer or employee of this State for at least 6 months before he or she is eligible for donated leave time;

(2) have used all of his or her sick days and half of his or her vacation time; and

(3) have established medical justification for such receipt, which must be renewed every 30 days.

(f) An employee who is covered by a collective bargaining agreement may donate leave to, or receive donations of leave from, an employee or officer who is not covered by a collective bargaining agreement.

(g) No potential donor, nor any other person, shall sell any accrued leave which might otherwise be donated under this section. No person who is permitted to donate leave under this section shall make any such donation within the last six months immediately prior to such person's retirement from State employment.

(h) The Director of the Office of State Personnel shall have the authority to carry out the mandates of this Act.

(i) The agency employing the recipient of a grant of donated leave shall pay all cost of the use of that donated leave. No funds shall be attached to any hours of donated leave.

(j) The State's liability under this program shall not exceed the number of hours donated by employees.

(k) The provisions of this legislation related to a direct donation of hours from one officer or employee of this State to another officer or employee shall become effective upon the enactment of this legislation. The provisions of this legislation related to donation of hours to the Leave Bank shall become effective upon the establishment of the Bank or three months after the enactment of this legislation, whichever occurs first."

Approved February 2, 1996

CHAPTER 307

FORMERLY

SENATE BILL NO. 249 AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO SOLEMNIZATION OF MARRIAGES.

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

Section 1. Amend §106(a), Title 13, Delaware Code by inserting immediately after "religion" as it appears in the first sentence thereof, the phrase ", members of this State's Supreme Court, Superior Court, Family Court, Chancery, Court of Common Pleas, and Justice of the Peace Court,".

Section 2. Amend §106, Title 13, Delaware Code by striking subsection (c) thereof in its entirety and by redesignating subsection (d) thereof as (c).

Approved February 2, 1996

CHAPTER 308

FORMERLY

HOUSE BILL NO. 418

AN ACT TO AMEND VOLUME 70, CHAPTER 210, LAWS OF DELAWARE, RELATING TO THE FISCAL YEAR 1996 BOND BILL AND CAPITAL IMPROVEMENTS ACT.

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

Section 1. Amend Volume 70, Chapter 210, Laws of Delaware, by striking Section 81 in its entirety and inserting in lieu thereof the following:

"Section 81. Hydraulic Rescue Tools. It is the intent of the General Assembly that the funds authorized in the Section 1 Addendum of this Act be used to reimburse the following volunteer fire companies: Laurel, Newark, Christiana, Five Points, Goodwill, Wilmington Manor, Belvedere, Gumboro, Farmington, Leipsic, Little Creek, Magnolia, Marydel, Frankford, Greenwood, Memorial and Roxana for the acquisition of rescue tools. Upon submitting the receipts of sale, each company will be reimbursed up to \$7,500 by the State Fire Commission - the State Fire School."

Approved February 12, 1996

CHAPTER 309

FORMERLY

SENATE BILL NO. 242

AN ACT TO AMEND CHAPTER 2, TITLE 29 OF THE DELAWARE CODE RELATING TO LANDSCAPE ARCHITECTS.

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

Section 1. Amend §203, Chapter 2, Title 24 of the Delaware Code by striking the figure "\$5805" as the same appears in subsection (g), and substituting "Chapter 58" in lieu thereof.

Section 2. Amend §205, Chapter 2, Title 24 of the Delaware Code by striking said section in its entirety, and substituting in lieu thereof the following:

"§205. Powers and Duties

(a) The Board shall have authority to:

(1) formulate rules and regulations relating to official seals and other matters, with appropriate notice to those affected, where such notice can reasonably be given. Each rule or regulation shall implement or clarify a specific section of this Chapter;

(2) designate the application form to be used by all applicants for licensure, subject to the approval of the Director of the Division of Professional Regulation, and to process all applications;

(3) grant licenses to all persons who meet the qualifications for licensure;

(4) refer complaints received from practitioners and from the public, concerning practitioners or practices of the profession, to the Division of Professional Regulation for investigation pursuant to §8810 of Title 29;

(5) if an investigation under §8810 of Title 29 indicates that a disciplinary hearing is appropriate, to conduct such hearing in accordance with this Chapter; with the provisions of §8810(h) of Title 29; and with the applicable provisions of the Administrative Procedures Act;

(6) where it has been determined after a disciplinary hearing, that penalties or sanctions should be imposed, to designate and impose the appropriate penalties or sanctions after time for appeal has lapsed;

(7) bring proceedings in the courts for the enforcement of this Chapter;

(8) maintain complete records relating to meetings, applications, examinations, rosters, changes in the Board's rules and regulations, complaints, hearings and other matters within the Board's jurisdiction, except for those matters or subjects where the records are maintained by the Division of Professional Regulation;

(9) formulate rules and regulations relating to continuing education requirements for practitioners;

(10) require, by subpoena, the attendance and testimony of witnesses and the production of papers, records and other documentary evidence.

(b) The authority, powers and duties of the Board set forth in this section shall not be construed to include the computation or collection of fees and charges; formulation or administration of examinations; reimbursement of expenses; rules and regulations concerning public meetings; investigation of complaints; or any other powers or duties reserved to the Division of Professional Regulation in accordance with §8810, Chapter 88, Title 29 of the Delaware Code."

Approved March 22, 1996

CHAPTER 310

FORMERLY

HOUSE BILL NO. 280

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO IRREVOCABLE TRUST ACCOUNTS.

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

Section 1. Amend Subsection § 304(a) of the Delaware Code by striking "\$5,000" before the last period and by inserting in lieu thereof "\$10,000".

Approved March 22, 1996

CHAPTER 311

FORMERLY

HOUSE BILL NO. 311

AN ACT TO AMEND CHAPTER 51, TITLE 30 OF THE DELAWARE CODE RELATING TO MOTOR CARRIER FUEL TAX SURETY BONDS.

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

Section 1. Amend § 5107(a), Title 30, Delaware Code, by deleting the phrase "\$1,000 nor more than \$100,000" appearing therein and inserting in lieu thereof the phrase "\$5,000 nor more than \$200,000".

Section 2. Amend § 5107(d), Title 30, Delaware Code, by deleting the number "\$100,000" appearing therein and inserting in lieu thereof the number "\$200,000".

Section 3. Amend § 5134(d)(1), Title 30, Delaware Code, by deleting the phrase "\$500. nor more than \$100,000" appearing therein and inserting in lieu thereof the phrase "\$5,000. nor more than \$200,000".

Section 4. Amend § 5134(d)(4), Title 30, Delaware Code, by deleting the number "\$100,000" appearing therein and inserting in lieu thereof the number "\$200,000".

Approved March 22, 1996

CHAPTER 312

FORMERLY

HOUSE BILL NO. 370

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO GENERAL REGULATORY PROVISIONS FOR FREE PUBLIC SCHOOLS.

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

Section 1. Amend § 4112(b), Title 14 of the Delaware Code, by inserting, after the phrase "on school property" as it appears in the first sentence therein, new language to read:

"or on a bus subject to 14 Del. C. § 2904".

Approved March 29, 1996

CHAPTER 313

FORMERLY

HOUSE BILL NO. 335

AN ACT TO AMEND CHAPTER 76, TITLE 7 OF THE DELAWARE CODE RELATING TO THE INLAND BAYS' WATERSHED ENHANCEMENT ACT.

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

Section 1. Amend §7603(a), Title 7 of the Delaware Code by deleting the number "7" appearing therein and substituting in lieu thereof the number "9"; by deleting the word "and" appearing at the end of paragraph "(6)" thereof; by deleting the period "." appearing at the end of paragraph "(7)" and by inserting in lieu thereof a semi-colon ";"; and by adding new paragraphs thereto as follows:

"(8) A citizen of Sussex County designated by the President Pro Tem of the Delaware Senate; and

(9) A citizen of Sussex County designated by the Speaker of the Delaware House of Representatives.

Each member may designate an alternate in the event such member is unable to participate in any decision-making process of the Board."

Approved March 29, 1996

CHAPTER 314

FORMERLY

HOUSE BILL NO. 248

AN ACT TO AMEND CHAPTER 59, TITLE 29, OF THE DELAWARE CODE RELATING TO COMPENSATION FOR UNUSED SICK LEAVE.

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

Section 1. Amend §5905(c)(3), Title 29, Delaware Code by inserting after the word "Law" and before the comma "," the following:

"or upon resigning from State service and being otherwise eligible for retirement under the State Employees Pension Plan but for having already retired under the State Police Pension Plan".

Section 2. The provisions of Section 1. shall be retroactive to January 30, 1995.

Approved March 29, 1996

CHAPTER 315

FORMERLY

SENATE BILL NO. 202

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO THE INDUSTRIAL ACCIDENT BOARD.

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

Section 1. Amend §2102, Title 19 of the Delaware Code by striking subsection (a) in its entirety and substituting in lieu thereof the following:

“(a) Every member of the Board shall receive an annual salary of \$15,000 except the chairperson, who shall receive an annual salary of \$18,000.”

Section 2. This increase shall take effect upon the appropriation of additional funds to cover the entire cost of the increase.

Approved April 3, 1996

CHAPTER 316

FORMERLY

HOUSE BILL NO. 150
AS AMENDED BY HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 5, TITLE 11 OF THE DELAWARE CODE RELATING TO THE OFFENSES OF STALKING, AGGRAVATED HARASSMENT AND HARASSMENT.

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

Section 1. Amend Section 1312A, Title 11, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"§1312 A. Stalking; class F Felony.

(a) Any person who intentionally engages in a course of conduct directed at a specific person which would cause a reasonable person to fear physical injury to him or herself, to a friend or associate, or to a member of his or her household or to a third person and whose conduct induces such fear in such person, is guilty of the crime of stalking.

(b) For the purposes of this section, the following definitions are provided:

(1) 'Course of Conduct' includes repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying verbal or written threats or threats implied by conduct, or repeatedly committing any acts constituting any criminal offense as defined by the Delaware Code, or a combination thereof, and which reflects a continuity of purpose. A conviction is not required for any predicate act relied upon to establish a course of conduct. A conviction for any predicated act relied upon to establish a course of conduct does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Delaware Code.

(2) 'Repeatedly' means more than three occasions.

(c) In any prosecution under this section, it is an affirmative defense that the person charged was engaged in lawful picketing.

(d) This section shall not apply to conduct which occurs in furtherance of legitimate law enforcement activities or to private investigators, security officers, or private detectives as those activities are defined in Chapter 13 of Title 24 of the Delaware Code.

(e) Stalking is a class F felony, unless the course of conduct includes a threat of death or serious physical injury to the victim, his or her immediate family, or to a third person, in which case it is a class D felony; or, unless the perpetrator possesses a deadly weapon during any act comprising the course of conduct, in which case it is a class C felony.

(f) Notwithstanding any contrary provision of Section 4205 of this Title, any person who commits the crime of stalking by engaging in a course of conduct which includes any act or acts which have previously been prohibited by a then-existing court order or sentence shall receive a minimum sentence of six months incarceration at Level V. The first six months of said period of incarceration shall not be subject to suspension.

(g) Notwithstanding any contrary provision of Section 4205 of this Title, any person who is convicted of stalking within 5 years of a prior conviction of stalking shall receive a minimum sentence of one year incarceration at Level V. The first year of said period of incarceration shall not be subject to suspension."

Section 2. Amend Section 1312, Title 11, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"§1312. Aggravated Harassment; class G Felony.

(a) A person is guilty of aggravated harassment when he or she repeatedly follows or contacts another person or causes such following or contact knowing that he or she is thereby likely to cause a substantial disruption of the regular activities of the other person.

(b) For the purposes of this section 'repeatedly' means more than 10 times.

(c) In any prosecution under this section, it is an affirmative defense that the person charged was engaged in lawful picketing.

(d) This section shall not apply to conduct which occurs in the furtherance of legitimate law enforcement activities or to private investigators, security officers, or private detectives as those activities are defined in Chapter 13 of Title 24 of the Delaware Code.

(e) Aggravated harassment is a class G felony."

Section 3. Amend Section 1311, Title 11, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

"§1311. Harassment; class B Misdemeanor.

(a) A person is guilty of harassment when, with intent to harass, annoy or alarm another person:

(1) he or she insults, taunts or challenges another person or engages in any other course of alarming or distressing conduct in a manner which he knows is likely to provoke a violent or disorderly response; or

(2) communicates with a person by telephone, telegraph, mail or any other form of written or electronic communication in a manner which he or she knows is likely to cause annoyance or alarm including, but not limited to, intrastate telephone calls initiated by vendors for the purpose of selling goods or services; or

(3) knowingly permits any telephone under his or her control to be used for a purpose prohibited by this section; or

(4) in the course of a telephone call he or she uses obscene language or language suggesting that the recipient of the call engage with him or her or another person in sexual relations of any sort, knowing that he or she is thereby likely to cause annoyance or alarm to the recipient of the call; or

(5) makes repeated or anonymous telephone calls to another person whether or not conversation ensues, knowing he or she is thereby likely to cause annoyance or alarm.

(b) Harassment is a class B misdemeanor."

Approved April 3, 1996

CHAPTER 317

FORMERLY

HOUSE BILL NO. 432

AN ACT TO AMEND CHAPTER 21, TITLE 21 OF THE DELAWARE CODE RELATING
TO THE REGISTRATION OF MOTOR VEHICLES.

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 § 2140(g)(5), Title 21 of the Delaware Code, by inserting "Knights of
Columbus," after the word "Star," appearing in the first line thereof.

Approved April 4, 1996

CHAPTER 318

FORMERLY

HOUSE BILL NO. 440
AS AMENDED BY HOUSE AMENDMENT NO. 1AN ACT TO AMEND TITLE 10 AND TITLE 11 OF THE DELAWARE CODE RELATING
TO THE SALE AND DISTRIBUTION OF TOBACCO PRODUCTS.

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 1106, Subchapter V, Chapter 5, Title 11, Delaware Code, by striking paragraph (1) in its entirety and by renumbering the remaining paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3) respectively.

Section 2. Amend Section 922, Subchapter II, Chapter 9, Title 10, Delaware Code by striking subsection (a)(13) and by renumbering the remaining subsections (a)(14) through (a)(21) as (a)(13) through (a)(20) respectively.

Section 3. Amend Subchapter V, Chapter 5, Title 11, Delaware Code, by designating Sections 1100 through 1112 as "Subpart A."

Section 4. Amend Subchapter V, Chapter 5, Title 11, Delaware Code, by adding thereto a new subpart B to read as follows:

"Subpart B. Sale and Distribution of Tobacco Products.

§ 1115. Definitions.

(1) 'Coupon' means any card, paper, note, form, statement, ticket, or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive any tobacco product without charge or at a discounted price.

(2) 'Distribute' means give, deliver, or sell; offer to give, deliver, or sell; or cause or hire any person to give, deliver, or sell, or offer to give, deliver, or sell.

(3) 'Health warning' means any tobacco product label mandated by federal law and intended to alert all users of such tobacco product to the health risks associated with tobacco use, including but not limited to warning labels imposed under the Federal Cigarette Labeling and Advertising Act of 1965 and the Comprehensive Smokeless Tobacco Education Act of 1986.

(4) 'Proof of age' means a driver's license or other identification with a photograph of the individual affixed thereon that indicates that the individual is 18 years old or older.

(5) 'Public place' means any area to which the general public is invited or permitted, including but not limited to parks, streets, sidewalks or pedestrian concourses, sports arenas, pavilions, gymnasiums, public malls, and property owned, occupied, or operated by the State of Delaware or by any agency thereof.

(6) 'Sample' means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product.

(7) 'Sampling' means the distribution of samples or coupons for redemption of tobacco products to members of the general public in a public place.

(8) 'Tax stamp' means any required State or federal stamp imposed for the purpose of collecting excise tax revenue.

(9) 'Tobacco product' means any product that contains tobacco, including but not limited to cigarettes, cigars, pipe tobacco, snuff, or smokeless tobacco and is intended for human consumption or use.

(10) 'Tobacco store' means any retail establishment where 60% of the retail establishment's gross revenue comes from the retail sale of tobacco products and smoking paraphernalia.

(11) 'Vending machine' means any mechanical, electronic, or other similar device which automatically dispenses tobacco products, usually upon the insertion of a coin, token, or slug.

§ 1116. Sale or distribution of tobacco products to minors.

(a) It shall be unlawful for any person to sell or distribute any tobacco product to another person who has not attained the age of 18 years or to purchase any tobacco product on behalf of another such person, except that this section shall not apply to the parent or guardian of another such person.

(b) A person engaged in the sale or distribution of tobacco products shall have the right to demand proof of age from a prospective purchaser or recipient of such products.

§ 1117. Notice.

A person engaged in the sale or distribution of tobacco products shall post conspicuously at each point of purchase a notice stating that selling tobacco products to anyone under 18 years of age is illegal, that the purchase of tobacco products by anyone under 18 years of age is illegal, and that a violator is subject to fines. The notice shall also state that all persons selling tobacco products have the right, under law, to check the proof of age of any purchaser of tobacco products. The notice shall include a toll-free telephone number to the Department of Public Safety for persons to report unlawful sales of tobacco products. The owner of an establishment who fails to post a notice in compliance with this section shall be subject to a fine of \$100.

§ 1118. Distribution of samples to minors.

(a) It shall be unlawful for any person to distribute tobacco product samples or coupons for subsequent receipt of free or discounted tobacco products to another person who has not attained the age of 18 years.

(b) A person engaged in sampling shall have the right to demand proof of age from a prospective recipient of samples or of coupons for the redemption of tobacco products.

§ 1119. Distribution of cigarettes through vending machines.

(a) It shall be unlawful for any person to distribute or permit the distribution of tobacco products through the operation of a vending machine in a public place, except as provided in subsection (b) of this section.

(b) Pursuant to subsection (a) of this section, a person may distribute or permit the distribution of tobacco products through the operation of a vending machine in a taproom, tavern, tobacco shop, or in premises in which a person who has not attained the age of 18 years is prohibited by law from entering. A tobacco vending machine must be operated a minimum of 25 feet from any entrance to the premises and must be directly visible to the owner or supervisor of the premises.

§ 1120. Distribution of tobacco products in sealed packages.

(a) No person shall distribute a tobacco product for commercial purposes unless the product is in a sealed package provided by the manufacturer with the required health warning and tax stamp.

§1121. Penalties.

Notwithstanding any other provision of Delaware law, a person who violates § 1116, §1118, §1119, or §1120 of this subpart shall be guilty of a violation and shall be fined \$250 for the first offense, \$500 for the second offense, and \$1,000 for the third and all subsequent offenses. Additionally, and notwithstanding any other provision of Delaware law, in imposing a penalty for a second, third, or other subsequent offense under this subpart, the court may order the Department of Finance to suspend the defendant's license for sale of tobacco products, issued pursuant to 30 Del. C. § 5307, for a period not to exceed six months. Upon the suspension of such license, the court shall advise the Department of Finance of the suspension, in writing. The holder of the license shall surrender the license to the Department of Finance, and no refund of fees shall be paid. For purposes of this subpart, a subsequent offense is one that occurs within 12 months of a prior like offense.

§1122. Affirmative defense.

In any prosecution for an offense under this subpart, it shall be an affirmative defense that the purchaser or recipient of tobacco products who had not reached the age of 18 years presented to the accused proof of age which set forth information that would lead a reasonable person to believe that such individual was 18 years of age or older.

§1123. Liability of employer.

If a sale or distribution of any tobacco product or coupon is made in violation of §1116, §1118, §1119, or §1120 of this subpart, the owner or proprietor of the establishment where the violation occurred shall be guilty of the violation and shall be subject to the fine. For purposes of determining the liability of a person who owns or controls franchises or business operations in multiple locations, for a second or subsequent violation of this subpart, each individual franchise or business location shall be deemed a separate establishment.

§ 1124. Purchase or receipt of tobacco products by minors.

(a) It shall be unlawful for any person who has not attained the age of 18 years to purchase a tobacco product, to accept receipt of a sample, to exchange a coupon for a tobacco product, or to present or offer to another person a purported proof of age which is false, fraudulent, or not actually his or her own proof of age, for the purpose of purchasing or receiving any tobacco product or redeeming a coupon for a tobacco product.

(b) A person who violates subsection (a) of this section shall be adjudged delinquent and shall for a first adjudication be fined \$50 or ordered to perform 25 hours of community service work, and for a second adjudication and for all subsequent adjudications be fined \$50 and ordered to perform 50 hours of community service work. A subsequent adjudication of delinquency is one that occurs within 12 months of a prior like offense.

§ 1125. Unannounced inspections; reporting; enforcement.

(a) The Department of Public Safety or its delegates shall be responsible for conducting annual, random, unannounced inspections at locations where tobacco products are sold or distributed to test and ensure compliance with and enforcement of §§ 1116-1120 and § 1124 of this title.

(b) Persons under the age of 18 may be enlisted by the Department of Public Safety or its delegates to test compliance with and enforcement of §§ 1116-1120 and § 1124 of this title, provided, however that such persons may be used only under the direct supervision of the Department of Public Safety, its employees or delegates and only where written parental consent has been provided.

(c) Participation in the inspection and enforcement activities of this section by a person under 18 years of age shall not constitute a violation of this subpart for the person under 18 years of age, and the person under 18 years of age is immune from prosecution thereunder, or under any other provision of law prohibiting the purchase of these products by a person under 18 years of age.

(d) The Department of Public Safety shall adopt and publish guidelines for the use of persons under 18 years of age in inspections conducted pursuant to this section.

(e) The Department of Public Safety may enter into an agreement with any local law enforcement agency for delegation of the inspection and enforcement activities of this section within the local law enforcement agency's jurisdiction. The contract shall require the inspection and enforcement activities of the local law enforcement agency to comply with Subpart B, Subchapter V, Chapter 5 of this title and with all applicable laws.

(f) In cases where inspection and enforcement activities have been delegated to a local law enforcement agency pursuant to this section, any inspection or enforcement by the Department of Public Safety in the jurisdiction of the local law enforcement agency shall be coordinated with the local law enforcement agency.

(g) The Delaware Department of Health and Social Services shall annually submit to the Secretary of the United States Department of Health and Human Services the report required by § 1926 of the Federal Public Health Service Act (42 U.S.C. 300x-26). A copy of this report shall be available to the Governor and Legislature.

§1126. Jurisdiction.

The Justices of the Peace Court shall have jurisdiction over violations of this subpart of this subchapter, except in the instance of violations by a person who has not attained the age of 18, in which case the Family Court shall have jurisdiction.

§1127. Pre-emption.

The provisions of this Subchapter B shall preempt and supersede any provisions of any municipal or county ordinance or regulation on the subject of Subpart B of this chapter enacted after June 30, 1996."

Section 5. The provisions of this chapter shall be effective ninety days after enactment into law.

Approved April 5, 1996

CHAPTER 319

FORMERLY

SENATE BILL NO. 24
AS AMENDED BY HOUSE AMENDMENT NO. 2

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 subsection (a) of §902, Chapter 9, Title 19, of the Delaware Code, by striking, wherever it appears therein, the language "\$3.35 per hour", and by inserting in place thereof: "\$4.65 per hour, and, effective January 1, 1997, \$5.00 per hour".

Section 2. Amend subsection (a) of §902, Chapter 9, Title 19 of the Delaware Code, by striking the amount "\$3.35" as it appears therein, and by inserting in place thereof: "\$4.65 per hour, and, effective January 1, 1997, \$5.00 per hour".

Approved April 15, 1996

CHAPTER 320

FORMERLY

HOUSE BILL NO. 414
AS AMENDED BY HOUSE AMENDMENT NO. 1

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

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 § 2126, Title 21 of the Delaware Code by redesignating subsection (c) as subsection (d) and by adding a new subsection (c) as follows:

"(c) No number plate, or any portion thereof, shall be covered with any tinted material, nor shall any other material be placed on or around a number plate which would conceal and/or obscure any information contained thereon, including the registration expiration sticker. Plate frames that do not conceal and/or obscure any information contained on the plate, including the registration expiration sticker, are not prohibited by this section."

Section 2. Amend § 2126(d), Title 21 of the Delaware Code, as amended, by deleting the phrase "subsection (b) of" appearing therein.

Approved April 11, 1996

CHAPTER 321

FORMERLY

HOUSE BILL NO. 411

AN ACT TO AMEND CHAPTER 214, VOLUME 65, LAWS OF DELAWARE, AS AMENDED,
BEING THE CHARTER OF THE TOWN OF NEWPORT.

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

Section 1. Amend Section 7-06, Chapter 214, Volume 65, Laws of Delaware, as amended, by striking said section in its entirety and substituting in lieu thereof the following.

"Section 7-06 Alderman

The Mayor may appoint, with the advice and consent of three Commissioners, an officer of the Town who shall have the title Alderman. The Alderman may be removed from office by the Mayor subject to the approval of three Commissioners. Any Magistrate or Justice of the Peace serving the State of Delaware may be designated to also serve as Alderman for the Town, but he/she shall not be a Commissioner or the Town Solicitor. In the event that there is no Alderman within the Town, the members of the Town of Newport Police Department are directed to take all violators, except those receiving a voluntary assessment, to the nearest available Magistrate, who is authorized to serve in the capacity of Alderman.

The compensation of the Alderman shall be fixed by resolution, and unless otherwise provided by the Mayor and Commissioners by resolution, the Alderman shall not retain any fines levied by the Court, but must pay such fines into the Town Treasury within fifteen (15) days of collection. Before entering upon the duties of his/her office, he/she shall be sworn or affirmed by the Mayor, by any one of the Commissioners, or by any Justice of the Peace, to perform the duties honestly, faithfully, and diligently. The Alderman shall have jurisdiction of all violations of ordinances of the Town and of all misdemeanors prescribed by any law of the State of Delaware committed within the boundaries of the Town. The Alderman shall have power and authority to hold for bail, fine or imprison offenders, compel the attendance of persons accused of violation of Town ordinances by service or process either within or without the limits of the town, compel the attendance of witnesses, and hold or punish for contempt; provided that in the case of a violation of an ordinance, he/she shall impose no fine or penalty in excess of that fixed by the ordinance or law, and shall not commit to prison for a longer term than thirty (30) days in default of the payment of a fine imposed by him/her. If any vacancy shall occur in the office of the Alderman by death, resignation, removal from office, or otherwise, such vacancy may be filled by the Mayor and three Commissioners at any meeting thereafter for the remainder of the term. If any Alderman shall be removed from office by the Mayor and Commissioners as herein provided, he/she shall deliver to his/her successor in office within two days after selection of his/her successor, all books and papers belonging to his/her office."

Section 2. Amend Section 12-03, Chapter 214, Volume 65, Laws of Delaware, as amended, by striking the words "ninety (90) days" appearing therein and substituting in lieu thereof the words "one (1) year"

Approved April 15, 1996

CHAPTER 322

FORMERLY

HOUSE BILL NO. 405
AS AMENDED BY HOUSE AMENDMENT NOS. 1 & 2 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE, RELATING TO
SPECIAL LICENSE PLATES FOR KOREAN WAR VETERANS.

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

Section 1. Amend Chapter 21, Title 21, Delaware Code , by adding thereto a new
§2139G to read as follows:

"§2139G. Special License Plates for Korean War Veterans

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

(2) This section applies only to:

a. A private passenger vehicle; or

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

(b) Special registration may be issued by the Department under this section if the United
States Department of Defense certifies that the applicant is a veteran of the Korean War.

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

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

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

(f) Upon receipt by the Department of information that the individual to whom the
special plate has been issued has died, the Department shall write to the representative of that
person's estate, requesting that such plate be returned to the Department within 90 days.

(g) At least 50 members of the organization must apply for the special plate authorized
by this section."

Approved April 22, 1996

CHAPTER 323

FORMERLY

SENATE SUBSTITUTE NO. 1

SENATE BILL NO. 250
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT MAKING AN APPROPRIATION FOR SCHOOL DISTRICTS FOR THE PURCHASE OF BOOKS AND SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS.

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

Section 1. There is hereby appropriated to the Budget Office Contingency and One-Time Account (10-02-04) an amount of ten million dollars (\$10,000,000) for the purpose of providing a Public Education Text Book Fund. Such fund shall be administered by the State Budget Director with the approval of the Controller General, in accordance with the provisions of this Act.

Section 2. Funds appropriated to this account shall be allocated as follows:

Within 15 days of enactment of this Act, one-half of this fund shall be transferred to the reorganized school districts based on each district's proportionate share of September 30, 1995 certified Division I units.

By March 31, 1997, the remaining half of this fund shall be transferred to the reorganized school districts based on each district's proportionate share of September 30, 1996 certified Division I Units.

Section 3. The funds allocated pursuant to this Act are intended to supplement the existing level of State and local expenditures in support of classroom instruction. These funds may only be used to purchase textbooks in the core content areas of English Language Arts, Mathematics, Social Studies and Science. In order to qualify for these funds, each reorganized school district must agree to maintain their current level of spending on textbooks, library and instructional materials during fiscal years 1997 and 1998. Districts shall satisfy this requirement by demonstrating to the State Board of Education that their combined expenditure of Division II All-Other Costs, Local Current Operating Expense funds, and other discretionary state sources are at least equal to 97 percent of the average annual expenditure made by the district during fiscal years 1994, 1995 and 1996 on such items from such sources combined. The Budget Director may grant a waiver for a specific amount if it is determined that a district's three-year average is overstated by an extraordinary one-time expenditure. However, a waiver may not be granted if its primary purpose is to mitigate a district's local financial position. Any waiver request and its disposition shall be reported to the Controller General promptly.

Section 4. In order that each district may benefit from the efforts and experience of other districts in selecting appropriate textbooks tied to the State content standards, each district shall, no later than August 1, 1996 and 1997, submit to the Department of Public Instruction a summary listing by grade, content area, title and publisher, the textbooks ordered with these funds. On such dates, each district shall also certify that the textbooks it purchased were selected because they contained information necessary for students to learn the content set forth in the State standards and that classroom teachers in core subjects had input into the textbook selection process. By October 1, 1996 and 1997, the Department shall prepare and distribute to each district a summary of all purchase decisions made by districts. In addition, the Department of Public Instruction and the Division of Purchasing of the Department of Administrative Services shall offer interested districts the opportunity to join together in order to negotiate maximum efficiency in price, delivery charges and complimentary teacher materials.

Section 5. This Act is a supplementary appropriation and the monies herein appropriated shall be paid out of funds in the General Fund of the State of Delaware not otherwise appropriated and shall not be subject to reversion until June 30, 1998. In addition, no Fiscal Year 96 or prior year expenditure for textbooks may be recoded to this appropriation.

Approved April 23, 1996

CHAPTER 324

FORMERLY

SENATE BILL NO. 283

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO WASTE-END ASSESSMENTS

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

Section 1: Amend §6319(c), Title 7 of the Delaware Code by striking said subsection in its entirety and substituting in lieu thereof the following:

“(c) The information reporting requirements imposed under this sections, as set forth in the form prescribed by the Department, shall, beginning January 1, 1996, be reported to the Department annually, due March 1, for the preceeding calendar year.”

Approved May 2, 1996

CHAPTER 325

FORMERLY

SENATE BILL NO. 306

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO PLANT PESTS.

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

Section 1. Amend Chapter 11, Title 3 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following.

"§ 1101. Definitions

The following words shall, for purposes of this Chapter, be defined as follows:

(a) 'Agriculture' - the production of plants and animals useful to man, including all forms of farm products and farm production.

(b) 'Biological Control Agent(s)' - any living organism which because of its parasitic, predatory or other biological characteristics, may be effective in the suppression or control of pests or plant pests.

(c) 'Control (of a pest)' - to curb or hold in check and includes, but is not limited to: abatement, containment, eradication, extermination or suppression.

(d) 'Dangerously Injurious Plant Pest' - a plant pest that constitutes a significant threat to the agricultural, forest or horticultural interests of this State, or the State's general environmental quality.

(e) 'Department' - the State of Delaware Department of Agriculture and its officers, inspectors, employees, agents, or representatives.

(f) 'Environment' - the land, air, water, animals, plants and other natural resources of the State, as they interact with or are affected by pests or plant pests.

(g) 'Horticultural product' - those products stated in Group 18 of the United States Department of Labor Standard Industrial Classification Manual which are grown under cover or outdoors, including bulbs, flowers, shrubbery, florist greens, ferns, fruit stock, floral products, nursery stock, ornamental plants, potted plants, house plants, roses, seed, Christmas trees, fruits, food crops grown in greenhouses, vegetables, and horticultural specialties not otherwise specified.

(h) 'Infected' - a plant that has been determined by the Department to be contaminated with an infectious, transmissible or contagious plant pest or so exposed to the aforementioned that contamination can reasonably be expected to exist. This includes disease conditions, regardless of their mode of transmission, or any disorder of plants which manifest symptoms which, after investigation are determined by a federal or state pest prevention agency, to be characteristic of an infectious, transmissible, or contagious disease.

(i) 'Infested' - a plant that has been determined by the Department to be contaminated by a dangerously injurious plant pest, or so exposed to the aforementioned that contamination can reasonably be expected to exist.

(j) 'Mark' - to affix, for purposes of identification or separation, a conspicuous official indicator to, on, around, or near, plants or plant material, known or suspected to be, infected or infested with or by a dangerously injurious plant pest. This includes, but is not limited to: paint, markers, tags, seals, stickers, tape, signs or placards.

(k) 'Owner(s)' - includes, but is not limited to: the person, persons, family, group, firm, association, business, company, incorporated entity or organization with the legal right of possession, proprietorship of, or responsibility for, the property or place where any of the regulated articles defined in this Chapter are to be found, or person(s) who are in possession of, in proprietorship of, or have responsibility for the regulated articles.

(l) 'Person(s)' - includes, but is not limited to: individual, family, group, firm, association, business, company, incorporated entity or organization.

(m) 'Pest' - includes any biotic agent that is known to cause damage or harm to agriculture or the environment.

(n) 'Plant' - includes, but is not limited to: any part of a plant, tree, aquatic plant, plant product, shrub, vine, fruit, rhizome, vegetable, seed, bulb, stolon, tuber, corn, pip, cutting, scion, bud, graft, or fruit pit, including:

(1) Agricultural commodities - plant products including any horticultural product.

(2) Crop seed - the seed or seedlike fruit of grain, vegetables, fruits or fiber plants, or any other crop whether or not it is intended for planting purposes.

(3) Farm product - every agricultural, horticultural, viticultural, and vegetable product of the soil, and bees and apiary products, hay, dried beans, honey, and cut flowers.

(4) Nursery stock - any plant for planting, propagation, or ornamentation.

(5) Non-cultivated or feral plants gathered from the environment.

(6) Plants produced by tissue culture, cloning or from stem cell cultures or other prepared media culture.

(o) 'Plant Pest' - includes, but is not limited to: any pest of plants, agricultural commodities, crop seed, farm products, horticultural products, nursery stock, or non-cultivated plants. This includes but is not limited to: insects, snails, nematodes, fungi, viruses, bacterium, microorganisms, mycoplasma-like organisms, weeds, plants or parasitic higher plants.

(p) 'Quarantine' - a legal instrument duly imposed or enacted by the Department as a means for mitigating pest risk. These actions include, but are not limited to, confinement or restriction of entry, movement, shipment or transportation of plants known or suspected to be infected or infested with some dangerously injurious plant pests.

(q) 'Secretary' - the Secretary of the State of Delaware Department of Agriculture or his or her designee.

(r) 'Tenant(s)' - includes, but is not limited to: the person, persons, family, group, firm, association, business, company, incorporated entity or organization which rents or sublets, with the landlord's consent, the property or place, where regulated articles as defined in this Chapter are to be found.

§ 1102. Discovery and suppression of plant pest

(a) In order to prevent the introduction or to control dangerously injurious plant pests in the State, the Department shall seek out all dangerously injurious plant pests destructive to the agricultural, forest or horticultural interests of this State or the State's general environmental quality. As it deems necessary, the Department shall conduct research to accomplish the aforementioned duty.

(b) In order to prevent the spread of dangerously injurious plant pests, the Department shall issue orders for any control measures it deems necessary. These control orders may indicate the type of control to be utilized, the compound or material, and the manner or the time

of application. Control shall be obtained by any of the methods approved in Chapter 12 (Pesticides) of this title or any other legal treatment.

(c) Upon knowledge of the existence of a dangerously injurious plant pest within the State, the Department may conspicuously mark all plants known or suspected to be infected or infested with the plant pest. The Department shall notify the person(s), owner(s), or the tenant(s) in possession of the premises in question of the existence of the dangerously injurious plant pest and of the prescribed control measures. The aforementioned person(s) must, within the prescribed time limit, implement the conditions of the Department's control order or be subject to civil penalties as stated in this Chapter.

(d) The removal of markings placed by the Department, for the purpose of identification of plants infested or infected by dangerous injurious plant pests, by persons other than those authorized by the Department is an illegal act and punishable as a civil violation as prescribed in this Chapter.

(e) Should the person(s) associated with, or the owner(s) of, the plants infested or infected with the dangerously injurious plant pests, or the tenant(s) or owner(s) in possession of the premises wherein the plants are found, neglect, fail or refuse to apply the control measures prescribed by the Department, in the manner or at the times ordered and directed by the Department, then, the Department may cause the prescribed control measures to be applied at the expense of the aforementioned person(s). The Department shall, when it deems necessary, cause pest infected or infested plants to be destroyed at the expense of the aforementioned person(s) and the loss to fall upon the person(s) without any form of compensation.

(f) The Department in order to prevent the spread of dangerously injurious plant pests may apply necessary control measures at the expense of the person(s), owner(s), or tenant(s) associated with any and all suspicious plants found to be in dangerous proximity to those infested or infected by the aforementioned plant pest. Any control measures enacted under this section may be applied in a manner and at a time the Department deems necessary.

(g) The Department may enter into cooperative agreements with organizations, including but not limited to: persons, civic groups or governmental agencies, to adopt and execute plans to control areas infested or infected with dangerously injurious plant pests. Such cooperative agreements may include provisions of joint funding of any control treatment.

(h) If a dangerously injurious plant pest occurs and cannot be adequately controlled by individual person(s), owner(s), tenant(s) or local units of government, the Department may conduct the necessary control measures independently or on a cooperative basis with federal or other units of government.

(i) The Department's methods of operations shall not be limited to those specifically listed in this section.

§ 1103. Warning and information to farmers and other persons

(a) The Department, upon confirmation of an actionable infestation or infection of any dangerously injurious plant pest(s) shall warn the farmers and other persons residing in the county of the nature of the aforementioned plant pest, and the localities where it exists.

(b) The Department shall also furnish to farmers and persons of the county information and knowledge of the measures to be instituted to control the plant pest.

§ 1104. Failure to pay expenses of treating diseased plants and pests: Penalty

(a) The Department shall, within 90 days, provide notice of all expenses incurred while controlling a dangerous injurious plant pest infestation or infection, to the person(s), owner(s), or tenant(s) associated with the aforementioned infected or infested plants.

(b) The Department shall, within 90 days, provide notice of all expenses incurred while controlling the spread of a dangerously injurious plant pest infestation or infection to plants

found in dangerous proximity, to the person(s), owner(s), or the tenant(s) associated with the aforementioned plants.

(c) If the aforementioned person(s), owner(s) or tenant(s) fail, neglect or refuse, after 30 days, to pay all the control expenses incurred by the Department or to establish a payment schedule approved by the Secretary, a civil penalty of not less than double the amount of the Department expenses incurred to control the dangerously injurious plant pest infestation or infection shall be imposed upon them.

(d) The aforementioned person(s), owner(s) or tenant(s) shall also be liable for the imposition of a civil penalty as prescribed in this Chapter.

§ 1105. Establishment of quarantine restrictions

(a) The Department may establish quarantine restrictions in areas infested or infected with dangerously injurious plant pests and areas adjacent thereto, and adopt, issue and enforce rules and regulations relative to such quarantine.

(b) Under such quarantine restrictions, the Department shall prevent the movement, shipment, or transportation of agricultural, forest, horticultural or any other material capable of carrying the plant pest under restriction, in any state of its development.

(c) The Department shall, under such quarantine restrictions, detain for official inspection, any person, car, vessel, truck, wagon, or other conveyance, suspected or known to carry any material in violation of any quarantine restriction or of any rules or regulations established by the authority of this Chapter.

(d) Any person(s) who violates a quarantine duly imposed by the Department performs an illegal act and shall be liable for the imposition of a civil penalty as prescribed in this Chapter.

§ 1106. Shipment of plant pests and biological control agents

(a) No person may sell, offer for sale, move, convey, transport, deliver, ship or offer for shipment, any plant pest or biological control agent, without a U. S. Department of Agriculture - Animal and Plant Health Inspection Service - Plant Protection and Quarantine - Application and Permit to Move Live Plant Pests and Noxious Weeds, PPQ Form 526, supplements thereto, or any publication revising or superseding the aforementioned, or its State equivalent. Permits may be issued only after the Department determines that the proposed shipment or use will not create a hazard to the agricultural, forest or horticultural interests of this State or the State's general environmental quality. The permit shall be affixed conspicuously and on the exterior of each shipping container, box, package, etc. or accompany each shipping container, box, package, etc. as the Department directs.

(b) The Department shall regulate and control the sale and use of biological control agents, as defined in this Chapter, to assure their safety and effectiveness in the control of injurious plant pests and to prevent the introduction or use of biological control agents which may be injurious to persons, property, useful plant or animal life, non-target species, agriculture, forest lands, horticultural interests or the State's general environmental quality.

(c) Any person(s) who ships plant pests or biological control agents without the knowledge of the Department performs an illegal act and shall be liable for the imposition of a civil penalty as prescribed in this Chapter.

§ 1107. Violations and hearing procedures

(a) Failure to comply with the provisions of this Chapter shall result in the assessment of a civil penalty.

(b) No civil penalty shall be imposed until an administrative hearing is held before the Secretary of Agriculture or his or her designee. Administrative hearings for the provisions of this Chapter shall be conducted within 30 days of the violation of the provisions of this Chapter. The

Department shall issue a decision in writing to the person(s) charged with a violation of a provision of this Chapter within 30 days of the conclusion of the administrative hearing.

(c) The person(s) charged with a violation of a provision of this Chapter will be notified in writing of the date and time of the aforementioned administrative hearing. The aforementioned person(s) shall have the right to appear in person, to be represented by counsel, and to provide witnesses in his or her own behalf.

(d) The Secretary, for the purposes of investigation of a possible violation of this Chapter and for its hearings may issue subpoenas, compel the attendance of witnesses, administer oaths, take testimony and compel the production of documents. In case any person summoned to testify or to produce any relevant or material evidence refuses to do so without reasonable cause, the Department of Agriculture may compel compliance with the subpoena by filing a motion to compel in Superior Court which shall have jurisdiction over this matter.

(e) The Department shall preserve a full record of the proceedings and a transcript may be purchased by any interested person.

§1108. Appeal

A person who feels aggrieved by the Department as a result of the administrative hearing held under the authority of this Chapter may take appeal, within 30 days, to the Superior Court. After a full hearing, the Court shall make such decree as seems just and proper. Written notice of such appeal, together with the grounds, therefore, shall be served upon the Secretary of the Department of Agriculture.

§ 1109. Civil Penalties

(a) Any person who interferes with the Department in the enforcement of the provisions of this Chapter, as determined in an administrative hearing, shall be assessed a civil penalty of no less than \$100 nor more than \$1000 on each count.

(b) Any person who is not a Department employee or its authorized representative, who removes markings placed by the Department for the purpose of identification of plants infested or infected by dangerous injurious plant pests, is interfering with the Department's enforcement of the provisions of this Chapter, as determined in an administrative hearing, and shall be assessed a civil penalty of no less than \$100 nor more than \$1000 on each count.

(c) Any person who willfully or knowingly violates a quarantine duly imposed by the Department, as determined in an administrative hearing, shall be assessed a civil penalty of no less than \$100 nor more than \$1000 on each count.

(d) Any person(s) who willfully or knowingly ships plant pests or biological control agents without the knowledge of the Department, as determined in an administrative hearing, shall be assessed a civil penalty of no less than \$100 nor more than \$1000 on each count.

(e) Any person(s) who refuses to comply with the provisions of this Chapter shall be assessed a civil penalty of no less than \$100 nor more than \$1000 for each infested or infected unit of plants or plant material.

(f) The payment of penalties assessed under this Chapter may be made on a payment schedule approved by the Secretary."

Approved May 2, 1996

CHAPTER 326

FORMERLY

SENATE BILL NO. 342
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO
REGISTRATION OF VEHICLES.

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

Section 1. Amend §2121 of Title 21 of the Delaware Code by adding the word
"vanity" after the word "special" in each place that the word "special" appears in subsection (h)
and subsection (i).

Section 2. Amend §2121 of Title 21 of the Delaware Code by adding a new
subsection "(k)" to read as follows:

"(k) Effective March 27, 1996, individual special vanity license plates shall not be
recalled when the Department issues other categories of special group license plates with
conflicting letters and numbers."

Section 3. Amend §2121 of Title 21 of the Delaware Code by inserting the word
"special" between the words "stations;" and "vanity" as those words appear in the Title.

Approved May 2, 1996

CHAPTER 327

FORMERLY

SENATE BILL NO. 336

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO BANKS AND OTHER FINANCIAL INSTITUTIONS, TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO ATTACHMENT, AND TO AMEND SECTION 1130 OF TITLE 12 OF THE DELAWARE CODE RELATING TO THE DEFINITION OF THE TERM "BANKING ORGANIZATION"

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 § 127 of Title 5 of the Delaware Code by deleting from both subsections (a) and (b) thereof the date "July 1" where such date follows the words "Council on Banking by" and inserting in lieu thereof the date "July 10".

Section 2. Amend subsection (a) of § 127 of Title 5 of the Delaware Code by deleting the last two sentences thereof in their entirety.

Section 3. Amend § 701 of Title 5 of the Delaware Code by deleting the words "Chapter 10" and inserting in lieu thereof the words "Chapters 10 or 15" in the first sentence thereof, and by inserting the words and punctuation "except as otherwise provided in subchapters VI and VII of this chapter" at the end of and before the period in each of the second and third sentences thereof.

Section 4. Delete § 750 and § 752 of Title 5 of the Delaware Code.

Section 5. Amend § 769 of Title 5 of the Delaware Code by deleting all of the existing text of that section and inserting in lieu thereof the following:

"No bank or trust company shall hold more than 10 percent of the capital stock of any other bank or trust company without the approval of the Commissioner. In determining whether to grant such approval, the Commissioner shall consider the convenience and needs of the public of this State. Any acquisition by a bank or trust company of more than 10 percent of the capital stock of any other bank or trust company that was approved by the Commissioner before January 1, 1996 shall be deemed to have been approved by the Commissioner without the survival of any conditions required by former subsection (b) of this section."

Section 6. Amend subparagraph (1) of subsection (a) of § 777 of Title 5 of the Delaware Code by inserting the words "and whether it will have sufficient capital to support its business operations; provided, however, that in no event shall the capital of the limited purpose trust company be less than that required by § 745 of this title" after the words "limited purpose trust company" and before the semi-colon.

Section 7. Amend subparagraph (2) of subsection (b) of § 777 of Title 5 of the Delaware Code by inserting the words and punctuation "provided, however, that the requirements of this subparagraph (2) shall not apply to a limited purpose trust company established under this subchapter on or after January 1, 1996;" after the words and punctuation "reasonable cause shown;"

Section 8. Amend subparagraph (3) of subsection (b) of § 777 of Title 5 of the Delaware Code by inserting the words and punctuation "; provided, however, that the requirements of this subparagraph (3) shall not apply to a limited purpose trust company established under this subchapter on or after January 1, 1996" after the words "at least \$25,000,000" and before the semicolon.

Section 9. Amend subsection (b) of § 777 of Title 5 of the Delaware Code by deleting the word "and" from the end of subparagraph (3), redesignating existing subparagraph (4) as new subparagraph (5), and adding thereto a new subparagraph (4), as follows:

"(4) That the limited purpose trust company shall maintain its headquarters in this State; and"

Section 10. Amend subsection (c) of § 777 of Title 5 of the Delaware Code by inserting after the word "section" and before the period at the end of that subsection the words and punctuation ";provided, however, that any limited purpose trust company established under this subchapter before January 1, 1996 may file an application with the Commissioner for the waiver of either or both of the conditions specified in subparagraphs (2) and (3) of subsection (b) of this section. Such application shall contain such information as the Commissioner may by regulation require, shall be accompanied by an investigation fee of \$1,150 payable to the Office of the State Bank Commissioner, and shall be approved by the Commissioner upon finding that the applicable provisions of law have been complied with. In determining whether to approve an application pursuant to this subsection (c), the Commissioner shall consider the needs and convenience of the public of this State and, in the case of an application to waive the requirement of subparagraph (3) of subsection (b) of this section, whether the limited purpose trust company will have sufficient capital to support its business operations; provided, however, that in no event shall the capital of the limited purpose trust company be less than that required by § 745 of this title."

Section 11. Amend subsection (4) of § 831 of Title 5 of the Delaware Code, by deleting the words "Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. § 1730a)" and inserting in lieu thereof the words "Home Owners' Loan Act, as amended, at 12 U.S.C. § 1467a".

Section 12. Amend subparagraph a. of subsection (6) of § 831 of Title 5 of the Delaware Code, by inserting the words "that is not a 'bank' as defined in subsection (1) of § 842 of Title 5 of the Delaware Code" after the word "State" and before the semi-colon at the end of that subparagraph.

Section 13. Amend subparagraph b. of subsection (6) of § 831 of Title 5 of the Delaware Code, by deleting the words "and loan" after the words "federal savings".

Section 14. Amend subparagraph a. of subsection (7) of § 831 of Title 5 of the Delaware Code, by deleting the words "the amounts held in any savings account, tax and loan account, checking account, United States Treasury General Account or United States Treasury Time-Deposit Open Account, all as defined in the regulations of the Federal Home Loan Bank Board at 12 C.F.R. § 561" and inserting in lieu thereof the words "a 'deposit' as defined in Section 3(l) of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(l)".

Section 15. Amend § 831 of Title 5 of the Delaware Code, by deleting existing subsection (8) thereof and redesignating existing subsections (9) and (10) as new subsections (8) and (9), respectively.

Section 16. Further amend § 831 of Title 5 of the Delaware Code, by adding a new subsection (10) thereto, as follows:

"(10) 'Out-of-state bank holding company' shall have the meaning specified in § 801 of this title."

Section 17. Further amend § 831 of Title 5 of the Delaware Code, by deleting existing subsections (11) and (14) thereof, and redesignating existing subsections (12) and (13) as new subsections (11) and (12), respectively.

Section 18. Amend existing subsection (15) of § 831 of Title 5 of the Delaware Code, by deleting the words "Savings and Loan Holding Company Amendment of 1967 (12 U.S.C. § 1730a)" and inserting in lieu thereof the words "Home Owners' Loan Act, as amended, at 12 U.S.C. § 1467a", and by redesignating that subsection as new subsection (13).

Section 19. Amend existing subsection (16) of § 831 of Title 5 of the Delaware Code, by deleting the words "and loan" from between the words "federal savings" and the word

"association", by deleting the words "the Federal Savings and Loan Insurance Corporation or", and by redesignating that subsection as new subsection (14).

Section 20. Amend existing subsection (17) of § 831 of Title 5 of the Delaware Code, by redesignating that subsection as new subsection (15).

Section 21. Amend § 832 of Title 5 of the Delaware Code, by deleting the text of that section in its entirety and inserting in lieu thereof the following:

"(a) An out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, may acquire or retain ownership or control of an existing Delaware savings bank, a Delaware savings and loan holding company that owns or controls an existing Delaware savings bank, or an out-of-state savings and loan holding company that owns or controls an existing Delaware savings bank; provided that the out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, makes application under and at all times complies with all regulations, decrees, cooperative agreements and orders duly promulgated by the Commissioner with respect to both the implementation of this subchapter generally, and the operations of such out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company and the existing Delaware savings bank that it acquires specifically.

(b) The Commissioner may approve an acquisition, in accordance with subsection (a) of this section, even though the out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, that acquires an existing Delaware savings bank, a Delaware savings and loan holding company that owns or controls an existing Delaware savings bank, or an out-of-state savings and loan holding company that owns or controls an existing Delaware savings bank, would control, together with any affiliated insured depository institution (as defined in the Federal Deposit Insurance Act at 12 U.S.C. § 1813(c)), 30 percent or more of the total amount of deposits of insured depository institutions in this State. In determining whether to approve an acquisition pursuant to this subsection (b), the Commissioner shall consider the convenience and needs of the public of this State.

(c) Except as otherwise provided in this title or by applicable law of the United States, no out-of-state savings institution, out-of-state savings and loan holding company or out-of-state bank holding company, or any subsidiary of the foregoing, may acquire or retain ownership or control of a Delaware savings bank, a Delaware savings and loan holding company that owns or controls a Delaware savings bank, or an out-of-state savings and loan holding company that owns or controls a Delaware savings bank."

Section 22. Amend § 834 of Title 5 of the Delaware Code, by deleting existing subsection (3) thereof in its entirety and redesignating existing subsections (4) and (5) as new subsections (3) and (4), respectively.

Section 23. Amend § 835 of Title 5 of the Delaware Code, by deleting the words "(i) not located in a state which is an eligible state, (ii)", and by deleting the number "(iii)" where it appears therein.

Section 24. Amend § 836 of Title 5 of the Delaware Code, by deleting subsection (b) thereof in its entirety, and by deleting the designation "(a)" from the remaining provisions of that section.

Section 25. Amend subsection (5) of § 945 of Title 5 of the Delaware Code by inserting the words "or charges imposed for the return of a draft drawn on a revolving credit plan evidencing an extension of credit under such plan" after the word "charges" and before the semi-colon.

Section 26. Amend § 945 of Title 5 of the Delaware Code by designating all of the existing text of that section as subsection "(a)" thereof and by adding thereto a new subsection "(b)", as follows:

"(b) No charges assessed by a bank in accordance with this Section shall be deemed void as a penalty or otherwise unenforceable under any statute or the common law."

Section 27. Amend § 950 of Title 5 of the Delaware Code by designating all of the existing text of that section as subsection "(a)" thereof and by adding thereto a new subsection "(b)", as follows:

"(b) No charges assessed by a bank in accordance with this Section shall be deemed void as a penalty or otherwise unenforceable under any statute or the common law."

Section 28. Amend the first sentence of the first paragraph of subsection (a) of § 1101 of Title 5 of the Delaware Code by inserting the words "and trust companies" after the words "banking organizations" and before the open parenthesis, and by inserting the words "or trust company" after the words "banking organization" at both places at which such words appear in the parenthetical within that sentence.

Section 29. Amend subparagraph (1)b. of subsection (a) of § 1101 of Title 5 of the Delaware Code by inserting the words "or other branch established within the United States but outside of this State pursuant to federal law or other applicable law of this State" after the words "pursuant to § 771 of this title" and before the word "which".

Section 30. Amend subsection (e) of § 1101 of Title 5 of the Delaware Code by inserting the words "or trust company" after the words "banking organization" at both places at which such words appear in that subsection.

Section 31. Amend subsection (f) of § 1101 of Title 5 of the Delaware Code by inserting the words "or trust company" after the words "banking organization" at both places at which such words appear in that subsection.

Section 32. Amend § 1102 of Title 5 of the Delaware Code by inserting the words and punctuation ", trust company, or federal savings bank not headquartered in this State but maintaining branches in this State" after the words "banking organization" at each place at which such words appear in that section.

Section 33. Amend § 1103 of Title 5 of the Delaware Code by amending the title of that section to read "Review of tax", by deleting existing subsections (a) and (b) thereof in their entirety, by inserting in existing subsection (c) thereof the words "of tax under this chapter" after the words "The assessment" and before the words "shall be reviewed", and by deleting the subsection designation "(c)" from the text of that section.

Section 34. Amend subsection (a) of § 1104 of Title 5 of the Delaware Code by inserting the words and punctuation ", trust company," after the words "banking organization".

Section 35. Amend subparagraph (3) of subsection (c) of § 1104 of Title 5 of the Delaware Code by inserting the words "the earlier of the date when such estimated tax or installment is paid or" after the words "required to be paid to" and before the words "the date of the final payment".

Section 36. Amend subparagraph (4) of subsection (c) of § 1104 of Title 5 of the Delaware Code by inserting the words and punctuation ", trust company," after the words "banking organization".

Section 37. Amend subsections (d) and (e) of § 1104 of Title 5 of the Delaware Code by inserting the words and punctuation ", trust company," after the words "banking organization" at each place at which such words appear in those subsections.

Section 38. Amend subsection (a) of § 1105 of Title 5 of the Delaware Code by inserting the words and punctuation ", trust companies, and federal savings banks not headquartered in this State but maintaining branches in this State" after the words "banking organizations".

Section 39. Amend subsection (b) of § 1105 of the Delaware Code by deleting the word "banks" from the first sentence thereof where such word precedes the words "subject to tax under this section" and inserting in lieu thereof the word "entities".

Section 40. Amend the first sentence of § 1109 of Title 5 of the Delaware Code by inserting the words and punctuation ", trust companies, and federal savings banks not headquartered in this State but maintaining branches in this State" after the words "banking organizations" at each place at which such words appear in that sentence, and by inserting the words and punctuation ", trust company, or federal savings bank not headquartered in this State but maintaining branches in this State" after the words "banking organization", and by deleting the word "bank" and inserting in lieu thereof the words and punctuation "banking organization, trust company, or federal savings bank not headquartered in this State but maintaining branches in this State".

Section 41. Amend the second sentence of § 1109 of Title 5 of the Delaware Code by inserting the words "or trust company" after the words "banking organization", and by inserting the words "and trust companies" after the words "banking organizations".

Section 42. Amend § 2107, § 2207, § 2310, § 2720, § 2903 and § 3210 of Title 5 of the Delaware Code by deleting the words "by January 1 of each year" in each of those sections and inserting in lieu thereof the words "at least 30 days prior to the expiration of such license or renewal thereof".

Section 43. Amend subsection (a) of § 2202 of Title 5 of the Delaware Code by deleting from the beginning of the third sentence thereof the words "The licensing requirements of" and capitalizing the first letter of the word "this" that becomes the first word in that sentence, by deleting from subparagraph (1) of that subsection the words and punctuation "state or federal savings bank or savings and loan association having its principal place of business in this State.", and by deleting from subparagraph (2) of that subsection the words "financial institution or other" at both places where such words appear therein.

Section 44. Amend § 2218 of Title 5 of the Delaware Code by designating all of the existing text of that section as subsection "(a)" thereof and by adding thereto a new subsection "(b)", as follows:

"(b) No charges assessed by a licensee in accordance with this Section shall be deemed void as a penalty or otherwise unenforceable under any statute or the common law."

Section 45. Amend § 2222 of Title 5 of the Delaware Code by designating all of the existing text of that section as subsection "(a)" thereof and by adding thereto a new subsection "(b)", as follows:

"(b) No charges assessed by a licensee in accordance with this Section shall be deemed void as a penalty or otherwise unenforceable under any statute or the common law."

Section 46. Amend subsection (3) of § 2231 of Title 5 of the Delaware Code by deleting the words "or any other person" where they appear after the words "No licensee".

Section 47. Amend subparagraph (1) of subsection (a) of Section 2304 of Title 5 of the Delaware Code by inserting the words and punctuation "credit unions," after the words and punctuation "trust companies,".

Section 48. Amend §3502(b), Title 10 of the Delaware Code by adding the phrase "trust companies," following the phrase "Banks," by adding the phrase "trust company," following the phrase "bank,".

Section 49. Amend § 1130 of Title 12 of the Delaware Code by inserting the number and punctuation ", 15" after the words "Chapter 7" and before the words "or 17".

Section 50. If any provision of this Act or the application of any section or part thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

Section 51. This Act shall take effect immediately upon its adoption.

Approved May 2, 1996

CHAPTER 328

FORMERLY

HOUSE BILL NO. 525

AN ACT WAIVING THE STATUTORY PROVISIONS OF §107(a) OF CHAPTER 1, TITLE 13, DELAWARE CODE, AS IT RELATES TO THE MARRIAGE OF LEE FAUSTO, JR. AND CATHERINE ANN WILLIAMS, NON-RESIDENTS OF THE STATE OF DELAWARE.

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

Section 1. Lee Fausto, Jr. of Atlanta, Georgia and Catherine Ann Williams of Atlanta, Georgia are hereby exempted from the provisions of §107(a), Chapter 1, Title 13, Delaware Code, and are specifically authorized to marry on May 5, 1996; the Clerk of the Peace of New Castle County shall issue to Lee Fausto, Jr. and Catherine Ann Williams one official marriage license pursuant to this Act, the provisions of §107(a) of Chapter 1, Title 13, Delaware Code, or any other law of this State to the contrary notwithstanding.

Approved May 2, 1996

CHAPTER 329

FORMERLY

HOUSE BILL NO. 391

AN ACT TO AMEND TITLE 14, DELAWARE CODE, REGARDING THE FINANCIAL REPORTING REQUIREMENTS OF REORGANIZED SCHOOL DISTRICTS.

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

WHEREAS, there is a clear need to assure citizens of this state that their local school districts are operating in a financially solvent manner; and

WHEREAS, the State provides, through its Division III Equalization program, a substantial amount of flexible resources that districts utilize in combination with property tax and capitation tax revenues in order to meet their local obligations; and

WHEREAS, the amount of Division III Equalization a district earns directly impacts the amount of local current expense revenue a district needs to maintain as an unencumbered balance in order to meet their contractual and operating obligations either through the end of a fiscal year or until the district receives the bulk of its local tax revenues each fall; and

WHEREAS, the current provisions of Chapter 1509, Title 14, Delaware Code, fail to recognize the inter-relationship between Division III Equalization income and local current expense revenue; and

WHEREAS, the quarterly reporting requirements of Chapter 1509, Title 14, Delaware Code were intended to provide the general public, the local school boards and the State with an early warning should a district enter into a precarious financial position; and

WHEREAS, the provisions of Chapter 1509, Title 14, Delaware Code, which requires a district that ends a fiscal year with an unobligated cash balance in excess of 20 percent of its estimated current operating expense revenue or \$100,000, whichever is more, to submit a report detailing how the district proposes to dispose of such balance, suggests that such balances are inappropriate, when in fact this balance may be required in order to meet obligations prior to the receipt of the ensuing year's tax revenues or is indicative of a recently enacted referendum.

WHEREAS, the General Assembly agrees that if financial reporting requirements are to be imposed on local school districts such requirements should focus on meaningful public information without imposing administrative burdens on the districts.

NOW, THEREFORE:

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

Amend Chapter 1509, Title 14, Delaware Code, by deleting said section in its entirety and substituting in lieu thereof the following:

“§ 1509 School District Financial Position Reports

Beginning with the Fiscal Year ending June 30, 1997, all reorganized school districts are required to submit to the State Board of Education, two Financial Position Reports, one on or before May 1 and one on or before July 31 of each year. The format of the reports shall be as prescribed by the State Board consistent with the provisions of this Section.

The Financial Position Report due by May 1 shall project a district's current fiscal year ending balance in its local current expense revenue accounts after taking into consideration all remaining local contractual, salary, and regular operating obligations that can be reasonably estimated. To the extent that a district has General Fund balances in their Division III Equalization Accounts, Division II - All Other Costs and Energy Accounts, or in a State Board

approved cash option account, such balances may be identified as offsets to any local obligation. If the financial position report shows a deficit occurring prior to the close of the current fiscal year, the district shall indicate what steps it will take to assure that its obligations are satisfied in the current fiscal year. If the financial position report shows a current expense deficit, or a surplus that is less than the amount required to satisfy one month's full local payroll and other operating obligations, the district shall also indicate what steps it plans to take in the ensuing fiscal year to assure that its future year-end balance will be sufficient to cover at least this amount.

The Financial Position Report due on or before July 31st of the ensuing fiscal year shall be focused exclusively on local payroll obligations through and including the October 15 payroll cycle. This report shall compare the district's year-end current expense balances from the previous fiscal year, and its preliminary Division III Equalization appropriation for the current year (which amount shall be based on 90% of the Division III amount earned in the previous fiscal year), with the district's projected local salary obligations through October 15. To the extent that this report shows a deficit, the district shall report what steps it will take to meet its payroll obligations through October 15. If the July 31 report projects an October 15 surplus that is less than the amount required to cover one month's full local payroll cycle, the District shall also indicate what steps it plans to take to assure that such a minimum balance will be in place in the subsequent fiscal year.

The Financial Position Report shall have been reviewed and approved by the school board of each reorganized school district and be made a part of the public record of that school district. Three copies of each report shall be submitted to the State Board of Education by the dates specified above. The State Superintendent of Public Instruction shall provide copies of the submitted reports to the Budget Director and Controller General within 5 working days."

Approved May 8, 1996

CHAPTER 330

FORMERLY

HOUSE BILL NO. 238

AN ACT TO AMEND 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 §621, Title 11 of the Delaware Code by striking said section in its entirety and by substituting in lieu thereof the following:

"§621. Terroristic threatening; class G felony; class A misdemeanor; penalties.

(a) A person is guilty of terroristic threatening when:

(1) He or she threatens to commit any crime likely to result in death or in serious injury to person or property; or

(2) He or she makes a false statement or statements:

a. Knowing that the statement or statements are likely to cause evacuation of a building, place of assembly or facility of public transportation; or

b. Knowing that the statement or statements are likely to cause serious inconvenience; or

c. In reckless disregard of the risk of causing terror or serious inconvenience.

(b) Any violation of paragraph (a)(1) of this section shall be a class A misdemeanor. Any violation of paragraph (a)(2) of this section shall be a class G felony, unless the place at which the risk of evacuation, serious inconvenience or terror is created is a place which has the purpose, in whole or in part, of acting as a daycare facility, nursery or preschool, kindergarten, elementary, secondary or vocational-technical school, in which case it shall be a class F felony.

Notwithstanding any provision of this subsection to the contrary, a first offense of paragraph (a)(2) of this section by a person age 17 or younger shall be a class A misdemeanor.

(c) In addition to the penalties otherwise authorized by law, any person convicted of an offense in violation of paragraph (a)(2) of this section shall:

(1) Pay a fine of not less than \$1,000 nor more than \$2,500, which fine cannot be suspended; and

(2) Be sentenced to perform a minimum of 100 hours of community service."

Section 2. §1303 of Chapter 13, Title 11 of the Delaware Code is hereby repealed.

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 4. Any action, case, prosecution, trial or any other legal proceeding in progress under or pursuant to the previous wording of the sections amended or repealed by this Act, no matter what the stage the proceeding, shall be preserved and shall not become illegal or terminated upon the effective date of this Act. For purposes of such proceedings in progress, the prior law shall remain in full force and effect.

Approved May 8, 1996

CHAPTER 331

FORMERLY

HOUSE BILL NO. 551

AN ACT DIRECTING THE INDIAN RIVER SCHOOL DISTRICT TO MAINTAIN A POLLING PLACE WITHIN THE AREA KNOWN AS GUMBORO, DELAWARE FOR THE SCHOOL BOARD ELECTION TO BE HELD ON SATURDAY, MAY 11, 1996.

WHEREAS, the Indian River School District will be holding a School Board Election on Saturday, May 11, 1996; and

WHEREAS, the Indian River School District has traditionally maintained a polling place within the area known as Gumboro, Delaware; and

WHEREAS, the area known as Gumboro, Delaware has been removed as a polling place for the May 11, 1996 School Board Election; and

WHEREAS, the absence of a polling place in the area known as Gumboro, Delaware will have the effect of discouraging participation in the May 11, 1996 School Board Election by residents of the area known as Gumboro, Delaware.

NOW THEREFORE:

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

Section 1. The Indian River School District is hereby directed to maintain a polling place at the building formerly used as an elementary school within the area known as Gumboro, Delaware.

Approved May 8, 1996

CHAPTER 332

FORMERLY

SENATE BILL NO. 307
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO NURSERIES
AND NURSERY STOCK.

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

Section 1. Amend Chapter 13, Title 3 of the Delaware Code by deleting it in its entirety and substituting in lieu thereof the following:

"Chapter 13. Nurseries and Nursery Stock

§ 1301. Definitions

The following words shall, for purposes of this Chapter, be defined as follows:

(a) 'Agent' - any person who performs services for another person under an express or implied agreement. A person may be an agent without receiving compensation for services.

(b) 'Agriculture' - the production of plants and animals useful to man, including all forms of farm products and farm production.

(c) 'Broker' - any person who negotiates the purchase or sale of any material. A broker may or may not handle either the material which is involved or the proceeds of a sale.

(d) 'Certificate' - a document authorized or prepared by an authorized federal or state regulatory official that affirms, declares, or verifies that a plant or other regulated article meets phytosanitary (quarantine), nursery inspection, pest freedom, plant registration or certification, or other legal requirements. Such documents are known by their purpose of issuance: Phytosanitary Certificate [for the purpose of verifying compliance with phytosanitary (quarantine) requirements]; Nursery Stock Certificate (for the purpose of verifying compliance with nursery inspection and pest freedom standards); registration or certification tags, seals (for the purpose of verifying compliance with registration or certification requirements); etc.

(e) 'Certification' - the act by the Department of affirming, declaring, or verifying compliance with phytosanitary (quarantine), nursery inspection, pest freedom, plant registration or certification, or any other set of legal requirements.

(f) 'Chain Store' - any business with one, two or more retail outlets that sells plants, plant material or nursery stock, and that are owned by a common parent business entity.

(g) 'Commission Merchant' - any person, who receives on consignment or solicits any material from a licensee, producer or his or her agent or accepts material in trust for purposes of sale and sells or resells any material on commission or for a fee.

(h) 'Consignee' - any person to whom any plant, nursery stock, horticultural product, etc. is shipped for handling, sale, resale, or other purpose.

(i) 'Consignor' - any person who ships or delivers to a consignee any plant, nursery stock, horticultural product, etc. for handling, planting, sale, resale, or any other purpose.

(j) 'Dangerously Injurious Plant Pest' - a plant pest that constitutes a significant threat to the agricultural, forest or horticultural interests of this State, or the State's general environmental quality.

(k) 'Dealer' - any person who obtains title to, or possession, control, or delivery of, any plant, plant material or nursery stock, from a producer for the purpose of resale.

(l) 'Department' - the State of Delaware Department of Agriculture and includes, but is not limited to, its officers, inspectors, employees, agents or representatives.

(m) 'Florist(s)' - includes, but is not limited to, a person(s) or business(es) engaged in the production or sale, wholesale or retail of plants, plant materials or nursery stock for temporary, semi-permanent, seasonal or permanent, indoor or outdoor use.

(n) 'Garden Center' - includes, but is not limited to, a business establishment engaged in the year round, retail sale of plants, plant material or nursery stock from a specific, permanent sales location.

(o) 'Greenhouse' - includes, but is not limited to, an establishment or business engaged in the production of plants, plant material or nursery stock within a climate controlled structure, for distribution beyond on-site or personal use.

(p) 'Grower' - includes but is not limited to, any person who raises, grows or propagates, for profit or other reasons, outdoors or indoors, any horticultural product, nursery stock, or plant.

(q) 'Horticultural Product' - those products stated in Group 18 of the United States Department of Labor Standard Industrial Classification Manual which are grown under cover or outdoors, including bulbs, flowers, shrubbery, florist greens, fruit stock, floral products, nursery stock, ornamental plants, potted plants, roses, seed, Christmas trees, fruits, food crops grown in greenhouses, vegetables, and horticultural specialties not otherwise specified.

(r) 'Hold Order' - an order or notice written by the Department to the owner(s) or person(s) in charge or in possession of a premises, plant, conveyance or article infested or infected with or exposed to infestation or infection of dangerously injurious plant pest(s), making it unlawful to move the aforementioned article(s) unless treated in accordance with the Department's prescribed procedures.

(s) 'Infected' - a plant that has been determined by the Department to be contaminated with an infectious, transmissible or contagious pest or so exposed to the aforementioned that contamination can reasonably be expected to exist. This includes disease conditions, regardless of their mode of transmission or any disorder of plants which manifest symptoms which, after investigation are determined by a federal or state pest prevention agency, to be characteristic of an infectious, transmissible, or contagious disease.

(t) 'Infested' - a plant that has been determined by the Department to be contaminated by a dangerously injurious plant pest, or so exposed to the aforementioned that contamination can reasonably be expected to exist.

(u) 'Landscape(s)' - includes but is not limited to, any person(s) who keeps at a premises, or procures for transplantation, nursery stock for installation on the property of another person.

(v) 'Mail-Order Merchant(s)' - includes but is not limited to, any person, dealer, or producer who sells or markets, wholesale or retail, any of its orders or business by drop shipment, catalog, telemarketing, telephone, mail-order or other indirect means.

(w) 'Mark' - the Department shall affix, for purposes of identification or separation, a conspicuous official indicator to, on, around, or near, plants or plant material, known or suspected to be, infected or infested with a dangerously injurious plant pest. This includes, but is not limited to: paint, markers, tags, seals, stickers, tape, signs or placards.

(x) 'Move' - to ship, offer for shipment, receive for transport, carry or, in any manner whatsoever, convey or relocate a regulated plant, plant material or nursery stock, from one place to another.

(y) 'Nursery' - any location where nursery stock is grown, propagated, stored, or sold; or any location from which nursery stock is distributed direct to a customer. (See "Sales location")

(z) 'Nursery Industry License' - a document issued by the Department authorizing a person(s) to engage in a nursery or nursery related business at a particular location under a specified business name.

(aa) 'Nursery Stock' - any plant for planting, propagation, or ornamentation, including, but not limited to:

(1) All plants, trees, shrubs, vines, perennials grafts, cuttings and buds that may be sold for propagation, whether cultivated or wild, and all viable parts of these plants.

(2) Any other plant or plant part, including cut Christmas trees or any non-hardy plant or plant part, including but not limited to: annuals, bedding plants and vegetable plants.

(bb) 'Owner(s)' - includes, but is not limited to: the person, persons, family, group, firm, association, business, company, incorporated entity or organization with the legal right of possession, proprietorship of, or responsibility for the property or place where any of the regulated articles as defined in this Chapter are to be found, or person(s) who is in possession of, in proprietorship of, or has responsibility for the regulated articles.

(cc) 'Person(s)' - includes, but is not limited to: individual, family, firm, association, group, business, company, incorporated entity or organization.

(dd) 'Pre-clearance' - an agreement between quarantine officials of exporting and importing states to pass plants, plant material, etc., through quarantine by allowing the exporting state to inspect the plants pre-shipment, rather than the importing state inspecting the shipment upon arrival.

(ee) 'Pest' - includes any biotic agent (any living agent capable of reproducing itself) that is known to cause damage or harm to agriculture or the environment.

(ff) 'Plant' - includes, but is not limited to, any part of a plant, tree, aquatic plant, plant material, shrub, vine, fruit, rhizome, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft, or fruit pit, including:

(1) Agricultural commodities: plant materials including any horticultural product.

(2) Nursery stock

(3) Non-cultivated or feral plants, gathered from the environment.

(4) Plants produced by tissue culture, cloning or from stem cell cultures or other prepared media culture.

(gg) 'Plant Pest' - includes, but is not limited to: any pest of plants, agricultural commodities, horticultural products, nursery stock, or non-cultivated plants. This includes but is not limited to: insects, snails, nematodes, fungi, viruses, bacterium, microorganisms, mycoplasma like organisms, weeds, plants or parasitic higher plants.

(hh) 'Producer' - includes but is not limited to: any person who raises, grows or propagates, for profit or other reasons, outdoors or indoors, any horticultural product, nursery stock, or plant.

(ii) 'Quarantine' - a legal instrument duly imposed or enacted by the Department as a means for mitigating pest risk. These actions include, but are not limited to: confinement or restriction of entry, movement, shipment or transportation of plants known or suspected to be infected or infested with some dangerously injurious plant pests.

(jj) 'Roadside Market' - includes, but is not limited to a business engaged in the retail sale of plants, plant material or nursery stock on a seasonal basis and which may operate from a specific sales location or multiple mobile locations.

(kk) 'Registration' - the official recording of a growing location, person, plant, sales location or any other thing or place as one that has met specified requirements and therefore eligible for a particular activity, operation or purpose.

(ll) 'Sales location' - every location from which nursery stock is delivered directly to a customer.

(mm) 'Secretary' - the Secretary of the State of Delaware Department of Agriculture or his or her designee.

(nn) 'Sell' - includes offer for sale, expose for sale, possess for sale, exchange, barter, or trade.

(oo) 'Shipment' - any article or thing which is, may be, or has been transported or conveyed from one place to another.

§ 1302. Nursery Industry Licensing Requirements

(a) Any person(s), grower(s), agent(s), broker(s), dealer(s), mail-order merchant(s), commission merchant(s), consignor(s), landscaper(s), florist(s), greenhouse operator(s), chain store operator(s), garden center operator(s), roadside market operator(s), producer(s), or owner(s) engaged directly with the distribution of plants, plant products, plant material, nursery stock or horticultural products, is required to inform the Department of the existence of their operation and to obtain a Nursery Industry License prior to initiating business operations.

(b) The aforementioned person(s) are required to obtain a Nursery Industry License for each of their businesses or sale/retail locations where multiple businesses or sales/retail locations exist.

(c) The aforementioned person(s) are required to renew their Nursery Industry Licenses each year that they remain in operation. Nursery Industry Licenses issued by the Department shall be valid for one year from November 1 to October 31 of the following year.

(d) A Nursery Industry License Application must be filed with the Department on forms provided by the Department. The application for license shall include, as applicable, the following:

- (1) Name and address of the owner(s) of the business to be licensed.
- (2) Name and address of the business to be licensed.
- (3) Location of all plant, plant material or nursery stock fields or storage areas.
- (4) The number of acres in plant or nursery stock production or the square footage of the sales area devoted to plants, plant material or nursery stock.
- (5) A list of the names, addresses, and plants, plant material, etc. received from all suppliers, producers, growers, etc. providing plants or nursery stock to the business.

(e) Licenses issued by the Department shall be prominently displayed at the business location.

§ 1303. Inspection of Nurseries and Businesses, Nursery Stock Certification

(a) After receiving the Nursery Industry License Application, the Department or its representatives shall examine or inspect all plants, plant material, or nursery stock located or grown on the business location or any other applicable location. Nurseries must maintain adequate weed control so a thorough inspection of the nursery stock can be made.

(b) The Department shall conduct the aforementioned inspection or examination yearly or as directed by the Secretary, at such time as it deems best, with or without notice. The Department reserves the right to conduct unannounced inspections as frequently as it deems necessary to insure compliance with all sections of this Chapter.

(c) Upon the successful completion of an inspection, the Department shall issue a Nursery Stock Certificate to any business licensed under §1302. The Nursery Stock Certificate shall state:

The nursery (or business premises) from which this shipment was made has been visually inspected and found to be in compliance with National Plant Board Standards of pest freedom.

(d) The Nursery Stock Certificate shall be valid from November 1 to October 31 of the following year.

§ 1304. Plant Pest Infestations

(a) Any person(s) who has in their possession plants, plant materials or nursery stock infested or infected with dangerously injurious plant pests possesses a public nuisance.

(b) Upon discovery or notification of such nuisance the Department shall place a hold order on the aforementioned material. While under such a hold order it is an illegal action to sell, ship, transport, give away, destroy, or otherwise move, alter or tamper with the aforementioned plants.

(c) If the Secretary determines that the provisions of this Chapter have been violated, he or she shall order and direct that the nuisance be abated by whatever means necessary (including, but not limited to: destruction, confiscation, treatment or return shipment). The abatement of this public nuisance shall be at the expense of all of the aforementioned person(s) and shall be without any form of compensation.

§ 1305. Shipping, Labeling, and Certification Requirements

(a) No person(s) shall sell, ship, or give away, by private carrier, commercial carrier or any other means, any plants, plant materials or nursery stock from any nursery, business, or premises within the State, without an accompanying Nursery Stock Certificate as prescribed in §1303. The aforementioned information shall be plainly printed upon a tag, label, etc., that is not easily destroyed, which shall be firmly affixed on the exterior and in a conspicuous position upon each carload, box, container, package, etc. It is the responsibility of both the consignee and consignor to contact the Department to obtain a current Nursery Stock Certificate and to examine all shipments for the presence of all certification requirements.

(b) Any person(s) or consignor who ships or moves plants, plant material or nursery stock out of state or internationally by private carrier, commercial shipper, or any other means, is required to contact the Department to obtain the phytosanitary certifications required by the consignee's location. When the Department finds the aforementioned shipment in compliance with the consignee's location phytosanitary requirements, it will issue the required Phytosanitary Certificate to the consignor. The consignor shall conspicuously affix a copy of the Phytosanitary Certificate to the exterior of each carload, box, container, package, etc. It is the responsibility of both the consignee and consignor to contact the Department to obtain the necessary Phytosanitary Certificates and to examine all shipments for the presence of all required certifications.

(c) When applicable, all shipping containers must be conspicuously and appropriately marked on the exterior as to whether contents must be held for agricultural inspection or whether the contents have been pre-cleared by the Department, under the terms of a pre-clearance or interstate origin of inspection program (phytosanitary pre-clearance). It is the responsibility of both the consignee and consignor to obtain all required pre-clearances and to examine all shipments for the presence of all required certifications.

§ 1306. Shipment of Nursery Stock into State; Labeling and Certification

When any plants, plant materials, or nursery stock are shipped, sent or mailed into this State, to any person in this State, every carload, container, box, package, etc., shall be conspicuously labeled on the exterior with the name of the consignor, the state of origin and the name of the consignee. The aforementioned shipment shall have conspicuously affixed to its exterior, a Nursery Stock Certificate from the state of origin showing that the contents have been examined by a qualified state or federal officer and found apparently free from all dangerously injurious plant pests. It is the responsibility of both the consignee and consignor to examine all shipments for the presence of current and applicable nursery stock certifications.

§ 1307. Transportation Companies: Receiving Uncertified Nursery Stock: Failure to Notify Department

Any person(s) who acts as the representative of a transportation company, private carrier, commercial shipper, common carrier, express parcel carrier or other transportation entity, and receives, ships or moves a carload, box, container, package, etc., of plants, plant materials or nursery stock, that does not have a nursery stock certificate or proper phytosanitary certificates attached as provided for in Section §1303 or §1305 of this Chapter, and fails to immediately notify the Department shall be subject to the provisions of Sections 1310 through 1313 of this Chapter.

§ 1308. Labeling and Advertising of Nursery Stock

(a) Plants, plant materials or Nursery stock shall not be labeled or advertised with false or misleading information. This includes but is not limited to: common name, scientific name, variety, place of origin and growth habit.

(b) A person(s) may not offer for sale, sell, give away, or in any way distribute plants, plant materials or nursery stock, represented by some specific or special form of notation, including, but not limited to: 'free from', 'grown free of', unless such plants are produced under a specific program accepted by the Department to address the specific plant properties addressed in the special notation claim.

(c) Before any person(s) advertises plants, plant materials or nursery stock for sale, a copy of their Nursery Business License must be provided to the publisher or producer of the advertisement. The Nursery Business License number must be included in the advertisement and if appropriate, be legible or audible. This requirement shall extend to all forms of advertising media, including but not limited to, radio, television, outdoor sign boards, telephone business directories (i.e. Yellow Pages), newspaper and magazine advertisements or vehicular identification/advertisement.

§ 1309. Reciprocal Agreements

The Department shall have the authority to make reciprocal agreements with the responsible officials of other states. Nursery stock or plants from any other state may be sold or delivered in Delaware under the same conditions required for sale, delivery, or distribution of Delaware nursery stock or plant materials. An official directory of certified nurseries and related nursery industry businesses will be accepted from other states in lieu of individual nursery licenses/certificates.

§ 1310. Violations

(a) Any person(s) who has in their possession plants, plant materials or nursery stock that is uncertified, uninspected, and/or falsely or misleadingly labeled or advertised possesses an illegal regulated commodity. The aforementioned plants shall be considered infested or infected with dangerously injurious plant pests and therefore deemed a public nuisance. Public nuisances shall be abated as prescribed in §1304 of this Chapter. If the Secretary determines that the provisions of this Section have been violated, he or she shall order and direct that the nuisance be abated by the destruction of all of the plants in question, unless the aforementioned person(s) (as applicable):

- (1) Submits to the Nursery Stock Certification process.

(2) Provides proper phytosanitary pre-clearance, phytosanitary certification or nursery stock certification.

(3) Agrees to have the plants, plant materials or nursery stock returned to the consignor.

(4) Provides proper documentation, certification or compliance to support advertising claims.

The abatement of this public nuisance shall be at the expense of the aforementioned person(s) and shall be without any form of compensation.

(b) Under the provisions of the Sections of this Chapter any person(s) who willfully or knowingly:

- (1) Misrepresents or falsifies information on a Nursery Industry License Application;
- (2) Fails to obtain a Nursery Industry License;
- (3) Fails to renew a Nursery Industry License, but continues business operations;
- (4) Fails to display their Nursery Industry License;
- (5) Falsely displays a Nursery Industry License;
- (6) Misrepresents or falsifies their Nursery Industry License status;
- (7) Misrepresents or falsifies information on a Nursery Stock Certificate;
- (8) Fails to submit to a nursery inspection;
- (9) Fails to provide the cooperation necessary to conduct a successful nursery inspection;
- (10) Fails to satisfactorily pass the nursery inspection, but continues business operations;
- (11) Possesses uncertified plants, plant materials or nursery stock;
- (12) Possesses an illegal regulated commodity;
- (13) Defies a Department hold order;
- (14) Violates a quarantine imposed by the Department;
- (15) Fails to obtain nursery stock certification;
- (16) Fails to obtain phytosanitary certification;
- (17) Fails to obtain phytosanitary pre-clearance;
- (18) Creates or possesses a public nuisance;
- (19) Misrepresents or falsifies information to obtain nursery stock certification, phytosanitary certification or phytosanitary pre-clearance;
- (20) Defaces, mutilates or destroys a nursery stock certificate, phytosanitary certificate or phytosanitary pre-clearance certificate or other Department mark;
- (21) Fails to notify the Department of an uncertified shipment of plant, plant materials or nursery stock;

- (22) Transports uncertified plants, plant materials or nursery stock;
- (23) Misrepresents or falsifies plant advertisement or label information;

(24) Fails to comply with the Nursery Industry License advertising requirements; shall be subject to the assessment of a civil penalty, the confiscation or destruction of any and all plants, plant materials or nursery stock found on the premises or contained in the shipment in question, and/or the suspension or revocation of their current Nursery Industry License or any future operation privileges granted under this Chapter.

§ 1311. Hearing Procedures

(a) No civil penalty shall be imposed until an administrative hearing is held before the Secretary of Agriculture. Administrative hearings for the provisions of this Chapter shall be conducted within 30 days of the violation of the provisions of this Chapter. The Department shall issue a decision in writing to the person(s) charged with a violation of a provision of this Chapter within 30 days of the conclusion of the administrative hearing.

(b) The person(s) charged with a violation of a provision of this Chapter will be notified in writing of the date and time of the aforementioned administrative hearing. The aforementioned person(s) shall have the right to appear in person, to be represented by counsel, and to provide witnesses in his or her own behalf.

(c) The Secretary, for the purposes of investigation of a possible violation of this Chapter and for its hearings, may issue subpoenas, compel the attendance of witnesses, administer oaths, take testimony and compel the production of documents. In case any person summoned to testify or to produce any relevant or material evidence refuses to do so without reasonable cause, the Department of Agriculture may compel compliance with the subpoena by filing a motion to compel in Superior Court which shall have jurisdiction over this matter.

(d) The Department shall preserve a full record of the proceedings and a transcript may be purchased by any interested person.

§1312. Appeals

A person who feels aggrieved by the Department as a result of the administrative hearing held under the authority of this Chapter may take appeal, within 30 days, to the Superior Court. After full hearing, the Court shall make such decree as seems just and proper. Written notice of such appeal, together with the grounds, therefore, shall be served upon the Secretary of the Department of Agriculture.

§ 1313. Civil Penalties

(a) The civil penalty for violation of any Section of this Chapter not already stated will be the assessment of a civil penalty, the confiscation or destruction of any and all plants, plant materials or nursery stock found on the premises or contained in the shipment in question and/or suspension or revocation of the current Nursery Industry License or any future operation privileges granted under this Chapter.

(b) Any person who violates any Section of this Chapter or interferes with the Department or its representatives in the enforcement of the provisions of this Chapter, as determined in an administrative hearing, shall be assessed a civil penalty of no less than \$100 nor more than \$1000 on each count."

Approved May 9, 1996

CHAPTER 333

FORMERLY

HOUSE BILL NO. 458

AN ACT TO AMEND CHAPTER 21, TITLE 21, DELAWARE CODE RELATING TO SPECIAL LICENSE PLATES.

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

Section 1. Amend §2140(g)(2), Chapter 21, Delaware Code by rewording said subsection to read as follows:

"(2) Members of university or high school alumni associations, provided that at least 25 applications for special plates must be received from members of a given university or high school alumni association before the Division of Motor Vehicles will approve the issuance of special plates for that particular university or high school alumni association; and"

Approved May 10, 1996

CHAPTER 334

FORMERLY

SENATE BILL NO. 387

AN ACT RELATING TO THE RED CLAY SCHOOL DISTRICT'S MAY 14, 1996 SCHOOL BOARD ELECTION

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

Section 1. Any provision of the Delaware Code notwithstanding, the Red Clay School District may maintain a polling place at the building known as the Latin American Community Center, at 403 North Van Buren Street in the City of Wilmington, for the May 14, 1996 school board election.

Approved May 13, 1996

CHAPTER 335

FORMERLY

HOUSE BILL NO. 577

AN ACT TO AUTHORIZE THE LAKE FOREST BOARD OF EDUCATION TO CONDUCT ITS 1996 ANNUAL ELECTIONS ON TUESDAY, MAY 28, 1996.

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

WHEREAS, the Lake Forest Board of Education had scheduled its 1996 annual elections to be held on Tuesday, May 14, 1996; and

WHEREAS, much of the State of Delaware experienced a loss of electric power on Tuesday, May 14, 1996; and

WHEREAS, the Lake Forest Board of Education due to the loss of electric power has postponed its 1996 elections and rescheduled same for Tuesday, May 28, 1996.

NOW THEREFORE:

BE IT ENACTED by the General Assembly of the State of Delaware that not withstanding any law to the contrary the Lake Forest Board of Education is authorized to hold its 1996 elections on Tuesday, May 28, 1996.

Approved May 16, 1996

CHAPTER 336

FORMERLY

SENATE BILL NO. 359

AN ACT TO AMEND SECTIONS 701 AND 933 OF TITLE 5 OF THE DELAWARE CODE, RELATING TO BANKS AND OTHER FINANCIAL INSTITUTIONS

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

Section 1. Amend Section 701 of Title 5 of the Delaware Code by deleting from the second sentence thereof the words and punctuation "corporations without capital stock doing a savings bank business, or to", by deleting from the third sentence thereof the words "savings banks or", and by inserting a new sentence at the end of that section, as follows:

"Furthermore, the provisions of this chapter specifically relating to capital stock or stockholders of a bank organized under this chapter shall not apply to a corporation without capital stock doing a savings bank business."

Section 2. Delete Section 933 of Title 5 of the Delaware Code.

Section 3. If any provision of this Act or the application of any section or part thereof to said Corporation or to any other person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

Approved May 17, 1996

CHAPTER 337

FORMERLY

SENATE BILL NO. 361
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO FURTHER AMEND "AN ACT TO INCORPORATE THE ARTISANS'
SAVINGS BANK"

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

Section 1. Amend Section 1, Chapter 63, Volume 12, Laws of Delaware, as amended, by striking out "Artisans' Savings Bank" and "Artizans' Savings Bank" each time either phrase appears therein and inserting in lieu thereof "Artisans' Bank", by inserting after the word "Corporation" the first time it appears a comma, followed by the term "savings bank", and by inserting after the word "hold" a comma, followed by the phrase "purchase, convey, mortgage or lease real and personal".

Section 2. Amend Section 3, Chapter 63, Volume 12, Laws of Delaware, as amended by striking said section and replacing it with the following:

"SECTION 3. AND BE IT FURTHER ENACTED, that said Corporation shall be authorized, subject to and as qualified by the same limitations, conditions, restrictions and regulations applicable to corporations chartered as banks under Chapter 7 of Title 5 of the Delaware Code and as further prescribed by the State Bank Commissioner:

(a) To receive from any person or persons any deposit or deposits of money either on time or demand, to pay interest on such deposits, to provide checking and savings account services to depositors, and to repay such deposits to depositors when demanded; provided, nevertheless, that the By-Laws may require reasonable previous notice to be given by any depositor intending to withdraw his deposit or any part thereof;

(b) To make, invest in, sell, or otherwise deal with the following loans, secured or unsecured:

(1) Mortgage loans secured by real property that is or is expected to become primarily residential real estate, including, but not limited to, home equity loans and reverse mortgage loans;

(2) Consumer loans for personal family or household purposes, including, but not limited to, credit card loans;

(3) Education loans;

(4) Construction loans, the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate;

(5) Commercial, corporate, and business loans, including, but not limited to, commercial real estate and construction loans;

(6) Margin loans; and

(7) Savings account loans;

(c) To purchase, invest in, or sell the following additional investments:

(1) Stocks, bonds, debentures, notes or other securities;

(2) Gold and silver bullion and foreign money and coin; and

(3) Real estate for the transaction of its business, subject to the limitations contained in Section 762 of Title 5 of the Delaware Code;

(d) To exercise trust powers to the same extent as permitted for a corporation chartered as bank and trust company under Chapter 7 of Title 5 of the Delaware Code;

(e) To engage in any other activity permitted for a corporation chartered as a bank under Chapter 7 of Title 5 of the Delaware Code;

(f) To establish, maintain and operate a principal office at any location in the State of Delaware and to establish, maintain and operate such branch office(s) or place(s) of business at such place or places, as it may deem to be advantageous, in the State or in any other state of the United States of America, including automated service branches, subject to the prior approval of the State Bank Commissioner and in accordance with the provisions of Sections 770 through 772 of Title 5 of the Delaware Code;

(g) To retain a surplus fund and to divide its profits, after payment of necessary expenses, among the depositors at such time and in such manner as the Board of Directors may direct; and

(h) To exercise and engage in the foregoing powers and activities through one or more subsidiaries."

Section 3. Add new Sections 7 through 10 to Chapter 63, Volume 12, Laws of Delaware, as follows:

"SECTION 7. AND BE IT FURTHER ENACTED, that said Corporation may hereafter, from time to time, when and as desired, amend its charter in the same manner as provided in Section 749 of Title 5 of the Delaware Code for corporations chartered as banks under Chapter 7 of said Title 5. The procedures for amendment and the manner of making and effecting the same shall be those for a corporation having no capital stock as prescribed in Section 242(b)(3) of Title 8 of the Delaware Code. In addition, any amendment to the charter shall be approved by the vote of a majority of all of the Members of said Corporation. Any amendment shall be consistent with the powers and purposes of said Corporation. No proposed charter amendment shall be received or filed by the Secretary of State or be deemed or held to be effective unless and until submitted to and approved both in substance and in form by the State Bank Commissioner.

SECTION 8. AND BE IT FURTHER ENACTED, that, subject to the approval of the State Bank Commissioner, said Corporation may convert from mutual to the stock form of organization in accordance with such regulations, orders or procedures as may be established or issued by the State Bank Commissioner. Such regulations, orders and procedures shall be similar in scope and content to, and comply in all material respects with, the mutual-to-stock conversion regulations of the federal insurer of deposits, as currently in effect at the time said Corporation applies to the State Bank Commissioner for approval of the proposed conversion; provided, that conformity with the regulatory requirements imposed by the federal insurer of deposit accounts will not be sufficient for state regulatory purposes if the State Bank Commissioner determines that the proposed conversion would pose a risk to said Corporation's safety and soundness, violate any law or regulation, or present a breach of fiduciary duty.

SECTION 9. AND BE IT FURTHER ENACTED, that, subject to the approval of the State Bank Commissioner, said Corporation may reorganize so as to become a mutual holding company and, in connection with such reorganization, form a stock savings bank subsidiary of the holding company in accordance with such regulations, orders or procedures as may be established or issued by the State Bank Commissioner. The regulatory authority of the State Bank Commissioner under this section shall include the authority to approve the chartering of a corporation with capital stock doing business as a savings bank. Any regulations, orders and procedures established or issued by the State Bank Commissioner pursuant to this section shall be similar in scope and content to, and comply in all material respects with, the mutual holding company regulations for savings associations of the Office of Thrift Supervision (or any successor federal banking agency) as currently in effect at the time said Corporation applies to

the State Bank Commissioner for approval of the proposed holding company reorganization; provided, however, that the powers and authorities of the stock savings bank formed in the reorganization shall be substantially similar to those of said Corporation at the time of such reorganization; provided, further, that for good cause shown, the State Bank Commissioner may exempt the Bank from any regulatory requirement imposed by such Office of Thrift Supervision regulations, including, but not limited to, any requirement that the mutual holding company formation be approved by the Bank's depositors; and provided further, that conformity with the regulatory requirements imposed by the Office of Thrift Supervision will not be sufficient for state regulatory purposes if the State Bank Commissioner determines that the proposed formation of the mutual holding company would pose a risk to said Corporation's safety and soundness, violate any law or regulation, or present a breach of fiduciary duty. Any issuance of stock in the newly-formed savings bank subsidiary of said mutual holding company to any person or entity other than said company or any subsequent mutual-to-stock conversion of said company shall be conducted in accordance with the requirements and procedures for a mutual-to-stock conversion of said Corporation as prescribed by Section 8 of this Act to Incorporate the Corporation, as amended.

SECTION 10. AND BE IT FURTHER ENACTED, that the Corporation shall make a copy of this Act, as amended, available to any member of the public upon reasonable request.

"SECTION 11. If any provision of this Act or the application of any section or part thereof to said corporation or to any other person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application."

Approved May 17, 1996

CHAPTER 338

FORMERLY

HOUSE BILL NO. 356
AS AMENDED BY SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE TO ADD A NEW CHAPTER RELATING TO THE ESTABLISHMENT OF THE FIRST STATE QUALITY IMPROVEMENT FUND.

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

Section 1. Amend Part V, Title 29 of the Delaware Code, by adding a new chapter thereto to read:

“CHAPTER 60. FIRST STATE QUALITY IMPROVEMENT FUND.

§ 6001. Establishment.

(a) The First State Quality Improvement Fund is hereby established within the Office of State Personnel.

(b) Monies provided to the Fund shall be subject to an annual appropriation by the General Assembly in the Annual Budget Act of the State of Delaware. Appropriations made to the First State Quality Improvement Fund shall not be subject to reversion to the General Fund of the State of Delaware unless otherwise specified by the General Assembly in the Annual Budget Act.

§ 6002. Legislative Intent.

The General Assembly finds that State agencies and employees can improve their performance and delivery of services to State citizens by implementing a long-term commitment to total quality management, performance budgeting and other quality initiatives. A First State Quality Improvement Fund will allow agencies to implement quality initiatives and reinvest a percentage of the savings in tools for improving productivity and effectiveness. Agencies may reduce positions requirements through retraining, reassignment, or other methods, such as automation. The General Assembly intends for this process to involve employees at all levels to improve customer confidence and satisfaction with State Government.

§ 6003. Purposes.

As prescribed by § 6005 of this chapter, and except as specifically provided in § 6006 of this Subchapter, the Fund shall be expended for long-term commitments to Total Quality Management and other quality initiatives.

§ 6004. Distribution of First State Quality Improvement Fund Monies.

The Training and Development Advisory Board shall adopt rules and regulations necessary to implement this chapter, including guidelines for the distribution of these funds.

§ 6005. Fund Purpose.

Monies appropriated to the Fund may be allocated to State agencies for the following activities:

- (1) Create Total Quality Management plans for agencies;

- (2) Establish performance-based budgeting measures to quantify effectiveness;
- (3) Re-engineer work processes;
- (4) Team building;
- (5) Other customer satisfaction/quality initiatives;
- (6) Continuous improvement;
- (7) Empowerment of State Employees;
- (8) Engage vendors and/or consultants to help:
 - (A) set direction and goals;
 - (B) conduct seminars/facilitations for the Governor, Cabinet Secretaries, and top manager;
 - (C) help selected agencies adopt quality initiatives;
 - (D) train State employees as trainers to sustain initiatives in other departments.

§ 6006. Emergency and Special Appropriations.

(a) In the event of an emergency involving the health, safety or welfare of the citizens of the State, any portion of the balance remaining in the Fund may be expended pursuant to an act of appropriation passed by three-fifths of all the members elected to each house of the General Assembly.

(b) In the event of cutbacks in federal funding of State programs affecting the health, safety or welfare of the citizens of the State, and upon recommendation by the Joint Finance Committee, any portion of the balance remaining in the Fund may be expended pursuant to an act of appropriation.

§ 6007. Termination.

The First State Quality Improvement Fund may be terminated when, in the opinion of the Joint Finance Committee, the program has not realized improvement in agency performance, monetary savings to the State or any other reason in which agency or employee performance has not demonstrated proof of improvements to the delivery of State services. Additionally, the Fund may be terminated when all moneys from the Fund have been expended and no further appropriation is approved by the General Assembly.

§ 6008. Liberal Construction of Chapter.

This chapter, being necessary for the prosperity and welfare of the State and its citizens, shall be construed liberally to effect the purposes of this chapter."

Approved May 17, 1996

CHAPTER 339

FORMERLY

SENATE BILL NO. 261
AS AMENDED BY SENATE AMENDMENT NO. 1AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE
REGISTRATION OF HEAVY MOTOR VEHICLES.

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

Section 1. Amend §2105(h), Title 21 of the Delaware Code, by striking that subsection in its entirety and by substituting in lieu thereof the following:

"Notwithstanding any provision to the contrary in this Chapter, a vehicle registered at a gross weight of 26,000 pounds or greater whose manufacturer cannot provide the documentation required to meet the provision of subsection (d) of this section within the time frame prescribed by subsection (a) of this section and any vehicle registered as a farm truck pursuant to §2113 and §2151(8) of this title, shall be exempt from the provisions of this section until December 31, 2000."

Section 2. Amend §2105(i), Title 21 of the Delaware Code, by striking said subsection in its entirety and inserting in lieu thereof the following:

"Notwithstanding any provision to the contrary in this Chapter, effective January 1, 2001 and extending through December 31, 2005, the registered weight for any vehicle registered at a gross weight of 26,000 pounds or greater whose manufacturer cannot provide the documentation required to meet the provision of subsection (d) of this section within the time frame prescribed by subsection (a) of this section and farm trucks applying for a registration renewal shall not exceed the following:

(1) 2 axle truck = 36,000 pounds

(2) 3 axle truck = 65,000 pounds; provided however, that in the case of a farm truck, it shall also be lawful to operate such a vehicle containing agricultural products when the gross weight, including the vehicle and load, does not exceed 70,000 pounds; provided further that a fee of \$100 per vehicle be levied for the use of this extra weight capacity."

Section 3. Amend §2105(j), Title 21 of the Delaware Code, by striking said subsection in its entirety and substituting in lieu thereof:

"Notwithstanding any provision to the contrary in this Chapter effective January 1, 2006, all motor vehicles registered at a gross weight of 26,000 pounds or greater, excluding those vehicles named in subsection (k) of this section, shall be registered in compliance with subsections (a) - (g) of this section."

Approved May 17, 1996

CHAPTER 340

FORMERLY

SENATE BILL NO. 311

AN ACT TO AMEND CHAPTER 89, TITLE 29, DELAWARE CODE RELATING TO MANDATORY SCREENING FOR ILLEGAL USE OF DRUGS.

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

WHEREAS, the integrity of employees of the Department of Correction is critical to the safety of the citizens of Delaware; and

WHEREAS, public safety often require that correctional employees exercise undeviating concentration, split second judgment, and self control; and

WHEREAS, these employees are a critical barrier between inmates and the public at large; and

WHEREAS, a large percentage of inmates, detainees and probationers in the custody of the Department of Correction have drug and alcohol abuse problems; and

WHEREAS, this environment creates a high demand for contraband and thereby increases the potential for corruption; and

WHEREAS, employees using illegal drugs who come into regular contact with inmates may be more likely to supply contraband to inmates; and

WHEREAS, the infiltration and use of illegal drugs and contraband in our correctional institutions is a continuing threat to the security of our correctional institutions and the integrity of our probation operations; and

WHEREAS, our correctional employees play a crucial role in combating that threat and to properly carry out these duties it is essential that these employees not be subject to any undue influence; and

WHEREAS, the Governor's Gander Hill Task Force recommended implementing a mandatory drug testing policy, including random testing.

NOW, THEREFORE,

Section 1. Amend Chapter 89, Title 29, Delaware Code by designating existing sections of Chapter 89 as "Subchapter 1. General Provisions" and inserting after existing § 8914 the following:

"Subchapter II. Mandatory Screening For Use of Illegal Drugs

§ 8920. Purpose.

The purpose of this subchapter is to establish mandatory drug testing program for certain Department of Correction employees who hold positions that are directly related to public safety and the security of our correctional institutions and probation operations.

§ 8921. Definitions.

As used in this subchapter unless the context otherwise requires:

(1) 'Department technical representative' means an employee of the Department designated by the Commissioner to ensure compliance with the requirements of this subchapter and whose duties include, but are not limited to, the following:

- (a) Scheduling of urine specimen collections;
 - (b) Designation of collection sites;
 - (c) Assuring the integrity of collection procedures and sites;
 - (d) Assuring the integrity of testing and specimen retention procedures;
 - (e) Reviewing the data and reports; and
 - (f) Acting as the Commissioner's contact person for the testing for illegal drugs.
- (2) 'Applicant' means any person who is seeking employment with the Department for a security sensitive position.
- (3) 'Applicant-employee' means an employee of the State who is an applicant for a security sensitive position in the Department.
- (4) 'Employee' means a person with whom the State has an employer-employee relationship.
- (5) 'Security sensitive position' means any of the following positions in the Department:
- (a) The Commissioner;
 - (b) Bureau Chiefs;
 - (c) Security positions;
 - (d) Employees of the Department who are required or permitted to carry a firearm;
 - (e) Department employees who have a significant degree of responsibility for the safety of others and whose impaired performance or undue influence of that Department employee could potentially result in death or injury to employees or others; or
 - (f) Department employees as otherwise designated by the Department pursuant to its policies and procedures.
- (6) 'Random Testing' means tests based upon an appropriate random sampling technique, with significant samples of Department employees in security sensitive positions being tested on a periodic basis with all such employees having a reasonably equal chance of being tested.
- (7) 'Incident Triggered Testing' means any incident involving death or serious physical injury to a Department employee, loss or significant damage to Department property, escape of an inmate or detentioner where the security sensitive employee was directly involved in the incident.
- (8) 'Reasonable suspicion' means when the Department, acting through its supervisory personnel, has reasonable suspicion that the appearance or conduct of Department employees in a security sensitive position is indicative of their having being impaired by an illegal drug.

§ 8922. Drug Testing Required.

- (a) Random Testing -- All Department employees in security sensitive positions shall be subject to random testing for the illegal use of drugs.
- (b) Pre-employment Testing -- The Department shall test all security sensitive applicants and applicant employees for the illegal use of drugs

(c) Incident Triggered Testing -- All Department employees in security sensitive positions shall be subject to incident triggered testing.

(d) Reasonable Suspicion Testing -- The Department may, acting through its supervisory personnel, conduct a drug test based on a reasonable suspicion that the appearance or conduct of the Department employee in a security sensitive position is indicative of being impaired by an illegal drug. The questioned conduct or appearance should be witnessed and must be documented in writing by a supervisor where practicable.

(e) Nothing in this section shall be construed to limit the Department's authority pursuant to any other statute, regulation, policy, procedure, contract or other source of authority to test any Department employee for drugs.

§ 8923. Drugs to be screened.

(a) The illegal drugs that shall be screened include, but are not limited to, the following:

- (1) Marijuana/cannabis;
- (2) Cocaine;
- (3) Opiates;
- (4) Phencyclidine ("PCP"); and
- (5) Amphetamines.

(b) The Department technical representative may submit to the Commissioner a written request for approval to screen for an illegal drug or controlled substance other than those listed under subsection (a) of this section. If the Commissioner approves the request, the Department technical representative shall notify all Department employees in security sensitive positions of the addition of that drug to the list of those to be screened.

§ 8924. Arrest Notification Required.

Any security sensitive employee arrested for an alleged violation of Chapter 47 of Title 16 of the Delaware Code shall report the arrest to the Department on the employee's next scheduled work day, or within one week, whichever is earlier. Failure to report the arrest shall result in disciplinary action up to and including dismissal.

§ 8925. Policies and Procedures.

The Department shall promulgate policies and procedures for the full implementation of the subchapter."

Section 2. The requirements of this act shall be contingent upon adequate funding to carry out the testing required under this Act. The policies and procedures required by § 8925 shall be promulgated no later than 90 days after the effective date of this act.

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Approved May 24, 1996

CHAPTER 341

FORMERLY

HOUSE BILL NO. 436
AS AMENDED BY HOUSE AMENDMENT NO. 1

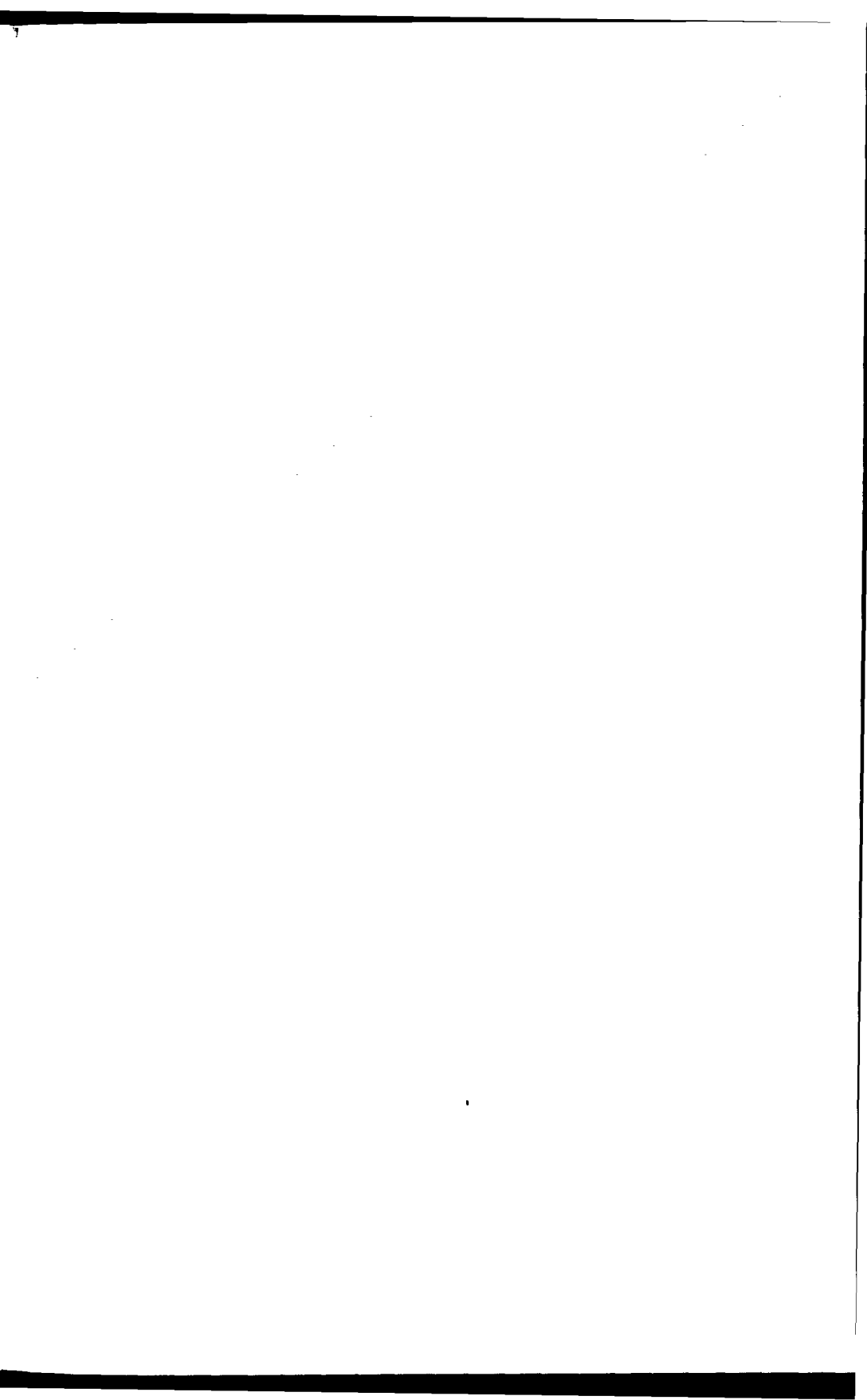
AN ACT TO AMEND CHAPTER 98, TITLE 16, DELAWARE CODE, RELATING TO
PARAMEDIC SERVICES.

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

Section 1. Amend §9802(17), Title 16, Delaware Code, by striking the words "Director of the Office of Emergency Medical Services" and substituting in lieu thereof the words "Director of the Division of Public Health".

Section 2. Amend §9806(d), Title 16, Delaware Code, by striking the words "Office of Emergency Medical Services" and substituting in lieu thereof the words "Director of the Division of Public Health".

Approved May 23, 1996



END

OF

VOLUME